

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, January 9, 2020

Hearing Room 5A

9:30 AM

8:13-10726 Gonzalo Gonzalez

Chapter 13

Adv#: 8:19-01207 Gonzalez v. Shell Point Activities Association

#1.00 STATUS CONFERENCE RE: Complaint

Docket 1

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Voluntary Dismissal of an Adversary Proceeding That Does Not Involve Claims Under 11 U.S.C. §727 filed 11/21/2019 and 11/25/2019; No Answer Filed

Courtroom Deputy:

OFF CALENDAR: Notice of Voluntary Dismissal of an Adversary Proceeding That Does Not Involve Claims Under 11 U.S.C. §727 filed 11/21/2019 and 11/25/2019; No Answer Filed - td (11/25/2019)

Tentative Ruling:

- NONE LISTED -

Party Information

**Debtor(s):**

Gonzalo Gonzalez

Represented By  
Craig K Streed  
Sundee M Teeple  
Cynthia L Gibson  
Daniel Cabrera

**Defendant(s):**

Shell Point Activities Association

Pro Se

**Plaintiff(s):**

Gonzalo Gonzalez

Represented By  
Daniel Cabrera

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14077 Team Business Solutions, Inc.**

**Chapter 7**

Adv#: 8:18-01141 Richard A Marshack v. SNCR California, Inc., et al

**#2.00** CONT'D STATUS CONFERENCE RE: First Amended Complaint for: 1. Declaratory Relief (Successor Liability); 2. Intentional Fraudulent Transfer; 3. Constructive Fraudulent Transfer; 4. Preservation of Avoided Transfer; 5. Turnover of Assets; 6. Breach of Fiduciary Duty; 7. Misappropriation of Trade Secrets; 8. Unjust Enrichment (Another Summons Issued 12/6/10)

FR: 2-12-19; 3-12-19; 4-4-19; 4-16-19; 6-20-19; 8-22-19; 11-7-19

Docket 55

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4/2/2020 AT 9:30 A.M.,  
Per Order Entered 1/3/2020 (XX)**

**Courtroom Deputy:**

**SPECIAL NOTE: Notice of Voluntary Dismissal of Adversary Proceeding  
Against Kirk Nelson Only filed 1/7/2019, Document # 72 - td (1/9/2019)**

**CONTINUED: Status Conference Continued to 4/2/2020 at 9:30 a.m., Per  
Order Entered 1/3/2020 (XX) - td (1/3/2020)**

**Tentative Ruling:**

**June 20, 2019**

Joint status report not filed by June 13, 2019 pursuant to this court's order entered 4/25/19. Impose sanctions in the amount of \$100 against each party for the failure to do so.

***Note: Appearances at this hearing are required.***

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**August 22, 2019**

Joint status report not filed by August 8, 2019 pursuant to this court's order entered June 17, 2019. Impose sanctions in the amount of \$100 against each

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**CONT...** Team Business Solutions, Inc.  
party's attorney for the failure to do so.

**Chapter 7**

***Note: Appearances at this hearing are required.***

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

Team Business Solutions, Inc.

Represented By  
J Scott Williams

**Defendant(s):**

SNCR California, Inc.,

Represented By  
Michael G Spector

John Creamer

Pro Se

Kirk Nelson

Pro Se

**Plaintiff(s):**

Richard A Marshack

Represented By  
Thomas J Eastmond  
Robert P Goe

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Thomas J Eastmond  
Robert P Goe

United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Courtroom 5A Calendar

Thursday, January 9, 2020

Hearing Room 5A

9:30 AM

8:17-14406 Kirk M. Nelson

Chapter 7

Adv#: 8:19-01016 Marshack v. Nelson

#3.00 CON'TD STATUS CONFERENCE RE: Complaint: 1. To Determine Non-Dischargeability Of Debt Pursuant to 11 U.S.C. Section 523(a)(3)(B)

FR: 4-11-19; 5-30-19; 9-12-19; 11-7-19

Docket 1

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4/2/2020 AT 9:30 A.M.,  
Per Order Entered 1/3/2020 (XX)

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 4/2/2020 at 9:30 a.m., Per Order Entered 1/3/2020 (XX) - td (1/3/2020)**

**Tentative Ruling:**

**April 11, 2019**

Continue Status Conference to May 30, 2019 at 10:30 a.m., same date/time as hearing on Defendants' motion to dismiss. Joint status report not required. (XX)

**Note: Appearances at this hearing are not required.**

**May 30, 2019**

No tentative ruling -- trail matter to the 2:00pm calendar

**Party Information**

**Debtor(s):**

Kirk M. Nelson

Represented By  
J Scott Williams

**Defendant(s):**

Kirk M Nelson

Pro Se

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Central District of California  
Santa Ana  
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**Thursday, January 9, 2020**

**Hearing Room 5A**

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9:30 AM

**CONT... Kirk M. Nelson**

**Chapter 7**

**Plaintiff(s):**

Richard A Marshack

Represented By  
Robert P Goe  
Thomas J Eastmond

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

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**Thursday, January 9, 2020**

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9:30 AM

**8:19-13770 Dove Real Estate & Association Management LLC Chapter 11**

Adv#: 8:19-01204 Dove Real Estate & Association Management, LLC v. Macarthur Village

**#4.00 STATUS CONFERENCE RE: Complaint for Determination of Validity, Priority, or Extent of Lien and Declaratory Judgment Thereon**

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Continue status conference to February 6, 2020 at 2:00 p.m., same date/time as Defendant's pending motion for summary judgment; updated joint status report not required.

***Note: Appearances at this hearing are not required.***

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

Dove Real Estate & Association

Represented By  
Daniel J Weintraub  
Crystle Jane Lindsey

**Defendant(s):**

Macarthur Village Homeowners

Pro Se

**Plaintiff(s):**

Dove Real Estate & Association

Represented By  
James R Selth

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Hearing Room 5A

9:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01205 Elieff et al v. Kurtin

**#5.00** STATUS CONFERENCE RE: Complaint for Mandatory Subordination Pursuant to 11 U.S.C. §510(b) and Avoidance and Recovery of Preferential and Fraudulent Transfers

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Another Summons  
Issued 11/15/2019; New Status Conference Set for 1/30/2020 at 9:30 a.m. (xx)**

**Courtroom Deputy:**

**OFF CALENDAR: Another Summons Issued 11/15/2019; New Status  
Conference Set for 1/30/2020 at 9:30 a.m. (xx) - td (11/15/2019)**

**Tentative Ruling:**

- NONE LISTED -

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

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Pro Se

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
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**Thursday, January 9, 2020**

**Hearing Room 5A**

10:00 AM

**8:18-11262 Jean A Butler-Boren**

**Chapter 13**

**#6.00** CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

AJAX MORTGAGE LOAN TRUST 2018-G

VS.

DEBTOR

FR: 12-5-19; 12-19-19

Docket 66

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 5, 2019**

Movant to advise the court whether Debtor is current in light of documents attached to the Opposition filed on Nov. 21, 2019. If additional time is needed, the parties may obtain a continuance by requesting the same during the calendar roll-call just prior to the hearing. Available continued hearing dates: Dec. 19, 2019 or January 9, 2020 at 10:00 a.m.

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**December 19, 2019**

The parties are to advise the court re the status of this matter.

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**January 9, 2020**

The parties are to advise the court re the status of this matter.



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10:00 AM

**CONT... Jean A Butler-Boren**

**Chapter 13**

**Party Information**

**Debtor(s):**

Jean A Butler-Boren

Represented By  
Thomas J Polis

**Movant(s):**

Ajax Mortgage Loan Trust 2018-G,

Represented By  
Joshua L Scheer  
Reilly D Wilkinson

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
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Hearing Room 5A

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

#7.00 Hearing RE: Motion for relief from automatic stay  
[ACTION IN NON-BANKRUPTCY FORUM]

JACQUELINE MILLER

VS.

DEBTOR

Docket 126

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Grant relief from stay for the reasons set forth in the Motion and the Reply under 362(d)(1), except as to the First and Second Causes of Action as to Debtor Bruce Elieff, which is denied. Grant Motion in all other respects.

The court is denying relief from stay to prosecute the First Cause of Action (Breach of Oral Agreement and the Second Cause of Action (Breach of Implied Contract) as such claims are dischargeable as to individual debtor Bruce Elieff.

Overrule Debtor's objections as otherwise unpersuasive.

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

Bruce Elieff

Represented By  
Paul J Couchot

**Movant(s):**

Courtesy NEF

Represented By

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**Hearing Room 5A**

10:00 AM

**CONT...**

**Bruce Elieff**

**Chapter 11**

Lewis R Landau  
Sharon Oh-Kubisch  
Philip E Strok  
Rafael R Garcia-Salgado  
Gary A Pemberton  
Greg P Campbell  
Jeffrey W Broker  
Caroline A Sayers  
David L Prince  
Eric M Heller  
James Denison  
Najah J Shariff

Courtesy NEF

Represented By  
Julian K Bach  
Christopher D Beatty  
James Denison

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**Thursday, January 9, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13881 Tamara A Bailey**

**Chapter 7**

**#8.00** Hearing RE: Motion for relief from automatic stay  
[ACTION IN NON-BANKRUPTCY FORUM]

STEVE HOWARD AND CREMACH TECH, INC.

VS.

DEBTOR

Docket 23

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Grant the Motion with the limitations set forth in the Motion and Reply pleadings.

Overrule objection of Debtor as unpersuasive.

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

Tamara A Bailey

Represented By  
William R Cumming

**Movant(s):**

Steve Howard

Represented By  
Michael J Buley

Cremach Tech, Inc.

Represented By  
Michael J Buley

**United States Bankruptcy Court  
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**Thursday, January 9, 2020**

**Hearing Room 5A**

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10:00 AM

**CONT... Tamara A Bailey**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

United States Bankruptcy Court  
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Thursday, January 9, 2020

Hearing Room 5A

10:00 AM

8:19-13951 Rudy H. Soto

Chapter 7

#9.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
A-L FINANCIAL CORP.  
VS.  
DEBTOR

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Rudy H. Soto

Represented By  
Daniel King

**Movant(s):**

A-L Financial Corporation

Represented By  
Lincoln D Gardner

**United States Bankruptcy Court  
Central District of California  
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**Thursday, January 9, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Rudy H. Soto**

**Chapter 7**

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, January 9, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-14073 Greenplanet Broadbord Inc.**

**Chapter 7**

**#10.00** CONT'D Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

BENJAMIN P. LUCAS, ET AL.

VS.

DEBTOR

FR: 12-5-19

Docket 14

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Continue hearing to January 30, 2020 at 10:00 a.m. to allow Movant to correct service issue

Service issue: Though Debtor has retained counsel (Dana Douglas Esq) as of November 21, 2019, the Motion has not been served on such counsel as required by LBR 4001-1(c)(1)(C)(i).

Tentative ruling for 1/30/20 hearing: Grant motion with 4001(a)(3) waiver under both 362(d)(1) (cause shown -- lack of proof of insurance) and 362(d)(2) (no equity in the property per Debtor's own schedule D and property not necessary for reorganization -- there is no reorganization in chapter 7 cases).

Objection of creditor Tariq Ahmad is overruled. Neither the Local Bankruptcy Rules or the Federal Rules of Bankruptcy Procedure require service of the



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10:00 AM

CONT... **Greenplanet Broadbord Inc.** **Chapter 7**

Motion on creditors of the estate in chapter 7 cases. Further, Mr. Ahmad's opposition states no substantive ground for denial of the Motion.

***Note: If the parties accept the foregoing tentative ruling, appearances at today's hearing are not required and Movant shall serve notice of the continued hearing date/time.***

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

Greenplanet Broadbord Inc. Pro Se

**Movant(s):**

Benjamin P. Lucas, a Sole Represented By  
Edward T Weber

**Trustee(s):**

Richard A Marshack (TR) Pro Se

United States Bankruptcy Court  
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Thursday, January 9, 2020

Hearing Room 5A

10:00 AM

8:19-14133 Juan Valentin Echevarria

Chapter 7

#11.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
TOYOTA MOTOR CREDIT CORPORATION  
VS.  
DEBTOR

Docket 8

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Juan Valentin Echevarria

Represented By  
Nancy Hanna

**Movant(s):**

Toyota Motor Credit Corporation

Represented By  
Austin P Nagel

**United States Bankruptcy Court  
Central District of California  
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**Thursday, January 9, 2020**

**Hearing Room 5A**

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10:00 AM

**CONT... Juan Valentin Echevarria**

**Chapter 7**

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Courtroom 5A Calendar

Thursday, January 9, 2020

Hearing Room 5A

10:00 AM

8:19-14288 Danielle Marie Hetland

Chapter 7

#12.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

ACAR LEASING LTD

VS.

DEBTOR

Docket 14

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Danielle Marie Hetland

Represented By  
Timothy McFarlin

**Movant(s):**

ACAR Leasing LTD d/b/a GM

Represented By  
Sheryl K Ith

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court  
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**Thursday, January 9, 2020**

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10:00 AM

**CONT... Danielle Marie Hetland**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, January 9, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-14397 Delfina Ruiz**

**Chapter 7**

**#13.00** Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
FORD MOTOR CREDIT COMPANY LLC  
VS.  
DEBTOR

Docket 9

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Delfina Ruiz

Pro Se

**Movant(s):**

Ford Motor Credit Company LLC

Represented By  
Sheryl K Ith

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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Judge Erithe Smith, Presiding  
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**Thursday, January 9, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-14444 Michael Albert Copeman**

**Chapter 7**

**#14.00** Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
BRIDGECREST CREDIT COMPANY, LLC  
VS.  
DEBTOR

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Michael Albert Copeman

Represented By  
Brian J Soo-Hoo

**Movant(s):**

Bridgecrest Credit Company, LLC

Represented By  
Kristin A Zilberstein

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

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10:00 AM

**CONT... Michael Albert Copeman**

**Chapter 7**



United States Bankruptcy Court  
Central District of California  
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Thursday, January 9, 2020

Hearing Room 5A

10:00 AM

8:19-14542 Audrey Romona Lei Hufnagel

Chapter 7

#15.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]  
OASIS-CALIFORNIA INC.  
VS.  
DEBTOR

Docket 9

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of  
Motion, filed 1/8/2020

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal of Motion, filed 1/8/2020 - td  
(1/8/2020)**

**Tentative Ruling:**

**January 9, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Audrey Romona Lei Hufnagel

Represented By  
Michael Jones

**Movant(s):**

Oasis-California, Inc. dba Camden

Represented By  
Scott Andrews

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**Hearing Room 5A**

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10:00 AM

**CONT... Audrey Romona Lei Hufnagel**

**Chapter 7**

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, January 9, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-14614 Delecia A Holt**

**Chapter 7**

**#16.00** Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
FINANCIAL SERVICES VEHICLE TRUST  
VS.  
DEBTOR

Docket 14

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Delecia A Holt

Pro Se

**Movant(s):**

Financial Services Vehicle Trust

Represented By  
Cheryl A Skigin

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

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10:00 AM

8:19-14614 Delecia A Holt

Chapter 7

#17.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

DAIMLER TRUST

VS.

DEBTOR

Docket 16

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Delecia A Holt

Pro Se

**Movant(s):**

Daimler Trust

Represented By  
Sheryl K Ith

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

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**Hearing Room 5A**

10:00 AM

**8:19-14682 Michael E. Silbermann**

**Chapter 13**

**#18.00** Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
JOHN DEERE CONSTRUCTION & FORESTRY COMPANY  
VS.  
DEBTOR

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Grant with 4001(a)(3) waiver; deny request for extraordinary relief (Relief Request #s 7, 8, 9, 10) due to insufficient evidence in support thereof.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Michael E. Silbermann

Represented By  
Joseph C Rosenblit

**Movant(s):**

THE DUNNING LAW FIRM APC

Represented By  
James MacLeod

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**CONT... Michael E. Silbermann**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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10:00 AM

8:19-14701 Lynda Patrice Chatman

Chapter 7

#19.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]  
MARY CHEN AND HAI CHEN TRUSTEE'S OF THE CHEN FAMILY TRUST  
VS.  
DEBTOR

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Grant with 4001(a)(3) waiver under 362(d)(1) and (2); deny request for extraordinary relief under 362(d)(4) due to insufficient evidence in support thereof.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Lynda Patrice Chatman

Pro Se

**Movant(s):**

Mary Chen and Hai Chen Trustee's

Represented By  
Robert A Krasney

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

---

10:00 AM

**CONT... Lynda Patrice Chatman**

**Chapter 7**

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13676 Morteza Hamidi**

**Chapter 13**

**#19.10** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

BANK OF AMERICA, N.A.

VS.

DEBTOR

Docket 24

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal  
Arising From Chapter 13 Confirmation Hearing Entered 12/26/2019**

**Courtroom Deputy:**

**OFF CALENDAR: Order of Dismissal Arising From Chapter 13  
Confirmation Hearing Entered 12/26/2019 - td (12/26/2019)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Morteza Hamidi

Pro Se

**Movant(s):**

Bank of America, N.A.

Represented By  
Darlene C Vigil

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:14-10918 Robert Boyajian**

**Chapter 11**

**#20.00** Hearing RE: Fourth and Final Application for Compensation and Reimbursement of Costs

**[THE LAW OFFICES OF MICHAEL G. SPECTOR, ATTORNEYS FOR THE REORGANIZED DEBTOR]**

Docket 618

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

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

Robert Boyajian

Represented By  
Michael G Spector  
Vicki L Schennum  
Jessica G McKinlay

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 9, 2020

Hearing Room 5A

10:30 AM

8:14-10918 Robert Boyajian

Chapter 11

#21.00 Hearing RE: Motion for Final Decree (Federal Rule of Bankruptcy Procedure 3022) and Request to Take Post-Confirmation Status Conference Off Calendar

Docket 620

**Courtroom Deputy:**

**SPECIAL NOTE: Notice to Pay Court Costs Issued 4/26/2019; Amount Due \$350.00 - td (12/19/2019). Re-billing Notice to Pay Court Costs Due Sent 12/26/2019; Total Amount Due: \$350.00 - td (12/26/2019)**

**Tentative Ruling:**

**January 9, 2020 (Updated)**

Grant motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required if Movant accepts the foregoing tentative ruling and condition therein. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Robert Boyajian

Represented By  
Michael G Spector  
Vicki L Schenum  
Jessica G McKinlay

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, January 9, 2020

Hearing Room 5A

10:30 AM

8:17-13051 Scott David Carlton

Chapter 7

#22.00 Hearing RE: First Interim Application for Allowance of Fees and Costs

**[MARSHACK HAYS LLP AS GENERAL COUNSEL FOR CHAPTER 7  
TRUSTEE, JEFFREY I. GOLDEN]**

Docket 152

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Approve interim fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

**Party Information**

**Debtor(s):**

Scott David Carlton

Represented By  
Bruce V Rorty

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By  
D Edward Hays  
Laila Masud

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:18-14284 Paula Gilbert-Bonnaire**

**Chapter 7**

Adv#: 8:19-01035 SJO Investments, LLC v. Gilbert-Bonnaire

**#23.00** CONT'D Hearing RE: Defendant's Motion for Leave to File a Late Motion for Attorney Fees and Request for Attorneys Fees in the Amount of \$6,667.00

FR: 12-12-19

Docket 22

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Deny motion.

Basis for Tentative Ruling:

The motion should be denied in its entirety for the following reasons:

1. Rule 54(d)(2)(B) of the Federal Rules of Civil Procedure (FRCP) allows a party to file a motion for an award of attorneys but expressly provides that the motion must "specify the judgment and the statute, rule, or other grounds entitling the movant to the award". Rule 54(d)(2)(B)(ii). Thus, Rule 54(d) does not, itself, create a legal basis for the award of attorneys but rather provides the procedure for seeking fees should a specific statute, rule or judgment so provide.

2. The Ninth Circuit, whose decisions are binding on this court, has observed that

"The requirement under Rule 54(d)(2) of an *independent source of authority* for an award of attorneys' fees gives effect to the "American Rule" that each party must bear its own attorneys' fees in the absence of a

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 9, 2020

Hearing Room 5A

10:30 AM

CONT...

**Paula Gilbert-Bonnaire**

**Chapter 7**

rule, statute or contract authorizing such an award." (emphasis added)

*MRO Communications v. Am. Tel. & Tel.*, 197 F.3d 1276, 1280-81 (9th Cir. 1999).

3. In this matter, there is no judgment of this court awarding attorneys fees to Debtor and Debtor has cited no statute or rule providing for an award of attorneys fees.

4. Even if this court were to construe the motion as one under 11 U.S.C. 523(d), an award of attorneys fees would still not be appropriate under the circumstances presented here. Section 523(d) provides as follows:

"If a creditor requests a determination of dischargeability of a consumer debt under subsection (a)(2) of this section, and such debt is discharged, the court shall grant judgment in favor of the debtor for the costs of, and a reasonable attorney's fee for, the proceeding *if the court finds that the position of the creditor was not substantially justified, except that the court shall not award such costs and fees if special circumstances would make the award unjust.*" (emphasis added)

5. To avoid a fee award under 523(d), a creditor must show that it had a reasonable basis in law or fact to file the complaint, i.e., substantial justification, or otherwise demonstrate the existence of special circumstances. *In re Duplante*, 215 B.R. 444, 449 (9th Cir. BAP 1997). The court may review the complaint, Debtor's schedules and other evidence submitted in connection with the 523(d) motion and opposition thereto to determine whether the creditor was substantially justified in filing the complaint. *Id.*

5. In this case, the totality of the circumstances clearly indicate Plaintiff was substantially justified in filing the complaint based upon the following:

a. The nondischargeability complaint alleges that Debtor entered into a contract for the sale of her real property at 8211 Mary Circle, Huntington Beach, CA ("Property") to Plaintiff on or about Dec. 13, 2017. A copy of the Contract for

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 9, 2020

Hearing Room 5A

10:30 AM

CONT... Paula Gilbert-Bonnaire Chapter 7

the Sale & Purchase of Real Estate (SJO Contract) memorializing the agreement is attached to the Complaint as Exhibit A.

b. The complaint alleges that Debtor also entered into agreements to sell the Property to two other purchases in 2017. The Opposition to the Motion filed by creditor SJO Investments includes as Exhibit C to the Declaration of Jon Enochs a sale and purchase agreement between Debtor and Mobile Agency California LLC for the Property on or about Dec. 11, 2017, just two days prior to the signing of the SJO Contract. Finally, Debtor's Schedule E/F lists Marc Afzal of Buy Every Home as an unsecured creditor concerning a claim relating to "contract for sale of home" in 2017.

c. Though the date of the execution of the sale contract with Marc Afzal is unknown, SJO has demonstrated, at least on a *prima facie* basis, that Debtor entered into at least two different contracts for the sale of the same property to two different purchasers -- SJO and Mobile Agency-- during the same time frame. Whether or not Debtor has a logical explanation for signing two sale agreements simultaneously when she knew or should have known she could only deliver title to one, is irrelevant to the issue of whether SJO was justified in commencing an action for nondischargeability based on fraud.

d. The complaint satisfies the pleading standards of FRCP 8 and FRCP 9 and alleges all of the required elements of fraud with particularity (false representation or statement regarding intent/ability to sell the Property to SJO, knowledge of the falsity of the representation or statement, made with intent to deceive, which representation SJO justifiably relied on to its financial detriment.

e. The complaint was voluntarily dismissed pursuant to an oral stipulation for dismissal made at the September 5, 2019 hearing on Debtor's motion for a protective order.

f. Debtor argues that she is a "prevailing party" within the meaning of Local Bankruptcy Rule 7054-1(b)(2) which provides that "the defendant is the prevailing party when the proceeding is terminated by *court-ordered dismissal or judgment in favor of defendant on the entire complaint.*" (emphasis added). However, this court did not order the dismissal of the adversary and entered no

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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10:30 AM

CONT...

**Paula Gilbert-Bonnaire**

**Chapter 7**

judgment in favor of Debtor. Again, the parties *stipulated* to dismissal on the record. Accordingly, Debtor is not the prevailing party under 7054-1(b)(2).

g. SJO indicates in its Opposition that it only agreed to dismiss the complaint because the Property had been foreclosed on and Debtor did not appear to have any assets from which SJO could collect on its claim.

h. Based upon the agreement of the parties on the record to dismissal of the adversary proceeding, the adequately pled complaint, and reasons given by Plaintiff SJO for agreeing to dismiss the proceeding, the court finds there is no prevailing party.

6. In light of all of the foregoing, Debtor is not entitled to any attorneys fees from SJO under Rule 54(d) because a) she has stated no independent legal basis for attorneys fees and b) even if the court treats the Motion as one under 523(d), SJO was substantially justified in filing the complaint and, therefore, fees are not allowable under 523(d).

7. Debtor also appears to be seeking disgorgement of fees she paid to her former attorney, Andrew Smyth (Smyth). She claims she paid Smyth \$7,162 for legal representation in this adversary proceeding and \$995.00 in the state court unlawful detainer action and that she is entitled to reimbursement from Smyth for "throwing her under the bus" in the state court matter. First, Debtor's own evidence demonstrates that she did not pay \$7,162 for representation in this adversary proceeding. Exhibit A to the Motion dating back to at least September 1, **2018** through April 2019 and includes fees relating to services provide for state court matters as well as the bankruptcy filing itself. This court has no jurisdiction over the fees paid in connection with the state court matter. This adversary proceeding was not filed until **March 4, 2019**. Therefore, any fees incurred prior to March 4, 2019 could not have related to this adversary proceeding. The check dated April 1, 2019 attached to as an exhibit to the Motion has a notation indicating it is for both "federal/state attorneys fees." Second, Debtors Statement of Financial Affairs at Part 7 indicates that she paid \$1500 for bankruptcy representation in the main bankruptcy case, No. 18-14284. Smyth's Rule 2016 Statement also indicates that \$1500 was paid for representation in the main bankruptcy case and that such fees did not include representation in an



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 9, 2020

Hearing Room 5A

10:30 AM

CONT... **Paula Gilbert-Bonnaire**

**Chapter 7**

adversary proceeding. \$1500 for chapter 7 representation (preparation of petition, appearance at 341a meetings) is reasonable in this District. Third, Smyth indicates that only \$350 was charged in this adversary proceeding for the filing of an answer to the complaint. See Smyth Opposition at p. 3. Finally, Smyth's reference to \$1,050.00 in fees to prepare a motion to set aside a default in an adversary proceeding was in the prior bankruptcy case, No. 18-11236, not this adversary proceeding in the present bankruptcy case. The bottom line: There is no basis for ordering the disgorgement of \$1500 for the filing the bankruptcy petition (which successfully resulted in the entry of a discharge order) or the \$350 for filing an answer to the complaint in this adversary proceeding. All other fees are beyond the jurisdiction of this court in the current bankruptcy case and adversary proceeding.

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

**Debtor(s):**

Paula Gilbert-Bonnaire

Represented By  
Andrew Edward Smyth

**Defendant(s):**

Paula Gilbert-Bonnaire

Pro Se

**Plaintiff(s):**

SJO Investments, LLC

Represented By  
Jon Alan Enochs

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#24.00** CON'TD Hearing RE: Application of The Debtor and Debtor-In-Possession for Authority to Employ Force Ten Partners, LLC as Financial Advisor Effective as of The Petition Date **[Affects Bruce Elieff]**

FR: 12-5-19

Docket 43

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 5, 2019**

Potential Service Issue: LBR 2014-1(b)(2)(1) requires that employment applications be served on the 20 Largest Unsecured Creditors. The court could not determine from the proof of service re this application that such creditors were served. If not, the hearing on this application will be continued to January 9, 2020 at 10:30 a.m.

If service is determined to be correct, grant the application, including the *Knudsen* provisions and overrule all objections to the same.

-----

**January 9, 2020.**

Continue hearing one final time to February 6, 2020 at 10:30 a.m.

The omnibus notice [docket #149] which is intended to correct the notice issue raised by the court in its December 5, 2019 tentative ruling does not comply with LBR 2014-1(b)(3)(B), (C), (D) and (E).

Debtors will be allowed one final opportunity to properly serve the notice of the Applications. Debtors' counsel shall not charge Debtors for the preparation of the notice reflected as docket #149.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Bruce Elieff**

**Chapter 11**

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#25.00** CON'TD Hearing RE: Debtor's Motion for Order Authorizing Employment of Couchot Law, LLP, as Debtors General Insolvency Counsel **[Affects All Debtors]**

FR: 12-5-19

Docket 44

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 5, 2019**

Potential Service Issue: LBR 2014-1(b)(2)(1) requires that employment applications be served on the 20 Largest Unsecured Creditors. The court could not determine from the proof of service re this application that such creditors were served. If not, the hearing on this application will be continued to January 9, 2020 at 10:30 a.m.

If service is determined to be correct, grant the application, including the *Knudsen* provisions and overrule all objections to the same. However, applicant must file quarterly fee applications commencing at the end of the first quarter 2020.

-----  
**January 9, 2020.**

Continue hearing one final time to February 6, 2020 at 10:30 a.m.

The omnibus notice [docket #149] which is intended to correct the notice issue raised by the court in its December 5, 2019 tentative ruling does not comply with LBR 2014-1(b)(3)(B), (C), (D) and (E).

Debtors will be allowed one final opportunity to properly serve the notice of the

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT...**

**Bruce Elieff**

**Chapter 11**

Applications. Debtors' counsel shall not charge Debtors for the preparation of the notice reflected as docket #149.

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 9, 2020

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 11

#26.00 CON'TD Hearing RE: Motion in Debtors' Chapter 11 Cases for Order Authorizing Debtor in Possession to Employ Professional Real Estate Broker Timothy Tamura [Affects 4627 Camden, LLC]

FR: 12-5-19

Docket 49

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 5, 2019**

Potential Service Issue: LBR 2014-1(b)(2)(1) requires that employment applications be served on the 20 Largest Unsecured Creditors. The court could not determine from the proof of service re this application that such creditors were served. If not, the hearing on this application will be continued to January 9, 2020 at 10:30 a.m.

If service is determined to be correct, grant the application, without the conditions of weekly reports requested by objecting creditor -- the court finds such a request unnecessarily burdensome.

-----

**January 9, 2020.**

Continue hearing one final time to February 6, 2020 at 10:30 a.m.

The omnibus notice [docket #149] which is intended to correct the notice issue raised by the court in its December 5, 2019 tentative ruling does not comply with LBR 2014-1(b)(3)(B), (C), (D) and (E).

Debtors will be allowed one final opportunity to properly serve the notice of the Applications. Debtors' counsel shall not charge Debtors for the preparation of the notice reflected as docket #149.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Bruce Elieff**

**Chapter 11**

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 9, 2020

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 11

#27.00 CONT'D Hearing RE: Motion in Debtors' Chapter 11 Cases For Order Authorizing Debtor in Possession to Employ Professional Real Estate Broker Timothy Tamura **[Affects Bruce Elieff]**

FR: 12-5-19; 12-19-19

Docket 50

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 1/30/2020 AT 10:30 A.M.,  
Per Order Entered 1/8/2020 (XX)

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 1/30/2020 at 10:30 a.m., Per Order Entered 1/8/2020 (XX) - td (1/8/2020)**

**Tentative Ruling:**

**January 9, 2020.**

Continue hearing one final time to February 6, 2020 at 10:30 a.m.

The omnibus notice [docket #149] does not comply with LBR 2014-1(b)(3)(B), (C), (D) and (E).

Debtors will be allowed one final opportunity to properly serve the notice of the Applications. Debtors' counsel shall not charge Debtors for the preparation of the notice reflected as docket #149.

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#28.00** CON'TD Hearing RE: Motion in Debtors' Chapter 11 Cases For Order Authorizing Debtor in Possession to Employ Professional Real Estate Broker Carol Trapani **[Affects Morse Properties, LLC]**

FR: 12-5-19

Docket 60

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 5, 2019**

Potential Service Issue: LBR 2014-1(b)(2)(1) requires that employment applications be served on the 20 Largest Unsecured Creditors. The court could not determine from the proof of service re this application that such creditors were served. If not, the hearing on this application will be continued to January 9, 2020 at 10:30 a.m.

If service is determined to be correct, grant the application, modified by the terms set forth in Debtor's reply.

-----

**January 9, 2020.**

Continue hearing one final time to February 6, 2020 at 10:30 a.m.

The omnibus notice [docket #149] which is intended to correct the notice issue raised by the court in its December 5, 2019 tentative ruling does not comply with LBR 2014-1(b)(3)(B), (C), (D) and (E).

Debtors will be allowed one final opportunity to properly serve the notice of the Applications. Debtors' counsel shall not charge Debtors for the preparation of the notice reflected as docket #149.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... Bruce Elieff**

**Chapter 11**

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, January 9, 2020

Hearing Room 5A

10:30 AM

8:19-13881 Tamara A Bailey

Chapter 7

#29.00 Hearing RE: Motion of Steve Howard and Cremach Tech, Inc. to Extend Deadline to File Complaint to Determine Dischargeability of Debt Under 11 U.S.C. Sections 523 and 727

Docket 26

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Grant extension to and including March 11, 2020. No further extensions will be granted absent exigent circumstances.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required if Movant accepts the tentative ruling. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Tamara A Bailey

Represented By  
William R Cumming

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-14310 Gateway Business Complex LLC**

**Chapter 11**

**#30.00** CON'TD Hearing RE: Emergency Motion for Entry of an Order Pursuant to Bankruptcy Code Sections 105 and 543, Compelling Turnover of "Property of the Estate" in the Possession, Custody, or Control of Richardson C. Griswold, The Receiver Appointed by The California Superior Court in Riverside in the Case of The City of Banning V. Gateway Business Complex LLC Et Alia, Case No. RIC1700904 **(RE: Motion for Turnover)**  
(Set Per Order Enered 11/1/42019)

FR: 11-21-19

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**November 21, 2019**

*This matter remains under review by the court; a tentative ruling may be posted at any time prior to the hearing.*

-----

**January 9, 2020**

Deny Motion.

The City of Banning's response to the State Court Receiver's Status Report ("City's Response") presents circumstances concerning the subject properties that are jawdropping. The old adage "a picture is worth a thousand words" has particular resonance here. Without a doubt, the properties are a clear and present danger and nuisance to the City of Banning and its citizens. Debtor claims it can do better than the court-appointed receiver but offers no concrete evidence to support such a fantastic position. A loan of \$150,000 is a

**United States Bankruptcy Court  
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10:30 AM

**CONT... Gateway Business Complex LLC Chapter 11**

breathtakingly anemic response to such grave circumstances. In short, Debtor has presented nothing in its response to the receiver's report that persuades this court that turnover of the properties is appropriate.

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

**Debtor(s):**

Gateway Business Complex LLC

Represented By  
Jonathan Seligmann Shenson

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-14310 Gateway Business Complex LLC**

**Chapter 11**

**#31.00 STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and (2)  
Requiring Report on Status of Chapter 11 Case**

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

No tentative ruling -- disposition will depend on outcome of matter #30 on today's calendar.

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

**Debtor(s):**

Gateway Business Complex LLC

Represented By  
Jonathan Seligmann Shenson

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01015 Speier v. SunCal Management LLC et al

**#32.00** CONT'D Hearing RE: The Trustee's Motion for Partial Summary Adjudication that SunCal Management, LLC was an Insider of the Debtor

FR: 10-10-19

Docket 417

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

**Represented By**

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01015 Speier v. SunCal Management LLC et al

**#33.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Breach of Contract; (2) Restitution and/or Unjust Enrichment; (3) To Avoid and Recover Fraudulent Transfers; and (4) To Avoid and Recover Preferential Transfers  
**[Debtor: SunCal Oak Knoll, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19

Docket 95

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01021 Speier v. SunCal Management LLC et al

**#34.00** CONT'D Hearing RE: The Trustee's Motion for Partial Summary Adjudication that SunCal Management, LLC was an Insider of the Debtor

FR: 10-10-19

Docket 372

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

**Represented By**

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01021 Speier v. SunCal Management LLC et al

**#35.00** CONT'D STATUS CONFERENCE RE: Third Amended Complaint (1) To Avoid and Recover Fraudulent Transfers and (2) To Avoid and Recover Preferential Transfers **[Debtor: SunCal Torrance, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19

Docket 327

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch

Argent Management, LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01022 Speier v. SunCal Management LLC et al

**#36.00** CONT'D Hearing RE: The Trustee's Motion for Partial Summary Adjudication that SunCal Management, LLC Was an Insider of the Debtor

FR: 10-10-19

Docket 374

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

**Represented By**

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01022 Speier v. SunCal Management LLC et al

**#37.00** CONT'D STATUS CONFERENCE RE: Third Amended Complaint to Avoid and Recover Fraudulent Transfers **[Debtor: SunCal PSV, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19

Docket 329

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

**Represented By**

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch

Argent Management, LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01023      SPEIER v. SUNCAL MANAGEMENT, LLC et al

**#38.00**      CON'TD STATUS CONFERENCE RE: Third Amended Complaint (1) To Avoid and Recover Fraudulent Transfers and (2) To Avoid and Recover Preferential Transfers **[Debtor: Palmdale Hills Property, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19

Docket      298

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SUNCAL MANAGEMENT, LLC

Represented By  
Craig H Averch

Argent Management LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

STEVEN M. SPEIER

Represented By  
Evan C Borges  
Mike D Neue  
William N Lobel  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01024      SPEIER v. SUNCAL MANAGEMENT, LLC et al

**#39.00**      CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; and (4) To Avoid and Recover Fraudulent Transfers  
**[Debtor: SunCal Summit Valley, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19

Docket      68

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SUNCAL MANAGEMENT, LLC

Represented By  
Craig H Averch

Argent Management LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

STEVEN M. SPEIER

Represented By  
Evan C Borges  
Mike D Neue  
William N Lobel  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, January 9, 2020

Hearing Room 5A

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01025 SPEIER v. SUNCAL MANAGEMENT, LLC et al

**#40.00** CONT'D STATUS CONFERENCE RE: Second Amended Complaint: (1) To Avoid and Recover Preferential Transfers; (2) For Declaratory Relief, (3) In the Alternative, Breach of Contract; (4) Restitution and/or Unjust Enrichment; and (5) To Avoid and Recover Fraudulent Transfers  
**[Debtor: SunCal Bickford Ranch, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19

Docket 77

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SUNCAL MANAGEMENT, LLC

Represented By  
Craig H Averch

Argent Management LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

STEVEN M. SPEIER

Represented By  
Evan C Borges  
Mike D Neue  
William N Lobel  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01026 Speier v. SunCal Management LLC et al

**#41.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) To Avoid and Recover Preferential Transfers; (2) For Declaratory Relief, (3) In the Alternative, Breach of Contract; (4) Restitution and/or Unjust Enrichment; and (5) to Avoid and Recover Fraudulent Transfers [**Debtor: SunCal Emerald Meadows, LLC**]

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19

Docket 69

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch

Argent Management, LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, January 9, 2020

Hearing Room 5A

2:00 PM

8:08-17206 Palmdale Hills Property, LLC

Chapter 11

Adv#: 8:18-01125 Speier v. SunCal Management LLC et al

#42.00 CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief; (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers; and (5) To Avoid and Recover Preferential Transfers  
**[Debtor: SunCal Marblehead, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19

Docket 105

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Doah Kim  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Doah Kim  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01126 Speier v. SunCal Management, LLC et al

**#43.00** CONT'D Hearing RE: The Trustee's Motion for Partial Summary Adjudication that SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19

Docket 530

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

**Represented By**

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01126 Speier v. SunCal Management, LLC et al

**#44.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers; and (5) To Avoid and Recover Preferential Transfers  
**[Debtor: SunCal Heartland, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19

Docket 99

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01127 Speier v. SunCal Management LLC et al

**#45.00** CONT'D Hearing RE: The Trustee's Motion for Partial Summary Adjudication That SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19

Docket 518

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

**Represented By**

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01127 Speier v. SunCal Management LLC et al

**#46.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers  
**[Debtor: SunCal Northlake, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19

Docket 98

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01128 Speier v. SunCal Management LLC et al

**#47.00** CONT'D Hearing RE: The Trustee's Motion for Partial Summary Adjudication that SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19

Docket 518

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

**Represented By**

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01128 Speier v. SunCal Management LLC et al

**#48.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; and (4) to Avoid and Recover Fraudulent Transfers  
**[Debtor: LBL-SunCal Oak Valley, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19

Docket 98

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01129 Speier v. Argent Management, LLC et al

**#49.00** CONT'D Hearing RE: The Trustee's Motion for Partial Summary Adjudication that SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19

Docket 522

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

**Represented By**

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01129 Speier v. Argent Management, LLC et al

**#50.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers; and (5) To Avoid and Recover Preferential Transfers  
**[Debtor: Delta Coves Venture LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19

Docket 100

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, January 14, 2020

Hearing Room 5A

10:00 AM

8:19-11546 Joseph Ra

Chapter 7

#1.00 Hearing RE: Motion for Protective Order RE: Rule 2004 Examination  
(OST Entered 1/2/2020)

Docket 114

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of  
Motion filed 1/6/2020

Courtroom Deputy:

OFF CALENDAR: Notice of Withdrawal of Motion filed 1/6/2020 - td  
(1/7/2020)

Party Information

Debtor(s):

Joseph Ra

Represented By  
David B Golubchik

Trustee(s):

Richard A Marshack (TR)

Represented By  
Michael G Spector  
Thomas J Polis

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, January 16, 2020

Hearing Room 5A

9:30 AM

8:18-10971 James Christopher Patow

Chapter 7

Adv#: 8:19-01061 Marshack (TR) v. Patow et al

#1.00 PRE-TRIAL CONFERENCE RE: First Amended Complaint for: (1) Avoidance, Recovery, and Preservation of Actual Fraudulent Transfer; (2) Avoidance, Recovery, and Preservation of Constructive Fraudulent Transfer; (3) Declaratory Relief as to Whether, and to what Extent, Assets Constitute Property of the Estate; (4) Turnover of Estates Interest in Trust Assets; and (5) Injunctive Relief

FR: 8-15-19

Docket 7

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4/16/2020 AT 9:30 A.M.,  
PER ORDER ENTERED 10/29/2019 (XX)

Courtroom Deputy:

**CONTINUED: Pre-trial Conference Continued to 4/16/2020 at 9:30 a.m.,  
Per Order Entered 10/29/2019 (XX) - td (10/29/2019)**

Tentative Ruling:

**August 15, 2019**

Discovery Cut-off Date: 11/30/19  
Pretrial Conference Date: 1/16/20 at 9:30 a.m. (XX)  
Deadline to file Pretrial Stipulationr: 1/9/20

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

Party Information

**Debtor(s):**

James Christopher Patow

Represented By  
Kevin J Kunde

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 16, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... James Christopher Patow**

**Chapter 7**

**Defendant(s):**

James Christopher Patow	Pro Se
Alvin and Linda Patow 2006 Trust	Pro Se
Linda Patow, as Trustee of the Alvin	Pro Se
Linda Patow	Pro Se

**Plaintiff(s):**

Richard A. Marshack (TR)	Represented By D Edward Hays Chad V Haes
--------------------------	--

**Trustee(s):**

Richard A Marshack (TR)	Represented By D Edward Hays Chad V Haes
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United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, January 16, 2020

Hearing Room 5A

9:30 AM

8:19-10898 Alicia K Pipitone

Chapter 13

Adv#: 8:19-01108 Pipitone v. Choice Motor Credit, LLC

#2.00 CON'TD STATUS CONFERENCE RE: Complaint to Compel Turnover of  
Property to the Estate

FR: 8-22-19; 10-3-19; 11-21-19

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 22, 2019**

Continue Status Conference to October 3, 2019 at 9:30 a.m. (XX)

A motion for default judgment may self-calendared for the same date/time as the continued Status Conference date. Alternatively, the motion may be filed without a hearing pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).

The motion for default judgment, supported by evidence, must be served on defendant and defendant's counsel in accordance with Local Rule 9013-1(d).

If the motion for default judgment is not heard by the continued date of the Status Conference, **THE ADVERSARY MAY BE DISMISSED** at the Status Conference for failure to prosecute.

***Note: Appearance at this hearing is not required; Plaintiff to serve Defendant with notice of the continued status conference date/time.***

**October 3, 2019**



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 16, 2020

Hearing Room 5A

9:30 AM

CONT... Alicia K Pipitone

Chapter 13

Continue status conference to November 21, 2019 at 9:30 a.m.; updated status report must be filed by November 7, 2019. (XX)

The status conference is being continued in light of Plaintiff's representations in the status report that some issues have been resolved and that Defendant has hired new counsel to set aside default.

***Note: Appearance at this hearing is not required; Plaintiff to serve Defendant with notice of the continued status conference date/time.***

-----

**January 16, 2020**

Discovery Cut-off Date:	May 15, 2020
Deadline to Attend Mediation:	June 30, 2020
Pretrial Conference Date:	Aug. 6, 2020 at 9:30 a.m.
Deadline to File Joint Pretrial Stipulation:	July 23, 2020

*Special Note: In the JSR, Plaintiff seeks more than 7 months to complete discovery without explanation.*

***Note: If all parties accept the the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

**Party Information**

**Debtor(s):**

Alicia K Pipitone

Represented By  
Marc A Goldbach

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 16, 2020**

**Hearing Room      5A**

9:30 AM

**CONT...      Alicia K Pipitone**

**Chapter 13**

**Defendant(s):**

Choice Motor Credit, LLC

Pro Se

**Plaintiff(s):**

Alicia K Pipitone

Represented By  
Marc A Goldbach

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 16, 2020

Hearing Room 5A

9:30 AM

**8:19-11414 Peter Woo Sik Kim**

**Chapter 7**

Adv#: 8:19-01155 Kang Family 2007 Revocable Trust v. Kim et al

**#3.00** CONT'D STATUS CONFERENCE RE: Complaint Objecting to Discharge of Debt Under 11 U.S.C. §523(a)(3)(a) and 11 U.S.C. §523(a)(2)(B)

FR: 10-17-19

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**October 17, 2019**

Discovery Cut-off Date:	Mar. 6, 2020
Deadline to Attend Mediation:	Jan. 31, 2020
Pretrial Conference Date:	Apr. 30, 2020 at 9:30 a.m.
Deadline to Lodge Joint Pretrial Stipulation:	Apr. 16, 2020

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

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**January 16, 2020**

Discovery Cut-off Date:	Mar. 16, 2020
Pretrial Conference Date:	May 6, 2020 at 9:30 a.m.
Deadline to Lodge Joint Pretrial Stipulation:	Apr. 23, 2020

***Note: If all parties accept the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 16, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Peter Woo Sik Kim**

**Chapter 7**

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

**Debtor(s):**

Peter Woo Sik Kim

Represented By  
Andrew S Bisom

**Defendant(s):**

Peter Kim

Pro Se

Sharon Kim

Pro Se

**Joint Debtor(s):**

Sharon Soyun Kim

Represented By  
Andrew S Bisom

**Plaintiff(s):**

Kang Family 2007 Revocable Trust

Represented By  
Edmond Richard McGuire

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Lynda T Bui  
Rika Kido

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 16, 2020**

**Hearing Room 5A**

10:00 AM

**8:12-18188 Luis Savastano**

**Chapter 7**

Adv#: 8:13-01220 Bobinski v. Savastano

**#4.00** CON'TD Third Person Examination of Dominic Savastano RE: Enforcement of Judgment

FR: 12-5-19

Docket 183

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 3/19/2020 AT 10:00 A.M.,  
Per Order Entered 1/15/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Examination Continued to 3/19/2020 at 10:00 a.m., Per  
Order Entered 1/15/2020 (XX) - td (1/15/2020)**

**Tentative Ruling:**

**December 5, 2019**

Examinee Dominic Savastano to appear in court for swearing in by the courtroom clerk; the examination will thereafter proceed outside the courtroom.

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**January 16, 2020**

Examinee Dominic Savastano to appear in court for swearing in by the courtroom clerk; the examination will thereafter proceed outside the courtroom

**Party Information**

**Debtor(s):**

Luis Savastano

Represented By  
Nathan Fransen

**Defendant(s):**

Luis Savastano

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 16, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Luis Savastano**

**Chapter 7**

Nathan Fransen

**Plaintiff(s):**

Richard Bobinski

Represented By  
Crystal Bergstrom

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Karen S Naylor (TR)

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 16, 2020**

**Hearing Room 5A**

10:00 AM

**8:18-13487 Shahid Jamil**

**Chapter 13**

**#5.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

AJAX MORTGAGE LOAN TRUST 2019-A

VS.

DEBTOR

Docket 45

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 16, 2020**

Grant with 4001(a)(3) waiver and co-debtor relief.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Shahid Jamil

Represented By  
Brian J Soo-Hoo

**Movant(s):**

Ajax Mortgage Loan Trust 2019-A,

Represented By  
Joshua L Scheer  
Reilly D Wilkinson

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 16, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Shahid Jamil**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, January 16, 2020

Hearing Room 5A

10:00 AM

8:19-13977 Roy Stanton and Janet Stanton

Chapter 7

#6.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]  
LENARDO BRUNO FAMILY TRUST  
VS.  
DEBTORS

Docket 23

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 16, 2020**

Grant with 4001(a)(3) waiver and annulment. The request for co-debtor relief is denied as there is no co-debtor stay in chapter 7 cases.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Roy Stanton

Represented By  
Timothy McFarlin

**Joint Debtor(s):**

Janet Stanton

Represented By  
Timothy McFarlin

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 16, 2020**

**Hearing Room 5A**

---

10:00 AM

**CONT... Roy Stanton and Janet Stanton**

**Chapter 7**

**Movant(s):**

Lenardo Bruno Family Trust,

Represented By  
Barry L O'Connor

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 16, 2020

Hearing Room 5A

10:00 AM

8:19-14230 Vartan Sarkisian

Chapter 7

#7.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

TD AUTO FINANCE LLC

VS.

DEBTOR

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 16, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Vartan Sarkisian

Represented By  
Andrew Nguyen

**Movant(s):**

TD Auto Finance LLC

Represented By  
Sheryl K Ith

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 16, 2020**

**Hearing Room 5A**

---

10:00 AM

**CONT... Vartan Sarkisian**

**Chapter 7**

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 16, 2020

Hearing Room

5A

10:00 AM

8:19-14490 Deborah Ann Watt

Chapter 13

#8.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

SCHOOLS FIRST FEDERAL CREDIT UNION (f/k/a ORANGE COUNTY  
TEACHERS FEDERAL CREDIT UNION

VS.

DEBTOR

Docket 18

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal  
Arising from Debtor's Request for Voluntary Dismissal of Chapter 13 with  
Restrictions (11 U.S.C. Sections 109(g)(2) and 1307(b) Entered 1/9/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order of Dismissal Arising from Debtor's Request for  
Voluntary Dismissal of Chapter 13 with Restrictions (11 U.S.C. Sections  
109(g)(2) and 1307(b) Entered 1/9/2020 - td (1/9/2020)**

**Tentative Ruling:**

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

**Debtor(s):**

Deborah Ann Watt

Represented By  
Arlene M Tokarz

**Movant(s):**

SCHOOLS FIRST FEDERAL

Represented By  
Rebecca M Wicks

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 16, 2020**

**Hearing Room 5A**

10:30 AM

**8:12-18188 Luis Savastano**

**Chapter 7**

Adv#: 8:13-01220 Bobinski v. Savastano

**#9.00** CON'TD Third Person Examination of Guadalupe (Lupe) Savastano RE:  
Enforcement of Judgment

FR: 9-12-19; 11-19-19

Docket 175

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 3/19/2020 AT 10:00 A.M.,  
Per Order Entered 1/15/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Examination Continued to 3/19/2020 at 10:00 a.m., Per  
Order Entered 1/15/2020 (XX) - td (1/15/2020)**

**Tentative Ruling:**

**September 12, 2019**

Examinee Guadalupe Savastano to appear in court to be sworn in by the  
court clerk. Thereafter, the examination will take place outside the courtroom  
-----

**November 19, 2019**

Continued to Jan. 16, 2020 at 10:30 a.m. per stipulation of the parties. (XX)

**Party Information**

**Debtor(s):**

Luis Savastano

Represented By  
Nathan Fransen

**Defendant(s):**

Luis Savastano

Represented By  
Nathan Fransen

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 16, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... Luis Savastano**

**Chapter 7**

**Plaintiff(s):**

Richard Bobinski

Represented By  
Crystal Bergstrom

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Karen S Naylor (TR)

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 16, 2020**

**Hearing Room 5A**

10:30 AM

**8:17-13342 David C. Park**

**Chapter 7**

**#10.00** Hearing RE: Motion by Chapter 7 Trustee for Order Approving Compromise with Roland Ho and The Law Offices of Roland Ho

Docket 50

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 16, 2020**

Grant Motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

David C. Park

Represented By  
Raymond J Seo

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Neil Anapol



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 16, 2020

Hearing Room 5A

10:30 AM

8:17-13342 David C. Park

Chapter 7

#11.00 Hearing RE: Application for Payment of Final Fees and/or Expenses

**[LAW OFFICES OF NEIL R. ANAPOL, SPECIAL COUNSEL FOR CHAPTER 7 TRUSTEE]**

Docket 52

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 16, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

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

**Debtor(s):**

David C. Park

Represented By  
Raymond J Seo

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Neil Anapol

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 16, 2020

Hearing Room 5A

10:30 AM

8:18-10548 Lenore LuAnn Albert-Sheridan

Chapter 7

#12.00 Hearing RE: Debtor's Objection to Proof of Claim Number 7 by Claimant Viewcrest Road Properties, LLC; Request for Sanctions Against Viewcrest Road Properties, LLC and Art Carvalho, Esq in the Amount of \$1,640.00

Docket 588

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Withdrawal of Claim filed 10/31/2019. Debtor's Notice Taking Off Calendar Her Objection to Viewcrest Road Properties, LLC's Proof of Claim filed 12/20/2019**

**Courtroom Deputy:**

**OFF CALENDAR: Withdrawal of Claim filed 10/31/2019. Debtor's Notice Taking Off Calendar Her Objection to Viewcrest Road Properties, LLC's Proof of Claim filed 12/20/2019 - td (12/20/2019)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Lenore LuAnn Albert-Sheridan

Pro Se

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By

Jonathan A. Michaels

Eric P Israel

Aaron E de Leest

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, January 16, 2020

Hearing Room 5A

10:30 AM

8:18-12656 Jenny Kristin Porter

Chapter 7

#13.00 Hearing RE: Trustee's Final Report and Application for Final Fees and Expenses

[RICHARD A. MARSHACK, CHAPTER 7 TRUSTEE]

Docket 76

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 16, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

**Party Information**

**Debtor(s):**

Jenny Kristin Porter

Represented By  
Christopher J Langley

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
David M Goodrich  
Jeffrey G Jacobs

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 16, 2020

Hearing Room 5A

10:30 AM

8:18-12656 Jenny Kristin Porter

Chapter 7

#14.00 Hearing RE: First and Final Application for Allowance and Payment of Fees and Reimbursement of Expenses

**[WEILAND GOLDEN GOODRICH LLP, COUNSEL FOR THE TRUSTEE]**

Docket 71

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 16, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

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

**Debtor(s):**

Jenny Kristin Porter

Represented By  
Christopher J Langley

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
David M Goodrich  
Jeffrey G Jacobs

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, January 16, 2020

Hearing Room 5A

10:30 AM

8:18-12656 Jenny Kristin Porter

Chapter 7

#15.00 Hearing RE: Application for Payment of Final Fees and/or Expenses

[THE LAW OFFICE OF JEFFREY G. JACOBS, ATTORNEY FOR RICHARD A. MARSHACK, CHAPTER 7 TRUSTEE]

Docket 72

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 16, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

**Party Information**

**Debtor(s):**

Jenny Kristin Porter

Represented By  
Christopher J Langley

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
David M Goodrich  
Jeffrey G Jacobs

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 16, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-12337 Jorge David Gonzalez**

**Chapter 7**

**#16.00** Hearing RE: Chapter 7 Trustee's Motion Objecting to Debtor's Claimed Homestead Exemption

Docket 26

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 16, 2020**

Grant the motion as to CCP 704.720(d). Defer any ruling under 11 U.S.C. 522(g) until adjudication of the pending adversary proceeding.

Basis for Tentative Ruling

1. The Article 4 automatic homestead exemption is applicable under California law when a person's homestead is damaged, destroyed, taken by eminent domain or sold involuntarily in satisfaction of a debt. CCP § 704.720(b). For purposes of bankruptcy law, the creation of the bankruptcy estate upon the filing of the petition is treated as equivalent to an involuntary sale. *Diaz v. Kosmala (In re Diaz)*, 547 B.R. 329, 334 (9th Cir. BAP 2016).

2. Debtor's Schedule C claims an exemption of \$100,000 as to the subject real property at 427 N McClay St, Santa Ana CA ("Property") under CCP 704.720(d), which provides in pertinent part:

*If a judgment debtor is not currently residing in the homestead, but his or her separated or former spouse continues to reside in or exercise control over possession of the homestead, **that judgment debtor continues to be entitled to an exemption under this article until***

**entry**

**of judgment or other legally enforceable agreement dividing the**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 16, 2020

Hearing Room 5A

10:30 AM

CONT...

**Jorge David Gonzalez**

Chapter 7

**community property between the judgment debtor and the separated**

**or former spouse**, or until a later time period as specified by court order.

(emphasis in italics and bold added)

3. The trustee focuses on the bolded portion of 704.720(d), arguing that the entry of the Stipulation and Order Re Division of Property entered on May 23, 2019 in state court ("Property Division Order") renders the exemption statute inapplicable. However, based on the evidence presented, the court believes the operative language that renders the 704.720(d) inapplicable is the preamble in italics: "If a judgment debtor is not currently residing in the homestead . . . .".

4. The unrefuted evidence is that Debtor did reside at the Property on the petition date and still resides there. See Petition, Part 1, Para. 5 as well as Schedule A/B indicating an interest in the Property and that Debtor's personal property is located at the Property. See also paragraphs 5 and 6 of Debtor's declaration in opposition to the Motion where he confirms that he has resided on the property since 2003. The notation on the Amended Schedule C in Part 1, Para. 2 does not directly contradict or refute Debtor's residing on the Property, especially on date of the filing (June 18, 2019).

5. Because CCP 704.720(d) only applies to the situation where the debtor is not residing at the homestead, the statute has no application here and cannot be the basis for a homestead exemption claim. On this basis alone, the motion must be granted.

6. CCP 704.730 sets forth the amount of the exemption. The Motion does not challenge the amount of the claimed exemption.

7. This court makes no ruling as any homestead exemption that the former spouse, Ms. Carrillo, may be entitled to as such is beyond the scope of the motion objecting to the homestead exemption claimed by Debtor in Amended Schedule C.

8. The court declines to make a ruling under 522(g) as it is currently not

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 16, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Jorge David Gonzalez Chapter 7**

clear, based on the legal authority/analysis presented by the Trustee, whether there has been a voluntary "transfer" of the Property within the meaning of 522(g)(1)(A) in light of the fact that legal title apparently remains in Debtor's name due to failure to execute a quitclaim deed in Ms. Carrillo's favor as contemplated by the Property Division Order.

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

**Debtor(s):**

Jorge David Gonzalez

Represented By  
Brian J Soo-Hoo

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Robert P Goe



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 16, 2020

Hearing Room 5A

10:30 AM

**8:19-13844 Sepas Property Management LLC**

**Chapter 11**

#17.00 Hearing RE: Motion by United States Trustee to Dismiss Case or Convert to One Under Chapter 7 Pursuant To 11 U.S.C. §1112(b)

Docket 14

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 2/6/2020 AT 10:30 A.M.,  
Per Order Entered 1/15/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 2/6/2020 at 10:30 a.m., Per Order  
Entered 1/15/2020 (XX) - td (1/15/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Sepas Property Management LLC

Represented By  
Dennis Connelly

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 16, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13844 Sepas Property Management LLC**

**Chapter 11**

**#18.00** Hearing RE: Order to Appear and Show Cause Why This Case Should Not Be Dismissed Due to Failure to Comply with Local Bankruptcy Rule 9011-2(a) (OSC Issued 12/5/2019)

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 16, 2020**

Vacate OSC in light of Debtor's retention of legal counsel.

***Note: Appearance at this hearing is not required.***

**Party Information**

**Debtor(s):**

Sepas Property Management LLC

Represented By  
Dennis Connelly

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 16, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13844 Sepas Property Management LLC**

**Chapter 11**

**#19.00** CONT'D STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case

FR: 12-5-19

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 5, 2019**

No status report filed other than Debtor's counsel's statement that Debtor has terminated legal representation. As a business entity may not represent itself in a bankruptcy case, the court will issue an Order to Show Cause Why This Case Should Not Be Dismissed Due to Violation of Local Bankruptcy Rule 9020-2.

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**January 16, 2020**

Continue status conference to February 6, 2020 at 10:30 a.m., same datetime as continued hearing on UST's motion to dismiss/convert case.

***Note: Appearances at this hearing are not required.***

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

**Debtor(s):**

Sepas Property Management LLC

Represented By  
Dennis Connelly

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 16, 2020**

**Hearing Room**

**5A**

10:30 AM

**8:19-14275 Conrado Del Rosario**

**Chapter 7**

**#20.00** Hearing RE: Debtor's Motion to Set Aside Foreclosure Sale of Real Estate Property in Violation of the Automatic Stay

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 16, 2019**

Deny motion.

Basis for Tentative Ruling:

1. Section 362(d)(4), which is not addressed at all in the Motion, provides that where a debtor has had two prior cases dismissed within one year of the current bankruptcy filing, there is no automatic stay and that the burden is on the debtor to file a motion with the court seeking the imposition of a stay within 30 days of the filing of the third petition.
2. Here, Debtor's first case, No. 18-13517ES, was dismissed on January 28, 2019 for failure to appear at the 341a meeting. Debtor's second case, 19:11314ES was voluntarily dismissed by Debtor on May 21, 2019. The present case was filed on October 31, 2019, within one year of the dismissal of the prior two cases. Accordingly, no stay went into effect upon the filing of the present case per Section 362(c)(4)(A)(i).
3. Debtor did not timely file a motion seeking the imposition of a stay as required under 362(c)(4)(B). The time to seek the imposition of the stay expired on or about November 30, 2019. This court lacks authority or jurisdiction to impose a stay beyond the time set forth in 362(c)(4)(B). Thus, the foreclosure sale, which took place on December 2, 2019, was held at a time when there was no stay in effect.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 16, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Conrado Del Rosario**

**Chapter 7**

**Party Information**

**Debtor(s):**

Conrado Del Rosario

Represented By  
Leroy Bishop Austin

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14667 Heriberto Moreno**

**Chapter 13**

**#1.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 13

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal  
Arising from Debtor's Request for Voluntary Dismissal of Chapter 13  
Entered 1/7/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order of Dismissal Arising from Debtor's Request for  
Voluntary Dismissal of Chapter 13 Entered 1/7/2020 - td (1/7/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Heriberto Moreno

Represented By  
Lionel E Giron

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14487 Herminigilda Manalo**

**Chapter 13**

**#2.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Herminigilda Manalo

Represented By  
Kevin Tang

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14478 Rosibel Flores**

**Chapter 13**

**#3.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Rosibel Flores

Represented By  
Tuan Le

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14431 Kerry Steven Scott Lawler**

**Chapter 13**

**#4.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Case  
for Failure to File Schedules, Statements, and/or Plan Entered 12/2/2019**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,  
Statements, and/or Plan Entered 12/2/2019 - td (12/4/2019)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Kerry Steven Scott Lawler

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14426 Michael Alan Kohn**

**Chapter 13**

**#5.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Alan Kohn

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14418 Todd Scott Pflug and Carrie Ruth Pflug**

**Chapter 13**

**#6.00 Hearing RE: Confirmation of 2nd Amended Chapter 13 Plan**

Docket 22

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Todd Scott Pflug

Represented By  
Mehran R Chini

**Joint Debtor(s):**

Carrie Ruth Pflug

Represented By  
Mehran R Chini

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14416 Alba Fernandez**

**Chapter 13**

**#7.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 5

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Case  
for Failure to File Schedules, Statements, and/or Plan Entered 12/2/2019**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,  
Statements, and/or Plan Entered 12/2/2019 - td (12/4/2019)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Alba Fernandez

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14413 Natalie Marie Mifflin and Jason Clifford Mifflin**

**Chapter 13**

**#8.00 Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

Docket 20

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Natalie Marie Mifflin

Represented By  
Yelena Gurevich

**Joint Debtor(s):**

Jason Clifford Mifflin

Represented By  
Yelena Gurevich

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14399 Amrita Holden**

**Chapter 13**

**#9.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Case  
for Failure to File Schedules, Statements, and/or Plan Entered 11/26/2019**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,  
Statements, and/or Plan Entered 11/26/2019 - td (1/10/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Amrita Holden

Represented By  
Patricia Rodriguez

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14340 Michael Thomas Bates and Rachelle Lissette Bates**

**Chapter 13**

**#10.00** Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Thomas Bates

Represented By  
David Lozano

**Joint Debtor(s):**

Rachelle Lissette Bates

Represented By  
David Lozano

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14337 Richard P Alexander**

**Chapter 13**

**#11.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Case  
for Failure to File Schedules, Statements, and/or Plan Entered 11/27/2019**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,  
Statements, and/or Plan Entered 11/27/2019 - td (1/10/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Richard P Alexander

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14308 Karla Golbert**

**Chapter 13**

**#12.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Karla Golbert

Represented By  
Anerio V Altman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14231 Eufonio J Atienza, Jr. and Beatriz S. Atienza**

**Chapter 13**

**#13.00** Hearing RE: Confirmation of 2nd Amended Chapter 13 Plan

Docket 25

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Eufonio J Atienza Jr.

Represented By  
Michael D Franco

**Joint Debtor(s):**

Beatriz S. Atienza

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14215 Johnny Diego Gutierrez**

**Chapter 13**

**#14.00 Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

Docket 15

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Johnny Diego Gutierrez

Represented By  
Krystina T Tran

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14213 Esther Rico**

**Chapter 13**

**#15.00 Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

Docket 22

**Courtroom Deputy:**

**SPECIAL NOTE: Debtor's Notice of Conversion of Bankruptcy Case  
From Chapter 13 to Chapter 7 filed 1/14/2020; Awaiting Conversion by  
Docket Clerk - td (1/15/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Esther Rico

Represented By  
Bert Briones

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14204 Luis Ricardo Malvaez**

**Chapter 13**

**#16.00** Hearing RE: Confirmation of 1st Amended Chapter 13 Plan

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Luis Ricardo Malvaez

Represented By  
Kevin J Kunde

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14167 Alin Manuel Ybarra**

**Chapter 13**

**#17.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Alin Manuel Ybarra

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14163 Tito Kawile**

**Chapter 13**

**#18.00** Hearing RE: Confirmation of 1st Amended Chapter 13 Plan

Docket 24

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tito Kawile

Represented By  
Stephen Parry

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14161 April Suzanne Ferrara**

**Chapter 13**

**#19.00** Hearing RE: Confirmation of Chapter 13 Plan

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

April Suzanne Ferrara

Represented By  
Edward T Weber

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14144 Rob Stoddard**

**Chapter 13**

**#20.00** Hearing RE: Confirmation of Chapter 13 Plan

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Case  
for Failure to File Schedules, Statements, and/or Plan Entered 11/18/2019**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,  
Statements, and/or Plan Entered 11/18/2019 - td (1/10/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Rob Stoddard

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14115 Jesus Roman Hernandez Pantoja**

**Chapter 13**

**#21.00** Hearing RE: Confirmation of 1st Amended Chapter 13 Plan

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jesus Roman Hernandez Pantoja

Represented By  
Juanita V Miller

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14079 Joshue Avendano**

**Chapter 13**

**#22.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 12-20-19

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Joshue Avendano

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14032 Maria Guadalupe Canales**

**Chapter 13**

**#23.00 CON'TD Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

FR: 12-20-19

Docket 21

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Maria Guadalupe Canales

Represented By  
Daniel King

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14006 Daniel Gonzalez and Emily Gonzalez**

**Chapter 13**

**#24.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 12-20-19

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Daniel Gonzalez

Represented By  
Scott Dicus

**Joint Debtor(s):**

Emily Gonzalez

Represented By  
Scott Dicus

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-13972 William H Waller and Sandra M Waller**

**Chapter 13**

**#25.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 12-20-19

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

William H Waller

Represented By  
Christopher J Langley

**Joint Debtor(s):**

Sandra M Waller

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-13921 Stephen Jacob Maki**

**Chapter 13**

**#26.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 12-20-19

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Stephen Jacob Maki

Represented By  
Nicholas Nicholas Wajda

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-13600 Ellie Elape Lam**

**Chapter 13**

**#27.00 CONT'D Hearing RE: Confirmation of Chapter 13 Plan**

FR: 11-26-19

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Ellie Elape Lam

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-13468 Eric Anthony Perez**

**Chapter 13**

**#28.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 11-26-19

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Eric Anthony Perez

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-13464 Robert P Fiorentino and Phyllis A Fiorentino**

**Chapter 13**

**#29.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 11-26-19

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Robert P Fiorentino

Represented By  
Julie J Villalobos

**Joint Debtor(s):**

Phyllis A Fiorentino

Represented By  
Julie J Villalobos

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-13239 John Fouse**

**Chapter 13**

**#30.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 10-22-19; 11-26-19

Docket 4

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

John Fouse

Represented By  
Sundee M Teeple

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-12841 Augusta Ayona**

**Chapter 13**

**#31.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 10-22-19; 11-26-19

Docket 14

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Augusta Ayona

Represented By  
Jaime A Cuevas Jr.

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-12633 Lisa Anna Gregorius**

**Chapter 13**

**#32.00** CONT'D Hearing RE: Confirmation of Chapter 13 Plan

FR: 9-24-19; 11-26-19; 12-20-19

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Lisa Anna Gregorius

Represented By  
Sheila M Pistone

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-11738 Shauna Barnhardt**

**Chapter 13**

**#33.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 7-30-19; 9-24-19; 11-26-19; 12-20-19

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Shauna Barnhardt

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:19-12002 Jesse C Peck**

**Chapter 13**

**#34.00** Hearing RE: Trustee's Verified Motion to Dismiss Case Due to Material Default of a Plan Provision

Docket 30

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Jesse C Peck

Represented By  
Christopher Hewitt

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:19-10560 Marvin L Sanders and Mary Ann Tan Sanders**

**Chapter 13**

**#35.00 CON'TD Hearing RE: Debtors' Motion Under LBR 3015-1(n) and (w) To Modify Plan or Suspend Plan Payments**

FR: 12-20-19

Docket 48

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Marvin L Sanders

Represented By  
Joshua L Sternberg

**Joint Debtor(s):**

Mary Ann Tan Sanders

Represented By  
Joshua L Sternberg

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:19-10560 Marvin L Sanders and Mary Ann Tan Sanders**

**Chapter 13**

**#36.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments**

FR: 10-22-19; 11-26-19; 12-20-19

Docket 44

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Marvin L Sanders

Represented By  
Joshua L Sternberg

**Joint Debtor(s):**

Mary Ann Tan Sanders

Represented By  
Joshua L Sternberg

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:19-10201 Robert Lynn McEwen**

**Chapter 13**

**#37.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments**

FR: 10-22-19; 11-26-19

Docket 41

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Robert Lynn McEwen

Represented By  
Jacqueline D Serrao

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:18-13684 Olga Torres**

**Chapter 13**

**#38.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

Docket 32

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Olga Torres

Represented By  
Bryn C Deb

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:18-11942 Maureen T. Todd**

**Chapter 13**

**#39.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

Docket 79

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Maureen T. Todd

Represented By  
Christine A Kingston

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room**

**5A**

2:30 PM

**8:16-15227 Christopher Michael Brooksbank and Suzanne Michelle**

**Chapter 13**

**#40.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13  
Proceeding for Failure to Make Plan Payments

Docket 65

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Christopher Michael Brooksbank

Represented By  
Karine Karadjian

**Joint Debtor(s):**

Suzanne Michelle Brooksbank

Represented By  
Karine Karadjian

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:16-13812 Hang Nga Thi Le**

**Chapter 13**

**#41.00** Hearing RE: Trustee's Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

Docket 80

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Hang Nga Thi Le

Represented By  
Tina H Trinh

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:16-13574 Mario Rivas and Irma Rivas**

**Chapter 13**

**#42.00** Hearing RE: Trustee's Verified Motion to Dismiss Case Due to a Material Default of a Plan Provision

Docket 57

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Mario Rivas

Represented By  
James G. Beirne

**Joint Debtor(s):**

Irma Rivas

Represented By  
James G. Beirne

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:16-12477 Nathan M. Donahue**

**Chapter 13**

**#43.00** CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

FR: 11-26-19

Docket 107

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Nathan M. Donahue

Represented By  
Joseph A Weber  
Fritz J Firman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:15-15494 Bert Ranelycke-Svensson**

**Chapter 13**

**#44.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding

Docket 133

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bert Ranelycke-Svensson

Represented By  
Scott Dicus

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:15-14408 Thomas Winslor Eddy and Colleen Marie Eddy**

**Chapter 13**

**#45.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments**

FR: 11-26-19

Docket 112

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Thomas Winslor Eddy

Represented By  
Christopher J Langley

**Joint Debtor(s):**

Colleen Marie Eddy

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:15-13987 Catherina D. Salazar**

**Chapter 13**

**#46.00** CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

FR: 10-22-19; 11-26-19

Docket 124

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Catherina D. Salazar

Represented By  
Michael Jay Berger

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, January 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:15-13895 Rocio Lopez Namdar**

**Chapter 13**

**#47.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13  
Proceeding for Failure to Make Plan Payments

Docket 108

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Rocio Lopez Namdar

Represented By  
Anerio V Altman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Friday, January 24, 2020**

**Hearing Room 5A**

2:00 PM

**8:17-10706 John Jean Bral**

**Chapter 11**

**#1.00 ORAL RULING RE:** Debtor's Amended Objection to Proof of Claim Filed by  
Steward Financial LLC [Claim No. 19]

FR: 8-8-19, 9-19-19; 11-21-19

Docket 740

**Courtroom Deputy:**

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

**Debtor(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel  
Bobby Samini  
Dean A Ziehl

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

9:30 AM

**8:13-17920 Donald Woo Lee**

**Chapter 7**

Adv#: 8:14-01220 Lee et al v. Ciling et al

**#1.00** CON'TD STATUS CONFERENCE RE: First Amended Verified Adversary Complaint for: 1. Fraudulent Transfer Pursuant to California Civil Code Section 3439-3439, 12; 2. Fraud; 3. Breach of Contract; 4. Accounting; 5. Constructive Trust; 6. Preliminary and Permanent Injunction; 7. Conversion; 8. Breach of Fiduciary Duty; 9. Breach of Implied Covenant of Good Faith and Fair Dealing; and 10. Involuntary Dissolution of Defendant Fallbrook Diagnostics, Inc.

FR: 3-12-15; 4-7-15; 6-18-15; 8-18-15; 12-15-15; 4-14-16; 9-1-16; 6-22-17; 8-31-17; 4-12-18; 10-18-18; 12-13-18; 2-12-19; 3-12-19; 6-20-19; 9-19-19; 10-3-19; 11-7-19

Docket 59

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**November 7, 2019**

The status conference will be continued to January 30, 2020 at 9:30 a.m.; joint status report must be filed by January 16, 2020. (XX)

-----

**January 30, 2020**

Discovery Cut-off Date:	June 30, 2020
Deadline to Attend Mediation:	Aug. 31, 2020
Pretrial Conference Date:	Oct. 8, 2020 at 9:30 a.m.
Deadline to File Joint Pretrial Stipulation:	Sept. 24, 2020

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiffs shall serve/lodge a scheduling order consistent with the same.**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

9:30 AM

CONT... Donald Woo Lee

**Chapter 7**

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

**Debtor(s):**

Donald Woo Lee

Represented By  
Robert B Rosenstein

**Defendant(s):**

American Edge Medical Co.

Represented By  
Marc C Forsythe

Turko United LLC

Pro Se

Nath Investments Inc.

Represented By  
Marc C Forsythe

My Imaging Center Inc.

Represented By  
Marc C Forsythe

Medical Imaging Rentals, Inc.

Represented By  
Marc C Forsythe

My Imaging Center LLC

Pro Se

Lake Elsinore Diagnostics Inc.

Pro Se

Temecula Diagnostic Center Inc.

Pro Se

Anke Ciling

Pro Se

Sammy Ciling

Pro Se

Fallbrook Diagnostics Inc.

Pro Se

**Joint Debtor(s):**

Linda Bae Lee

Represented By  
Robert B Rosenstein

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Donald Woo Lee**

**Chapter 7**

**Plaintiff(s):**

Prime Partners Medical Group, Inc.

Represented By  
Norma Ann Dawson  
Robert B Rosenstein

Donald Woo Lee

Represented By  
Norma Ann Dawson  
Robert B Rosenstein

Linda Bae Lee

Represented By  
Norma Ann Dawson  
Robert B Rosenstein

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Kyra E Andrassy  
David Wood  
Matthew Grimshaw  
Nathan F Smith  
Arturo M Cisneros  
Norma Ann Dawson  
Robert S Lawrence  
Caroline Djang  
Brett Ramsaur



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

9:30 AM

**8:16-12895 29 Prime, Inc.**

Chapter 7

Adv#: 8:17-01226 Marshack v. Wallace et al

**#2.00 CON'TD PRE-TRIAL CONFERENCE RE: First Amended Complaint for: (1) Breach of Fiduciary Duty - Derivative; (2) Constructive Trust (As to Defendant Russell Wallace Only)**

(Advanced from 6-14-18)

FR: 6-7-18; 7-19-18; 12-20-18; 5-2-19; 5-7-19; 8-22-19; 11-7-19; 12-12-19

Docket 47

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**July 19, 2018**

The following discovery schedule applies to Plaintiff and Defendant Haleh Fardi:

Discovery Cut-off Date:	Oct. 19, 2018
Deadline to Attend Mediation:	Nov. 16, 2018
Pretrial Conference Date:	Dec. 20, 2018 at 9:30
a.m.	(XX)
Deadline to Lodge Joint Pretrial Stipulation:	Dec. 6, 2018

Deadline for Plaintiff to move for entry of default judgments as to non-answering defendants: Sept. 21, 2018

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... 29 Prime, Inc.  
May 7, 2019**

**Chapter 7**

Court's Comments re the Joint Pretrial Stipulation:

1. A demand for jury trial has been made. Each party is required indicate whether they consent or do not consent to the jury trial being conducted in this court. Absent 100% consent by all parties, the jury trial must be held in District Court. Statements re consent or nonconsent to this court conducting the jury trial must be filed with the court by **May 21, 2019**.
2. The facts to which Defendant Russell Wallace admitted to in his answer should be reflected in the Admitted Facts Section of the Stipulation.
3. Re Section (c)(1) of the Issues of Law, why must a determination be made at trial re whether Mr. Redman and Mr. Martin breached their fiduciary duties to 29 Prime when defaults have been entered against both gentlemen?
4. Why isn't Ms. Fardi ready for trial? The reason(s) should have been set forth in the Stipuation.
5. Any motions *in limine* need to be filed no later than **June 18, 2019** and scheduled for hearing no later than **July 16, 2019**.

***Note: Appearances at this hearing are required.***

-----

**August 22, 2019**

Comments re the Joint Pretrial Stipulation filed 8/16/19:

1. Who has signed off on the JPS. No signatures for either of the remaining defendants, Russell Wallace or Haleh Fardi. Did either of them participate in the preparation of this JPS?
2. The JPS is supposed to include a section on all admitted facts that require no proof. So, why does that section include the statement that Ms. Fardi "disputes" the admitted facts? That would make them NOT admitted. Which

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

9:30 AM

CONT... 29 Prime, Inc.

Chapter 7

facts does she actually dispute?

3. Why does the admitted facts section include Nos. 13, 18 - 48 which all appear to be DISPUTED FACTS????

4. Why does (f) state that plaintiff "intends to file a motion *in limine*" when such a motion was already filed as of August 16, 2019, the date the JPS was submitted?

***Special Note: If at all possible, the court would like for the trustee, Richard Marshack to participate in this hearing.***

***Note: Appearances at this hearing are required.***

-----

**November 7, 2019**

Continue the Pretrial Conference to December 12, 2019 at 9:30 a.m. The court shall issue an Order to Show Cause Why This Adversary Proceeding Should Not Be Dismissed Due to the Inability of Plaintiff to Properly Prosecute This Adversary Proceeding. The OSC hearing shall take place on Dec. 12, 2019 at 9:30 a.m. (XX)

Plaintiff's counsel has failed to timely comply with a strict order of this court re the service of an amended joint pretrial stipulation -- once again causing further delay and confusion for the defendants. The apologies offered are shallow and of no moment. The pretrial conference has previously been continued twice due to counsel's inability to present a proper, coherent and timely pretrial stipulation. Enough is enough.

-----

**December 12, 2019**

Take matter off calendar in light of tentative ruling for Calendar #2 dismissing adversary proceeding.

-----

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

9:30 AM

CONT... 29 Prime, Inc.  
**January 30, 2020**

Chapter 7

The court is inclined to approve the pretrial statement filed January 9, 2020 (docket #157) on the following conditions:

1. A Final Pretrial Statement is filed within 7 days of the hearing that a) deletes the words "And Order" from the caption (a separate order approving the Stipulation must be lodged); and b) deletes the "Status of the Parties" and related chart as such is beyond the scope of LBR 7016-1(b) and clutters up what should be a straightforward statement.
  
2. Counsel for Plaintiff appears at the hearing and advises the court of the basis for motion to strike Defendant Wallace's answer at this late stage.

The court's usual trial procedure is to required direct testimony by declarations (filed 30 days before by Plaintiff and 21 days before by Defendant) with adverse and rebuttal testimony being presented live. All declarants must be present for cross examination. Plaintiff's counsel to advise the court if Plaintiff would prefer all live direct testimony instead of by declaration. See this court's Trial Procedures on the court's website.

***Note: Appearance at this hearing is required.***

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

**Debtor(s):**

29 Prime, Inc.

Represented By  
Richard L Barnett

**Defendant(s):**

Russell B. Wallace

Pro Se

Tony Redman

Pro Se

Jason Martin

Pro Se

Local Zoom, Inc.

Pro Se

OC Listing, Inc.

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room      5A**

---

9:30 AM

**CONT...      29 Prime, Inc.**

**Chapter 7**

Sky Motorsports, Inc.

Pro Se

Haleh Fardi

Pro Se

1Network.Com

Pro Se

**Plaintiff(s):**

Richard A. Marshack

Represented By  
Rosemary Amezcua-Moll

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Caroline Djang  
Rosemary Amezcua-Moll

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-10423 Chad Paul Delannoy**

**Chapter 7**

Adv#: 8:17-01073 Woodlawn Colonial, L P v. Delannoy

**#3.00** CON'TD STATUS CONFERENCE RE: Complaint for Determination of Non-Dischargeability of Debt

FR: 7-27-17; 9-21-17, 4-12-18; 5-31-18; 7-19-18; 9-20-18; 12-6-18; 3-21-19; 5-9-19; 6-18-19; 9-19-19; 11-21-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4/2/2020 AT 9:30 A.M.,  
Per Order Entered 1/24/2020 (XX)**

**Courtroom Deputy:**

**SPECIAL NOTE: Order Granting Plaintiff Woodlawn Colonial, L.P.'s Motion (1) to Dismiss Plaintiff's First & Second Claims for Relief; & (2) for Entry of Judgment on Plaintiff's Third Claim for Relief Entered 9/6/2019; Non-Dischargeable Judgment Entered 9/6/2019. Remaining Issue is Defendant's Counterclaim fld 6/12/17, dkt #7 - td (9/6/2019)**

**CONTINUED: Status Conference Continued to 4/2/2020 at 9:30 a.m., Per Order Entered 1/24/2020 (XX) - td (1/24/2020)**

**Tentative Ruling:**

**July 27, 2017**

No tentative ruling -- the disposition of the status conference will depend upon the outcome of Plaintiff's motion for stay of the adversary proceeding, which set on today's 10:30am calendar.

-----  
**September 21, 2017**

Impose sanctions against counsel for Plaintiff in the amount of \$100 for failure to file joint status report as required by LBR 7016-1.

Discovery Cut-off Date: Jan. 18, 2018

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room

5A

9:30 AM

CONT...

**Chad Paul Delannoy**

**Chapter 7**

Deadline to File Pretrial Motions:	Feb. 1, 2018
Reserved hearing date re Pretrial Motions:	Mar. 8, 2018 at 2:00 p.m. (xx)
Pretrial Conference: (XX)	Apr. 12, 2018 at 9:30 a.m.
Deadline to File Pretrial Stipulation	Mar. 29, 2018

*Special Note: Defendant's counterclaim may be moot in light of the sale of the truck by the Trustee.*

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

-----  
**July 19, 2018**

In light of pending appeal, continue status conference to September 20, 2018 at 9:30 a.m., updated status report must be filed by September 13, 2018.  
(XX)

**Note: Appearances at this hearing are not required.**

-----  
**September 20, 2018**

Continue status conference to December 6, 2018 at 9:30 a.m.; updated status report must be filed by November 29, 2018. (XX)

**Note: Appearances at today's hearing are not required; Plaintiff to serve notice of the continued hearing date/time.**

-----  
**December 6, 2018**

Continue status conference to March 21, 2019 at 9:30 a.m.; updated joint status report must be filed by March 7, 2019 (XX)

**Note: Appearances at today's hearing are not required; Plaintiff to serve notice of the continued hearing date/time.**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

9:30 AM

CONT... Chad Paul Delannoy

Chapter 7

-----  
**March 21, 2019**

Continue status conference to May 9, 2019 at 2:00 p.m., same date/time as hearing on Plaintiff's motion for summary judgment; updated status report not required. (XX)

***Note: Appearances at the March 21, 2019 status conference are not required.***

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

**Debtor(s):**

Chad Paul Delannoy

Represented By  
Robert P Goe  
Charity J Miller

**Defendant(s):**

Chad Paul Delannoy

Pro Se

**Plaintiff(s):**

Woodlawn Colonial, L P

Represented By  
Howard M Bidna

**Trustee(s):**

Thomas H Casey (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-10706 John Jean Bral**

**Chapter 11**

Adv#: 8:17-01071 Bral v. Beitler

**#4.00** CONT'D STATUS CONFERENCE Hearing RE: Motion for Summary Judgment on Debtor's First Amended Complaint Against Barry Beitler for: (1) Avoidance of Preference Pursuant to 11 U.S.C. Section 547; (2) Avoidance of Unperfected Liens Pursuant to 11 U.S.C. Section 544(A); (3) Recovery of Avoided Transfers Pursuant to 11 U.S.C. Section 550; and (4) Disallowance of Claims Pursuant to 11 U.S.C. Section 502

FR: 9-20-18; 3-21-19; 8-15-19

Docket 27

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**September 20, 2018**

Continue status conference to March 21, 2019 at 9:30 a.m.; updated status report to be filed by March 7, 2019 (XX)

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**March 21, 2019**

Continue status conference to August 15, 2019 at 9:30 a.m.; updated joint status report to be filed by August 1, 2019. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at the March 21, 2019 hearing are not required.***

-----

**August 15, 2019**

Continue status conference to January 30, 2020 at 9:30 a.m.; updated status

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

9:30 AM

CONT... **John Jean Bral**

Chapter 11

report must be filed by January 16, 2020. (XX)

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***

-----

**January 30, 2020**

Continue status conference to May 21, 2020 at 9:30 a.m.; updated joint status report must be filed by May 7, 2020.

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***

**Party Information**

**Debtor(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel  
Babak Samini  
Dean A Ziehl

**Defendant(s):**

Barry Beitler

Represented By  
Krikor J Meshefejian

**Plaintiff(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

9:30 AM

**CONT...**

**John Jean Bral**

William N Lobel

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-10706 John Jean Bral**

**Chapter 11**

Adv#: 8:17-01071 Bral v. Beitler

**#5.00** CONT'D STATUS CONFERENCE RE: First Amended Complaint Against Barry Beitler for: (1) Avoidance of Preference Pursuant to 11 U.S.C. §547; (2) Avoidance of Unperfected Liens Pursuant to 11 U.S.C. §544(A); (3) Recovery of Avoided Transfers Pursuant to 11 U.S.C. §550; and (4) Disallowance of Claims Pursuant to 11 U.S.C. §502

FR: 9-20-18; 3-21-19; 8-15-19

Docket 20

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**September 20, 2018**

Continue status conference to March 21, 2019 at 9:30 a.m.; updated status report to be filed by March 7, 2019 (XX)

-----

**March 21, 2019**

Continue status conference to August 15, 2019 at 9:30 a.m.; updated joint status report to be filed by August 1, 2019. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at the March 21, 2019 hearing are not required.***

-----

**August 15, 2019**

Continue status conference to January 30, 2020 at 9:30 a.m.; updated status report must be filed by January 16, 2020. (XX)

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

9:30 AM

CONT... John Jean Bral

Chapter 11

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***

-----

**January 30, 2020**

Continue status conference to May 21, 2020 at 9:30 a.m.; updated joint status report must be filed by May 7, 2020.

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***

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

**Debtor(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel  
Babak Samini  
Dean A Ziehl

**Defendant(s):**

Barry Beitler

Represented By  
Krikor J Meshefejian

**Plaintiff(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

9:30 AM

**8:17-10706 John Jean Bral**

**Chapter 11**

Adv#: 8:17-01092 Beitler v. Bral

**#6.00** CONT'D STATUS CONFERENCE RE: First Amended Complaint to Determine Non-dischargeability of Debt under Bankruptcy Code Section 523

FR: 9-20-18; 3-21-19; 8-15-19

Docket 35

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**September 20, 2018**

Continue status conference to March 21, 2019 at 9:30 a.m.; updated status report to be filed by March 7, 2019 (XX)

-----

**March 21, 2019**

Continuue status conference to August 15, 2019 at 9:30 a.m.; updated joint status report to be filed by August 1, 2019. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at the March 21, 2019 hearing are not required.***

-----

**August 15, 2019**

Continue status conference to January 30, 2020 at 9:30 a.m.; updated status report must be filed by January 16, 2020. (XX)

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

9:30 AM

CONT... John Jean Bral

Chapter 11

**January 30, 2020**

Continue status conference to May 21, 2020 at 9:30 a.m.; updated joint status report must be filed by May 7, 2020.

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***

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

**Debtor(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel  
Babak Samini  
Dean A Ziehl

**Defendant(s):**

John Jean Bral

Represented By  
William N Lobel  
Beth Gaschen  
Alan J Friedman

**Plaintiff(s):**

Barry Beitler

Represented By  
Krikor J Meshefejian  
Gary E Klausner

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

9:30 AM

**8:17-10706 John Jean Bral**

**Chapter 11**

Adv#: 8:17-01094 Beitler & Associates, Inc. dba Beitler Commercial v. Bral

**#7.00** CONT'D STATUS CONFERENCE RE: First Amended Complaint to Determine Non-dischargeability of Debt Under Bankruptcy Code Section 523

FR: 9-20-18; 3-21-19; 8-15-19

Docket 35

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**September 20, 2018**

Continue status conference to March 21, 2019 at 9:30 a.m.; updated status report to be filed by March 7, 2019 (XX)

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**March 21, 2019**

Continue status conference to August 15, 2019 at 9:30 a.m.; updated joint status report to be filed by August 1, 2019. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at the March 21, 2019 hearing are not required.***

-----

**August 15, 2019**

Continue status conference to January 30, 2020 at 9:30 a.m.; updated status report must be filed by January 16, 2020. (XX)

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

9:30 AM

CONT... John Jean Bral

Chapter 11

**January 30, 2020**

Continue status conference to May 21, 2020 at 9:30 a.m.; updated joint status report must be filed by May 7, 2020.

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***

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

**Debtor(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel  
Babak Samini  
Dean A Ziehl

**Defendant(s):**

John Jean Bral

Represented By  
William N Lobel  
Beth Gaschen  
Alan J Friedman

**Plaintiff(s):**

Beitler & Associates, Inc. dba Beitler

Represented By  
Krikor J Meshefejian  
Gary E Klausner

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

9:30 AM

**8:17-13780 Maria H. Helton-Rehburg**

**Chapter 7**

Adv#: 8:18-01049 Rehburg v. Helton-Rehburg

**#8.00** STATUS CONFERENCE RE: Complaint to: 1) Determine Non-Dischargeability of Debt 11 USC Sections 523(a)(2)(A), 523(a)(4) and 523(a)(6), and 2) Deny Discharge of Debtor Under 11 USC Sections 727(a)(2)(A), 727(a)(3), and 727(a)(4)(A)

FR: 6-21-18; 1-31-19; 5-2-19; 5-7-19; 8-8-19; 11-21-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4/2/2020 AT 9:30 A.M.,  
Per Order Entered 1/22/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 4/2/2020 at 9:30 a.m., Per  
Order Entered 1/22/2020 (XX) - td (1/22/2020)**

**Tentative Ruling:**

**June 21, 2018**

Discovery Cut-off Date:	Nov. 1, 2018
Deadline to Attend Mediation:	Jan. 11, 2019
Pretrial Conference Date:	Jan. 31, 2019 at 9:30 a.m.
	(XX)
Deadline to Lodge Joint Pretrial Stipulation:	Jan. 17, 2019

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

-----

**November 21, 2019**

Impose sanctions in the amount of \$100 each against counsel for Plaintiff and

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

9:30 AM

**CONT...**     **Maria H. Helton-Rehburg**  
counsel for Defendant for failure to timely file a pretrial stipulation.

**Chapter 7**

Appearances at today's hearing are required.

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

Maria H. Helton-Rehburg

Represented By  
Christopher P Walker

**Defendant(s):**

Maria H. Helton-Rehburg

Pro Se

**Plaintiff(s):**

Lisa M. Rehburg

Represented By  
Bradley D Blakeley

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01213 Marshack v. An et al

**#9.00** STATUS CONFERENCE RE: Complaint for: 1. Avoidance and Recover of Constructive Fraudulent Transfers; 2. Avoidance and Recovery of Property of the Bankruptcy Estate; 3. Avoidance of Preferential Transfers; and 4. Recovery of Avoided Transfers

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 30, 2020**

Joint status report not timely filed.\* Parties must appear and advise the court re the status of this matter.

\* The Stipulation and Order [docket #s 5 & 6] only extended the answer date -- did not include an extension of the deadline to file a status report.

***Note: Appearances at the hearing are required.***

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Minho An

Pro Se

Byungwhan Chung

Pro Se

**Plaintiff(s):**

Richard A Marshack

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

Ronald S Goe  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

9:30 AM

**8:18-10548 Lenore LuAnn Albert-Sheridan**

**Chapter 7**

Adv#: 8:18-01071 Albert-Sheridan v. Education Credit Management Corporation et al

**#10.00** PRE-TRIAL CONFERENCE RE: Complaint seeking declaration that private student loan is dischargeable because not a qualified education loan and/or the loan is dischargeable due to undue hardship

FR: 7-10-18; 12-20-18; 1-31-19; 3-21-19; 6-20-19; 11-21-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 3/19/2020 AT 9:30 A.M.,  
Per Order Entered 1/10/220 (XX)**

**Courtroom Deputy:**

**CONTINUED: Pre-trial Conference Continued to 3/19/2020 at 9:30 a.m.,  
Per Order Entered 1/10/2020 (XX) - td (1/10/2020)**

**Tentative Ruling:**

**July 10, 2018**

Discovery Cut-off Date:	10/15/18
Deadline to Attend Mandatory Mediation:	11/16/18
Pretrial Conference Date:	12/20/18 at 9:30 a.m. (XX)
Deadline to Lodge Joint Pretrial Stipulation:	11/13/18

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

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**March 21, 2019**

This matter will be trailed to today's 10:30 a.m. calendar.

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**June 20, 2019**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Lenore LuAnn Albert-Sheridan**

**Chapter 7**

Discovery Cut-off Date:	Sept. 30, 2019
Pretrial Conference Date: (XX)	Nov. 21, 2019 at 9:30 a.m.
Deadline to File Joint Pretrial Stipulation:	Nov. 7, 2019

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

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

Lenore LuAnn Albert-Sheridan	Pro Se
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**Defendant(s):**

Education Credit Management	Represented By Scott A Schiff
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The Education Resources Institute	Pro Se
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**Plaintiff(s):**

Lenore LuAnn Albert-Sheridan	Pro Se
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**Trustee(s):**

Jeffrey I Golden (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

9:30 AM

**8:19-10275 Michael J Duff**

**Chapter 7**

Adv#: 8:19-01084 Constantin et al v. Duff

**#11.00 PRE-TRIAL CONFERENCE RE: Complaint to Deny Debtor's Discharge**

FR: 8-1-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 2/20/2020 AT 9:30 A.M.,  
Per Order Entered 12/12/2019 (XX)**

**Courtroom Deputy:**

**CONTINUED: Pre-trial Conference Continued to 2/20/2020 at 9:30 a.m.,  
Per Order Entered 12/12/2019 (XX) - td (12/12/2019)**

**Tentative Ruling:**

**August 1, 2019**

Discovery Cut-off Date:	Nov. 4, 2019
Deadline to Attend Mediation:	Dec. 20, 2019
Pretrial Conference Date: (XX)	Jan. 30, 2020 at 9:30 a.m.
Deadline to Lodge Joint Pretrial Stipulation:	Jan. 16, 2020

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

**Party Information**

**Debtor(s):**

Michael J Duff Pro Se

**Defendant(s):**

Michael J. Duff Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room      5A**

---

9:30 AM

**CONT...      Michael J Duff**

**Chapter 7**

**Plaintiff(s):**

Holly Constantin

Represented By  
Alan W Forsley

Michael Constantin

Represented By  
Alan W Forsley

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, January 30, 2020

Hearing Room 5A

9:30 AM

8:19-10996 Raju Gobindlal Shewa

Chapter 7

Adv#: 8:19-01126 American Outdoor Gears, LLC v. Shewa

#12.00 PRE-TRIAL CONFERENCE RE: Complaint to Determine Nondischargeability of Debt. 1. False Pretenses, False Representations, or Actual Fraud 11 U.S.C. Section 523(a)(2); 2. Willful and Malicious Injury 11 U.S.C. Section 523(a)(6); and 3. Non-Dischargeability of Debt Pursuant to 11 U.S.C. Section 727(a)(2)(a) (5)

FR: 9-19-19

Docket 1

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Approving Stipulation and Dismissing Adversary Proceeding Entered 11/20/2019

Courtroom Deputy:

**OFF CALENDAR: Order Approving Stipulation and Dismissing Adversary Proceeding Entered 11/20/2019 - td (11/20/2019)**

Tentative Ruling:

**September 19, 2019**

Discovery Cut-off Date:	Oct. 31, 2019
Deadline to Attend Mediation:	Dec. 20, 2019
Pretrial Conference Date: (XX)	Jan. 30, 2020 at 9:30 a.m.
Deadline to File Joint Pretrial Stipulation:	Jan. 16, 2020

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

Party Information

**Debtor(s):**

Raju Gobindlal Shewa

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Raju Gobindlal Shewa**

**Chapter 7**

Leonard M Shulman

**Defendant(s):**

Raju Gobindlal Shewa

Pro Se

**Plaintiff(s):**

American Outdoor Gears, LLC

Represented By  
Michael A Ortiz

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

9:30 AM

8:19-13858 Bruce Elieff

Chapter 11

Adv#: 8:19-01205 Elieff et al v. Kurtin

**#13.00** STATUS CONFERENCE RE: First Amended Complaint for Mandatory Subordination Pursuant to 11 U.S.C. §510(b) and Avoidance and Recovery of Preferential and Fraudulent Transfers

Docket 5

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Another Summons  
Issued 12/11/2019; New Status Conference Set for 3/5/2020 at 9:30 a.m. (xx)**

**Courtroom Deputy:**

**OFF CALENDAR: Another Summons Issued 12/11/2019; New Status  
Conference Set for 3/5/2020 at 9:30 a.m. (xx) - td (12/11/2019)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Pro Se

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

10:00 AM

8:19-10247 Loren Tramontano and Monique Chevalier

Chapter 13

#14.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

U.S. BANK N.A.

VS.

DEBTORS

Docket 34

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 3/19/2020 AT 10:00 A.M.,  
Per Order Entered 1/13/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 3/19/2020 at 10:00 a.m., Per Order  
Entered 1/13/2020 (XX) - td (1/13/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Loren Tramontano

Represented By  
Paul Y Lee

**Joint Debtor(s):**

Monique Chevalier

Represented By  
Paul Y Lee

**Movant(s):**

U.S. Bank National Association, as

Represented By  
Robert P Zahradka

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, January 30, 2020

Hearing Room 5A

10:00 AM

8:19-14100 Sandra Irene Farias

Chapter 7

#15.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
TOYOTA MOTOR CREDIT CORPORATION  
VS.  
DEBTOR

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 30, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Sandra Irene Farias

Represented By  
Marlin Branstetter

**Movant(s):**

Toyota Motor Credit Corporation

Represented By  
Austin P Nagel

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Sandra Irene Farias**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-14150 Brandi Bagley**

**Chapter 7**

**#16.00** Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]  
LEANN BENVENUTI, AN INDIVIDUAL  
VS.  
DEBTOR

Docket 29

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 30, 2020**

Grant with 4001(a)(3) waiver and annulment.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Brandi Bagley

Represented By  
Omid J Shirazi

**Movant(s):**

Leann Benvenuti

Represented By  
Richard Sontag

**Trustee(s):**

Thomas H Casey (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Brandi Bagley**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-14798 Linda L Rock**

**Chapter 13**

**#17.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

WILMINGTON SAVINGS FUND SOCIETY, FSB

VS.

DEBTOR

Docket 11

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Case  
for Failure to File Schedules, Statements, and/or Pan Entered 1/21/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,  
Statements, and/or Pan Entered 1/21/2020 - td (1/24/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Linda L Rock

Pro Se

**Movant(s):**

Wilmington Savings Fund Society,

Represented By  
Austin P Nagel

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-14858 Pedro Carrillo-Garcia and Ana Rosa Elias De Carrillo**

**Chapter 7**

**#18.00** Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
FORD MOTOR CREDIT COMPANY LLC  
VS.  
DEBTORS

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 30, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Pedro Carrillo-Garcia

Represented By  
Michael H Colmenares

**Joint Debtor(s):**

Ana Rosa Elias De Carrillo

Represented By  
Michael H Colmenares

**Movant(s):**

Ford Motor Credit Company LLC

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Pedro Carrillo-Garcia and Ana Rosa Elias De Carrillo  
Sheryl K Ith**

**Chapter 7**

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-14073 Greenplanet Broadbord Inc.**

**Chapter 7**

**#18.10** CONT'D Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

BENJAMIN P. LUCAS, ET AL.

VS.

DEBTOR

FR: 12-5-19; 1-9-20

Docket 14

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Continue hearing to January 30, 2020 at 10:00 a.m. to allow Movant to correct service issue (XX)

Service issue: Though Debtor has retained counsel (Dana Douglas Esq) as of November 21, 2019, the Motion has not been served on such counsel as required by LBR 4001-1(c)(1)(C)(i).

Tentative ruling for 1/30/20 hearing: Grant motion with 4001(a)(3) waiver under both 362(d)(1) (cause shown -- lack of proof of insurance) and 362(d)(2) (no equity in the property per Debtor's own schedule D and property not necessary for reorganization -- there is no reorganization in chapter 7 cases).

Objection of creditor Tariq Ahmad is overruled. Neither the Local Bankruptcy Rules or the Federal Rules of Bankruptcy Procedure require service of the Motion on creditors of the estate in chapter 7 cases. Further, Mr. Ahmad's

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

10:00 AM

CONT... Greenplanet Broadbord Inc.

Chapter 7

opposition states no substantive ground for denial of the Motion.

***Note: If the parties accept the foregoing tentative ruling, appearances at today's hearing are not required and Movant shall serve notice of the continued hearing date/time.***

-----

**January 30, 2020**

Deny motion without prejudice -- service to Debtor's attorney remains defective.

No further continuances. Hearing was continued to allow service to Debtor's attorney. Debtor's attorney was not served at either the correct street address or the email address indicated on the Substitution of Attorney filed 11/21/19.

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

**Debtor(s):**

Greenplanet Broadbord Inc.

Pro Se

**Movant(s):**

Benjamin P. Lucas, a Sole

Represented By  
Edward T Weber

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

10:00 AM

8:20-10002 Jeffrey J. Axton

Chapter 13

#19.00 Hearing RE: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 8

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 30, 2020**

Grant motion, except that the stay will terminate on May 4, 2020 if the lump sum plan payment of \$65,000 is not paid by such date.

Basis for Tentative Ruling

Comparing Debtor's Schedule I in the prior case with Schedule I in the current case, Debtor's monthly income has actually *decreased* significantly. Accordingly, the offer of an early lump sum plan payment is the critical factor supporting the assertion of changed circumstances and good faith.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required if Movant accepts the foregoing tentative ruling. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Jeffrey J. Axton

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Jeffrey J. Axton**

**Chapter 13**



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, January 30, 2020

Hearing Room 5A

10:00 AM

8:18-13487 Shahid Jamil

Chapter 13

#19.10 CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

AJAX MORTGAGE LOAN TRUST 2019-A

VS.

DEBTOR

FR: 1-16-20

Docket 45

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion  
for Relief from the Automatic Stay (Settled by Stipulation) Entered 1/22/2020

Courtroom Deputy:

OFF CALENDAR: Order Granting Motion for Relief from the Automatic  
Stay (Settled by Stipulation) Entered 1/22/2020 - td (1/29/2020)

Tentative Ruling:

January 16, 2020

Grant with 4001(a)(3) waiver and co-debtor relief.

***Note: This matter appears to be uncontested. Accordingly, no court  
appearance by the Movant is required. Should an opposing party file a  
late opposition or appear at the hearing, the court will determine  
whether further hearing is required and Movant will be so notified.***

Party Information

Debtor(s):

Shahid Jamil

Represented By  
Brian J Soo-Hoo

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Shahid Jamil**

**Chapter 13**

**Movant(s):**

Ajax Mortgage Loan Trust 2019-A,

Represented By  
Joshua L Scheer  
Reilly D Wilkinson

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

10:30 AM

8:10-14723 Susan Doan

Chapter 7

#20.00 Hearing RE: Application by Chapter 7 Trustee to Employ Investors' Property Services as Property Manager and Pay Management Expenses

Docket 82

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 30, 2020**

Grant motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Susan Doan

Represented By  
Gregory J Doan

**Movant(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Tinho Mang

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Tinho Mang

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:30 AM

**8:10-14723 Susan Doan**

**Chapter 7**

**#21.00** Hearing RE: Trustee's Motion to Operate Debtor's Rental Property Under 11 U.S.C. Section 721

Docket 93

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 30, 2020**

Grant motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Susan Doan

Represented By  
Gregory J Doan

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Tinho Mang

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:30 AM

**8:16-11882 Stephen J Haythorne**

**Chapter 7**

Adv#: 8:16-01247 Damon v. Haythorne

**#22.00** CON'TD Examination of Judgment Debtor Stephen J. Haythorne RE:  
Enforcement of Judgment

FR: 7-16-19; 8-15-19; 10-17-19; 11-21-19

Docket 128

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**July 16, 2019**

Stephen Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.  
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**August 8, 2019**

Stephen Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.  
-----

**August 15, 2019**

Stephen Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.  
-----

**October 17, 2019**

Judgment creditor has not sought the issuance of an OSC re contempt.  
Continue hearing to November 21, 2019 at 10:30 a.m. Any motion for OSC

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Stephen J Haythorne**

**Chapter 7**

re contempt may be heard on the same date.  
-----

**November 21, 2019**

Judgment creditor to advise the court re the status of this matter. The court notes that judgment creditor has not sought the issuance of an OSC re contempt.  
-----

**January 30, 2020**

Judgment creditor to advise the court re the status of this matter, e.g., production of documents. Stephen Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.

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

**Debtor(s):**

Stephen J Haythorne

Represented By  
David S Henshaw

**Defendant(s):**

Stephen J Haythorne

Pro Se

**Plaintiff(s):**

Hugh C Damon

Represented By  
Robert P Goe  
Charity J Manee

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:30 AM

**8:16-11882 Stephen J Haythorne**

**Chapter 7**

Adv#: 8:16-01247 Damon v. Haythorne

**#23.00** CON'TD Examination of Judgment Debtor/Third Person Kelli R. Haythorne RE:  
Enforcement of Judgment

FR: 7-16-19; 8-15-19; 10-17-19; 11-21-19

Docket 130

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**July 16, 2019**

Kelli Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.  
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**August 8, 2019**

Kelli Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.  
-----

**August 15, 2019**

Kelli Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.  
-----

**October 17, 2019**

Judgment creditor has not sought the issuance of an OSC re contempt.  
Continue hearing to November 21, 2019 at 10:30 a.m. Any motion for OSC

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Stephen J Haythorne**

**Chapter 7**

re contempt may be heard on the same date.  
-----

**November 21, 2019**

Judgment creditor to advise the court re the status of this matter. The court notes that judgment creditor has not sought the issuance of an OSC re contempt.  
-----

**January 30, 2020**

Judgment creditor to advise the court re the status of this matter, e.g., production of documents. Kelli Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom (no doctor's note was filed by January 16, 2020 excusing her appearance).

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

**Debtor(s):**

Stephen J Haythorne

Represented By  
David S Henshaw

**Defendant(s):**

Stephen J Haythorne

Pro Se

**Plaintiff(s):**

Hugh C Damon

Represented By  
Robert P Goe  
Charity J Manee

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

10:30 AM

8:17-10486 Girishkumar Someshwar Joshi and Neeta Girishkumar

Chapter 7

#24.00 Hearing RE: Trustee's Final Report and Application for Compensation and Reimbursement of Expenses

**[JEFFREY I. GOLDEN, CHAPTER 7 TRUSTEE]**

Docket 54

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 30, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

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

**Debtor(s):**

Girishkumar Someshwar Joshi Pro Se

**Joint Debtor(s):**

Neeta Girishkumar Joshi Pro Se

**Trustee(s):**

Jeffrey I Golden (TR) Represented By  
Erin P Moriarty

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, January 30, 2020

Hearing Room 5A

10:30 AM

8:17-10486 Girishkumar Someshwar Joshi and Neeta Girishkumar

Chapter 7

#25.00 Hearing RE: Application for Payment of Final Fees and/or Expenses

[LAW OFFICES OF WENETA M.A. KOSMALA, ATTORNEY FOR JEFFREY I.  
GOLDEN, CHAPTER 7 TRUSTEE]

Docket 44

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 30, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

**Party Information**

**Debtor(s):**

Girishkumar Someshwar Joshi Pro Se

**Joint Debtor(s):**

Neeta Girishkumar Joshi Pro Se

**Trustee(s):**

Jeffrey I Golden (TR) Represented By  
Erin P Moriarty

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

10:30 AM

8:17-13137 Maryam Teimoori

Chapter 7

#26.00 Hearing RE: Trustee's Final Report and Application for Approval of Final Fees and Expenses

**[RICHARD A. MARSHACK, CHAPTER 7 TRUSTEE]**

Docket 104

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 30, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

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

**Debtor(s):**

Maryam Teimoori

Represented By  
James D. Hornbuckle

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
David Wood  
Tinho Mang

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

10:30 AM

8:17-13137 Maryam Teimoori

Chapter 7

#27.00 Hearing RE: First and Final Application for Allowance of Fees and Costs

**[MARSHACK HAYS LLP, GENERAL COUNSEL FOR CHAPTER 7 TRUSTEE  
RICHARD A. MARSHACK]**

Docket 102

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 30, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

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

**Debtor(s):**

Maryam Teimoori

Represented By  
James D. Hornbuckle

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
David Wood  
Tinho Mang

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

10:30 AM

8:17-13137 Maryam Teimoori

Chapter 7

#28.00 Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses From August 13, 2019 Through December 1, 2019

**[HAHN FIFE & COMPANY, ACCOUNTANT FOR CHAPTER 7 TRUSTEE,  
RICHARD A. MARSHACK]**

Docket 103

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 30, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

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

**Debtor(s):**

Maryam Teimoori

Represented By  
James D. Hornbuckle

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
David Wood  
Tinho Mang

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-10483 Emil Peter Joros**

**Chapter 13**

**#29.00** Hearing RE: UDR Harbor Greens L.P.'s Motion to Compel Post-Petition Rent Payment Under Lease and Request for Expedited Hearing, or, Alternatively, for Allowance and Payment of an Administrative Expense Claim

Docket 55

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 30, 2020**

Deny motion for the reasons stated in the Chapter 13 Trustee's Opposition, which the court incorporates by reference herein. See Chapter 13 Trustee's Opposition to UDR Green's Motion to Compel at pp. 4-6.

The court notes parenthetically that if Debtor does not agree with the amended proof of claim, he should file a formal objection.

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

**Debtor(s):**

Emil Peter Joros

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

10:30 AM

8:19-10893 SPN Investments Inc

Chapter 11

#30.00 Hearing RE: Debtor-in-Possession's Motion for an Order Dismissing Chapter 11 Case

Docket 123

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 30, 2020**

Grant Motion; judgment in favor of United States Trustee for outstanding UST fees, if any.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

SPN Investments Inc

Represented By  
Jeffrey S Shinbrot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

10:30 AM

**8:19-10893 SPN Investments Inc**

**Chapter 11**

**#31.00** CON'TD STATUS CONFERENCE Hearing on (1) Status of Chapter 11 Case;  
and (2) Requiring Report on Status of Chapter 11 Case

FR: 5-16-19; 6-13-19; 9-12-19; 11-7-19; 12-12-19

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 16, 2019**

Continue status conference to June 13, 2019 at 10:30 a.m., same date/time as hearing on UST's motion to dismiss case. (XX)

***Note: Appearances at this hearing are not required.***

-----  
**June 13, 2019**

Claims Bar Date: 8/22/19 (notice to creditors by  
6/20/19)

Deadline to file Plan/DS: 8/29/19 (no extensions will be  
granted)

Continued Status Conf: 9/12/19 at 10:30 a.m. (XX)

Updated Status Report due: 8/29/19 -- waived if Plan/DS timely  
filed

***Note: If the parties accept the foregoing tentative ruling, appearances at this status conference are not required -- the court will issue its own order re the same.***



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

10:30 AM

CONT... SPN Investments Inc  
**September 12, 2019**

Chapter 11

Continue status conference to November 7, 2019 at 10:30 a.m. to allow Debtor to notice a hearing date on approval of its Disclosure Statement. (XX)

*Special Note: This court does not set hearings on approval of disclosure statements. Counsel for the debtor must self-calendar hearings.*

***Note: Appearance at this hearing is not required if Debtor is in substantial compliance with the requirements of the U.S. Trustee. It is Debtor's responsibility to ascertain its compliance status prior to the hearing.***

-----  
**November 7, 2019**

Continue status conference to December 12, 2019 at 10:30 a.m., same date/time as hearing re approval of first amended disclosure statement. Updated status report not required. (XX)

***Note: Appearance at this hearing is not required.***

-----  
**December 12, 2019**

No tentative ruling. Disposition will depend upon the outcome of #19 on today's calendar.

-----  
**January 30, 2020**

Off calendar in light of granting of Debtor's motion to dismiss case.

***Note: Appearances at the hearing not required.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... SPN Investments Inc**

**Chapter 11**

**Debtor(s):**

SPN Investments Inc

Represented By  
Jeffrey S Shinbrot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-12411 Orange County Bail Bonds, Inc.**

**Chapter 11**

**#32.00** CONT'D STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case

FR: 8-22-19; 10-17-19; 11-7-19

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 22, 2019**

Deadline to file Plan and Disclosure Statement: 10/21/19

Continued Status Conference Date: 11/21/19 at 10:30 a.m.

Updated Status Report due date: 11/7/19 unless a plan  
& DS

have been  
filed, in which case

the  
requirement of a report will

be waived.

*Special Note: The court does not ordinarily set a deadline for the filing of objections to claim.*

***Note: If Debtor is in substantial compliance with the requirements of the United States Trustee, appearance at this hearing is not required. It is Debtor's responsibility to confirm compliance with the UST prior to the hearing.***

-----  
**October 17, 2019**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room

5A

10:30 AM

CONT... **Orange County Bail Bonds, Inc.**

**Chapter 11**

Continue status conference to November 7, 2019 at 10:30 a.m., same date/time as hearing on Debtor's motion to extend exclusivity. Updated status report not required. (XX)

-----  
**November 7, 2019**

Deadline to file plan/disclosure statement: Dec. 20, 2019

Continued status conference: Jan. 30, 2020 at 10:30 am  
(XX)

Updated status report due (only if plan &  
DS not timely filed by 12/20/19): Jan. 16, 2020

***Note: If Debtor is in substantial compliance with the requirements of the United States Trustee, appearance at this hearing is not required. It is Debtor's responsibility to confirm compliance with the UST prior to the hearing.***

-----  
**January 30, 2020**

Continue status conference to 2/20/20 at 10:30 a.m., same date/time as hearing on approval of disclosure statement; updated status report not required.

***Note: Appearance at this hearing is not required.***

**Party Information**

**Debtor(s):**

Orange County Bail Bonds, Inc.

Represented By  
Marc C Forsythe

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, January 30, 2020

Hearing Room 5A

10:30 AM

8:19-12741 Michael E. Silbermann

Chapter 13

#33.00 Hearing RE: Debtor's Objection to Proof of Claim / FCI Lender Services, Inc.

Docket 35

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal  
Arising from Chapter 13 Confirmation Hearing Entered 11/27/2019

**Courtroom Deputy:**

**OFF CALENDAR: Order of Dismissal Arising from Chapter 13  
Confirmation Hearing Entered 11/27/2019 - td (11/27/2019)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Michael E. Silbermann

Represented By  
Joseph C Rosenblit

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

10:30 AM

**8:19-12741 Michael E. Silbermann**

**Chapter 13**

**#34.00** Hearing RE: Debtor's Objection to Proof of Claim #10-1 / FCI Lender Services, Inc.

Docket 36

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal  
Arising from Chapter 13 Confirmation Hearing Entered 11/27/2019**

**Courtroom Deputy:**

**OFF CALENDAR: Order of Dismissal Arising from Chapter 13  
Confirmation Hearing Entered 11/27/2019 - td (11/27/2019)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael E. Silbermann

Represented By  
Joseph C Rosenblit

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#35.00** Hearing RE: Motion to Approve Compromise Under Rule 9019 Between Related Debtor Bruce Elieff, Citi Investments Capital Inc., and W.C.R. Development Company, LLC

Docket 179

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 30, 2020**

Deny the motion in its entirety.

The court is inclined to order that all the relevant parties attend a judicial mediation, such relevant parties being Debtor, WCR, Todd Kurtin, the IRS, Citi Investment, the Creditors Committee, Chase and Ms. Elieff.

Basis for the Tentative Ruling:

For various and far-ranging reasons, this court cannot approve the Motion or the proposed agreement to which it relates as presented. The basis for the tentative ruling is summarized below:

1. As a preliminary matter, the Motion seeks this court's approval of an unexecuted, nonfinal "memorandum of understanding." Given the complexities noted below, the court will not consider approving anything other than a completed and executed final document.
  
2. The Motion appears to be a "quasi" 363 sale motion without the protections afforded creditors, e.g., under 363(f) and the opportunity for overbidding. Debtor has admitted receiving an unsolicited offer for the subject property of \$6.5M or nearly \$1M more than that paid by Citi at the foreclosure sale. Proper marketing of the property could generate an even higher amount

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

10:30 AM

CONT... **Bruce Elieff**

Chapter 11

for the benefit of the estate. The court is somewhat surprised by the position of the Creditors' Committee, which appears to be uninterested in maximizing the value of the subject property.

3. Debtor's attempt to style the Motion as one designed to effectuate a fraudulent transfer recovery under 550 and 551 falls short. According to the Declaration of Bruce Elieff ("Debtor"), Debtor caused WCR (the transferee of the Parham property in 2018) to transfer the subject property back to him on October 2, 2019 before the filing of the within chapter 11 case on the same date. Indeed, the quitclaim deed signed by Debtor (as the 100% owner of WCR) is dated October 2, 2019 and the same reflects a notary's affidavit with the same date. Thus, it appears that delivery of whatever interest WCR held in the property was delivered to Debtor by himself on October 2, 2019 prior to the bankruptcy filing. The deed was not recorded, however, until October 4, 2019, i.e., postpetition. Either way, whether the reconveyance occurred just prior to or shortly after the filing, as of at least October 4, 2019 there appears to be no transfer to avoid or recover. In any event, Debtor has presented insufficient evidence or legal analysis to support this court's finding of a viable 550(a) recovery claim.

4. The court does not share the confidence of either Debtor or Citi that the foreclosure sale was absolutely valid and that the notice of rescission was absolutely invalid. See, e.g., *Bank of America v. La Jolla Group II*, 129 Cal.App. 4th 706, 712 (2005) (Court upheld the invalidation of a trustee's deed where the trustor and beneficiary mutually consented to cure the default less than 5 days prior to the foreclosure sale, finding that the beneficiary had no power to sell the property, notwithstanding CC 2924(c) and notwithstanding the fact that the third party purchaser had no knowledge of the cure agreement).

5. If the foreclosure sale was invalid, Citi gets its \$5.6M back and the property is property of the estate and available for sale at a price higher than \$5.6M, subject to all valid liens, which liens will likely exceed the ultimate value of the property.

6. If the foreclosure sale was valid, the \$5.6M is property of the bankruptcy estate within the meaning of 11 U.S.C. 541 over which this court has subject



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

10:30 AM

CONT... **Bruce Elieff**

**Chapter 11**

matter jurisdiction, contrary to the position apparently taken by MTC Financial. Such proceeds would, of course, be subject to any valid liens.

7. Even if Debtor could somehow persuade this court of the application of the avoidance/recovery provisions, the issue regarding Ms. Elieff's interest in the property is nuanced and needs to be adequately addressed by Debtor. Characterizing her interest as community property may or may not be accurate. The property was held by Debtor and Ms. Elieff as joint tenants. There is an open question as to the interest of a nondebtor *joint tenant* spouse. See, *In re Brace*, 908 F.3d 531 (9th Cir. 2018). In *Brace*, the chapter 7 trustee avoided a real property transfer in which the debtor and the non-debtor held the property as joint tenants pre-transfer. The issue before the bankruptcy court was whether the trustee had recovered a community interest as whole or only debtor's one-half interest in the property as a joint tenant. The 9th Circuit has certified the following question to the California Supreme Court:

"Does the form of title presumption set forth in section 662 of the California Evidence Code overcome the community property presumption set forth in section 760 of the California Family Code in Chapter 7 bankruptcy cases where: (1) the debtor husband and non-debtor wife acquire property from a third party as joint tenants; (2) the deed to that property conveys the property at issue to the debtor husband and non-debtor wife as joint tenants; and (3) the interests of the debtor and non-debtor spouse are aligned against the trustee of the bankruptcy estate?"

The question remains pending before the California Supreme Court.

8. Finally, the court cannot make a finding that the proposed compromise is fair, reasonable or adequate. *A&C Properties*, 784 F.2d 1377, 1381 (9th Cir. 1986). As stated earlier, the compromise is structured to create an avoidance recovery where there is none and to avoid "a whole layer of additional entanglement" that a proper motion to sell would require. Motion at p. 13. The court declines Debtor's invitation to sanction a legal fiction (avoidance recovery) for the sake of convenience and is not persuaded that the proposed settlement is of paramount interest to creditors in light of the apparent below-market value offered in the compromise. At bottom, Debtor is endeavoring to jam a square peg into a round hole.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT...**

**Bruce Elieff**

**Chapter 11**

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 11

#36.00 CONT'D Hearing RE: Motion in Debtors' Chapter 11 Cases For Order Authorizing Debtor in Possession to Employ Professional Real Estate Broker Timothy Tamura **[Affects Bruce Elieff]**

FR: 12-5-19; 12-19-19; 1-9-20

Docket 50

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 2/6/2020 AT 10:30 A.M.,  
Per Judge's Oral Ruling on 1/9/2020, which supercedes the stipulated order  
continuing the matter to 1/30/2020 at 10:30 am (XX)**

**Courtroom Deputy:**

**CONTINUED: Continued to 2/6/2020 at 10:30 a.m., Per Judge's Oral  
Ruling on 1/9/2020, which supercedes the stipulated order continuing  
the matter to 1/30/2020 at 10:30 am (XX) - td (1/23/2020)**

**Tentative Ruling:**

**January 9, 2020.**

Continue hearing one final time to February 6, 2020 at 10:30 a.m. (XX)

The omnibus notice [docket #149] does not comply with LBR 2014-1(b)(3)(B), (C), (D) and (E).

Debtors will be allowed one final opportunity to properly serve the notice of the Applications. Debtors' counsel shall not charge Debtors for the preparation of the notice reflected as docket #149.

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-14614 Delecia A Holt**

**Chapter 7**

**#37.00** Hearing RE: Order to Show Cause RE: Dismissal for Failure to Comply with Rule 1006(b) (\$83.75 Installment Payment Due 12/20/2019) (OSC Issued 12/26/2019)

Docket 18

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Second Fee Installment of \$83.75 Paid on 1/6/2020, Receipt #80074529**

**Courtroom Deputy:**

**OFF CALENDAR: Second Fee Installment of \$83.75 Paid on 1/6/2020, Receipt #80074529 - td (1/7/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Delecia A Holt

Pro Se

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, January 30, 2020

Hearing Room 5A

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01205 Elieff et al v. Kurtin

**#38.00** Hearing RE: Defendant's Motion to Dismiss Second Amended Complaint

Docket 19

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4/9/2020 AT 2:00 P.M.,  
Per Order Entered 1/27/2020 (XX)**

**Courtroom Deputy:**

**SPECIAL NOTE: Hearing Continued to 4/9/2020 at 2:00 p.m., Per Order  
Entered 1/27/2020 (XX) - td (1/27/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**Movant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, January 30, 2020**

**Hearing Room 5A**

2:00 PM

**CONT...**

**Bruce Elieff**

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 6, 2020

Hearing Room 5A

9:30 AM

8:16-11882 Stephen J Haythorne

Chapter 7

Adv#: 8:16-01188 Jones v. Haythorne

**#1.00** CONT'D STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt and Objection to Discharge [Demand for Jury]

FR: 11-3-16; 4-13-17; 5-11-17; 6-15-17; 10-19-17; 12-14-17; 3-22-18; 3-29-18; 5-31-18; 7-19-18; 10-18-18; 12-20-18; 3-21-19; 11-14-19; 11-19-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion for Order Dismissing Complaint for Revocation of Discharge Pursuant to 11 U.S.C. §727 Entered 12/4/2019**

**Courtroom Deputy:**

**OFF CALENDAR: Order Granting Motion for Order Dismissing Complaint for Revocation of Discharge Pursuant to 11 U.S.C. §727 Entered 12/4/2019 - td (12/5/2019)**

**Tentative Ruling:**

**November 3, 2016**

Discovery Cut-off Date:	2/15/17
Pretrial Conference Date:	4/13/17 at 9:30 a.m. (XX)
Deadline to File Joint Pretrial Stipulation:	3/30/17

Deadline for Plaintiff to file Brief With Legal Authority/Analysis re Asserted Right to a Jury Trial	3/30/17
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*Special Note: Paragraph 14 of the Complaint refers to an alleged violation of "Section 828(a)(2) . . . of Title 11 of the United States Code." There is no Section 828 in the Bankruptcy Code.*

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling**

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Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, February 6, 2020

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CONT... Stephen J Haythorne

Chapter 7

***order consistent with the same.***

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**April 13, 2017**

Impose sanctions in the amount of \$100 as to Plaintiff's and Defendant's counsel for failure to timely file a joint pretrial stipulation. The court further notes that Plaintiff did not file a brief in support of his alleged right to a jury trial and the court assumes Plaintiff is no longer demanding a jury trial.

Plaintiff's counsel filed a late unilateral pretrial statement on April 11, 2017 but does not include a declaration stating why a joint pretrial stipulation was not filed -- Defendant's counsel did not sign off on the statement filed on April 11, 2017. Instead the declaration appears to be an improper "motion" to re-open discovery. Such a request can only be made by a properly noticed motion pursuant to LBR 9013-1.

***Note: Appearances at this hearing are required.***

-----

**May 11, 2017**

Continue pretrial conference to June 15, 2017 at 10:30 a.m., same date/time as hearing on pending motion to re-open discovery. (XX)

Comments re the Joint Pretrial Stipulation:

1. Though Section III (Issues of Law) refers to 523(a)(2)(A), Section II (Disputed Facts) of the JPS does not reference 523(a)(2)(A) or any disputed facts relevant to the elements of fraud.
2. Though Section refers to disputed facts relevant to 523(a)(6), Section III does not refer to issues of law re 523(a)(6).
3. The court does not understand the issue of law implicated by Section III(2) of the JPS.



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Stephen J Haythorne

Chapter 7

4. Paragraph 9 of the Complaint refers to 523(a)(2)(B) but there is no reference to 523(a)(2)(B) in the JPS. Has this basis for nondischargeability been abandoned by Plaintiff?

5. Disputed facts relevant to the elements of slander *per se* are not set forth in the JPS.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required. Though an amended JPS is not required for the 6/15/17 hearing, the parties are advised to heed the court's comments re the JPS for purposes of any amended JPS filed in the future.***

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**June 15, 2017**

Continue pretrial conference to October 19, 2017 at 9:30 a.m.; amended joint pretrial stipulation must be filed by October 5, 2017. (XX)

In preparing the joint pretrial stipulation, the parties should take in to consideration the court's comments above re the May 11, 2017 hearing.

***Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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**October 19, 2017**

No tentative ruling as disposition will depend upon the outcome of the Motion to Compel set on today's 10:30 a.m. calendar. This matter will be trailed to the 10:30 a.m. calendar.

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**December 14, 2017**

Continue pretrial conference to March 22, 2018 at 9:30 a.m.; final version of

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**Stephen J Haythorne**

**Chapter 7**

pretrial stipulation must be filed by March 8, 2018. Deadline for filing pre-trial motions is January 18, 2018. February 22, 2018 at 2:00 p.m. shall be reserved for such motions. Pretrial motions not filed by January 18, 2018 will be deemed waived. (XX)

Comments re the Amended JPS filed 12/1/17:

1. Section II(2) should be modified to add "in a writing" after the phrase "misrepresented his financial condition."
2. All references to "Section 523(a)(b) shall be revised to correctly identify the statutes as 523(a)(2)(A) and 523(a)(2)(B).
3. Typos in Section II(16), line 11 ("filing") and Section III(2) ("Plaintiff") should be corrected.
4. The 12/1/17 version of the JPS does not include the list of witnesses and exhibits as represented therein.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

**March 29, 2018**

The separately filed pretrial stipulations are both deficient and do not address issues previously identified by the court. The parties will be allowed one final opportunity to file a proper joint pretrial statement and severe monetary sanctions of not less than \$1000 will be imposed on the party who has not participated in the preparation of the final pretrial statement in good faith and in a timely manner.

If the parties cannot agree that a particular fact is undisputed, then it automatically goes into the disputed section of the statement -- one side cannot unilaterally decide that a disputed matter is undisputed.

The parties will be required to meet in person to work on the joint pretrial statement and should be thinking about a time/place to do so prior to today's

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hearing.

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Comments re the Unilateral Pretrial Statements:

1. The sender and receiver of the wired funds of \$232,557.66 should not be a disputed matter. For example, if wire documents indicate that Defendant was the sender, then Defendant should not be disputing that fact. If on the other hand, the sender of the wire was Gadzinski V in N Out Fund ("Gadzinski Fund"), then Plaintiff should include that fact as undisputed. Same the the identity of the recipient -- Plaintiff or Stellar Capital, Inc. ("Stellar")
2. The relationship between Defendant and Gadzinski Fund, if any, should be set forth as either a undisputed or disputed fact. Same re the relationship, if any, between Stellar and/or Plaintiff or Defendant.
3. The fact that a check in the amount of \$5,000 was paid on November 17, 2014 appears to be undisputed. Is there a dispute that the check was drawn on the account of Salt Creek Realty, Inc? What is the relationship, if any, between Salt Creek and Defendant?
4. Re Plaintiff's Sections I(I) and (J), what is the relevance of the rental to the 523 and 727 claims? If it has no bearing on such claims, it should be deleted.
5. Re Plaintiff's Sections I(L) - (V) -- why are these facts relevant to the 523 and 727 claims? If they have no bearing on such claims, they should be deleted.
6. The parties to the alleged agreement and the terms thereof appear to be in dispute and should be listed in the joint pretrial statement as a facts in dispute.
7. Re whether Defendant misrepresented his financial condition, both parties have failed to include the necessary requirement under 523(a)(2)(B) that such misrepresentation be **in writing**. The court has previously pointed out this deficiency. If there is no writing, then the 523(a)(2)(B) claim must be dismissed as a matter of law.

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CONT...

**Stephen J Haythorne**

**Chapter 7**

8. The reference in both pretrial statements to "523(a)(2)(A)(B)" is facially defective as no such statute exists. It is either 523(a)(2)(A) or 523(a)(2)(B).

9. No facts relating to 523(a)(2)(A) are set forth in either pretrial statement. If there are no such facts, this claim should be dismissed as a matter of law.

10. Certain elements of fraud are missing from the issues of fact/law, e.g., intent to deceive, damages as a result of reliance on misrepresentations.

11. What is the relevance of Plaintiff contacting Defendant's parents for repayment to either the 523 or 727 claims? If not relevant, it should be deleted.

12. Re Plaintiff's Section II(15) -- a time frame needs to be added that is consistent with the applicable 727 subsection. Same re Section II(16). Plaintiff appears have lumped several allegations together without any time frames that fall within the applicable 727 subsection.

13. Plaintiff's Exhibits: re "Wells Fargo Documents:" need to better identify the documents. Are they bank statements or something else? Re "letters" and "emails" -- need to identify sender/recipient re each, such as Defendant has done in his exhibit list.

14. Re Plaintiff's Witness List: Re witness #s 9, 10, 11, 12, 13 -- there is no indication of the time period. for example, David Williams will be testifying about a commission paid to Defendant when? "When" makes a difference of purposes of whether the transaction should have been listed on Defendant's schedules or statement of financial affairs.

*Special Note: Over the course of this adversary, this court has spend hours correcting issues on what should have been a straightforward joint pretrial statement. The court is concerned that the parties are not being thoughtful in the preparation of the pretrial statement. For example the court cannot even determine whether there are any facts to be litigated under 523(a)(2)(A) or 523(a)(2)(B) based on what currently appears in Plaintiff's pretrial statement.*

**Note: Appearances at this pretrial conference are MANDATORY.**

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**CONT... Stephen J Haythorne**

**Chapter 7**

**July 19, 2018**

No tentative ruling; disposition will depend upon outcome of other motions on for hearing this date.

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

**Debtor(s):**

Stephen J Haythorne

Represented By  
David S Henshaw

**Defendant(s):**

Stephen J Haythorne

Pro Se

**Plaintiff(s):**

Richard A Jones

Represented By  
Richard A Jones

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

United States Bankruptcy Court  
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Thursday, February 6, 2020

Hearing Room 5A

9:30 AM

**8:17-13780 Maria H. Helton-Rehburg**

**Chapter 7**

Adv#: 8:19-01188 Kosmala v. Breidenbach et al

**#2.00** CON'TD STATUS CONFERENCE RE: Complaint for Avoidance of Transfers

FR: 12-5-19

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 5, 2019**

Continue Status Conference to February 6, 2020 at 9:30 a.m. (XX)

A motion for default judgment may self-calendared for the same date/time as the continued Status Conference date. Alternatively, the motion may be filed without a hearing pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).

The motion for default judgment, supported by evidence, must be served on defendant and defendant's counsel in accordance with Local Rule 9013-1(d).

If the motion for default judgment is not heard by the continued date of the Status Conference, **THE ADVERSARY MAY BE DISMISSED** at the Status Conference for failure to prosecute.

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.***

**February 6, 2020**

No timely filed updated status report or motion for default judgment has been

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CONT... **Maria H. Helton-Rehburg** Chapter 7

filed in this case. Accordingly, the court may impose sanctions in the amount of \$100 and/or issue an order to show cause why this adversary proceeding should not be dismissed for failure to prosecute.

***Note: Appearance at this hearing is required.***

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

**Debtor(s):**

Maria H. Helton-Rehburg

Represented By  
Christopher P Walker

**Defendant(s):**

Andrea M. Breidenbach

Pro Se

Manuela I. Kitchen

Pro Se

**Plaintiff(s):**

Weneta M.A. Kosmala

Represented By  
Erin P Moriarty

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Erin P Moriarty

**United States Bankruptcy Court  
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9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01214 Marshack v. Chang Ding Metal Co., Ltd. et al

**#3.00** STATUS CONFERENCE RE: Complaint for: 1. Breach of Contract Against Chang Ding; 2. Breach of Contract Against Hoa Phat; 3. Breach of Contract Against Pomina; 4. Avoidance and Recovery of Constructive Fraudulent Transfers Pursuant to 11 USC Sections 544, 548, 550, 551; California Civil Code Section 3439.04, 3439.05, 3439.07, 3439.08, 3439.09 Against Chang Ding; 5. Avoidance and Recovery of Constructive Fraudulent Transfers Pursuant to 11 USC Sections 544, 548, 550, 551; California Civil Code Section 3439.04, 3439.05, 3439.07, 3439.08, 3439.09 Against Hoa Phat; and 6. Avoidance and Recovery of Constructive Fraudulent Transfers Pursuant to 11 USC Sections 544, 548, 550, 551; California Civil Code Section 3439.04, 3439.05, 3439.07, 3439.08, 3439.09 Against Pomina

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4/30/2020 AT 2:00 P.M.,  
Per Order Entered 1/31/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 4/30/2020 at 2:00 p.m., Per  
Order Entered 1/31/2020 (XX) - adm (1/31/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Chang Ding Metal Co., Ltd.

Pro Se

Hoa Phat Steel Co., Ltd.

Pro Se

Pomina 2 Steel Corporation

Pro Se



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**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
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9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01215 Marshack v. R-Techo, Co., Ltd.

- #4.00** STATUS CONFERENCE RE: Complaint for: 1. Avoidance and Recovery of Intentional Fraudulent Transfers; 2. Avoidance and Recovery of Constructive Fraudulent Transfers; 3. Avoidance and Recovery of Preferential Transfers; 4. Recovery of Avoided Transfers; 5. Declaratory Judgment: Alber Ego; 6. Recovery of Unauthorized, Improper Distributions to Shareholders; 7. Substantive Consolidation; 8. Breach of Fiduciary Duty; 9. Turnover of Property of the Estate; 10. Preservations of Avoided Transfers; 11. Disallowance of Claims; and 12. Temporary Restraining Order and Preliminary Injunction

Docket 1

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4/2/2020 AT 9:30 A.M.,  
Per Order Entered 2/4/2020 (XX)

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 4/2/2020 at 9:30 a.m., Per Order Entered 2/4/2020 (XX) - td (2/4/2020)**

**Tentative Ruling:**

**February 6, 2020**

No timely filed updated status report or motion for default judgment has been filed in this case. Accordingly, the court may impose sanctions in the amount of \$100 and/or issue an order to show cause why this adversary proceeding should not be dismissed for failure to prosecute.

***Note: Appearance at this hearing is required.***

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**United States Bankruptcy Court  
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**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

**Defendant(s):**

R-Techo, Co., Ltd.

Pro Se

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
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**Thursday, February 6, 2020**

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9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01216 Marshack v. Hyundai Steel Company

**#5.00** STATUS CONFERENCE RE: Complaint For: 1. Breach of Contract; 2. Breach of Implied Covenant of Good Faith and Fair Dealing; 3. Avoidance and Recovery of Intentional Fraudulent Transfers; 4. Avoidance and Recovery of Constructive Fraudulent Transfers; 5. Avoidance and Recovery of Property of the Bankruptcy Estate; 6. Temporary Restraining Order and Preliminary Injunction; 7. Avoidance of Preferential Transfers; 8. Recovery of Avoided Transfers; 9. Substantive Consolidation; 10. Declaratory Judgment: Alter Ego

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4/2/2020 AT 2:00 P.M.,  
Per Order Entered 1/23/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 4/2/2020 at 2:00 p.m., Per  
Order Entered 1/23/2020 (XX) - td (1/23/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Hyundai Steel Company

Pro Se

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

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**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
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9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01217 Marshack v. Mr. C's Towing at Southgate, Inc.

**#6.00** STATUS CONFERENCE RE: Complaint for: 1. Avoidance and Recovery of Constructive Fraudulent Transfers pursuant to 11 U.S.C. Sections 544, 548, 550, 551; California Civil Code Sections 3439.04, 3439.05, 3439.07, 3439.08, 3439.09; 2. Recovery of Avoided Transfers; 3. Turnover of Property of the Estate; 4. Preservation of Avoided Transfers; 5. Temporary Restraining Order and Preliminary Injunction against Mr. C's Towing at Southgate, Inc.

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4/2/2020 AT 9:30 A.M.,  
Per Order Entered 2/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 4/2/2020 at 9:30 a.m., Per  
Order Entered 2/4/2020 (XX) - td (2/4/2020)**

**Tentative Ruling:**

**February 6, 2020**

A proof of service showing proper service of the summons and complaint has not been filed. Further, no timely filed updated status report or motion for default judgment has been filed in this case. Accordingly, the court may impose sanctions in the amount of \$100 and/or issue an order to show cause why this adversary proceeding should not be dismissed for failure to prosecute.

***Note: Appearance at this hearing is required.***

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

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**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

**Defendant(s):**

Mr. C's Towing at Southgate, Inc.

Represented By  
Ryan S Riddles

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

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9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01218 Marshack v. Kim et al

**#7.00 STATUS CONFERENCE RE: Complaint for: 1. Breach of Fiduciary Duty; 2. Accounting; and 3. Defalcation of Trust**

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 6, 2020**

Discovery Cut-off Date:	June 1, 2020
Deadline to Attend Mediation:	June 15, 2020
Pretrial Conference Date:	July 16, 2020 at 9:30 a.m.
Deadline to Lodge Joint Pretrial Stipulation:	July 6, 2020

*Special Note: The joint status report filed 1/28/20 provides very little information regarding the status of the case, why there is no discovery schedule, and why Plaintiff is waiting for non-answering defendants to participate. Per the docket, only one defendant, Minh An, was granted an extension of time to January 7, 2020 to file an answer. An's answer was timely filed.*

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

**Party Information**

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By



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**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

Steven Werth

**Defendant(s):**

Ik Dong Kim

Pro Se

Gill Su Sun

Pro Se

Minho An

Pro Se

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
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Santa Ana  
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**Thursday, February 6, 2020**

**Hearing Room**

**5A**

9:30 AM

**8:18-12967 Lillian Sikanovski Dulac**

**Chapter 7**

Adv#: 8:19-01078 Bertrand H Dulac and Georgette C Dulac, Trustees o v. Dulac et al

**#8.00** CON'TD STATUS CONFERENCE RE: Complaint to Determine Validity of Certain Notes and Deeds of Trust and to Perfect Secured Liens

FR: 7-18-19; 9-19-19; 12-5-19

Docket 1

**Courtroom Deputy:**

**SPECIAL NOTE: Status conference set for 2/6/2020 at 9:30 a.m., Cal. #9 re: Complaint in intervention (liz - 11-19-19)**

**Tentative Ruling:**

**July 18, 2019**

Continue status conference to September 19, 2019 at 9:30 a.m. to allow the chapter 7 trustee the opportunity to intervene. (XX)

*Special Note: It appears the complaint is seeking relief against property of the bankruptcy estate and, therefore, the chapter 7 trustee would be an indispensable party.*

**Note: If all parties accept the foregoing tentative ruling, appearances at today's hearing are not required and Plaintiff shall serve notice of the continued hearing date/time (including service to the chapter 7 trustee).**

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**September 19, 2019**

Continue status conference to December 5, 2019 at 9:30 a.m.; updated status report must be filed by November 21, 2019. (XX)

*Special comment: The court notes that though the Trustee signed the Joint*

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CONT... Lillian Sikanovski Dulac

Chapter 7

Status Report on 9/17/19, the Trustee dismissed her Complaint in Intervention on 9/16/19.

**Note: Appearances at today's hearing are not required; Plaintiff to serve notice of the continued hearing date/time.**

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**December 5, 2019**

Continue the Status Conference to February 6, 2020 at 9:30 a.m., same date/time as Status Conference now set for Third Party Complaint. Joint Status Report must be filed by January 23, 2020. (XX)

**Note: Appearances at today's hearing are not required; Plaintiff to serve notice of the continued hearing date/time.**

-----

**February 6, 2020**

Continue status conference to June 4, 2020 at 9:30 a.m.; updated joint status report must be filed by May 21, 2020. Any motion for relief from stay and/or abstention must be filed no later than April 16, 2020 and set for hearing no later than May 7, 2020.

**Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiffs shall lodge a scheduling order consistent with the same.**

**Party Information**

**Debtor(s):**

Lillian Sikanovski Dulac

Represented By  
Michael Jones  
Sara Tidd

**Defendant(s):**

Ronald H. Dulac

Pro Se

**United States Bankruptcy Court  
Central District of California  
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9:30 AM

**CONT...      Lillian Sikanovski Dulac**

**Chapter 7**

Lillian Sikanovski

Pro Se

**Plaintiff(s):**

Bertrand H Dulac and Georgette C

Represented By  
Ronald Appel

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Erin P Moriarty

**United States Bankruptcy Court  
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Santa Ana  
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9:30 AM

**8:18-12967 Lillian Sikanovski Dulac**

**Chapter 7**

Adv#: 8:19-01078 Bertrand H Dulac and Georgette C Dulac, Trustees o v. Dulac et al

**#9.00** STATUS CONFERENCE RE: Complaint in Intervention to Determine Estate's Interest in Real Property and Validity and Extent of Liens, and Ancillary Relief

Docket 16

**Courtroom Deputy:**

**SPECIAL NOTE: Status conference set for 2/6/2020 at 9:30 a.m., Cal. #8 re: Original Complaint (liz - 11-19-19)**

**Tentative Ruling:**

**February 6, 2020**

Continue status conference to June 4, 2020 at 9:30 a.m.; updated joint status report must be filed by May 21, 2020. Any motion for relief from stay and/or abstention must be filed no later than April 16, 2020 and set for hearing no later than May 7, 2020.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiffs shall lodge a scheduling order consistent with the same.***

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

**Debtor(s):**

Lillian Sikanovski Dulac

Represented By  
Michael Jones  
Sara Tidd

**Defendant(s):**

Ronald H. Dulac

Pro Se

Lillian Sikanovcki Dulac

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 6, 2020**

**Hearing Room 5A**

---

9:30 AM

**CONT... Lillian Sikanovski Dulac**

**Chapter 7**

**Plaintiff(s):**

Bertrand H Dulac and Georgette C

Represented By  
Ronald Appel  
Michael Jones

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Erin P Moriarty

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 6, 2020**

**Hearing Room 5A**

9:30 AM

**8:18-14543 Carissa Louise Clemens**

**Chapter 7**

Adv#: 8:19-01006 Clemens v. US Dept of Education

**#10.00** CON'TD STATUS CONFERENCE RE: Dischargeability (523(a)(8), Student Loan)

(Another Summons Issued 8/7/2019)  
FR: 11-7-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Approving  
Stipulation to Dismiss Adversary Proceeding Entered 12/30/2019**

**Courtroom Deputy:**

**OFF CALENDAR: Order Approving Stipulation to Dismiss Adversary  
Proceeding Entered 12/30/2019 - td (12/30/2019)**

**Tentative Ruling:**

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

**Debtor(s):**

Carissa Louise Clemens Pro Se

**Defendant(s):**

US Dept of Education Represented By  
Elan S Levey

**Plaintiff(s):**

Carissa Clemens Pro Se

**Trustee(s):**

Karen S Naylor (TR) Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 6, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-11139 Chirag Shewa**

**Chapter 7**

Adv#: 8:19-01177 Gama World Technologies, Inc. v. Shewa

**#11.00** CONT'D STATUS CONFERENCE RE: Complaint to Determine  
Nondischargeability of Debt Pursuant to 11 U.S.C. Sections 523(a)(2)(A), (B),  
523(a)(4) and (6)

FR: 11-21-19; 12-19-19

Docket 1

**Courtroom Deputy:**

**SPECIAL NOTE: Call from plaintiff's attorney, Bryan M. Lieffer (213-680-5179), advising that this matter has settled. A motion to approve the settlement is forthcoming. -sb (12/16/2019 3:35 PM).**

**Tentative Ruling:**

**November 21, 2019**

No proof of service showing proper service of the summons and complaint and no status report filed as required by LBR 7016-1. Impose sanctions in the amount of \$100 against Plaintiff's counsel. Court to issue Order to Show Cause why this adversary proceeding should not be dismissed for failure to prosecute.

***Note: Appearance at this hearing is required.***

-----

**December 19, 2019**

Continue status conference to February 6, 2020 at 9:30 a.m.; updated status report must be filed by January 23, 2020 if the matter is still pending as of that date. (XX)

***Note: If both parties accept the foregoing tentative ruling, appearances***



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 6, 2020

Hearing Room 5A

9:30 AM

CONT... Chirag Shewa

Chapter 7

*at this hearing are not required and Plaintiff shall serve notice of the continued hearing date/time.*

-----

**February 6, 2020**

Take status conference off calendar in light of pending settlement agreement.

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Chirag Shewa

Represented By  
Leonard M Shulman

**Defendant(s):**

Chirag Shewa

Pro Se

**Plaintiff(s):**

Gama World Technologies, Inc.

Represented By  
Bryan Leifer

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 6, 2020**

**Hearing Room**

**5A**

10:00 AM

**8:19-13464 Robert P Fiorentino and Phyllis A Fiorentino**

**Chapter 13**

**#12.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]  
SPECIALIZED LOAN SERVICING LLC  
VS.  
DEBTORS

Docket 32

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 6, 2020**

Grant motion without waiver of FRBP 4001(a)(3).

Basis for Tentative Ruling:

1. Debtor's Second Amended Plan specifically provides that current postpetition mortgage payments will be maintained. According to the unrefuted evidence presented by Movant, Debtor has failed to maintain such payments and, therefore, cause exists under 362(d)(1) to lift the automatic stay on this ground alone. Movant's position is supported by the 9th Circuit Appellate Panel. See *Ellis v. Parr (In re Ellis)*, 60 B.R. 432, 435 (9th Cir. BAP 1985) (failure to make post-confirmation payments is "cause" for lifting the stay); *In re Watson*, 2017 WL 5196710 (9th Cir. BAP) (November 9, 2017).

2. Debtors argue that, notwithstanding their failure to comply with the terms of their own second amended plan, Movant is adequately protected by a substantial equity cushion. However, as noted by the BAP in *Ellis*, "Lack of adequate protection is but one example of "cause" for relief from stay." 60

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10:00 AM

**CONT... Robert P Fiorentino and Phyllis A Fiorentino**  
B.R. at 435.

**Chapter 13**

3. The court notes parenthetically that even if the court were to consider the alleged equity cushion, there is no evidence that Debtors have taken any steps to list the property for sale, e.g., no application to employ a broker even though the case has been pending for approximately 5 months.

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

**Debtor(s):**

Robert P Fiorentino

Represented By  
Julie J Villalobos

**Joint Debtor(s):**

Phyllis A Fiorentino

Represented By  
Julie J Villalobos

**Movant(s):**

Specialized Loan Servicing LLC

Represented By  
Austin P Nagel  
Kirsten Martinez

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 6, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-14614 Delecia A Holt**

**Chapter 7**

**#13.00** CONT'D Hearing RE: Motion for relief from the automatic stay  
[PERSONAL PROPERTY]

FINANCIAL SERVICES VEHICLE TRUST

VS.

DEBTOR

FR: 1-9-20

Docket 14

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

-----

**February 6, 2020**

Grant the motion with the waiver of FRBP 4001(a)(3).

At the hearing held on January 9, 2020, Debtor advised the court that the vehicle in question is being driven by, and payments are made by, a relative of Debtor. This is not a vehicle used by Debtor though she is apparently liable on the loan. Granting relief from the automatic stay is actually in

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 6, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Delecia A Holt**

**Chapter 7**

Debtor's best interest as receiving as she will receive a discharge of this obligation and have no further legal or personal liability for it.

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

**Debtor(s):**

Delecia A Holt

Pro Se

**Movant(s):**

Financial Services Vehicle Trust

Represented By  
Cheryl A Skigin

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, February 6, 2020

Hearing Room

5A

10:00 AM

8:19-14614 Delecia A Holt

Chapter 7

#14.00 CON'TD Hearing RE: Motion for relief from the automatic stay  
[PERSONAL PROPERTY]

DAIMLER TRUST

VS.

DEBTOR

FR: 1-9-20

Docket 16

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

-----

**February 6, 2020**

Grant the Motion with waiver of FRBP 4001(a)(3).

At the January 9, 2020 hearing Debtor appeared and was specifically told to file an opposition AND provide proof of lease payments made from October through and including January 2020. Debtor has provided no proof of such

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, February 6, 2020

Hearing Room 5A

10:00 AM

CONT... Delecia A Holt  
payments.

Chapter 7

Debtor's argument regarding service is not persuasive. Service need only be made by mail. Debtor obviously received the motion and appeared at the hearing. The proof of service filed re the Motion shows proper service. More importantly, at the January 9, 2020 hearing, she was given an additional time to file and serve the required opposition documentation.

As pointed out by Daimler Trust, the transaction involves a *lease* and not a purchase. Accordingly, Debtor is not the title owner of the vehicle (she is the lessee) and has no equity in the property. Failure to make the lease payments and lack of equity constitutes grounds for granting relief from the automatic stay under 362(d)(1) (cause shown by Daimler for payment default) and 362(d)(2) (lack of equity and vehicle not necessary for reorganization -- there is no reorganization in a chapter 7.).

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

**Debtor(s):**

Delecia A Holt

Pro Se

**Movant(s):**

Daimler Trust

Represented By  
Sheryl K Ith

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 6, 2020

Hearing Room 5A

10:00 AM

8:20-10090 Brian N. Willis

Chapter 13

#15.00 Hearing RE: Motion for relief from automatic stay  
[ACTION IN NON-BANKRUPTCY FORUM]

ALAN WONG

VS.

DEBTOR

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 6, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Brian N. Willis

Represented By  
Fritz J Firman

**Movant(s):**

Alan Wang

Represented By  
Peter C Wittlin



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, February 6, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Brian N. Willis**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 6, 2020

Hearing Room 5A

10:30 AM

**8:10-26006 James E. Case and Laura M. Case**

**Chapter 7**

**#16.00** Hearing RE: First and Final Fee Application of Hahn Fife & Company for Allowance of Fees and Expenses From October 29, 2019 Through November 19, 2019

**[HAHN FIFE & COMPANY, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]**

Docket 106

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 6, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

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

**Debtor(s):**

James E. Case

Represented By  
Bert Briones

**Joint Debtor(s):**

Laura M. Case

Represented By  
Michael Jones  
Sara Tidd

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, February 6, 2020**

**Hearing Room 5A**

10:30 AM

**CONT...**

**James E. Case and Laura M. Case**

Reem J Bello

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 6, 2020

Hearing Room 5A

10:30 AM

**8:10-26006 James E. Case and Laura M. Case**

**Chapter 7**

**#17.00** Hearing RE: Second and Final Application for Allowance and Payment of Fees and Reimbursement of Expenses

**[WEILAND GOLDEN GOODRICH LLP, COUNSEL FOR CHAPTER 7 TRUSTEE]**

Docket 109

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 6, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

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

**Debtor(s):**

James E. Case

Represented By  
Bert Briones

**Joint Debtor(s):**

Laura M. Case

Represented By  
Michael Jones  
Sara Tidd

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 6, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... James E. Case and Laura M. Case**

Reem J Bello

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 6, 2020

Hearing Room 5A

10:30 AM

**8:10-26006 James E. Case and Laura M. Case**

**Chapter 7**

**#18.00** Hearing RE: Trustee's Final Report and Application for Final Fees and Expenses

**[JEFFREY I. GOLDEN, CHAPTER 7 TRUSTEE]**

Docket 113

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 6, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

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

**Debtor(s):**

James E. Case

Represented By  
Bert Briones

**Joint Debtor(s):**

Laura M. Case

Represented By  
Michael Jones  
Sara Tidd

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By  
Reem J Bello

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 6, 2020**

**Hearing Room 5A**

10:30 AM

**8:11-25430 Uliana A Kozeychuk**

**Chapter 7**

**#19.00** Hearing RE: Chapter 7 Trustee's Motion for an Order 1) Approving the Trustee's Agreement to See the Estate's Interest in Certain Litigation Pursuant to Section 363; 2) Approving Overbid Procedures; 3) Determining the Debtor is a Good Faith Purchaser

Docket 34

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 6, 2020**

Grant the Motion, subject to overbid.

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

**Debtor(s):**

Uliana A Kozeychuk	Pro Se
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**Movant(s):**

Thomas H Casey (TR)	Pro Se
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**Trustee(s):**

Thomas H Casey (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 6, 2020

Hearing Room 5A

10:30 AM

**8:15-12320 Francisco Delgado and Paula Delgado**

**Chapter 13**

**#20.00** Hearing RE: Chapter 13 Trustee's Motion for Order for Return of Estate Property  
Re Select Portfolio Servicing [Claim No.26]

Docket 50

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 6, 2020**

Grant Motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Francisco Delgado

Represented By  
Rebecca Tomilowitz

**Joint Debtor(s):**

Paula Delgado

Represented By  
Rebecca Tomilowitz

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 6, 2020

Hearing Room 5A

10:30 AM

**8:18-12003 Jack G. Gaglio**

**Chapter 7**

Adv#: 8:18-01172 Pacific Western Bank v. Gaglio et al

**#21.00** Hearing RE: Motion for Order Awarding Debtor Laura A. Gaglio Attorney's Fees and Costs as Prevailing Party

Docket 64

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 3/5/2020 AT 10:30 A.M.,  
Per Order Entered 1/29/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 3/5/2020 at 10:30 a.m., Per Order  
Entered 1/29/2020 (XX) - td (1/29/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Jack G. Gaglio

Represented By  
Timothy S Huyck  
Thomas J Eastmond

**Defendant(s):**

Jack G. Gaglio

Represented By  
Thomas J Eastmond  
Robert P Goe

Laura A. Gaglio

Represented By  
Thomas J Eastmond  
Robert P Goe  
Marc C Forsythe

**Joint Debtor(s):**

Laura A. Gaglio

Represented By  
Timothy S Huyck  
Thomas J Eastmond

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 6, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... Jack G. Gaglio**

**Chapter 7**

**Plaintiff(s):**

Pacific Western Bank

Represented By  
Kenneth Hennesay

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 6, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13844 Sepas Property Management LLC**

**Chapter 11**

**#22.00** CON'TD Hearing RE: Motion by United States Trustee to Dismiss Case or Convert to One Under Chapter 7 Pursuant To 11 U.S.C. §1112(b)

FR: 1-16-10

Docket 14

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing this  
Bankruptcy Case Entered 1/31/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing this Bankruptcy Case Entered  
1/31/2020 - td (2/3/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Sepas Property Management LLC

Represented By  
Dennis Connelly

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 6, 2020

Hearing Room 5A

10:30 AM

**8:19-13844 Sepas Property Management LLC**

**Chapter 11**

**#23.00** CONT'D STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case

FR: 12-5-19; 1-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing this  
Bankruptcy Case Entered 1/31/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing this Bankruptcy Case Entered  
1/31/2020 - td (2/3/2020)**

**Tentative Ruling:**

**December 5, 2019**

No status report filed other than Debtor's counsel's statement that Debtor has terminated legal representation. As a business entity may not represent itself in a bankruptcy case, the court will issue an Order to Show Cause Why This Case Should Not Be Dismissed Due to Violation of Local Bankruptcy Rule 9020-2.

-----

**January 16, 2020**

Continue status conference to February 6, 2020 at 10:30 a.m., same datetime as continued hearing on UST's motion to dismiss/convert case. (XX)

***Note: Appearances at this hearing are not required.***

**Party Information**

**Debtor(s):**

Sepas Property Management LLC

Represented By  
Dennis Connelly

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 6, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#24.00** CON'TD Hearing RE: Application of The Debtor and Debtor-In-Possession for Authority to Employ Force Ten Partners, LLC as Financial Advisor Effective as of The Petition Date **[Affects Bruce Elieff]**

FR: 12-5-19; 1-9-20

Docket 43

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 5, 2019**

Potential Service Issue: LBR 2014-1(b)(2)(1) requires that employment applications be served on the 20 Largest Unsecured Creditors. The court could not determine from the proof of service re this application that such creditors were served. If not, the hearing on this application will be continued to January 9, 2020 at 10:30 a.m.

If service is determined to be correct, grant the application, including the *Knudsen* provisions and overrule all objections to the same.

-----

**January 9, 2020.**

Continue hearing one final time to February 6, 2020 at 10:30 a.m. (XX)

The omnibus notice [docket #149] which is intended to correct the notice issue raised by the court in its December 5, 2019 tentative ruling does not comply with LBR 2014-1(b)(3)(B), (C), (D) and (E).

Debtors will be allowed one final opportunity to properly serve the notice of the Applications. Debtors' counsel shall not charge Debtors for the

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, February 6, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Bruce Elieff**

**Chapter 11**

preparation of the notice reflected as docket #149.  
-----

**February 6, 2020**

Service issue corrected; Approve application, including *Knudsen* provisions.

***Note: If the objecting party(ies) accept the foregoing tentative ruling, appearances at this hearing are not required.***

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 6, 2020**

**Hearing Room**

**5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#25.00** CON'TD Hearing RE: Debtor's Motion for Order Authorizing Employment of Couchot Law, LLP, as Debtors General Insolvency Counsel [**Affects All Debtors**]

FR: 12-5-19; 1-9-20

Docket 44

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 5, 2019**

Potential Service Issue: LBR 2014-1(b)(2)(1) requires that employment applications be served on the 20 Largest Unsecured Creditors. The court could not determine from the proof of service re this application that such creditors were served. If not, the hearing on this application will be continued to January 9, 2020 at 10:30 a.m.

If service is determined to be correct, grant the application, including the *Knudsen* provisions and overrule all objections to the same. However, applicant must file quarterly fee applications commencing at the end of the first quarter 2020.

-----

**January 9, 2020.**

Continue hearing one final time to February 6, 2020 at 10:30 a.m. (XX)

The omnibus notice [docket #149] which is intended to correct the notice issue raised by the court in its December 5, 2019 tentative ruling does not comply with LBR 2014-1(b)(3)(B), (C), (D) and (E).

Debtors will be allowed one final opportunity to properly serve the notice of

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 6, 2020

Hearing Room 5A

10:30 AM

CONT... **Bruce Elieff**

**Chapter 11**

the Applications. Debtors' counsel shall not charge Debtors for the preparation of the notice reflected as docket #149.  
-----

**February 6, 2020**

Service issue corrected; Approve application, including *Knudsen* provisions -- Applicant must file quarterly fee applications commencing at the end of the first quarter 2020.

***Note: If the objecting party(ies) accept the foregoing tentative ruling, appearances at this hearing are not required.***

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 6, 2020**

**Hearing Room**

**5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#26.00** CON'TD Hearing RE: Motion in Debtors' Chapter 11 Cases for Order Authorizing Debtor in Possession to Employ Professional Real Estate Broker Timothy Tamura [**Affects 4627 Camden, LLC**]

FR: 12-5-19; 1-9-20

Docket 49

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 5, 2019**

Potential Service Issue: LBR 2014-1(b)(2)(1) requires that employment applications be served on the 20 Largest Unsecured Creditors. The court could not determine from the proof of service re this application that such creditors were served. If not, the hearing on this application will be continued to January 9, 2020 at 10:30 a.m.

If service is determined to be correct, grant the application, without the conditions of weekly reports requested by objecting creditor -- the court finds such a request unnecessarily burdensome.

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**January 9, 2020.**

Continue hearing one final time to February 6, 2020 at 10:30 a.m. (XX)

The omnibus notice [docket #149] which is intended to correct the notice issue raised by the court in its December 5, 2019 tentative ruling does not comply with LBR 2014-1(b)(3)(B), (C), (D) and (E).

Debtors will be allowed one final opportunity to properly serve the notice of the Applications. Debtors' counsel shall not charge Debtors for the

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**CONT... Bruce Elieff**

**Chapter 11**

preparation of the notice reflected as docket #149.  
-----

**February 6, 2020**

Service issue corrected; Approve application (weekly reports requested by objecting party not required).

***Note: If the objecting party(ies) accept the foregoing tentative ruling, appearances at this hearing are not required.***

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

Bruce Elieff

Represented By  
Paul J Couchot

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**8:19-13858 Bruce Elieff**

**Chapter 11**

**#27.00** CONT'D Hearing RE: Motion in Debtors' Chapter 11 Cases For Order Authorizing Debtor in Possession to Employ Professional Real Estate Broker Timothy Tamura **[Affects Bruce Elieff]**

FR: 12-5-19; 12-19-19; 1-9-20; 1-30-20

Docket 50

**Courtroom Deputy:**

**SPECIAL NOTE: Stipulation to Continue Hearing to 3/5/2020 at 10:30 a.m. to be Filed and Order to Be Lodged per Martha of Couchot Law, Attorneys for Debtor - td (2/4/2020)**

**Tentative Ruling:**

**January 9, 2020.**

Continue hearing one final time to February 6, 2020 at 10:30 a.m. (XX)

The omnibus notice [docket #149] does not comply with LBR 2014-1(b)(3)(B), (C), (D) and (E).

Debtors will be allowed one final opportunity to properly serve the notice of the Applications. Debtors' counsel shall not charge Debtors for the preparation of the notice reflected as docket #149.

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**February 6, 2020**

**[NOTE: THIS TENTATIVE RULING HAS BEEN MODIFIED SINCE ITS ORIGINAL POSTING]**

Approve Application to Employ, except that the broker shall not commence any marketing and/or listing of the Perham property until after the entry of a court order specifically authorizing Debtor to market and/or list such property.

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**CONT... Bruce Elieff**

**Chapter 11**

***Note: Appearances at this hearing are not required.***

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
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10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#28.00** CON'TD Hearing RE: Motion in Debtors' Chapter 11 Cases For Order Authorizing Debtor in Possession to Employ Professional Real Estate Broker Carol Trapani **[Affects Morse Properties, LLC]**

FR: 12-5-19; 1-9-20

Docket 60

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 5, 2019**

Potential Service Issue: LBR 2014-1(b)(2)(1) requires that employment applications be served on the 20 Largest Unsecured Creditors. The court could not determine from the proof of service re this application that such creditors were served. If not, the hearing on this application will be continued to January 9, 2020 at 10:30 a.m.

If service is determined to be correct, grant the application, modified by the terms set forth in Debtor's reply.

-----

**January 9, 2020.**

Continue hearing one final time to February 6, 2020 at 10:30 a.m. (XX)

The omnibus notice [docket #149] which is intended to correct the notice issue raised by the court in its December 5, 2019 tentative ruling does not comply with LBR 2014-1(b)(3)(B), (C), (D) and (E).

Debtors will be allowed one final opportunity to properly serve the notice of the Applications. Debtors' counsel shall not charge Debtors for the preparation of the notice reflected as docket #149.

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**CONT... Bruce Elieff**

**Chapter 11**

-----  
**February 6, 2020**

Service issue corrected; Approve application with the modifications set forth in Debtor's Reply.

***Note: If the objecting party(ies) accept the foregoing tentative ruling, appearances at this hearing are not required.***

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

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
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Judge Erithe Smith, Presiding  
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Thursday, February 6, 2020

Hearing Room 5A

10:30 AM

8:19-14366 Richard Thomas Letwak

Chapter 7

#29.00 Hearing RE: Creditor Coastline JX Holdings, LLC's Motion to Extend Time to File Objection to Debtor's Claim of Exemption

Docket 11

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Voluntary Dismissal of Creditor JX Holdings, LLC's Motion, filed 2/4/2020

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Voluntary Dismissal of Creditor JX Holdings, LLC's Motion, filed 2/4/2020 - td (2/4/2020)**

**Tentative Ruling:**

**February 6, 2020**

Grant motion to extend though March 8, 2020. No further extensions will be granted. Overrule Debtor's objections.

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

**Debtor(s):**

Richard Thomas Letwak

Represented By  
Timothy McFarlin

**Movant(s):**

Coastline JX Holdings, LLC

Represented By  
Kenneth Hennesay

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Thursday, February 6, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13770 Dove Real Estate & Association Management LLC Chapter 11**

Adv#: 8:19-01204 Dove Real Estate & Association Management, LLC v. Macarthur Village

**#30.00** Hearing RE: Defendant Macarthur Village Homeowners Association's Motion for Summary Judgment on the Debtor's Complaint for Determination of Validity, Priority, or Extent of Lien and Declaratory Judgment Thereon

Docket 8

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 6, 2020**

Grant Motion except as to the general request for attorney's fees.

Basis for Tentative Ruling

On September 27, 2019, plaintiff Dove Real Estate & Association Management, LLC ("Debtor") filed a voluntary chapter 11 petition.

On October 15, 2019, Debtor filed a complaint against defendant MacArthur Village Homeowners Association (the "HOA") seeking a declaratory judgment that the HOA did not hold an ORAP Lien (defined below) against Debtor's personal property and that the HOA's claim against Debtor is unsecured (the "Complaint").

The HOA filed an answer on November 14, 2019 (the "Answer")[AP dkt. #6].

The HOA moves for summary judgment on the Complaint (the "Motion") [AP dkt. #8] seeking declaratory judgment that:

- (i) the Order to Appear for Examination ("ORAP") was properly served on Debtor on July 2, 2019,
- (ii) pursuant to CCP § 708.110(d), the effective date of such service



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**CONT...**

**Dove Real Estate & Association Management LLC**

**Chapter 11**

- (iii) was June 26, 2019, the date on which the ORAP was issued; the HOA holds a lien on Debtor's personal property pursuant to CCP § 708.110 (the "ORAP Lien") in the amount of \$357,505.13;
- (iv) the ORAP Lien cannot be invalidated due to improper or defective service; and
- (v) attorney's fees and costs permitted by law.

In sum, the HOA contends that it holds an ORAP Lien based on service of the ORAP on Debtor more than 90 days prior to the petition date. Debtor contends that service was invalid based on defective proof of service filed in state court so the HOA's claim is therefore unsecured.

**A. Undisputed Facts**

The HOA is comprised of 618 condominiums in Santa Ana, California. Debtor previously served as the HOA's management company. HOA's Statement of Uncontroverted Facts ("SUF") 1; Debtors' Statement of Genuine Issues ("SGI") 1.

On April 11 and June 7, 2019, the HOA obtained two monetary awards against Debtor in the total amount of \$357,505.13 in a state court (the "State Court Action"). SUF 2; SGI 2.

On June 26, 2019, the state court issued the ORAP directing the appearance of Kevin Shelton ("Shelton"), Debtor's managing member, to appear for a judgment debtor examination pursuant to CCP § 708.110. Reply Larry Mikelson Decl., Ex. A (the ORAP); SUF 3; SGI 3.

The ORAP was served on July 2, 2019. SUF 4; SGI 4 (Debtor raises an objection to the legal effect of this fact, not that the fact occurred). On July 25, 2019, the HOA filed a Proof of Service related to the ORAP with the state court (the "POS"). Reply Mikelson Decl., EX. A (the POS); SUF 4; SGI 4 (Debtor raises an objection to the legal effect of this fact, not that the fact occurred).

Section 2 of the POS stated that the "Party Served" was "Dove Real

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Estate and Association Management, LLC." Section 3 stated that "Person Served" was "party in item 2" [sic]. Mikelson Decl., p. 4, ¶12 and Ex. D.

At all times relevant, Shelton was the managing member and CEO of Debtor. SUF 5; SGI 5.

Shelton appeared on the appointed date and time per the ORAP. Shelton was accompanied by two attorneys, one of whom was Debtor's state court counsel and Daniel Weintraub of Weintraub & Selth, APC. SUF 6; SGI 6.

At no time during the examination did Shelton, or either of his attorneys, raise any objections regarding service of the ORAP or the POS. SUF 7; SGI 7.

After becoming aware that Debtor was contesting the validity of the POS, the HOA's counsel contacted One Legal LLC ("One Legal") and requested that One Legal provide an amended proof of service specifically identifying the person served in Section 2 of the POS. SUF 8; SGI 8.

On October 24, 2019, One Legal provided the HOA's counsel with an amended POS (signed by Andrew Swatzell, the person who also signed the original POS). Reply Mikelson Decl., Ex. B (the "Amended POS"); SUF 9; SGI 9.

Debtor filed its chapter 11 petition on September 27, 2019. SUF 10; SGI 10.

On January 16, 2020, a second amended proof of service was prepared by One Legal (the "Second Amended POS"). Reply Mikelson Decl., p. 3, ¶8 and Ex. C

**B. Summary Judgment Standard**

A party seeking summary judgment bears the initial responsibility of demonstrating the absence of a genuine issue of material fact, and establishing that it is entitled to judgment as a matter of law as to those

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CONT... **Dove Real Estate & Association Management LLC** **Chapter 11**

matters upon which it has the burden of proof. *Celotex Corporation v. Catrett*, 477 U.S. 317, 323 (1986). The opposing party must make an affirmative showing on all matters placed in issue by the motion as to which it has the burden of proof at trial. *Id.* at 324. The substantive law will identify which facts are material. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. *Id.* A factual dispute is genuine where the evidence is such that a reasonable jury could return a verdict for the nonmoving party. *Id.* The court must view the evidence presented on the motion in the light most favorable to the opposing party. *Id.*

In the absence of any disputed material facts, the inquiry shifts to whether the moving party is entitled to judgment as a matter of law. *Celotex*, 477 U.S. at 323. Furthermore, where intent is at issue, summary judgment is seldom granted. See, *Provenz v. Miller*, 102 F.3d 1478, 1489 (9th Cir. 1996), *cert. denied*, 118 S. Ct. 48 (1997).

C. The HPA Holds An ORAP Lien That Arose July 2, 2019

1. The HOA Served the ORAP on Debtor, Thereby Creating the ORAP Lien

California Code of Civil Procedure ("CCP") § 708.110(d) provides, that service of an order to appear for a debtor's examination on a judgment debtor "creates a lien on the personal property of the judgment debtor for a period of one year from the date of the order unless extended or sooner terminated by the court." Pursuant to CCP § 708.110(d), service of an order to appear for a debtor's examination must be made in the manner specified in CCP § 415.10, i.e., by personal service. Corporations Code § 17701.16 and CCP § 416.10(a) and (b), collectively, provide that service may be effectuated on "the person designated as agent for service of process" or the "president, chief executive officer, or other head of the corporation...a general manager, or a person authorized by the corporation to receive service of process."

In this case, the ORAP was addressed to Shelton, as "Managing Member, Dove Real Estate and Association management, LLC", the ORAP ordered Shelton to appear for a judgment debtor examination, the ORAP was

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CONT... **Dove Real Estate & Association Management LLC** **Chapter 11**

personally served on Shelton, Shelton was the managing member and CEO of Debtor at all times relevant, and Shelton actually appeared at the judgment debtor examination at the time/date specified in the ORAP- represented by counsel for Debtor. See SUF 3-6; SGI 3-6. Indeed, in argument, Debtor admits as much: "Debtor does not deny that Mr. Shelton was the individual served with the ORAP on July 2, 2019." Opp'n, p. 4:27-28. Accordingly, the court finds that the ORAP was actually, personally served on Shelton as the managing member of Debtor.

Notwithstanding this actual service, however, Debtor argues that the ORAP Lien is invalid because the POS is defective because it did not specifically identify Shelton as the person that was served with the ORAP on July 2, 2019 . Debtor's argument fails for two reasons- binding Ninth Circuit authority and substantial compliance with state law.

1. The Ninth Circuit Has Held that an ORAP Lien Is Created under CCP § 708.110(d) with Service Alone .

Debtor's argues that the ORAP Lien is invalid because it was not perfected with a valid proof of service. Yet, under binding Ninth Circuit authority, no type of "perfection" is required to create a valid ORAP lien. In a case cited by Debtor itself, *In re Hilde*, 120 F.3d 950, 953 (9th Cir. 1997), the Ninth Circuit, in interpreting CCP § 708.110(d), found that "an ORAP lien is created simply by service on the debtor of an order to appear for a debtor's examination[.]" *Id.*, *supra*, at 953. The court rejected the argument that an ORAP lien was not perfected until a turnover order was issued in state court finding that nothing in the statute "refers to 'perfection.'" The court further found that CCP §708.110 did not suggest that "creation of the ORAP lien by service of the order to appear is contingent on some further act by the creditor or the court." *Id.* See, *In re Swintek*, 906 F.3d 1100, 1102 (9th Cir. 2018)("[A]n ORAP lien is created simply by service on the debtor of an order to appear for a debtor's examination ....")(citing *Hilde*); *In re Burns*, 291 B.R. 846, 850 (B.A.P. 9th Cir. 2003)(relying on *Hilde* to find that service of ORAP on judgment debtor alone was sufficient to create lien on judgment debtor's property in the possession of third party). The Ninth Circuit's interpretation in *Hilde* is consistent with the plain language of the statute.

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CONT... **Dove Real Estate & Association Management LLC** **Chapter 11**

Like Hilde, here, Debtor's argument that the ORAP Lien is invalid because a valid proof of service was not completed is effectively an attempt to include an additional "perfection" requirement to the creation of the ORAP Lien. This argument is unpersuasive in light of both the statute and binding Ninth Circuit authority.

2. The HOA Has Complied With the "Substantial Compliance Rule" Regarding Service

The second reason Debtor's argument is unpersuasive is that, even under California law, a valid proof of service is not required to effectuate service.

CCP § 417.10(a) provides that the proof of service must show the time and place where the summons and complaint were delivered to defendant; and, if to a corporation or entity, the name and capacity of the person served on its behalf. Corporations Code § 17701.16 and CCP § 416.10(a) and (b), collectively, provide that service on a limited liability company (like a corporation) may be effectuated on "the person designated as agent for service of process" or the "president, chief executive officer, or other head of the corporation...a general manager, or a person authorized by the corporation to receive service of process."

In Debtor's cited legal authority, *Ramos v. Homeward Residential, Inc.*, (2014) 223 Cal. App. 4th 1434, 1442, the state court voided a default judgment against a defendant corporation for lack of proper service. The Ramos court, after noting the distinction between the "party" and a "person to be served," found that the proof of service was defective because it did not identify any individual under § 416.10 as the person who was served on behalf of the defendant corporation. *Id.*

The Ramos court, however, did not end its analysis there noting that a "facial defect" in the proof of service is not the end of the court's inquiry. See *Id.* Instead, "the burden then fell on Ramos to show, that, notwithstanding the facial defect in service, service nonetheless substantially complied with the requirements of the Code of Civil Procedure." *Id.*

Indeed, the Ramos court further found that, "It is axiomatic that strict

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compliance with the code's provisions for service of process is not required.... 'The provisions of this chapter should be liberally construed to effectuate service and uphold the jurisdiction of the court if actual notice has been received by the defendant[.]'" Id. at 1443 (emphasis in original). "[S]ubstantial compliance is sufficient" and "[i]n general, substantial compliance with the code occurs when, although not properly identified in a proof of service, the person to be served in fact actually received the summons." Id. See also, Dill v. Berquist Constr. Co., 24 Cal. App. 4th 1426, 1439 n. 12 (1994) (declining to apply "substantial compliance rule" because "actual notice..." is particularly essential with respect to a corporate defendant, which can only be served through an individual person" and plaintiff failed to direct the summons to any individual). In this case, the undisputed fact is that that the POS is defective because it failed to identify Shelton as the person who was served with the ORAP on behalf of Debtor. The "person served" in the Section 3 of the POS was "Party Served" in Section 2, i.e., "Dove Real Estate and Association Management, LLC." Mikelson Decl., p. 4, ¶ 12 and Ex. D (the POS); SUF 4; SGI 4. Thus, any presumption that a valid proof of service is entitled to under California Evidence Code § 647 is inapplicable here because the proof of service is defective. See, Dill v. Berquist Constr. Co., 24 Cal. App. 4th 1426, 1442(1994)(" Here, the proofs of service show that the mail sent by Dill was addressed solely to the corporations, not to any of the permissible persons to be served enumerated by section 416.10. Therefore, the proofs of service failed to comply with the minimum statutory requirements, and no presumption of proper service ever arose.").

Like Ramos, however, the inquiry does not end here and the burden thus falls on the HOA to demonstrate that service of the ORAP was in substantial compliance with the CCP, i.e., that Shelton actually received the ORAP. See also, Dill, supra at As noted above, the court has previously found that Shelton was actually served with the ORAP in his capacity as managing member of Debtor. See SUF 3-6; SGI 3-6. As such, the court finds that service of the ORAP was valid under the "substantial compliance rule."

With regards to the HOA's argument that Debtor waived any defects in the POS by making a general appearance at the judgment debtor examination, this argument is unnecessary in light of the fact that service of the ORAP was

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**Dove Real Estate & Association Management LLC**

**Chapter 11**

statutorily completed prior to the of Mr. Shelton. Because the court finds that personal service of the ORAP on Shelton was effective prepetition and, therefore, the lien arose prepetition notwithstanding the defective POS, the court concludes that neither the Amended POS or the Second Amended POS can be deemed to have created or perfected a lien in violation of 362(a).

Accordingly, the HOA has demonstrated the absence of any disputed material facts regarding actual service of the ORAP on Shelton, as managing member of Debtor. The HOA is thus entitled to judgment as a matter of law that it holds the ORAP Lien in the amount of \$357,505.13 against Debtor's personal property per CCP §708.110(d).

D. The ORAP Lien was Created on July 2, 2019- The Date of Service

The HOA argues that the ORAP Lien, "once served, relates back to the date the ORAP was issued by the state court, see, Mot., p. 7:18-8:1. However, the plain language of the 708.110(d) clearly provides that t the lien is created as of the date of service and the *term* of the lien, unless extended or shortened, is one year from the date of the issuance of the ORAP. See *Hilde*, 120 F.3d at 954.

**Party Information**

**Debtor(s):**

Dove Real Estate & Association

Represented By  
Daniel J Weintraub  
Crystle Jane Lindsey

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**CONT...      Dove Real Estate & Association Management LLC**

**Chapter 11**

**Defendant(s):**

Macarthur Village Homeowners

Represented By  
Barry R Gore

**Plaintiff(s):**

Dove Real Estate & Association

Represented By  
James R Selth  
Crystle Jane Lindsey



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**8:19-13770 Dove Real Estate & Association Management LLC Chapter 11**

Adv#: 8:19-01204 Dove Real Estate & Association Management, LLC v. Macarthur Village

**#31.00** CON'TD STATUS CONFERENCE RE: Complaint for Determination of Validity, Priority, or Extent of Lien and Declaratory Judgment Thereon

FR: 1-9-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

Continue status conference to February 6, 2020 at 2:00 p.m., same date/time as Defendant's pending motion for summary judgment; updated joint status report not required. (XX)

***Note: Appearances at this hearing are not required.***

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

**Debtor(s):**

Dove Real Estate & Association

Represented By  
Daniel J Weintraub  
Crystle Jane Lindsey

**Defendant(s):**

Macarthur Village Homeowners

Pro Se

**Plaintiff(s):**

Dove Real Estate & Association

Represented By  
James R Selth

**United States Bankruptcy Court  
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Judge Erithe Smith, Presiding  
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Tuesday, February 11, 2020

Hearing Room 5A

10:00 AM

8:18-13204 Jose Alberto Osorio

Chapter 13

#1.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
[RE: 2011 BMW 5 Series]

SCHOOLSFIRST FEDERAL CREDIT UNION

VS.

DEBTOR

Docket 39

**Tentative Ruling:**

**February 11, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Jose Alberto Osorio

Represented By  
Kevin J Kunde

**Movant(s):**

SchoolsFirst Federal Credit Union

Represented By  
Paul V Reza

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
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Tuesday, February 11, 2020

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10:00 AM

8:18-13204 Jose Alberto Osorio

Chapter 13

#2.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
[RE: 2007 Chevrolet Avalanche]

SCHOOLSFIRST FEDERAL CREDIT UNION

VS.

DEBTOR

Docket 38

**Tentative Ruling:**

**February 11, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Jose Alberto Osorio

Represented By  
Kevin J Kunde

**Movant(s):**

SchoolsFirst Federal Credit Union

Represented By  
Paul V Reza

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
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10:00 AM

**8:19-13881 Tamara A Bailey**

**Chapter 7**

**#3.00** CON'TD Hearing RE: Motion for relief from automatic stay  
[ACTION IN NON-BANKRUPTCY FORUM]

STEVE HOWARD AND CREMACH TECH, INC.

VS.

DEBTOR

FR: 1-9-20

Docket 23

**Tentative Ruling:**

**January 9, 2020**

Grant the Motion with the limitations set forth in the Motion and Reply pleadings.

Overrule objection of Debtor as unpersuasive.  
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**February 11, 2020**

*This matter remains under review by the court. A tentative ruling may be issued at any time prior to the hearing.*

**Party Information**

**Debtor(s):**

Tamara A Bailey

Represented By  
William R Cumming

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**CONT...      Tamara A Bailey**

**Chapter 7**

**Movant(s):**

Steve Howard

Represented By  
Michael J Buley

Cremach Tech, Inc.

Represented By  
Michael J Buley

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
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Tuesday, February 11, 2020

Hearing Room 5A

10:00 AM

8:19-14161 April Suzanne Ferrara

Chapter 7

#4.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

CARVANA, LLC

VS.

DEBTOR

Docket 21

**Tentative Ruling:**

**February 11, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

April Suzanne Ferrara

Represented By  
Edward T Weber

**Movant(s):**

Carvana, LLC

Represented By  
Kristin A Zilberstein

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, February 11, 2020

Hearing Room 5A

10:00 AM

8:19-14169 Gary Clesceri and Charlene Clesceri

Chapter 7

#5.00 Hearing RE: motion for relief from the automatic stay [PERSONAL PROPERTY]  
JPMORGAN CHASE BANK, N.A.  
VS.  
DEBTORS

Docket 18

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of  
Motion, filed 2/10/2020**

**Tentative Ruling:**

**February 11, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Gary Clesceri

Represented By  
Michael G Spector

**Joint Debtor(s):**

Charlene Clesceri

Represented By  
Michael G Spector

**Movant(s):**

JPMorgan Chase Bank, N.A.

Represented By  
Katie M Parker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 11, 2020**

**Hearing Room 5A**

---

10:00 AM

**CONT... Gary Clesceri and Charlene Clesceri**

**Chapter 7**

**Trustee(s):**

Karen S Naylor (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 11, 2020**

**Hearing Room**

**5A**

10:30 AM

**8:10-14723 Susan Doan**

**Chapter 7**

**#6.00** Hearing RE: Debtor's First Omnibus Motion For Order Disallowing the Following Claims as They Are Not Obligations of the Debtor:

Claim #1	Wells Fargo Bank, NA	\$430,075.54
Claim #2	Wells Fargo Bank, NA	\$522,390.39
Claim #3	Wells Fargo Dealer Services	\$10,087.46
Claim #4	Capital One Bank (USA), N.A.	\$7,491.25
Claim #5	Pacific Bell Telephone Company c/o AT&T Inc	\$119.70
Claim #6	ECMC	\$1,371.22
Claim #7	Capital One Bank (USA), N.A.	\$444.16
Claim #8	Fred S. Pardes, A Professional Corporation	\$56,409.78

Docket 99

**Tentative Ruling:**

**February 11, 2020**

Grant in part; deny in part; continue hearing in part. Grant as to Claim #s 4 and 7 (Capital One); continue hearing to March 19, 2020 at 10:30 a.m. as to Claim #s 1, 2, 3, 5 and 6 to allow Debtor to address various service/evidentiary issues; Deny as to Claim #8 without prejudice as moot.

Basis for Tentative Ruling:

I. Service:

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 11, 2020**

**Hearing Room**

**5A**

10:30 AM

CONT...

**Susan Doan**

**Chapter 7**

The court shares the concern of the chapter 7 trustee regarding service given the unusual circumstances of this case. The court is concerned that the notice information given on the proofs of claim may not be current as this case was originally closed over 8 years ago on July 25, 2011, creditors had no duty or responsibility to maintain current addresses for notice. For example, as to the Wells Fargo, the proofs of claim include the name of a law firm, which may or may not still the attorney of record for Wells Fargo. Because of the passage of time, the court will require that all creditors, save Capital One (Claim #s 4 and 7) and Fred S. Pardes (Claim #8), be re-served per FRBP 7004(b)(3) for corporate entities or 7004(h) for banks.

2. Substantive Issues:

a. Claim #1 (WF Bank): Debtor asserts that WF Bank is owed nothing on this claim due to its approval of a short sale of the property known as 29252 Silverado Canyon Road, Silverado, CA. However, there is no documentary evidence of any such approval (or even a demand into escrow) and the escrow settlement document doesn't show any distribution to WF as a secured creditor. Further, there is no evidence of the release of the WF lien. Debtor has not met her initial burden of presenting evidence sufficient to refute the presumed validity of this proof of claim. Absent additional evidence, the motion will be denied as to Claim #1 at the continued hearing.

b. Claim #2 (WF Bank): Debtor asserts that WF Bank is owed nothing on this claim due to its approval of a short sale of the property known as 29222 Shadybrook Drive, Silverado, CA. However, there is no documentary evidence of any such approval or a demand into escrow. Though the escrow settlement statement shows a distribution of document shows a distribution of \$199,556.11 of WF's \$522,390 claim, there is no evidence of acceptance by WF of this amount in full satisfaction of its claim. Further, there is no evidence of the release of the WF lien. Debtor has not met her initial burden of presenting evidence sufficient to refute the presumed validity of this proof of claim. Absent additional evidence, the motion will be denied as to Claim # 2 at the continued hearing.

c. Claim #3 Wells Fargo Dealer Services Inc: The court could not verify that the post office box number indicated on the proof of claim is still

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 11, 2020**

**Hearing Room 5A**

10:30 AM

**CONT...**

**Susan Doan**

**Chapter 7**

viable. Accordingly, the motion must be reserved pursuant to FRBP 7004(b)(3). If no response is filed following re-service, the motion will be granted as to this claim at the continued hearing.

d. Claim #4 Capital One: In light of the amended claim in the amount of \$0.00 filed 2/10/20, the motion is granted as to this claim.

e. Claim #5 AT&T: Debtor has only provided the front of a check which purports to represent payment of the amount set forth in the proof of claim. Debtor must provide proof of either 1) the cancelled check or 2) bank statement showing the amount was deducted from her account. If Debtor provides such proof no later than 14 days prior to the hearing, the motion will be granted as to this claim. Re-service per 7004(b)(3) is required.

f. Claim #6 ECMC: The motion needs to be re-served per 7004(b)(3) as the court cannot verify that the P.O. Box on the proof of claim remains viable.. Further, the court cannot verify that the document attached as Exhibit 6 to Debtor's declaration is the same loan/debt referenced in proof of claim # 6. Absent additional verification, the motion will be denied as to this claim at the continued hearing.

g. Claim #7 Capital One Bank: As Capital One Bank filed an amended proof of claim on 2/10/20 reducing the claim to \$0.00, the motion is granted as to this claim.

h. Claim #8 Fred S. Pardes: Debtor objected to Claim #8 as it was filed on August 20, 2010 in the amount of \$56,409.78. Since the objection was filed, Mr. Pardes amended the claim on January 29, 2020 to increase the claim to \$157,947.38, thereby mooting the current claim objection. Without ruling on the current objection, the court makes the following observations regarding Mr. Pardes' opposition and Debtor's reply in order to assist the parties should a new objection to the amended Claim #8 be filed:

-- Debtor raises the issue of the statute of limitations on the claim for the first time in the reply. This is a substantive argument that should have been raised in the motion. LBR 9013-1(g)(4). Should Debtor file a new objection, this is an issue Mr. Pardes will obviously need to address.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, February 11, 2020

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5A

10:30 AM

CONT... Susan Doan

Chapter 7

-- Mr. Pardes admits he cannot produce a fully executed retainer agreement. Accordingly, it would appear he cannot claim interest in the amount set forth in such unsigned retainer agreement. Further, the state court judgment rate would appear not apply as no state court judgment has been entered to this court's knowledge. Should this be a surplus estate, the chapter 7 trustee will distribute interest to unsecured creditors at the *federal* judgment rate based on the allowed amount of the claim. See, *In re Cardelucci*, 285 F.3d 1241, 1234 (9th Cir. 2002).

-- The case of *Leighton v. Forster*, 8 Cal App 5th 467, 485-492 (2017) is instructive regarding the application and interpretation of Cal Bus & Prof Code 6178: (" [S]ection 6148(a) expressly states that "[a]t the time the contract is entered into, the attorney shall provide a duplicate copy of the contract signed by both the attorney and the client....") (Alleged client deemed to have voided the retainer agreement under 6178(c) by not signing the retainer agreement or paying the invoice) ("when an agreement is voided under section 6148(c) 'the attorney shall, upon the agreement being voided, be entitled to collect a reasonable fee.' This provision of section 6148 codifies the general rule that when legal services have been provided without a valid written fee agreement, the attorney may recover the reasonable value of the services she performed in the action pursuant to a common count for *quantum meruit*") (" The two-year statute of limitations in Code of Civil Procedure section 339 governs claims for quantum meruit. (*Iverson*, supra, 76 Cal.App.4th at p. 996, 90 Cal.Rptr.2d 665; Code Civ. Proc., § 339.) Where the claim of quantum meruit is based upon services performed under a contract that was void or voidable, the limitations period commences to run on either the date the last payment was made toward the attorney fees, or the last date that the attorney performed services in the case."). The court in *Leighton* also rejected the attorney's argument that failure to object to an invoice constituted implied consent to pay it.

-- Contrary to Mr. Pardes' representation in his opposition, Debtor *did* list his claim as disputed.

-- The court is perplexed by Mr. Pardes' assertion that this court lack jurisdiction to adjudicate claims objections simply because the case was closed and later re-opened. The court is unaware of any legal authority that

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Tuesday, February 11, 2020**

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10:30 AM

**CONT... Susan Doan**

**Chapter 7**

would limit this court's jurisdiction over the claims process pursuant to 28 U.S.C. 157(b)(2)(B) and Mr. Pardes has cited the court to no such authority.

-- The evidentiary objection of Debtor to the declaration of Mr. Pardes is well-taken. Hearsay, insufficient foundation for business record exception. FRE 803(6).

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

**Debtor(s):**

Susan Doan

Represented By  
Gregory J Doan  
Bryan L Ngo

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Tinho Mang

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, February 11, 2020

Hearing Room 5A

10:30 AM

8:17-14551 Italo Victor Ismodes, Sr

Chapter 7

#7.00 Hearing RE: Application for Payment of Final Fees and/or Expenses

[RINGSTAD & SANDERS LLP, ATTORNEY FOR KAREN SUE NAYLOR,  
CHAPTER 7 TRUSTEE]

Docket 265

**Tentative Ruling:**

**February 11, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

**Party Information**

**Debtor(s):**

Italo Victor Ismodes Sr

Represented By  
Anerio V Altman

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Nanette D Sanders  
Brian R Nelson

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, February 11, 2020

Hearing Room 5A

10:30 AM

8:17-14551 Italo Victor Ismodes, Sr

Chapter 7

#8.00 Hearing RE: Trustee's Final Report and Application for Final Fees and Expenses

**[KAREN SUE NAYLOR, CHAPTER 7 TRUSTEE]**

Docket 269

**Tentative Ruling:**

**February 11, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

**Party Information**

**Debtor(s):**

Italo Victor Ismodes Sr

Represented By  
Anerio V Altman

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Nanette D Sanders  
Brian R Nelson

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, February 11, 2020

Hearing Room 5A

10:30 AM

8:17-14551 Italo Victor Ismodes, Sr

Chapter 7

#9.00 Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses From October 2, 2018 Through November 2, 2019

**[HAHN FIFE & COMPANY LLP, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]**

Docket 262

**Tentative Ruling:**

**February 11, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

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

**Debtor(s):**

Italo Victor Ismodes Sr

Represented By  
Anerio V Altman

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Nanette D Sanders  
Brian R Nelson



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 18, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#1.00** Hearing RE: Creditor Todd Kurtin's Motion for Order Directing Appointment of Chapter 11 Trustee

Docket 209

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-13709 Vicente Salvador Nava-Velasco**

**Chapter 7**

**#1.00** Hearing RE: Pro Se Reaffirmation Agreement Between Debtor and CarMax  
Auto Finance (RE: 2009 Mini Cooper - \$9,544.66)  
**(TA CASE)**

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Vicente Salvador Nava-Velasco

Represented By  
Seema N Sood

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-13739 Raul Ramiro Salazar**

**Chapter 7**

**#2.00** Hearing RE: Pro se Reaffirmation Agreement Between Debtor and JPMorgan Chase Bank, N.A. (RE: 2018 GMC - Sierra 1500 - \$33,918.01) **[TA CASE]**

Docket 22

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Raul Ramiro Salazar

Represented By  
Marlin Branstetter

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-13781 Amrut Basil Macwan**

**Chapter 7**

**#3.00** Hearing RE: Reaffirmation Agreement Between Debtor and Capital One Auto Finance, a division of Capital One, N.A. (RE: 2011 Toyota Sienna - 4 Cyl. Wagon 5D LE - \$9,695.55)

Docket 9

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Amrut Basil Macwan

Represented By  
Brian J Soo-Hoo

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-13963 Claudia Jose Juarez**

**Chapter 7**

**#4.00** Hearing RE: Reaffirmation Agreement Between Debtor and Wells Fargo N.A.,  
d/b/a Wells Fargo Auto (RE: 2013 Nissan Rogue - \$10,558.52)

Docket 14

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Claudia Jose Juarez

Represented By  
Marjan Alitalaei

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14101 Laura Ann Wright**

**Chapter 7**

**#5.00** Hearing RE: Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (RE: 2019 Toyota RAV4 Hybr - \$48,744.89)

Docket 15

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Laura Ann Wright

Represented By  
Alon Darvish

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14102 Fernando Augusto Flores**

**Chapter 7**

**#6.00** Hearing RE: Reaffirmation Agreement Between Debtor and Wells Fargo Bank, N.A. d/b/a/ Wells Fargo Auto (RE: 2010 Nissan Altima - \$3,704.05)  
**(TA CASE)**

Docket 8

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Fernando Augusto Flores

Represented By  
Marlin Branstetter

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14165 Tracy J Gonzalez**

**Chapter 7**

**#7.00** Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Santander Consumer USA Inc. - (RE: 2011 Kia Sorento - \$6,803.59)  
**(SC CASE)**

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

Tracy J Gonzalez	Pro Se
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**Trustee(s):**

Thomas H Casey (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14312 Garegin Gary Khachikyan**

**Chapter 7**

**#8.00** Hearing RE: Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (RE: 2015 Toyota Camry - \$3,750.00)

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Garegin Gary Khachikyan

Represented By  
Brian J Soo-Hoo

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14313 Yolanda Ochoa De Sanchez**

**Chapter 7**

**#9.00** Hearing RE: Pro se Reaffirmation Agreement Between Debtor and American Honda Finance Corporation (RE: 2018 Honda Pilot - \$15,141.34)  
**(CB CASE)**

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Yolanda Ochoa De Sanchez	Pro Se
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**Trustee(s):**

Karen S Naylor (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Wednesday, February 19, 2020

Hearing Room 5A

9:30 AM

**8:19-14376 Alejandro Lopez and Jennifer Hernandez**

**Chapter 7**

**#10.00** Hearing RE: Reaffirmation Agreement Between Debtor and American Honda Finance Corporation (RE: 2019 Honda CRV - \$38,593.81)

Docket 12

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Debtor's Notice of Rescission of Reaffirmation Agreement filed 2/17/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Debtor's Notice of Rescission of Reaffirmation Agreement filed 2/17/2020 - td (2/18/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Alejandro Lopez

Represented By  
Kevin J Kunde

**Joint Debtor(s):**

Jennifer Hernandez

Represented By  
Kevin J Kunde

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14376 Alejandro Lopez and Jennifer Hernandez**

**Chapter 7**

**#11.00** Hearing RE: Reaffirmation Agreement Between Debtor and American Honda Finance Corporation (RE: 2019 Honda Civic - \$9,112.32)

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Alejandro Lopez

Represented By  
Kevin J Kunde

**Joint Debtor(s):**

Jennifer Hernandez

Represented By  
Kevin J Kunde

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14378 Timothy B. Clevenger**

**Chapter 7**

**#12.00** Hearing RE: Reaffirmation Agreement Between Debtor and Golden 1 Credit Union (RE: 2017 Toyota Prius - \$22,455.60)  
**(CB CASE)**

Docket 8

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Timothy B. Clevenger

Represented By  
Christine A Kingston

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14387 Tamara Lynn Kim**

**Chapter 7**

**#13.00** Hearing RE: Pro se Reaffirmation Agreement Between Debtor and American Honda Finance Corporation (RE: 2016 Honda Civic - \$8,815.66)  
**(SC CASE)**

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tamara Lynn Kim

Represented By  
Michael D Franco

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14525 Enrique Villagomez**

**Chapter 7**

**#14.00** Hearing RE: Reaffirmation Agreement Between Debtor and TD Auto Finance LLC (RE: 2014 Mercedes-Benz C Class - \$13,370.89)

Docket 15

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Enrique Villagomez

Represented By  
Alaa A Ibrahim

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14525 Enrique Villagomez**

**Chapter 7**

**#15.00** Hearing RE: Reaffirmation Agreement Between Debtor and Wells Fargo Bank N.A., d/b/a Wells Fargo Auto (RE: 2013 Mercedes-Benz C Class - \$8,049.48)

Docket 17

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Enrique Villagomez

Represented By  
Alaa A Ibrahim

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14525 Enrique Villagomez**

**Chapter 7**

**#16.00** Hearing RE: Reaffirmation Agreement Between Debtor and Harley-Davidson Credit Corp. (RE: 2016 Harley-Davidson FXDB Street Bob - \$5,294.17)

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Enrique Villagomez

Represented By  
Alaa A Ibrahim

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14559 Henry Giovanni Zelaya**

**Chapter 7**

**#17.00** Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (RE: 2014 Toyota Venza - \$9,995.68)  
**(SC CASE)**

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

Henry Giovanni Zelaya	Pro Se
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**Trustee(s):**

Jeffrey I Golden (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14664 Tanya Annette James**

**Chapter 7**

**#18.00** Hearing RE: Reaffirmation Agreement Between Debtor and Wecom Central Credit Union (RE: 2016 Volkswagen Passat - \$16,075.76)  
**(CB CASE)**

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Tanya Annette James

Represented By  
Marlin Branstetter

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14665 Martha Riley**

**Chapter 7**

**#19.00** Hearing RE: Reaffirmation Agreement Between Debtor and Nissan Motor Acceptance Corp (RE: 2016 Nissan Altima - \$23,259.97)  
**(CB CASE)**

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Martha Riley

Represented By  
Marlin Branstetter

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, February 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14733 Sandra Valencia Lopez**

**Chapter 7**

**#20.00** Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Nissan Motor Acceptance Corp (RE: 2014 Nissan Sentra - \$3,192.97)  
**[TA CASE]**

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

Sandra Valencia Lopez	Pro Se
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**Trustee(s):**

Jeffrey I Golden (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-10706 John Jean Bral**

**Chapter 11**

Adv#: 8:17-01095 Steward Financial LLC v. Bral

**#1.00** CONT'D STATUS CONFERENCE RE: First Amended Complaint to Determine Non-dischargeability of Debt Under Bankruptcy Code Section 523

FR: 9-20-18; 3-21-19; 8-15-19; 9-19-19; 11-21-19

Docket 35

**Courtroom Deputy:**

**Tentative Ruling:**

**September 20, 2018**

Continue status conference to March 21, 2019 at 9:30 a.m.; updated status report to be filed by March 7, 2019 (XX)

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**March 21, 2019**

Continue status conference to August 15, 2019 at 9:30 a.m.; updated joint status report to be filed by August 1, 2019. **Deadline for Defendant to file responsive pleading to the FAC: June 20, 2019. (XX)**

***Note: If all parties accept the foregoing tentative ruling, appearances at the March 21, 2019 hearing are not required.***

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**August 15, 2019**

Continue status conference to September 19, 2019 at 2:00 p.m.; an updated status report is not required. (XX)

***Note: Appearances at this hearing are not required; Plaintiff to serve***

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, February 20, 2020

Hearing Room 5A

9:30 AM

CONT... John Jean Bral

Chapter 11

**notice of the continued date/time.**

-----  
**September 19, 2019**

Continue status conference to November 21, 2019 at 2:00 p.m.; an updated status report is not required. (XX)

**Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.**

-----  
**February 20, 2020**

Continue status conference to May 21, 2020 at 9:30 a.m.; updated joint status report must be filed by May 7, 2020. (XX)

**Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.**

**Party Information**

**Debtor(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel  
Babak Samini  
Dean A Ziehl

**Defendant(s):**

John Jean Bral

Represented By  
William N Lobel  
Beth Gaschen  
Alan J Friedman

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... John Jean Bral**

**Chapter 11**

**Plaintiff(s):**

Steward Financial LLC

Represented By  
Krikor J Meshefejian  
Gary E Klausner



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room**

**5A**

9:30 AM

**8:17-11063 Karem Angelica Blair**

**Chapter 7**

Adv#: 8:17-01112 Herrera et al v. Blair

**#2.00** Hearing RE: Order to Show Cause Issued to Plaintiffs, Yvonne Herrera, Dylan Herrera, and Ethan Herrera, Why Adversary Proceeding Should Not Be Dismissed For Failure to Prosecute (OSC Issued 12/23/2019)

Docket 53

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Dismiss adversary proceeding with prejudice for failure to diligently prosecute the adversary.

This case has been pending since June 2017 with virtually no progress. This court permitted Plaintiffs six months to commence a probate action in state court and Plaintiffs failed to do so. Plaintiffs have an obligation to prosecute this adversary proceeding in a timely matter. Conversely, Debtor is entitled to finality regarding the status of her discharge. At the time Plaintiffs responded to the court's Order to Show Cause, approximately eight months had expired and no evidence of the commencement of a probate action was presented with such response. No debtor should be compelled to wait indefinitely while a plaintiff "scrapes" up funds to prosecute an adversary proceeding. In this matter, nearly three years have passed and the adversary is still months away from a pre-trial conference due to Plaintiff's failure to timely prosecute the probate action so that this adversary can proceed on the merits.

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

Karem Angelica Blair

Represented By  
Kelly H. Zinser

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Karem Angelica Blair**

**Chapter 7**

**Defendant(s):**

Karem Angelica Blair

Represented By  
Kelly H. Zinser

**Plaintiff(s):**

Yvonne Herrera

Represented By  
Fritz J Firman

Dylan Herrera

Represented By  
Fritz J Firman

Ethan Herrera

Represented By  
Fritz J Firman

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Kristine A Thagard  
Chad V Haes

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-11063 Karem Angelica Blair**

**Chapter 7**

Adv#: 8:17-01112 Herrera et al v. Blair

**#3.00** CON'TD STATUS CONFERENCE CONFERENCE RE: Complaint to Determine Debt to be Nondischargeable (11 USC Section 523)

FR: 9-21-17; 5-3-18; 5-17-18; 9-6-18; 12-6-18; 1-24-19; 4-11-19; 7-11-19; 8-1-19; 12-19-19

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**September 21, 2017**

Discovery Cut-off Date:	Feb. 28, 2018
Deadline to Attend Mediation:	Mar. 30, 2018
Pretrial Conference Date:	May 3, 2018 at 9:30
a.m.	(XX)
Deadline to File Joint Pretrial Stipulation:	Apr. 26, 2018

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

-----  
**September 6, 2018**

No status report filed. Impose sanctions in the amount of \$100 against counsel for plaintiffs for failure to do so.

Plaintiffs' counsel to appear and advise the court re the outcome of the mediation and the status of this adversary.

***Note: Appearances at this hearing are required.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room 5A

9:30 AM

CONT... Karem Angelica Blair

Chapter 7

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**December 6, 2018**

Both counsel for plaintiffs and counsel for defendant must appear and advise the court why sanctions in the amount of \$100 should not be imposed against both counsel for failure to comply with the Local Bankruptcy Rules, to wit:

1. Plaintiffs' counsel has not prepared, transmitted or filed a joint pretrial stipulation as required by LBR 7016-1(c);
2. Defendant's counsel, having not received a timely draft of a JPS, has not filed or served a proposed pretrial stipulation in accordance with LBR 7016-1(e)(2); and
3. Neither counsel has advised this court whether the parties attended mediation and the outcome of the same or, if not, why the parties did not attend mediation.

***Note: Appearance by all counsel at this hearing is required.***

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**December 19, 2019**

Continue status conference to February 20, 2020 at 9:30 a.m.; updated joint status report due February 13, 2020. (XX)

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**February 20, 2020**

Take matter off calendar in light of the dismissal of the adversary proceeding.

**Party Information**

**Debtor(s):**

Karem Angelica Blair

Represented By  
Kelly Zinser

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Karem Angelica Blair**

**Chapter 7**

**Defendant(s):**

Karem Angelica Blair

Pro Se

**Plaintiff(s):**

Yvonne Herrera

Represented By  
Fritz J Firman

Dylan Herrera

Represented By  
Fritz J Firman

Ethan Herrera

Represented By  
Fritz J Firman

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Kristine A Thagard  
Chad V Haes

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-13410 Mohammad R Sabha**

**Chapter 7**

Adv#: 8:19-01125 Sabha v. California State Board Of Equalization

**#4.00 PRE-TRIAL CONFERENCE RE: Complaint to Determine Dischargeability of Tax Liability**

(Another Summons Issued 8/1/2019)  
FR: 10-17-19

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**October 17, 2019**

Joint status report was not timely filed. Impose sanctions in the amount of \$100 against Plaintiff's counsel for failure to do so.

Discovery Cut-off Date:	Dec. 20, 2019
Deadline to Attend Mediation:	Jan. 17, 2020
Pretrial Conference Date:	Feb. 20, 2020 at 9:30 a.m.
(XX)	
Deadline to File Joint Pretrial Stipulation:	Feb. 6, 2020

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

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**February 20, 2020**

Impose sanctions in the amount of \$100 against Plaintiff's counsel for failure to timely file a joint pretrial stipulation. The court will issue an Order to Show Cause Why This Adversary Should Not Be Dismissed for Failure to

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room 5A

9:30 AM

CONT... **Mohammad R Sabha** **Chapter 7**

Prosecute. The hearing on the OSC will be held on April 2, 2020 at 9:30 a.m. and this pretrial conference will be continued to the same date/time.

***Note: Appearances at this hearing are required.***

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

Mohammad R Sabha

Represented By  
Bruce A Boice

**Defendant(s):**

California State Board Of

Pro Se

**Plaintiff(s):**

Mohammad R Sabha

Represented By  
Bruce A Boice

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-13780 Maria H. Helton-Rehburg**

**Chapter 7**

Adv#: 8:19-01189 Kosmala v. Merhab Robinson, Jackson & Clarkson, APC et al

**#5.00** CON'TD STATUS CONFERENCE RE: Complaint to Determine and Preserve Void Lien (11 U.S.C. §§506(d), 551); Avoid, Recover and Preserve Unperfected Lien (11 U.S.C. §§544, 550, 551); Avoid, Recover and Preserve Preferential Transfers (11 U.S.C. §§547, 550 551); and Disallow/Subordinate Homestead Exemption)

FR: 12-5-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4/2/2020 AT 9:30 A.M.,  
Per Order Entered 2/10/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 4/2/2020 at 9:30 a.m., Per  
Order Entered 2/10/2020 (XX) - td (2/10/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Maria H. Helton-Rehburg

Represented By

Christopher P Walker

**Defendant(s):**

Merhab Robinson, Jackson &

Pro Se

Merhab Robinson & Clarkson, APC

Pro Se

James T. Jackson, APC

Pro Se

James T. Jackson

Pro Se

Maria H. Helton-Rehburg

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

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9:30 AM

**CONT... Maria H. Helton-Rehburg**

**Chapter 7**

**Plaintiff(s):**

Weneta M.A. Kosmala

Represented By  
Erin P Moriarty

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Erin P Moriarty

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room 5A

9:30 AM

**8:18-11594 George Carl Natzic**

**Chapter 7**

Adv#: 8:18-01170 Add2Net, Inc. v. Natzic et al

**#6.00** CONT'D STATUS CONFERENCE RE: Complaint for Non-dischargeability of Debt Due to: 1. Fraud (11 U.S.C. §523(a)(2)); 2. Fraud in a Fiduciary Capacity (11 U.S.C. §523(a)(4)); 3. Willful and Malicious Injury by the Debtor to Plaintiff (11 U.S.C. §523(a)(6)); and (4) Denial of Limited Discharge (11 U.S.C. §524(a)(3))

FR: 12-6-18; 1-24-19; 4-18-19; 6-20-19; 8-22-19; 9-19-19; 12-5-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4/16/2020 AT 9:30 A.M.,  
Per Order Entered 2/14/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 4/16/2020 at 9:30 a.m., Per  
Order Entered 2/14/2020 (XX) - liz - (2/14/2020)**

**Tentative Ruling:**

**June 20, 2019**

No tentative ruling. This tentative will be trailed to the 2:00 p.m. calendar along with the Motion to Dismiss

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**September 19, 2019**

In light of the upcoming trial in the state court litigation, continue status conference to December 5, 2019 at 9:30 a.m.; updated status report must be filed by November 21, 2019. (XX)

***Note: Appearances at today's hearing are not required; Plaintiff to serve notice of the continued hearing date/time.***

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... George Carl Natzic**

**Chapter 7**

**Debtor(s):**

George Carl Natzic

Represented By  
Moises S Bardavid

**Defendant(s):**

George Carl Natzic

Pro Se

Cheri Lynn Natzic

Pro Se

**Joint Debtor(s):**

Cheri Lynn Natzic

Represented By  
Moises S Bardavid

**Plaintiff(s):**

Add2Net, Inc.

Represented By  
Kevin Meek

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room 5A

9:30 AM

**8:18-12322 Tung Phuong Nguyen-Phuc**

**Chapter 7**

Adv#: 8:19-01136 Philadelphia Indemnity Insurance Company v. Golden

**#7.00** CONT'D STATUS CONFERENCE RE: Adversary Complaint for Declaratory Relief

FR: 10-3-19; 11-7-19; 12-19-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR; Stipulation for Voluntary Dismissal of the Adversary Proceeding Without Prejudice Pursuant to FRBP 7041(A) filed 2/6/2020; Order Approving Stipulation entered on 2/14/20**

**Courtroom Deputy:**

**OFF CALENDAR: Stipulation for Voluntary Dismissal of the Adversary Proceeding Without Prejudice Pursuant to FRBP 7041(A) filed 2/6/2020; Order Approving Stipulation entered on 2/14/20. es**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tung Phuong Nguyen-Phuc

Represented By  
Leslie K Kaufman

**Defendant(s):**

Jeffrey Golden

Pro Se

**Plaintiff(s):**

Philadelphia Indemnity Insurance

Represented By  
Lane K Bogard  
Lisa Darling-Alderton

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

9:30 AM

**CONT...**

**Tung Phuong Nguyen-Phuc**

**Chapter 7**

Richard A Marshack  
Jerome Ringler  
Neil Macy Howard  
David Wood

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room 5A

9:30 AM

**8:18-14388 Francis J. Marzec**

**Chapter 7**

Adv#: 8:19-01180 Marshack v. Sweeney et al

**#8.00** CON'TD STATUS CONFERENCE RE: Complaint for Turnover of Property Pursuant to 11 U.S.C. §542, 547, 548, 550 and California Civil Code Sec. 3439 et seq.

FR: 11-21-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Another Summons  
Issued 12/20/2019; New Status Conference Set for 3/5/2020 at 9:30 a.m. (xx)**

**Courtroom Deputy:**

**OFF CALENDAR: Another Summons Issued 12/20/2019; New Status  
Conference Set for 3/5/2020 at 9:30 a.m. (xx) - td (12/20/2019)**

**Tentative Ruling:**

**November 21, 2019**

Continue status conference to February 20, 2020 at 9:30 a.m. to allow Plaintiff to complete service of all defendants. Updated status report must be filed by February 6, 2020. (XX)

***Note: Appearance at this hearing are not required; Plaintiff shall serve notice of the continued hearing date/time.***

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

**Debtor(s):**

Francis J. Marzec

Represented By  
Christine A Kingston

**Defendant(s):**

Anita Sweeney

Pro Se

Tori Sweeney

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Francis J. Marzec**

**Chapter 7**

Michael Marzec

Pro Se

Beth Marzec

Pro Se

**Plaintiff(s):**

Richard A Marshack

Represented By  
Anerio V Altman

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Anerio V Altman

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, February 20, 2020

Hearing Room

5A

9:30 AM

**8:19-10275 Michael J Duff**

**Chapter 7**

Adv#: 8:19-01084 Constantin et al v. Duff

**#9.00** CON'TD PRE-TRIAL CONFERENCE RE: Complaint to Deny Debtor's Discharge

FR: 8-1-19; 1-30-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/21/2020 AT 9:30 A.M.,  
Per Order Entered 2/14/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Pre-Trial Conference Continued to 5/21/2020 at 9:30 a.m.,  
Per Order Entered 2/14/2020 (XX) - liz - (2/14/2020)**

**Tentative Ruling:**

**August 1, 2019**

Discovery Cut-off Date:	Nov. 4, 2019
Deadline to Attend Mediation:	Dec. 20, 2019
Pretrial Conference Date: (XX)	Jan. 30, 2020 at 9:30 a.m.
Deadline to Lodge Joint Pretrial Stipulation:	Jan. 16, 2020

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

**Party Information**

**Debtor(s):**

Michael J Duff

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Michael J Duff**

**Chapter 7**

**Defendant(s):**

Michael J. Duff

Pro Se

**Plaintiff(s):**

Holly Constantin

Represented By  
Alan W Forsley

Michael Constantin

Represented By  
Alan W Forsley

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-10996 Raju Gobindlal Shewa**

**Chapter 7**

Adv#: 8:19-01129 Gama World Technologies, Inc. v. Shewa

**#10.00** PRE-TRIAL CONFERENCE RE: Complaint to Determine Nondischargeability of Debt Pursuant to 11 U.S.C. Sections 523(a)(2)(A),(B), 523(a)(4) and (6); 11 U.S.C. Section 727(a) et seq.; and For Injunctive Relief

FR: 9-19-19

Docket 1

**Courtroom Deputy:**

**SPECIAL NOTE: Call from plaintiff's attorney, Bryan M. Lieffer (213-680-5179), advising that this adversary proceeding has settled. A motion to approve the settlement is forthcoming. -sb (12/16/2019 3:35 PM).**

**Tentative Ruling:**

**September 19, 2019**

Discovery Cut-off Date:	Dec. 19, 2019
Deadline to Attend Mediation:	Jan. 23, 2020
Pretrial Conference Date:	Feb. 20, 2020 at 9:30 a.m.
(XX)	
Deadline to File Joint Pretrial Stipulation:	Feb. 6, 2020

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

-----  
**February 20, 2020**

In light of contemplated settlement of this matter, continue as a status

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room 5A

9:30 AM

CONT... **Raju Gobindlal Shewa** **Chapter 7**

conference to April 2, 2020 at 9:30a.m.; updated status report must be filed 14 days prior to the continued hearing if the settlement has not been approved by such date. (XX)

***Note: Appearances at this hearing are not required.***

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

**Debtor(s):**

Raju Gobindlal Shewa

Represented By  
Leonard M Shulman

**Defendant(s):**

Raju Shewa

Pro Se

**Plaintiff(s):**

Gama World Technologies, Inc.

Represented By  
Esther P Holm  
Bryan Leifer  
Paul Y. Lee

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, February 20, 2020

Hearing Room 5A

9:30 AM

8:19-11139 Chirag Shewa

Chapter 7

Adv#: 8:19-01134 American Outdoor Gears, LLC v. Shewa

#11.00 PRE-TRIAL CONFERENCE RE: Complaint to Determine Nondischargeability of Debt 1. False Pretenses, False Representations, or Actual Fraud 11 U.S.C. § 523(a)(2); 2. Willful and Malicious Injury 11 U.S.C. §523(a)(6); 3. Non-Dischargeability of Debt Pursuant to 11 U.S.C. §727(a)(2) to (a)(5)

FR: 9-19-19

Docket 1

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Approving Stipulation and Dismissing Adversary Proceeding Entered 11/20/2019

Courtroom Deputy:

**OFF CALENDAR: Order Approving Stipulation and Dismissing Adversary Proceeding Entered 11/20/2019 - td (11/20/2019)**

Tentative Ruling:

**September 19, 2019**

Discovery Cut-off Date:	Dec. 19, 2019
Deadline to Attend Mediation:	Jan. 23, 2020
Pretrial Conference Date:	Feb. 20, 2020 at 9:30 a.m.
(XX)	
Deadline to File Joint Pretrial Stipulation:	Feb. 6, 2020

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

**Party Information**

**Debtor(s):**

Chirag Shewa

Represented By  
Leonard M Shulman

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room      5A**

---

9:30 AM

**CONT...      Chirag Shewa**

**Chapter 7**

**Defendant(s):**

Chirag Shewa

Pro Se

**Plaintiff(s):**

American Outdoor Gears, LLC

Represented By  
Michael A Ortiz  
Edward G Operini

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-12704 Emma Arroyo Banda**

**Chapter 7**

Adv#: 8:19-01192      SCHOOLSFIRST FEDERAL CREDIT UNION v. Banda

**#12.00**      CON'TD STATUS CONFERENCE RE: Complaint to Determine Dischargeability  
of Debt

FR: 12-12-19

Docket      1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 12, 2019**

Continue Status Conference to February 20, 2020 at 9:30 a.m. (XX)

A motion for default judgment may self-calendared for the same date/time as the continued Status Conference date. Alternatively, the motion may be filed without a hearing pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).

The motion for default judgment, supported by evidence, must be served on defendant and defendant's counsel in accordance with Local Rule 9013-1(d).

If the motion for default judgment is not heard by the continued date of the Status Conference, **THE ADVERSARY MAY BE DISMISSED** at the Status Conference for failure to prosecute.

-----  
**February 20, 2020**

In light of contemplated settlement of this matter, continue as a status conference to April 2, 2020 at 9:30a.m.; updated status report must be filed

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Emma Arroyo Banda Chapter 7**

14 days prior to the continued hearing if the settlement has not been approved by such date. (XX)

***Note: Appearances at this hearing are not required.***

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

**Debtor(s):**

Emma Arroyo Banda

Represented By  
Marlin Branstetter

**Defendant(s):**

Emma Arroyo Banda

Pro Se

**Plaintiff(s):**

SCHOOLSFIRST FEDERAL

Represented By  
Paul V Reza

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, February 20, 2020

Hearing Room 5A

10:00 AM

8:15-14766 Maria DeJesus Rodriguez

Chapter 13

#13.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]  
DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE, IN TRUST  
VS.  
DEBTOR

Docket 54

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Grant with 4001(a)(3) waiver and co-debtor relief.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Maria DeJesus Rodriguez

Represented By  
Phillip Myer

**Movant(s):**

Deutsche Bank National Trust

Represented By  
Kristin A Zilberstein  
Kristin A Schuler-Hintz



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Maria DeJesus Rodriguez**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, February 20, 2020

Hearing Room 5A

10:00 AM

8:18-13300 Stephen S Sampson

Chapter 13

#14.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

U.S. BANK N.A.

VS.

DEBTOR

Docket 46

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Grant with 4001(a)(3) waiver. No ruling regarding the request for attorneys fees and costs.

The court generally does not approve attorneys fees and costs in connection with a motion for relief from stay. Notably, in this case no amount is disclosed and no time records are provided.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Stephen S Sampson

Represented By  
Parisa Fishback

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Stephen S Sampson**

**Chapter 13**

**Movant(s):**

US Bank National Association as

Represented By  
Diane Weifenbach

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room 5A

10:00 AM

8:19-11546 Joseph Ra

Chapter 7

#15.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]  
[RE: 705 W. 9th Street #35-03, Los Angeles, CA 90015]

LA FLOWER STREET APARTMENTS, LP

VS.

DEBTOR

Docket 137

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Grant with 4001(a)(3) waiver and annulment.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Joseph Ra

Represented By  
David B Golubchik  
Jaenam J Coe

**Movant(s):**

LA Flower Street Apartments, LP

Represented By  
Linda T Hollenbeck

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

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10:00 AM

**CONT... Joseph Ra**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector  
Thomas J Polis

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, February 20, 2020

Hearing Room 5A

10:00 AM

8:19-11546 Joseph Ra

Chapter 7

#16.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]  
[RE: 705 W. 9th Street #11-01, Los Angeles, CA 90015]

LA FLOWER STREET APARTMENTS, LP

VS.

DEBTOR

Docket 138

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Grant with 4001(a)(3) waiver and annulment.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Joseph Ra

Represented By  
David B Golubchik  
Jaenam J Coe

**Movant(s):**

LA Flower Street Apartments, LP

Represented By  
Linda T Hollenbeck

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

---

10:00 AM

**CONT... Joseph Ra**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector  
Thomas J Polis

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, February 20, 2020

Hearing Room 5A

10:00 AM

8:19-11546 Joseph Ra

Chapter 7

#17.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]  
[RE: 705 W. 9th Street #35-01, Los Angeles, CA 90015]

ASB WATERMARKS OWNER LLC

VS.

DEBTOR

Docket 139

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Grant with 4001(a)(3) waiver and annulment.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Joseph Ra

Represented By  
David B Golubchik  
Jaenam J Coe

**Movant(s):**

ASB Watermarke Owner LLC

Represented By  
Linda T Hollenbeck



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

---

10:00 AM

**CONT... Joseph Ra**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector  
Thomas J Polis

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, February 20, 2020

Hearing Room 5A

10:00 AM

8:19-11546 Joseph Ra

Chapter 7

#18.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]  
[RE: 705 W. 9th Street #15-05, Los Angeles, CA 90015]

ASB WATERMARKE OWNER LLC

VS.

DEBTOR

Docket 140

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Grant with 4001(a)(3) waiver and annulment.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Joseph Ra

Represented By  
David B Golubchik  
Jaenam J Coe

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector  
Thomas J Polis

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Joseph Ra**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13404 Peter Stankovich**

**Chapter 13**

**#19.00** Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
FINANCIAL SERVICES VEHICLE TRUST  
VS.  
DEBTOR

Docket 29

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Peter Stankovich

Represented By  
Christopher J Langley

**Movant(s):**

Financial Services Vehicle Trust

Represented By  
Cheryl A Skigin

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Peter Stankovich**

**Chapter 13**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, February 20, 2020

Hearing Room 5A

10:00 AM

8:19-14364 Rebecca Hamilton

Chapter 7

#20.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
HOUSE OF FINANCE CORP.  
VS.  
DEBTOR

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Rebecca Hamilton

Represented By  
Andrew Nguyen

**Movant(s):**

HOUSE OF FINANCE CORP.

Represented By  
Michael D Vanlochem

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Rebecca Hamilton**

**Chapter 7**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, February 20, 2020

Hearing Room 5A

10:00 AM

8:19-14914 Sergio Francisco Rios and Ana Maria Rios

Chapter 7

#21.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
TOYOTA LEASE TRUST  
VS.  
DEBTORS

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Sergio Francisco Rios

Represented By  
Nicholas W Gebelt

**Joint Debtor(s):**

Ana Maria Rios

Represented By  
Nicholas W Gebelt

**Movant(s):**

Toyota Lease Trust

Represented By



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Sergio Francisco Rios and Ana Maria Rios**

**Chapter 7**

Kirsten Martinez

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-14931 La Donna Hannah**

**Chapter 7**

**#22.00** Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]  
BRIARWOOD SQUARE APARTMENTS LP  
VS.  
DEBTOR

Docket 13

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdraw of  
Motion for Relief Set for February 20, 2020, filed 2/5/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdraw of Motion for Relief Set for  
February 20, 2020, filed 2/5/2020 - td (2/6/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

La Donna Hannah

Pro Se

**Movant(s):**

Briarwood Square Apartments LP

Represented By  
Scott Andrews

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room 5A

10:00 AM

**8:20-10060 Douglas Alan Paige and Linet Khachatoorian**

**Chapter 7**

**#23.00** Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]

DAVID A. EISENMAN; MARILYN EISENMAN, TRUSTEES OF THE EISENMAN  
FAMILY TRUST DATED 1/1/98

VS.

DEBTORS

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Douglas Alan Paige

Represented By  
Timothy McFarlin

**Joint Debtor(s):**

Linet Khachatoorian

Represented By  
Timothy McFarlin

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Douglas Alan Paige and Linet Khachatoorian**

**Chapter 7**

**Movant(s):**

David A. Eisenman; Marilyn

Represented By  
Scott Andrews

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, February 20, 2020

Hearing Room 5A

10:00 AM

8:20-10159 Anna Hage

Chapter 7

#24.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]  
UDR 1818 PLATINUM LLC  
VS.  
DEBTOR

Docket 8

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Grant with 4001(a)(3) waiver and annulment.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Anna Hage

Represented By  
Brian J Soo-Hoo

**Movant(s):**

Todd Brisco

Represented By  
Todd A Brisco

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Anna Hage**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room 5A

10:00 AM

**8:20-10069 Lauren Lizbeth Witek**

**Chapter 13**

**#25.00** Hearing RE: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate **(OST Entered 2/6/2020)**

Docket 22

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Deny motion as untimely under 11 U.S.C. 362(c)(3)(B).

Section 362(c)(3)(B) expressly provides that the stay may only be continued beyond 30 days from the petition date if "the hearing is *completed* before the expiration of the 30-day stay." In this case, Debtor waited until February 5, 2020, just three days prior to the expiration of the 30-day period, i.e., February 8, 2020 (a Saturday). Apparently, Debtor's counsel believed that simply filing the motion within the 30 day period would be sufficient. Statutorily, it is not. Given that the motion was not filed until February 5, 2020, a hearing would have to have been completed by Friday, February 7 -- just two days after the motion was filed, effectively providing no notice to affected secured creditors. This court has no discretion to rule contrary to the plain language of the statute.

**Party Information**

**Debtor(s):**

Lauren Lizbeth Witek

Represented By  
Dana M Douglas

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10208 Scott Allen Campbell**

**Chapter 13**

**#26.00** Hearing RE: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Deny motion.

Debtor has not sufficiently demonstrated good faith or changed circumstances. First, Debtor's Schedule J does not support plan payments of \$4,000 per month and no explanation is provided as to how such payments can be made. Second, liquidation of the residential property does not show equity of \$93,000 that can be used to fund the plan as Debtor's calculation does not take into account costs of sale. Even assuming modest costs of sale of 7%, or \$94,500 (based on property value of \$1.350M), there would be no equity from which to fund a plan.

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

Scott Allen Campbell

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10434 Delecia A Holt**

**Chapter 13**

**#26.10** Hearing RE: Order to Show Cause Why Case Should Not Be Dismissed  
(OSC Issued 2/11/2020)

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

This court is inclined to dismiss this case with a 180-day bar for the following reasons:

1. This is the second chapter 13 case filed while Debtor's chapter 7 case is pending and no discharge has been entered in the chapter 7 case. The court acknowledges that there is case authority supporting the filing of chapter 13 case after a discharge order has been entered in the chapter 7 case but before the chapter 7 case is formally closed. However, in this case, not only has the discharge order not been entered in the chapter 7 case, the deadline for filing objections to discharge has not even expired.

2. This chapter 13 case appears to have been filed in bad faith for the sole purpose of avoiding and undermining this court's order granting relief from stay as to certain leased vehicles. The first chapter 13 case was filed on the same day that the court granted relief from stay at a hearing (the case was subsequently dismissed the same day at a hearing on Debtor's request to pay the filing fee in installments, at which hearing the court found that Debtor was not eligible to be a chapter 13 debtor because she had negative disposable income and filed a plan designed to improperly reduce the subject lease payments from approximately \$900/mo. to approximately \$223/mo). The very next day, Debtor filed the current chapter 13 case, this time adding income that did not exist the day before.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room      5A**

---

10:00 AM

**CONT...      Delecia A Holt**

**Chapter 13**

**Debtor(s):**

Delecia A Holt

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room 5A

10:30 AM

8:16-12110 Stuart Moore (USA) Ltd.

Chapter 7

#27.00 Hearing RE: Trustee's Final Report and Application for Final Fees and Expenses

**[THOMAS H. CASEY, CHAPTER 7 TRUSTEE]**

Docket 356

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

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

**Debtor(s):**

Stuart Moore (USA) Ltd.

Represented By  
William M Burd  
Jeffrey S Shinbrot

**Trustee(s):**

Thomas H Casey (TR)

Represented By  
Thomas H Casey  
Jeffrey S Shinbrot  
Jeffrey I Golden

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:30 AM

**8:16-12110 Stuart Moore (USA) Ltd.**

**Chapter 7**

**#28.00** Hearing RE: Final Fee Application for Approval of Compensation in the Amount of \$185,721.00, and Reimbursement of Expenses in the Amount of \$5,604.11 for the Period January 1, 2017 Through November 30, 2019

**[JEFFREY S. SHINBROT, APLC, COUNSEL TO THOMAS H. CASEY,  
CHAPTER 7 TRUSTEE]**

Docket 354

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Applicant states in the Application that its efforts resulted in a "substantial distribution to unsecured creditors." [Application at p. 2] However, according to the ch. 7 trustee's final report there are insufficient funds to pay priority claims in full and there will be no distribution to unsecured creditors. Applicant's fees constitute approximately 60% of funds collected. Is Applicant willing to waive a portion of its fees to provide 100% payment to priority claimants and a small distribution to unsecured creditors?

***Note: Appearance at this hearing is required.***

**Party Information**

**Debtor(s):**

Stuart Moore (USA) Ltd.

Represented By  
William M Burd  
Jeffrey S Shinbrot

**Trustee(s):**

Thomas H Casey (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Stuart Moore (USA) Ltd.**

**Chapter 7**

Thomas H Casey  
Jeffrey S Shinbrot  
Jeffrey I Golden

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room 5A

10:30 AM

8:16-12110 Stuart Moore (USA) Ltd.

Chapter 7

#29.00 Hearing RE: Second and Final Fee Application For Allowance of Fees and Expenses From October 4, 2018 Through November 19, 2019

**[HAHN FIFE & COMPANY LLP, ACCOUNTANT TO CHAPTER 7 TRUSTEE]**

Docket 351

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

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

**Debtor(s):**

Stuart Moore (USA) Ltd.

Represented By  
William M Burd  
Jeffrey S Shinbrot

**Trustee(s):**

Thomas H Casey (TR)

Represented By  
Thomas H Casey  
Jeffrey S Shinbrot  
Jeffrey I Golden

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:30 AM

**8:17-10706 John Jean Bral**

**Chapter 11**

**#30.00** CON'TD Post-Confirmation Status Conference RE: Fourth Amended Chapter 11 Plan

(Set at Conf. Hrg. Held 6-26-19)  
FR: 11-21-19

Docket 761

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**November 21, 2019**

Continue status conference to February 20, 2020 at 10:30 a.m.; an updated status report must be filed by February 6, 2020. (XX)

**February 20, 2020**

Debtor to advise the court as to the specific form of "court intervention" Debtor seeks. See Status report at p. 3:12-14.

**Party Information**

**Debtor(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel  
Babak Samini  
Dean A Ziehl

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room 5A

10:30 AM

8:17-13684 QLD Information Systems, Inc.

Chapter 7

#31.00 Hearing RE: Trustee's Final Report and Application for Final Fees and Expenses

**[THOMAS H. CASEY, CHAPTER 7 TRUSTEE]**

Docket 73

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

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

**Debtor(s):**

QLD Information Systems, Inc.

Represented By  
Thomas J Polis

**Trustee(s):**

Thomas H Casey (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room 5A

10:30 AM

8:17-13684 QLD Information Systems, Inc.

Chapter 7

#32.00 Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses From January 19, 2019 Through October 8, 2019

**[HAHN FIFE & COMPANY, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]**

Docket 71

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

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

**Debtor(s):**

QLD Information Systems, Inc.

Represented By  
Thomas J Polis

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, February 20, 2020

Hearing Room 5A

10:30 AM

8:18-13238 Paul David Scarborough and Julie Ann Scarborough

Chapter 7

#33.00 Hearing RE: Chapter 7 Trustee's Motion For Order Disallowing Claim No. 7-1  
Filed by Ford Motor Credit Company, LLC (\$44,145.34)

Docket 39

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020 [UPDATED TENTATIVE RULING]**

Grant motion as requested but in the modified amount of \$41,516.17, the amount set forth in the supporting documentation attached to the proof of claim.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Paul David Scarborough

Represented By  
Thomas E Brownfield

**Joint Debtor(s):**

Julie Ann Scarborough

Represented By  
Thomas E Brownfield

**Movant(s):**

Karen S Naylor (TR)

Represented By  
Nanette D Sanders

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Paul David Scarborough and Julie Ann Scarborough**

**Chapter 7**

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Nanette D Sanders

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room 5A

10:30 AM

8:19-11546 Joseph Ra

Chapter 7

#34.00 Hearing RE: Chapter 7 Trustee's Motion for Order to Extend Time to File Complaint Under 11 US.C. §727 RE: Objection to Debtor's Discharge

Docket 146

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Grant motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Joseph Ra

Represented By  
David B Golubchik  
Jaenam J Coe

**Movant(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector  
Thomas J Polis

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector  
Thomas J Polis

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-11546 Joseph Ra**

**Chapter 7**

**#35.00** Hearing RE: Motion For Order to Show Cause Why Alleged Contemnors: Joseph RA, Jong Hea Ra, Christopher Lee, Viken Chelebrian; and David Spreen should not be held in Contempt of Court for failing to comply with Court Orders (ECF Nos. 70, 83, 102, 108 and 109)

Docket 127

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Grant the Motion. Order should provide that the respondents can purge contempt by agreeing to comply with the court's orders within 30 days of the entry of the OSC.

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

**Debtor(s):**

Joseph Ra

Represented By  
David B Golubchik  
Jaenam J Coe

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector  
Thomas J Polis

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-11546 Joseph Ra**

**Chapter 7**

**#35.10 Hearing RE: Motion for Protective Order RE Rule 2004 Examination  
(OST Entered 2-10-2020)**

Docket 153

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Deny motion due to insufficient grounds stated therefor.

The court finds the grounds for the motion unpersuasive. An examination under Rule 2004 may be sought not only by a trustee but by any party in interest to investigate the assets and liabilities of a debtor.

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

**Debtor(s):**

Joseph Ra

Represented By  
David B Golubchik  
Jaenam J Coe

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector  
Thomas J Polis

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-12411 Orange County Bail Bonds, Inc.**

**Chapter 11**

**#36.00** Hearing RE: Disclosure Statement Describing Debtor's Chapter 11 Plan of Reorganization Dated December 20, 2019

Docket 82

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Continue disclosure statement approval hearing to April 9, 2020 at 10:30 a.m.; amended disclosure statement and plan must be filed no later than March 12, 2020; responses to the amended plan must be filed by March 19, 2020 and any reply by March 26, 2020. (XX)

Court's Comments Re the Disclosure Statemen (DS):

1. Debtor must amend the DS to address the concerns of the UST, except as to the timeliness issue re American. Debtors only file claims on behalf of creditors who have not filed a claim by the claims bar date; debtors cannot know whether a creditor will file a claim until after the bar date has expired. By definition, claims filed by a debtor on behalf of a creditor will not be filed "timely."
2. Re American, Debtor needs to explain the basis for the estimated claim amount of \$7,831,800 when it currently only has \$10,000 of this type of debt. See DS at p. 24.
3. DS at p. 17:20: Capitalized terms "Landlord" and "Lease" are not defined terms in the DS.
4. DS at p.18: Debtor states there are no Class 1 priority claims but at p. 21 that Miller has such a claim in the amount of \$13,650. This discrepancy

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room 5A

10:30 AM

CONT... **Orange County Bail Bonds, Inc.**

Chapter 11

needs to be corrected in the Plan as well.

5. DS at p. 19:8: Delete "(Class 1)"

6. DS at p. 19:23-27: Debtor needs to disclose the compensation structure to Magarian & DiMercurio. "TBD" is insufficient. This also begs the question, why has the application not been filed and what is the current status of the appeal?

7. DS at p. 21:8: Typo re "T" and "the" needs to be capitalized.

8. DS at p. 21:7: "Shareholder" should be modified to "Interest" to be consistent with the preceding paragraph.

9. DS at p. 26, fn 2: Somewhere in the DS, Debtor needs to explain what will happen if cramdown is required -- the absolute priority rule and new value. Fn 2 for this purpose is insufficient.

10. DS at pP. 28 and 31: Contradictory statements as to reversion of property.

11: How will Miller's prepetition, non-priority wage claim be treated under the Plan?

12. Re separate classification issue: The court will defer this as a confirmation issue. Because, as pointed out by Debtor in its reply, Global may have redress against parties other than Debtor (e.g., Debtor's principals), the court cannot find at this time that the classification renders the plan patently unconfirmable.

13: Re feasibility: The court will defer this as a confirmation issue.

14. Outlook for the industry: Debtor needs to fully disclose as a risk factor the consequences of state law that will go into effect if the referendum is not successful.

***Note: Appearances at this hearing are not required if all parties accept the foregoing tentative ruling.***



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... Orange County Bail Bonds, Inc.**

**Chapter 11**

**Party Information**

**Debtor(s):**

Orange County Bail Bonds, Inc.

Represented By  
Marc C Forsythe  
Ryan S Riddles

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-12411 Orange County Bail Bonds, Inc.**

**Chapter 11**

**#37.00** CONT'D STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case

FR: 8-22-19; 10-17-19; 11-7-19; 1-30-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 22, 2019**

Deadline to file Plan and Disclosure Statement: 10/21/19

Continued Status Conference Date: 11/21/19 at 10:30 a.m.

Updated Status Report due date: 11/7/19 unless a plan  
& DS

have been  
filed, in which case

the  
requirement of a report will

be waived.

*Special Note: The court does not ordinarily set a deadline for the filing of  
objections to claim.*

***Note: If Debtor is in substantial compliance with the requirements of the  
United States Trustee, appearance at this hearing is not required. It is  
Debtor's responsibility to confirm compliance with the UST prior to the  
hearing.***

-----  
**October 17, 2019**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room

5A

10:30 AM

CONT... **Orange County Bail Bonds, Inc.**

Chapter 11

Continue status conference to November 7, 2019 at 10:30 a.m., same date/time as hearing on Debtor's motion to extend exclusivity. Updated status report not required. (XX)

-----  
**November 7, 2019**

Deadline to file plan/disclosure statement: Dec. 20, 2019

Continued status conference: Jan. 30, 2020 at 10:30 am  
(XX)

Updated status report due (only if plan &  
DS not timely filed by 12/20/19): Jan. 16, 2020

***Note: If Debtor is in substantial compliance with the requirements of the United States Trustee, appearance at this hearing is not required. It is Debtor's responsibility to confirm compliance with the UST prior to the hearing.***

-----  
**January 30, 2020**

Continue status conference to 2/20/20 at 10:30 a.m., same date/time as hearing on approval of disclosure statement; updated status report not required. (XX)

***Note: Appearance at this hearing is not required.***

-----  
**February 20, 2020**

Continue status conference to April 9, 2020 at 10:30 a.m.; updated status report not required. (XX)

***Note: Appearance at this hearing is not required.***

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Orange County Bail Bonds, Inc.**

**Chapter 11**

**Debtor(s):**

Orange County Bail Bonds, Inc.

Represented By  
Marc C Forsythe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13587 Trent Tyrell Berglin and Adrienne Lynn Berglin**

**Chapter 11**

**#38.00** CONT'D STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case

FR: 11-21-19

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**November 21, 2019**

Claims bar date:	Jan. 27, 2020 (notice to creditors by 11/27/19)
Deadline to file plan/DS :	Jan. 31, 2020
Continued Status Conference:	Feb. 20, 2020 at 10:30 a.m. (XX)
Updated Status Report due:	Feb. 6, 2020 (waived if plan/DS timely filed)

***Note: If Debtors accept the foregoing tentative ruling and are in substantial compliance with the requirements of the U.S. Trustee, appearance at this hearing is not required. It is the responsibility of Debtors to confirm compliance with the U.S. Trustee prior to the hearing.***

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**February 20, 2020**

Continue hearing to March 19, 2020 at 10:30 a.m.; same date/time as hearing on approval of disclosure statement. (XX)

***Note: Appearance at today's hearing is not required; updated status report not required for 3/19/20 hearing.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Trent Tyrell Berglin and Adrienne Lynn Berglin**

**Chapter 11**

**Party Information**

**Debtor(s):**

Trent Tyrell Berglin

Represented By  
Michael Jones

**Joint Debtor(s):**

Adrienne Lynn Berglin

Represented By  
Michael Jones

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01205 Elieff et al v. Kurtin

**#39.00** Hearing RE: Motion for Approval of Official Committee of Unsecured Creditors of Bruce Elieff to Intervene in Adversary Proceeding **(OST Entered 2/5/2020)**

(Advanced from 3/5/2020, Per OST Entered 2/5/2020)

Docket 34

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Grant motion as to the First Claim for Relief Only (Elieff); waive FRCP 24(c).

The Court adopts the legal analysis and argument presented by the Committee in its Motion and Reply pleadings as though fully set forth herein as to the First Claim for Relief. The court declines to follow the analysis and authority set forth in the Opposition, which it finds unpersuasive.

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

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT...**     **Bruce Elieff**  
Morse Properties, LLC

Represented By  
Paul J Couchot

**Chapter 11**

4627 Camden, LLC

Represented By  
Paul J Couchot



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-14834 Hussam Fayiz Darwish**

**Chapter 11**

**#40.00 STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and (2)  
Requiring Report on Status of Chapter 11 Case**

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Absent a noticed motion, the court will not provide any "advisory opinions" regarding Debtor's contemplation of a conversion of this case to one under Sub-Chapter V, including Debtor's eligibility to be a Sub-Chapter V debtor. That said, Debtor's counsel may want to consider the relevant deadlines under Sub-Chapter V (filing of plan, claims bar date, etc) and review legal authorities regarding chapter 13 eligibility in the "chapter 20" scenario. See, e.g., *In re Blackwell*, 514 B.R. 19 (Bankr. ND Cal. 2014).

Absent conversion:

Claims bar date: Apr. 23, 2020 (60 days not)

Deadline to file plan/DS: Apr. 30, 2020

Continued Status Conf: May 21, 2020 at 10:30am

Updated Status Report: May 7, 2020 (waived if DS filed)

***Note: Appearance at this hearing is required.***

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

**Debtor(s):**

Hussam Fayiz Darwish

Represented By  
Michael Jones

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room 5A

10:30 AM

8:18-13864 Friendly Village GP, LLC

Chapter 7

#40.10 Hearing RE: Trustee's Motion for Order Approving Overbid Procedures for the Sale of Property

Docket 156

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Grant motion, except that the break-up fee will be limited to 5% of the overbid price.

The proposed breakup fee in the Motion is in excess of 6% which is unacceptable.

***Note: This matter appears to be uncontested. If Movant accepts the tentative ruling, appearance at this hearing is not required.***

**Party Information**

**Debtor(s):**

Friendly Village GP, LLC

Represented By  
Howard Camhi

**Movant(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
David Wood  
Kristine A Thagard

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Friendly Village GP, LLC**

David Wood  
Kristine A Thagard

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room 5A

2:00 PM

**8:16-12110 Stuart Moore (USA) Ltd.**

**Chapter 7**

Adv#: 8:18-01085 Thomas H. Casey, Chapter 7 Trustee v. Moore et al

**#41.00** CON'TD Hearing RE: Defendant Stuart Moore's Motion to Dismiss or Abstain from Hearing Adversary Proceeding

FR: 1-31-19; 2-12-19; 4/18/19; 7-11-19; 7-16-19; 9-12-19; 11-21-19

Docket 24

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/7/2020 AT 2:00 P.M.,  
Per Order Entered 2/11/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/7/2020 at 2:00 p.m., Per Order  
Entered 2/11/2020 (XX) - td (2/11/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Stuart Moore (USA) Ltd.

Represented By  
William M Burd  
Jeffrey S Shinbrot

**Defendant(s):**

Stuart Moore

Represented By  
Todd C. Ringstad

Sylvie Moore Masson

Pro Se

**Plaintiff(s):**

Thomas H. Casey, Chapter 7 Trustee

Represented By  
Jeffrey S Shinbrot

**Trustee(s):**

Thomas H Casey (TR)

Represented By  
Thomas H Casey

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Stuart Moore (USA) Ltd.**

Jeffrey S Shinbrot  
Jeffrey I Golden

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, February 20, 2020

Hearing Room 5A

2:00 PM

**8:16-12110 Stuart Moore (USA) Ltd.**

**Chapter 7**

Adv#: 8:18-01085 Thomas H. Casey, Chapter 7 Trustee v. Moore et al

**#42.00** CONT'D STATUS CONFERENCE RE: First Amended Complaint for Avoidance of Recovery of Fraudulent and Preferential Transfers (Another Summons Issued 9/13/18)

FR: 12-6-18; 1-31-19; 3-12-19; 4/18/19; 7-11-19, 7-16-19; 9-12-19; 11-21-19

Docket 3

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/7/2020 AT 2:00 P.M.,  
Per Order Entered 2/11/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 5/7/2020 at 2:00 p.m., Per Order Entered 2/11/2020 (XX) - td (2/11/2020)**

**Tentative Ruling:**

**January 31, 2019**

Continued to March 12, 2019 at 10:30 a.m.; updated status report not required. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

**Party Information**

**Debtor(s):**

Stuart Moore (USA) Ltd.

Represented By  
William M Burd  
Jeffrey S Shinbrot

**Defendant(s):**

Stuart Moore

Pro Se

Sylvie Moore Masson

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, February 20, 2020**

**Hearing Room 5A**

---

2:00 PM

**CONT... Stuart Moore (USA) Ltd.**

**Chapter 7**

**Plaintiff(s):**

Thomas H. Casey, Chapter 7 Trustee

Represented By  
Jeffrey S Shinbrot

**Trustee(s):**

Thomas H Casey (TR)

Represented By  
Thomas H Casey  
Jeffrey S Shinbrot  
Jeffrey I Golden

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-15023 Barbara Lynn Herrmann**

**Chapter 13**

**#1.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Barbara Lynn Herrmann

Represented By  
Brian J Soo-Hoo

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14993    Rojelia Cosio Twohey**

**Chapter 13**

**#2.00    Hearing RE: Confirmation of Chapter 13 Plan**

Docket        1

**\*\*\* VACATED \*\*\*    REASON: OFF CALENDAR: Order Dismissing Case  
for Failure to File Schedules, Statements, and/or Plan Entered 1/17/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,  
Statements, and/or Plan Entered 1/17/2020 - td (1/17/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

Rojelia Cosio Twohey	Pro Se
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**Trustee(s):**

Amrane (SA) Cohen (TR)	Pro Se
------------------------	--------

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14950 Lonnie M Tee**

**Chapter 13**

**#3.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 15

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Lonnie M Tee

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14869 Omar Vasquez and Elisabeth Aguilar**

**Chapter 13**

**#4.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Omar Vasquez

Represented By  
Sunita N Sood

**Joint Debtor(s):**

Elisabeth Aguilar

Represented By  
Sunita N Sood

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14868 Heather Leigh Tolson**

**Chapter 13**

**#5.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 14

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Heather Leigh Tolson

Represented By  
Andrew Nguyen

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14822 Jesus M Razo**

**Chapter 13**

**#6.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jesus M Razo

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14807 Kalani James Robert Green**

**Chapter 13**

**#7.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Kalani James Robert Green

Represented By  
Rabin J Pournazarian

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14798 Linda L Rock**

**Chapter 13**

**#8.00 Hearing RE: Confirmaiton of Chapter 13 Plan**

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Case  
for Failure to File Schedules, Statements, and/or Pan Entered 1/21/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,  
Statements, and/or Pan Entered 1/21/2020 - td (1/24/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Linda L Rock

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14775 Alba Fernandez**

**Chapter 13**

**#9.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 5

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Alba Fernandez

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14771 Lenore Renee Mallek-Passey**

**Chapter 13**

**#10.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Lenore Renee Mallek-Passey

Represented By  
Nicholas M Wajda

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14758 Edward J De Hertel**

**Chapter 13**

**#11.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 6

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Edward J De Hertel

Represented By  
Minh Duy Nguyen

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14728 Victor Manuel Rondon Diaz**

**Chapter 13**

**#12.00** Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Victor Manuel Rondon Diaz

Represented By

Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14688 Jose Antonio Velazquez**

**Chapter 13**

**#13.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jose Antonio Velazquez

Represented By

Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14683 Roberto Llamas**

**Chapter 13**

**#14.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Roberto Llamas

Represented By  
Rebecca Tomilowitz

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14682 Michael E. Silbermann**

**Chapter 13**

**#15.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael E. Silbermann

Represented By  
Joseph C Rosenblit

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14653 Crissa Austria Rey**

**Chapter 13**

**#16.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Crissa Austria Rey

Represented By  
Daniel King

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14638 Monica D. Gutierrez**

**Chapter 13**

**#17.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Monica D. Gutierrez

Represented By  
Andrew Nguyen

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14612 Louie Castillo**

**Chapter 13**

**#18.00** Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Louie Castillo

Represented By  
Raymond J Seo

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14580 Dae Min Kang and Jaie Yoon Kang**

**Chapter 13**

**#19.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Dae Min Kang

Represented By  
James D. Hornbuckle

**Joint Debtor(s):**

Jaie Yoon Kang

Represented By  
James D. Hornbuckle

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, February 25, 2020

Hearing Room 5A

1:30 PM

**8:19-14541 Robert Spencer and Emily Spencer**

**Chapter 13**

**#20.00** Hearing RE: Confirmation of 1st Amended Chapter 13 Plan

Docket 19

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal  
Arising from Debtors' Request for Voluntary Dismissal of Chapter 13  
Entered 2/25/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order of Dismissal Arising from Debtors' Request for  
Voluntary Dismissal of Chapter 13 Entered 2/25/2020 - td (2/25/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Robert Spencer

Represented By  
Gary S Saunders

**Joint Debtor(s):**

Emily Spencer

Represented By  
Gary S Saunders

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14528 Vishundyal Ramotar Mohabir**

**Chapter 13**

**#21.00** Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Vishundyal Ramotar Mohabir

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14508 Stephen Carr Darden**

**Chapter 13**

**#22.00** Hearing RE: Confirmation of 1st Amended Chapter 13 Plan

Docket 15

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Stephen Carr Darden

Represented By  
Roya Rohani

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14493 Michael Burke**

**Chapter 13**

**#23.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 15

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Burke

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, February 25, 2020

Hearing Room 5A

1:30 PM

8:19-14490 Deborah Ann Watt

Chapter 13

#24.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 12

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal  
Arising from Debtor's Request for Voluntary Dismissal of Chapter 13 With  
Restrictions Entered 1/9/2020

Courtroom Deputy:

**OFF CALENDAR: Order of Dismissal Arising from Debtor's Request for  
Voluntary Dismissal of Chapter 13 With Restrictions Entered 1/9/2020 -  
td (2/7/2020)**

Tentative Ruling:

- NONE LISTED -

**Party Information**

**Debtor(s):**

Deborah Ann Watt

Represented By  
Arlene M Tokarz

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14478 Rosibel Flores**

**Chapter 13**

**#25.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 1-21-20

Docket 11

**Courtroom Deputy:**

-

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Rosibel Flores

Represented By  
Tuan Le

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14426 Michael Alan Kohn**

**Chapter 13**

**#26.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 1-21-10

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Michael Alan Kohn

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14418 Todd Scott Pflug and Carrie Ruth Pflug**

**Chapter 13**

**#27.00 CON'TD Hearing RE: Confirmation of 2nd Amended Chapter 13 Plan**

FR: 1-21-20

Docket 22

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Todd Scott Pflug

Represented By  
Mehran R Chini

**Joint Debtor(s):**

Carrie Ruth Pflug

Represented By  
Mehran R Chini

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14413 Natalie Marie Mifflin and Jason Clifford Mifflin**

**Chapter 13**

**#28.00 CON'TD Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

FR: 1-21-20

Docket 20

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Natalie Marie Mifflin

Represented By  
Yelena Gurevich

**Joint Debtor(s):**

Jason Clifford Mifflin

Represented By  
Yelena Gurevich

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14340 Michael Thomas Bates and Rachelle Lissette Bates**

**Chapter 13**

**#29.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 1-21-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Michael Thomas Bates

Represented By  
David Lozano

**Joint Debtor(s):**

Rachelle Lissette Bates

Represented By  
David Lozano

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14308 Karla Golbert**

**Chapter 13**

**#30.00** CONT'D Hearing RE: Confirmation of Chapter 13 Plan

FR: 1-21-20

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Karla Golbert

Represented By  
Anerio V Altman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14186 Karen Collins**

**Chapter 13**

**#31.00** Hearing RE: Confirmation of 1st Amended Chapter 13 Plan

Docket 18

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Karen Collins

Represented By  
Amanda G Billyard

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, February 25, 2020

Hearing Room 5A

1:30 PM

8:19-14167 Alin Manuel Ybarra

Chapter 13

#32.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan

FR: 1-21-20

Docket 13

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal  
Arising from Debtor's Request for Voluntary Dismissal of Chapter 13  
Entered 2/5/2020

**Courtroom Deputy:**

**OFF CALENDAR: Order of Dismissal Arising from Debtor's Request for  
Voluntary Dismissal of Chapter 13 Entered 2/5/2020 - td (2/7/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Alin Manuel Ybarra

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14115 Jesus Roman Hernandez Pantoja**

**Chapter 13**

**#33.00 CON'TD Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

FR: 1-21-20

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Jesus Roman Hernandez Pantoja

Represented By  
Juanita V Miller

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14079 Joshue Avendano**

**Chapter 13**

**#34.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 12-20-19; 1-21-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Joshue Avendano

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14006 Daniel Gonzalez and Emily Gonzalez**

**Chapter 13**

**#35.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 12-20-19; 1-21-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Daniel Gonzalez

Represented By  
Scott Dicus

**Joint Debtor(s):**

Emily Gonzalez

Represented By  
Scott Dicus

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-13921 Stephen Jacob Maki**

**Chapter 13**

**#36.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 12-20-19; 1-21-20

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Stephen Jacob Maki

Represented By  
Nicholas Nicholas Wajda

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-13845 Walt Dodge**

**Chapter 13**

**#37.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 11-26-19; 12-20-19

Docket 29

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Walt Dodge

Represented By  
Walter David Channels

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-13600 Ellie Elape Lam**

**Chapter 13**

**#38.00** CONT'D Hearing RE: Confirmation of Chapter 13 Plan

FR: 11-26-19; 1-21-20

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Ellie Elape Lam

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-13468 Eric Anthony Perez**

**Chapter 13**

**#39.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 11-26-19; 1-21-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Eric Anthony Perez

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-13464 Robert P Fiorentino and Phyllis A Fiorentino**

**Chapter 13**

**#40.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 11-26-19; 1-21-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Robert P Fiorentino

Represented By  
Julie J Villalobos

**Joint Debtor(s):**

Phyllis A Fiorentino

Represented By  
Julie J Villalobos

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-13239 John Fouse**

**Chapter 13**

**#41.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 10-22-19; 11-26-19; 1-21-20

Docket 4

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

John Fouse

Represented By  
Sundee M Teeple

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-12633 Lisa Anna Gregorius**

**Chapter 13**

**#42.00** CONT'D Hearing RE: Confirmation of Chapter 13 Plan

FR: 9-24-19; 11-26-19; 12-20-19; 1-21-20

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Lisa Anna Gregorius

Represented By  
Sheila M Pistone

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-11738 Shauna Barnhardt**

**Chapter 13**

**#43.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 7-30-19; 9-24-19; 11-26-19; 12-20-19; 1-21-20

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Shauna Barnhardt

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-10440 Stephen B Fuller and Renee M Fuller**

**Chapter 13**

**#44.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 12-20-19

Docket 81

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Stephen B Fuller

Represented By  
Richard G Heston

**Joint Debtor(s):**

Renee M Fuller

Represented By  
Richard G Heston

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:19-12436 Natalie L Wade**

**Chapter 13**

**#45.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

Docket 27

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Natalie L Wade

Represented By  
Julie J Villalobos

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:19-12002 Jesse C Peck**

**Chapter 13**

**#46.00** CON'TD Hearing RE: Trustee's Verified Motion to Dismiss Case Due to Material Default of a Plan Provision

FR: 1-21-20

Docket 30

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Jesse C Peck

Represented By  
Christopher Hewitt

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:19-10483 Emil Peter Joros**

**Chapter 13**

**#47.00** Hearing RE: Chapter 13 Trustee's Motion to Modify a Confirmed Plan

Docket 53

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Emil Peter Joros

Represented By  
Christopher J Langley

**Movant(s):**

Amrane (SA) Cohen (TR)

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:19-10201 Robert Lynn McEwen**

**Chapter 13**

**#48.00** CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

FR: 10-22-19; 11-26-19; 1-21-20

Docket 41

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Robert Lynn McEwen

Represented By  
Jacqueline D Serrao

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:19-10044 Gregory Bettison**

**Chapter 13**

**#49.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

Docket 40

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Gregory Bettison

Represented By  
Anthony P Cara

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:18-14723 Bertha Zapata**

**Chapter 13**

**#50.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13  
Proceeding for Failure to Make Plan Payments

Docket 57

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bertha Zapata

Represented By  
Gary Polston

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:18-14558 Cathy Marie Estrella**

**Chapter 13**

**#51.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

Docket 97

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 2/19/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 2/19/2020 - td (2/19/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Cathy Marie Estrella

Represented By  
Amanda G Billyard

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:18-14035 William Raymond Harvey and Akram Naieharvey**

**Chapter 13**

**#52.00** Hearing RE: Trustee's Verified Motion to Dismiss Case Due to Material Default of a Plan Provision

Docket 97

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

William Raymond Harvey

Represented By  
Farbood Majd

**Joint Debtor(s):**

Akram Naieharvey

Represented By  
Farbood Majd

**Movant(s):**

Amrane (SA) Cohen (TR)

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:18-13583 Eric Michael Webber and Celena Renee Webber**

**Chapter 13**

**#53.00** Hearing RE: Trustee's Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

Docket 56

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Eric Michael Webber

Represented By  
Hasmik Jasmine Papian

**Joint Debtor(s):**

Celena Renee Webber

Represented By  
Hasmik Jasmine Papian

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, February 25, 2020

Hearing Room 5A

2:30 PM

8:18-11942 Maureen T. Todd

Chapter 13

#54.00 CONT'D Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

FR: 1-21-20

Docket 79

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal  
Trustee's Motion, filed 2/24/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal Trustee's Motion, filed  
2/24/2020 - td (2/24/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Maureen T. Todd

Represented By  
Christine A Kingston

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, February 25, 2020

Hearing Room 5A

2:30 PM

**8:17-14390 Shawn A. Favilla and Tiffany A. Favilla**

**Chapter 13**

**#55.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

Docket 53

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal Trustee's Motion, filed 2/24/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal Trustee's Motion, filed 2/24/2020 - td (2/24/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Shawn A. Favilla

Represented By  
Christian T Spaulding

**Joint Debtor(s):**

Tiffany A. Favilla

Represented By  
Christian T Spaulding

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:17-13182 Julio Cesar Torres and Norma Giselle Torres**

**Chapter 13**

**#56.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

Docket 119

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal Trustee's Motion, filed 2/24/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal Trustee's Motion, filed 2/24/2020 - td (2/24/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Julio Cesar Torres

Represented By  
Anthony B Vigil

**Joint Debtor(s):**

Norma Giselle Torres

Represented By  
Anthony B Vigil

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:17-12529 Rebecca Lichelle Ingram**

**Chapter 13**

**#57.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

Docket 35

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal Trustee's Motion, filed 2/24/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal Trustee's Motion, filed 2/24/2020 - td (2/24/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Rebecca Lichelle Ingram

Represented By  
Norma Duenas

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, February 25, 2020

Hearing Room 5A

2:30 PM

8:17-12177 Christopher Quentin Chappell

Chapter 13

#58.00 Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13  
Proceeding for Failure to Make Plan Payments

Docket 73

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of  
Trustee's Motion for Order Dismissing Chapter 13, filed 1/16/2020

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal of Trustee's Motion for Order  
Dismissing Chapter 13, filed 1/16/2020 - td (1/17/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Christopher Quentin Chappell

Represented By  
Michael Jones  
Sara Tidd

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:17-10702 John Joseph Stoffel and April Dawn Stoffel**

**Chapter 13**

**#59.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

Docket 90

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 2/7/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 2/7/2020 - td (2/7/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

John Joseph Stoffel

Represented By  
Thomas E Brownfield

**Joint Debtor(s):**

April Dawn Stoffel

Represented By  
Thomas E Brownfield

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:16-15227 Christopher Michael Brooksbank and Suzanne Michelle**

**Chapter 13**

**#60.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments**

FR: 1-21-20

Docket 65

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Christopher Michael Brooksbank

Represented By  
Karine Karadjian

**Joint Debtor(s):**

Suzanne Michelle Brooksbank

Represented By  
Karine Karadjian

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, February 25, 2020

Hearing Room 5A

2:30 PM

8:16-13812 Hang Nga Thi Le

Chapter 13

#61.00 CONT'D Hearing RE: Trustee's Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

FR: 1-21-20

Docket 80

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal Trustee's Motion, filed 2/24/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal Trustee's Motion, filed 2/24/2020 - td (2/24/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Hang Nga Thi Le

Represented By  
Tina H Trinh

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:16-13574 Mario Rivas and Irma Rivas**

**Chapter 13**

**#62.00** CON'TD Hearing RE: Trustee's Verified Motion to Dismiss Case Due to a Material Default of a Plan Provision

FR: 1-21-20

Docket 57

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal Trustee's Motion, filed 2/24/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal Trustee's Motion, filed 2/24/2020 - td (2/24/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Mario Rivas

Represented By  
James G. Beirne

**Joint Debtor(s):**

Irma Rivas

Represented By  
James G. Beirne

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:16-10710 Christina Platt and Robert L Platt**

**Chapter 13**

**#63.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding**

FR: 12-20-19

Docket 71

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Christina Platt

Represented By  
Julie J Villalobos

**Joint Debtor(s):**

Robert L Platt

Represented By  
Julie J Villalobos

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:15-15494 Bert Ranelycke-Svensson**

**Chapter 13**

**#64.00** CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding

FR: 1-21-20

Docket 133

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bert Ranelycke-Svensson

Represented By  
Scott Dicus

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:15-14408 Thomas Winslor Eddy and Colleen Marie Eddy**

**Chapter 13**

**#65.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments**

FR: 11-26-19; 1-21-20

Docket 112

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Thomas Winslor Eddy

Represented By  
Christopher J Langley

**Joint Debtor(s):**

Colleen Marie Eddy

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:15-13987 Catherina D. Salazar**

**Chapter 13**

**#66.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments**

FR: 10-22-19; 11-26-19; 1-21-20

Docket 124

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of Trustee's Motion for Order Dismissing Chapter 13 filed 2/3/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal of Trustee's Motion for Order Dismissing Chapter 13 filed 2/3/2020 - td (2/4/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Catherina D. Salazar

Represented By  
Michael Jay Berger

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:15-13895 Rocio Lopez Namdar**

**Chapter 13**

**#67.00** CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

FR: 1-21-20

Docket 108

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Rocio Lopez Namdar

Represented By  
Anerio V Altman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:15-12233 Scott R Wood and Denise M Wood**

**Chapter 13**

**#68.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Complete the Plan Within its Terms

Docket 84

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Scott R Wood

Represented By  
Joseph A Weber  
Fritz J Firman

**Joint Debtor(s):**

Denise M Wood

Represented By  
Joseph A Weber  
Fritz J Firman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:15-10898 Michael Edward De La Torre**

**Chapter 13**

**#69.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments Within its Terms

Docket 93

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Michael Edward De La Torre

Represented By  
Misty A Perry Isaacson

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, February 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:15-10272 Ranulfo Figueroa**

**Chapter 13**

**#70.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Complete the Plan Within its Terms

Docket 89

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Ranulfo Figueroa

Represented By  
Sunita N Sood  
Seema N Sood

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-10706 John Jean Bral**

**Chapter 11**

Adv#: 8:19-01031 Bral v. Samini et al

**#1.00 PRE-TRIAL CONFERENCE RE: Complaint for: (1) Breach of Contract; (2) Legal Malpractice; (3) Breach of Fiduciary Duty**

FR: 5-9-19; 7-16-19; 8-22-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/7/2020 AT 9:30 A.M.,  
Per Order Entered 2/18/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Pre-trial Conference Continued to 5/7/2020 at 9:30 a.m.,  
Per Order Entered 2/18/2020 (XX) - td (2/18/2020)**

**Tentative Ruling:**

**August 22, 2019**

Discovery Cut-off Date:	Dec. 16, 2019
Pretrial Conference Date:	Jan. 30, 2020 at 9:30 a.m.

Deadline to File Pretrial Stipulation:	Jan. 16, 2020
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***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

**Party Information**

**Debtor(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... John Jean Bral**

**Chapter 11**

Bobby Samini  
Dean A Ziehl

**Defendant(s):**

Babak Samini

Represented By  
David Choi

Matthew Hoesly

Represented By  
David Choi

Samini Scheinberg, APC

Represented By  
David Choi

**Plaintiff(s):**

John Jean Bral

Represented By  
Gary A Pemberton  
Alan J Friedman

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

9:30 AM

**8:18-14388 Francis J Marzec**

**Chapter 7**

Adv#: 8:19-01180 Marshack v. Sweeney et al

**#2.00** STATUS CONFERENCE RE: Complaint for Turnover of Property Pursuant to 11 U.S.C. §542, 547, 548, 550 and California Civil Code Sec. 3439 et seq.

(Another Summons Issued 12/20/2019)

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

Deadline to file Motions re Default Judgment: April 3, 2020  
Discovery Cut-off Date: Aug. 3, 2020  
Pretrial Conference Date: Sept. 10, 2020 at 9:30 a.m.  
Deadline to File Joint Pretrial Stipulation: Aug. 27, 2020

*Special note: Plaintiff indicates in the Unilateral Status Report that some defendants have responded; however the docket does not reflect the filing of any answers. The court, therefore, assumes such "responses" were informal.*

**Note: If Plaintiff accepts the foregoing tentative ruling, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

**Party Information**

**Debtor(s):**

Francis J Marzec

Represented By  
Christine A Kingston



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room      5A**

9:30 AM

**CONT...      Francis J Marzec**

**Chapter 7**

**Defendant(s):**

Anita Sweeney	Pro Se
Tori Sweeney	Pro Se
Michael Marzec	Pro Se
Beth Marzec	Pro Se

**Plaintiff(s):**

Richard A Marshack	Represented By Anerio V Altman
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**Trustee(s):**

Richard A Marshack (TR)	Represented By Anerio V Altman
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-10996 Raju Gobindlal Shewa**

**Chapter 7**

Adv#: 8:19-01231 Pacific Western Bank v. Shewa

**#3.00 STATUS CONFERENCE RE: Complaint to Determine Non-Dischargeability of Debt Pursuant to 11 U.S.C. Section 523**

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

Continue Status Conference to May 7, 2020 at 9:30 a.m.

A motion for default judgment may self-calendared for the same date/time as the continued Status Conference date. Alternatively, the motion may be filed without a hearing pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).

The motion for default judgment, supported by evidence, must be served on defendant and defendant's counsel in accordance with Local Rule 9013-1(d).

If the motion for default judgment is not heard by the continued date of the Status Conference, **THE ADVERSARY MAY BE DISMISSED** at the Status Conference for failure to prosecute.

***Note: If Plaintiff accepts the foregoing tentative ruling, appearance at this hearing is not required; Plaintiff shall serve notice of the continued hearing date/time.***

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room      5A**

---

9:30 AM

**CONT...      Raju Gobindlal Shewa**

**Chapter 7**

**Debtor(s):**

Raju Gobindlal Shewa

Represented By  
Leonard M Shulman

**Defendant(s):**

Raju Gobindlal Shewa

Pro Se

**Plaintiff(s):**

Pacific Western Bank

Represented By  
Leo D Plotkin

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-11139 Chirag Shewa**

**Chapter 7**

Adv#: 8:19-01232 Pacific Western Bank v. Shewa

**#4.00 STATUS CONFERENCE RE: Complaint to Determine Non-Dischargeability of Debt Pursuant to 11 U.S.C. Section 523**

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

Continue Status Conference to May 7, 2020 at 9:30 a.m.

A motion for default judgment may self-calendared for the same date/time as the continued Status Conference date. Alternatively, the motion may be filed without a hearing pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).

The motion for default judgment, supported by evidence, must be served on defendant and defendant's counsel in accordance with Local Rule 9013-1(d).

If the motion for default judgment is not heard by the continued date of the Status Conference, **THE ADVERSARY MAY BE DISMISSED** at the Status Conference for failure to prosecute.

***Note: If Plaintiff accepts the foregoing tentative ruling, appearance at this hearing is not required; Plaintiff shall serve notice of the continued hearing date/time.***

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Chirag Shewa**

**Chapter 7**

**Debtor(s):**

Chirag Shewa

Represented By  
Leonard M Shulman

**Defendant(s):**

Chirag Shewa

Pro Se

**Plaintiff(s):**

Pacific Western Bank

Represented By  
Leo D Plotkin

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01205 Elieff et al v. Kurtin

**#5.00** STATUS CONFERENCE RE: Second Amended Complaint for Mandatory Subordination and Recovery of Liens Pursuant to 11 U.S.C. §§510(b) and 510(c)(2), Avoidance and Recovery of Preferential and Fraudulent Transfers, and Disallowance of Claims Pursuant to 11 U.S.C. §502(d)

Docket 11

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4/9/2020 AT 2:00 P.M.  
(SAME DATE/TIME AS SJM AND 12(b)(6) MOTION); UPDATED  
STATUS REPORT NOT REQUIRED (XX)**

**Courtroom Deputy:**

**CONTINUED AT FEBRUARY 20, 2020 HEARING TO APRIL 9, 2020 AT  
2:00PM (SAME DATE/TIME AS SJM AND 12(b)(6) MOTION); UPDATED  
STATUS REPORT NOT REQUIRED. eas / td (XX) - (2/21/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Pro Se

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:00 AM

**8:10-26006 James E. Case and Laura M. Case**

**Chapter 7**

**#6.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

THE BBANK OF NEW YORK MELLON

VS.

DEBTORS

Docket 121

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

Grant motion with 4001(a)(3) waiver unless the parties agree to an alternate resolution.

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

**Debtor(s):**

James E. Case

Represented By  
Bert Briones

**Joint Debtor(s):**

Laura M. Case

Represented By  
Michael Jones  
Sara Tidd

**Movant(s):**

THE BANK OF NEW YORK

Represented By  
Katie M Parker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

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10:00 AM

**CONT... James E. Case and Laura M. Case**

**Chapter 7**

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By  
Reem J Bello



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:00 AM

**8:15-11341 Donna Yardley**

**Chapter 13**

**#7.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

DITECH FINANCIAL LLC

VS.

DEBTOR

Docket 56

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

Grant with 4001(a)(3) waiver and co-debtor relief.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Donna Yardley

Represented By  
Christine A Kingston

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 5, 2020

Hearing Room 5A

10:00 AM

8:15-14589 Frank Torres and Victoria Torres

Chapter 13

#8.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

U.S. BANK NA

VS.

DEBTORS

Docket 56

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Frank Torres

Represented By  
Michael G Spector

**Joint Debtor(s):**

Victoria Torres

Represented By  
Michael G Spector

**Movant(s):**

U.S. Bank NA, as successor trustee

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Frank Torres and Victoria Torres**

**Chapter 13**

Nancy L Lee

Kristin A Schuler-Hintz

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 5, 2020

Hearing Room 5A

10:00 AM

8:17-10893 Andre Taylor and Nida Taylor

Chapter 7

#9.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
SANTANDER CONSUMER USA INC.  
VS.  
DEBTORS

Docket 107

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Andre Taylor

Represented By  
Sundee M Teeple  
Craig K Streed

**Joint Debtor(s):**

Nida Taylor

Represented By  
Sundee M Teeple  
Craig K Streed

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room      5A**

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10:00 AM

**CONT...      Andre Taylor and Nida Taylor**

**Chapter 7**

**Movant(s):**

Santander Consumer USA Inc.

Represented By  
Sheryl K Ith

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room**

**5A**

10:00 AM

**8:19-13464 Robert P Fiorentino and Phyllis A Fiorentino**

**Chapter 13**

**#10.00** CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

SPECIALIZED LOAN SERVICING LLC

VS.

DEBTORS

FR: 2-6-20

Docket 32

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal  
Arising from Chapter 13 Confirmation Hearing Entered 2/28/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order of Dismissal Arising from Chapter 13  
Confirmation Hearing Entered 2/28/2020 - td (2/28/2020)**

**Tentative Ruling:**

**February 6, 2020**

Grant motion without waiver of FRBP 4001(a)(3).

Basis for Tentative Ruling:

1. Debtor's Second Amended Plan specifically provides that current postpetition mortgage payments will be maintained. According to the unrefuted evidence presented by Movant, Debtor has failed to maintain such payments and, therefore, cause exists under 362(d)(1) to lift the automatic stay on this ground alone. Movant's position is supported by the 9th Circuit Appellate Panel. See *Ellis v. Parr (In re Ellis)*, 60 B.R. 432, 435 (9th Cir. BAP 1985) (failure to make post-confirmation payments is "cause" for lifting the

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Robert P Fiorentino and Phyllis A Fiorentino Chapter 13**  
stay); *In re Watson*, 2017 WL 5196710 (9th Cir. BAP) (November 9, 2017).

2. Debtors argue that, notwithstanding their failure to comply with the terms of their own second amended plan, Movant is adequately protected by a substantial equity cushion. However, as noted by the BAP in *Ellis*, "Lack of adequate protection is but one example of "cause" for relief from stay." 60 B.R. at 435.

3. The court notes parenthetically that even if the court were to consider the alleged equity cushion, there is no evidence that Debtors have taken any steps to list the property for sale, e.g., no application to employ a broker even though the case has been pending for approximately 5 months.

**Party Information**

**Debtor(s):**

Robert P Fiorentino

Represented By  
Julie J Villalobos

**Joint Debtor(s):**

Phyllis A Fiorentino

Represented By  
Julie J Villalobos

**Movant(s):**

Specialized Loan Servicing LLC

Represented By  
Austin P Nagel  
Kirsten Martinez

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-14161 April Suzanne Ferrara**

**Chapter 7**

**#11.00** Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

CARVANA, LLC

VS.

DEBTOR

Docket 35

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

April Suzanne Ferrara

Represented By  
Edward T Weber

**Movant(s):**

Carvana, LLC

Represented By  
Kristin A Zilberstein

**Trustee(s):**

Richard A Marshack (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... April Suzanne Ferrara**

**Chapter 7**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 5, 2020

Hearing Room 5A

10:00 AM

8:19-14751 JHDW Ventures Inc.

Chapter 7

#12.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]  
GLUCKSTEIN FOUNTAIN VALLEY PLAZA II, LP  
VS.  
DEBTOR

Docket 10

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal for  
Failure to Appear at 341(a) Meeting Entered 2/13/2020

Courtroom Deputy:

OFF CALENDAR: Order of Dismissal for Failure to Appear at 341(a)  
Meeting Entered 2/13/2020 - td (2/19/2020)

Tentative Ruling:

- NONE LISTED -

Party Information

**Debtor(s):**

JHDW Ventures Inc.

Represented By  
Kevin Tang

**Movant(s):**

Gluckstein Fountain Valley Plaza II,

Represented By  
Charles Shamash

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-14858 Pedro Carrillo-Garcia and Ana Rosa Elias De Carrillo**

**Chapter 7**

**#13.00** Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

CAB WEST, LLC

VS.

DEBTORS

Docket 21

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Pedro Carrillo-Garcia

Represented By  
Michael H Colmenares

**Joint Debtor(s):**

Ana Rosa Elias De Carrillo

Represented By  
Michael H Colmenares

**Movant(s):**

Cab West LLC

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Pedro Carrillo-Garcia and Ana Rosa Elias De Carrillo  
Sheryl K Ith**

**Chapter 7**

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 5, 2020

Hearing Room 5A

10:00 AM

8:19-14931 La Donna Hannah

Chapter 7

#14.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]  
BRIARWOOD SQUARE APARTMENTS LP  
VS.  
DEBTOR

Docket 16

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of  
Motion for Relief Set for March 5, 2020, filed 2/7/2020

Courtroom Deputy:

**OFF CALENDAR: Notice of Withdrawal of Motion for Relief Set for March  
5, 2020, filed 2/7/2020 - td (2/7/2020)**

Tentative Ruling:

- NONE LISTED -

**Party Information**

**Debtor(s):**

La Donna Hannah

Pro Se

**Movant(s):**

Briarwood Square Apartments LP

Represented By  
Scott Andrews

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10014 Paul John Garcia**

**Chapter 7**

**#15.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

WILMINGTON SAVINGS FUND SOCIETY, FSB

VS.

DEBTOR

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Paul John Garcia

Represented By  
Daniel S March

**Movant(s):**

Wilmington Savings Fund Society,

Represented By  
Erin M McCartney

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Paul John Garcia**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, March 5, 2020

Hearing Room 5A

10:00 AM

8:20-10315 Raymond Hinojoza, Jr.

Chapter 7

#16.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]

TOM C. HSIANG, NELLY H. HSIANG, TRUSTEES OF THE HSIANG TRUST  
12/6/88

VS.

DEBTOR

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Raymond Hinojoza Jr.

Represented By  
Thinh V Doan

**Movant(s):**

Tom C. Hsiang

Represented By  
David S Schonfeld  
Barry L O'Connor



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

---

10:00 AM

**CONT... Raymond Hinojoza, Jr.**

**Chapter 7**

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10409 Angelica Anguiano**

**Chapter 7**

**#17.00** Hearing RE: Motion for relief from automatic stay  
[ACTION IN NON-BANKRUPTCY FORUM]

JEFFREY YOST

VS.

DEBTOR

Docket 7

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Case  
for Failure to File Schedules, Statements, and/or Plan Entered 2/24/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,  
Statements, and/or Plan Entered 2/24/2020 - td (2/24/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Angelica Anguiano

Represented By  
Rebekah Thomas

**Movant(s):**

Jeffrey Yost

Pro Se

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10513 Fernando Serrano**

**Chapter 13**

**#18.00** Hearing RE: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 7

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

Deny the motion. Debtor has not satisfied his burden of rebutting the presumed bad faith of this filing by clear and convincing evidence.

Debtor proposes to make disposable income payments of \$1100/mo for the months 1-3, followed by \$3500 payments for months 4-14 with no evidence of the ability to make such increased payments. Presumably the extra funds will come from collection of state court judgment but, again, Debtor provides no information as to how such judgment will be collected. Debtor also included the judgment proceeds in the plan in the prior chapter 13 case (\$5000/mo). Further, in the prior bankruptcy case, the FTB filed a proof of claim in the amount of \$145,874, \$123,893 of which was listed as secured, \$18,830 as priority unsecured and \$1,351 as non-priority unsecured. The plan in the current case does not provide for any of the secured amount of the FTB claim and only \$15,000 of the priority claim. Indeed, the total amount to be paid under the plan over 60 months is \$78,760, inclusive of \$22,000 being paid to the HOA, \$3,200 in arrearages to PHH Mortgage and \$6,510 to Debtor's bankruptcy counsel. The numbers don't add up.

**Party Information**

**Debtor(s):**

Fernando Serrano

Represented By  
Bert Briones

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Fernando Serrano**

**Chapter 13**

**Movant(s):**

Fernando Serrano

Represented By  
Bert Briones  
Bert Briones  
Bert Briones

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:30 AM

**8:18-12003 Jack G. Gaglio**

**Chapter 7**

Adv#: 8:18-01172 Pacific Western Bank v. Gaglio et al

**#19.00** CONT'D Hearing RE: Motion for Order Awarding Debtor Laura A. Gaglio Attorney's Fees and Costs as Prevailing Party

FR: 2-6-20

Docket 64

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

Deny Motion.

Basis for Tentative Ruling:

1. The court agrees with Plaintiff that the nondischargeability action is not an "action on the contract" within the meaning of Cal Civ Code 1717.
2. Section 1717 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). The effect of section 1717 is to make reciprocal an otherwise unilateral contractual obligation to pay attorney's fees. *Santisas v. Goodin*, 17 Cal.4th 599, 610–11, 615 (1998) ("Section 1717 applies only to actions that contain at least one contract claim," and that "[i]f an action

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Santa Ana  
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CONT...

**Jack G. Gaglio**

**Chapter 7**

asserts both contract and tort or other noncontract claims, section 1717 applies only to attorney fees incurred to litigate the contract claims.”).

3. In *In re Davison*, 289 B.R. 716, 723 (9th Cir. BAP 2003), the BAP held that “if the bankruptcy court did not need to determine whether the contract was enforceable, then the dischargeability claim is not an action on the contract within the meaning of [California Civil Code] § 1717.” (emphasis added). The Ninth Circuit in *Bos* adopted the BAP's rule of exclusion. 818 F.3d at 490 (“we have held that an adversary proceeding in bankruptcy court was not on a contract’ within the meaning of section 1717 where the action neither litigated the validity of the contract nor required the bankruptcy court to consider “the state law governing contractual relationships.”).

4. In *Bos*, as in this case, the contract claim had been adjudicated by the entry of a state court judgment. The bankruptcy court was not required to adjudicate the validity or enforcement of the underlying contract. The Court distinguished the facts in *Bos* from those in its earlier decision in *In re Penrod*, 802 F.3d 1084, 1087 (9th Cir.2015) where the bankruptcy court was required to make a determination regarding the enforceability of a provision of the subject contract. That is not the case here.

5. Laura Gaglio is not a signatory on the note and the action on the contract did not include her as a named defendant in the state court action. See, e.g., *Dell Mark, Inc., v. Franzia*, 132 Cal App 4th 443, 451(2005) (a nonsignatory to a contract with an attorney fee provision may recover its attorneys fees pursuant to the contractual provision only if the party would have been liable for the fees of the opposing party if the opposint party had prevailed.)

6. CCP § 1021 also allows recovery of attorney's fees:

Except as attorney's fees are specifically provided for by statute, the measure and mode of compensation of attorneys and counselors at law is left to the agreement, express or implied, of the parties; but parties to actions or proceedings are entitled to their costs, as hereinafter provided.

Though CCP 1021 does not limit an award of attorneys fees to actions

**United States Bankruptcy Court  
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CONT...

**Jack G. Gaglio**

**Chapter 7**

on the contract, it is also not reciprocal (as is CCP 1717). Accordingly, the court is not persuaded that Laura Gaglio is entitled to attorneys fees and costs under CCP 1021. First, there is no executed agreement between Plaintiff and Movant. Second, even if Movant could make a persuasive argument that the note includes her, attorneys fee provision does not provide for an award of fees for the prevailing party; it only provides for fees to the lender.

7. The court is not persuaded that Movant is entitled to fees under CCP 1032(b) or 1033.5(a)(10). The latter allows for attorneys fees (as costs under 1032(b)) when authorized by contract or by statute. Neither the note nor any statute authorizes such fees in favor of Movant.

8. Even if Movant somehow qualified for an award of fees, any award would be *de minimis* (i.e., less than \$1,000) as there are virtually no factual allegations of concealment or willful and malicious injury stated against Movant. Rather, 99% of the allegations in the complaint are directed to the actions and alleged misconduct of defendant Jack Gaglio. Re the first claim of relief for denial of discharge under 727(a)(2), every operative allegation is against Jack Gaglio only. See Complaint, paragraphs 35, 37, and 38. Similarly, as to the second claim for relief under 523(a)(6), every allegation is against Jack Gaglio only. See Complaint, paragraphs 40 and 41. Consequently, virtually all fees incurred in defending this action related to Jack Gaglio and not Movant. As pointed out by Plaintiff, the entire 16-page motion for summary judgment devotes only *two sentences* to Movant.

**Party Information**

**Debtor(s):**

Jack G. Gaglio

Represented By  
Timothy S Huyck  
Thomas J Eastmond

**Defendant(s):**

Jack G. Gaglio

Represented By  
Thomas J Eastmond  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room      5A**

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10:30 AM

**CONT...**      **Jack G. Gaglio**  
Laura A. Gaglio

**Chapter 7**

Represented By  
Thomas J Eastmond  
Robert P Goe  
Marc C Forsythe

**Joint Debtor(s):**

Laura A. Gaglio

Represented By  
Timothy S Huyck  
Thomas J Eastmond

**Plaintiff(s):**

Pacific Western Bank

Represented By  
Kenneth Hennesay

**Trustee(s):**

Karen S Naylor (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:30 AM

**8:18-13638 Friendly Village MHP Associates LP**

**Chapter 7**

**#20.00** Hearing RE: Trustee's Motion to Assume and Assign Admiral Insurance Policy Pursuant to 11 U.S.C. Section 363 and 365

Docket 333

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

*This matter remains under review by the court; a tentative ruling may be posted at any time prior to the hearing.*

**Party Information**

**Debtor(s):**

Friendly Village MHP Associates LP

Represented By  
Howard Camhi

**Movant(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Kristine A Thagard  
Arthur Grebow  
David Wood  
Tinho Mang

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Kristine A Thagard  
Arthur Grebow  
David Wood

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, March 5, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Friendly Village MHP Associates LP**

**Chapter 7**

Tinho Mang

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:30 AM

**8:18-13864 Friendly Village GP, LLC**

**Chapter 7**

**#21.00** Hearing RE: Trustee's Motion to Assume and Assign Admiral Insurance Policy Pursuant to 11 U.S.C. Section 363 and 365

Docket 154

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

*This matter remains under review by the court; a tentative ruling may be posted at any time prior to the hearing.*

**Party Information**

**Debtor(s):**

Friendly Village GP, LLC

Represented By  
Howard Camhi

**Movant(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
David Wood  
Kristine A Thagard

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
David Wood  
Kristine A Thagard

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-10275 Michael J Duff**

**Chapter 7**

Adv#: 8:19-01084      Constantin et al v. Duff

**#22.00**      Hearing RE: Defendant's Motion to Dismiss Adversary Complaint Based Upon Plaintiffs and Their Counsel's Bad Faith Conduct

Docket      19

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

Deny Motion.

Basis for Tentative Ruling:

1. This adversary seeks the denial of Defendant's entire discharge under Sections 727(a)(2) and 727(a)(4) of the Bankruptcy Code based upon alleged misconduct of Plaintiffs. As denial of discharge affects all creditors and not just Plaintiffs, other creditors, including the chapter 7 trustee, may wish to substitute into the action. Accordingly, this court will not dismiss the complaint without notice to all creditors. The Motion to Dismiss was not served on all creditors.

2. Notwithstanding the procedural problem regarding lack of notice to all creditors, this court has concerns about the postpetition state court action filed by Plaintiffs against Defendant alleging fraudulent transfers. While Plaintiffs acknowledge the fact that the automatic stay prevents them from prosecuting any alleged prepetition fraudulent transfers, Plaintiffs appear to take the position, without benefit of any legal authority, that they can nonetheless prosecute alleged postpetition fraudulent transfers against Defendant. This position is problematic.

3. In the First Amended Complaint ("FAC") filed against Defendant and

**United States Bankruptcy Court  
Central District of California  
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Thursday, March 5, 2020

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CONT... Michael J Duff

Chapter 7

others on or about November 27, 2019, Plaintiffs state that because of the bankruptcy case filed on January 28, 2019, they can "only sue [Defendant] for his actions occurring after January 28, 2019." FAC , para. 18. Plaintiffs then allege that Defendant transferred \$12,200 from the Prestige Construction account after the filing of the bankruptcy case. FAC at para. 24. Notably, Plaintiffs do not seek to avoid such alleged transfers on account of any *postpetition* debt owed by Defendant to them, but on account of the *prepetition* judgment Plaintiffs obtained against Defendants and others in 2018. See, FAC, Sixth, Seventh and Eighth Causes of Action at paras. 47, 50 and 53 : "Plaintiffs are entitled to avoidance of the transfers to the extent necessary to *satisfy Plaintiffs' Judgment from . . . Duff \$12,000.*" (emphasis added). In other words, by the FAC, Plaintiffs are seeking to collect \$12,000 on account of the prepetition debt owed to them by Defendant, a debt that has not yet been adjudicated to be nondischargeable. As the underlying bankruptcy case has not been closed or dismissed and no discharge been granted or denied, the automatic stay created by 362(a)(2) remains in full effect.

3. Plaintiffs will need to explain to the court why the FAC is not in violation of the automatic stay.

4. The court notes parenthetically that the case primarily relied upon by Debtor, *In re Halvorson*, 581 B.R. 610 (Bankr.C.D.Cal. 2018) was reversed and vacated on appeal before the District Court in *In re Halvorson*, 2018 WL 6728484, (C.D.Cal., Dec. 21, 2018). The case is currently pending on appeal before the Ninth Circuit.

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

Michael J Duff	Pro Se
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**Defendant(s):**

Michael J. Duff	Pro Se
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**Plaintiff(s):**

Michael Constantin	Represented By Alan W Forsley
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

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10:30 AM

**CONT...**     **Michael J Duff**  
                 Holly Constantin

Represented By  
                 Alan W Forsley

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, March 5, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#23.00** Hearing RE: Debtors' Motion for Order: (1) Authorizing Sale of Debtors' Real and Personal Property Free and Clear of Liens Pursuant to 11 U.S.C. Sections 363(b) and 363(f); (2) Approving Overbid Procedures; (3) Determining Buyer or Successful Bidder to Be a Good Faith Purchaser; (4) Approving Compensation of Real Estate Broker; (5) Authorizing Distribution of Sale Proceeds; and (6) Waiving 14 Day Stay Imposed by Fed. R. Bankr. P. 6004(h) and Local Bk. Rule 6004-1

Docket 241

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

The court is inclined to grant the motion, with the modified terms set forth in Debtor's reply to the oppositions, subject to Debtor satisfactorily addressing the following matters:

A. Service

FRBP 2002(a)(2) requires that all creditors must be served with notice of a sale of estate property outside the ordinary course of business. The docket does not reflect such notice and the court is not aware of any order limiting notice Rule 2002(a)(2) notice to creditors.

B. Nature of Debtor 4627 Camden LLC's ("Camden") Interest in the Property

Bruce Elieff and Camden are listed as the sellers of the subject property. However, Mr. Elieff does not list the subject property as property he owns in his schedules. Though the Motion at p.5 indicates that Camden is the 100% owner of the property, Camden's Amended Schedule A/B describes its interest as "equitable." Exh. 1 to Declaration of Bruce Elieff. What does

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Santa Ana  
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**CONT... Bruce Elieff**

**Chapter 11**

this mean? Who holds legal title to the property?

C. Notice/Consent of Kathy Elieff

It does not appear that Kathy Elieff was served with the Motion, nor is her interest, if any, mentioned in the same. Ms. Elieff has previously asserted a community property interest in the subject property. See Docket #201 at p. 2.

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

Bruce Elieff

Represented By  
Paul J Couchot



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, March 5, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#24.00** Hearing RE: Debtors' Motion For Order: (1) Authorizing Sale of Both Debtor's and Non-Debtor's Undivided Tenant in Common Interests in Real Property Free and Clear of Liens Pursuant to 11 U.S.C. Sections 363(b), 363(f) and 363(h); (2) Approving Overbid Procedures; (3) Determining Buyer or Successful Bidder to be a Good Faith Purchaser; (4) Approving Compensation of Real Estate Broker; (5) Authorizing Distribution of Sale Proceeds; and (6) Waiving 14 Day Stay Imposed by Fed. R. Bank. P. 6004(h) and Local Bk. Rule 6004-1

Docket 242

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

The court is inclined to grant the motion, with the modified terms set forth in Debtor's reply to the oppositions, subject to Debtor satisfactorily addressing the following matters:

A. Service

FRBP 2002(a)(2) requires that all creditors must be served with notice of a sale of estate property outside the ordinary course of business. The docket does not reflect such notice and the court is not aware of any order limiting notice Rule 2002(a)(2) notice to creditors.

B. Consent of Non-Debtor Co-owner

Presumably, the non-debtor co-owner, Debtor's brother Stephen Elieff consents to the proposed sale but the court has not evidence of the same.

C. Notice/Consent of Kathy Elieff

**United States Bankruptcy Court  
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**Hearing Room 5A**

10:30 AM

**CONT...**

**Bruce Elieff**

**Chapter 11**

It does not appear that Kathy Elieff was served with the Motion, nor is her interest, if any, mentioned in the same. Ms. Elieff has previously asserted a community property interest in the subject property. See Docket #201 at p. 2.

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#24.10** Hearing RE: Debtor's Motion for the Entry of Orders: (A) Approving Form of Asset Purchase for Stalking Horse Purchaser and for Overbidders to Use, (B) Approving the Stalking Horse Bidder, (C) Approving Bidding Procedures, Stalking Horse and Protections and Auction, (D) Approving Form of Notice to be Provided to Interested Parties; and (E) Scheduling a Court Hearing to Consider Approval of the Sale to the Successful Bidder **[Affects Morse Properties, LLC]**

Docket 282

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

Grant the motion, including the revised procedures filed March 3, 2020 [Docket #291], except that, unless Debtor provides a more legible copy of the Asset Purchase Agreement and in larger font, the Court declines to approve the form of the same in advance. Sale Motion hearing date: April 16, 2020 at 10:30 a.m.

*Special note: Page 2 of the APA is virtually unreadable and the balance requires the use of a magnifying glass.*

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, March 5, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-14310 Gateway Business Complex LLC**

**Chapter 11**

**#25.00 CON'TD STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case**

FR: 1-9-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting  
Debtor's Motion to Dismiss Chapter 11 Case Entered 2/21/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Granting Debtor's Motion to Dismiss Chapter 11  
Case Entered 2/21/2020 - td (2/21/2020)**

**Tentative Ruling:**

**January 9, 2020**

No tentative ruling -- disposition will depend on outcome of matter #30 on  
today's calendar.

**Party Information**

**Debtor(s):**

Gateway Business Complex LLC

Represented By  
Jonathan Seligmann Shenson

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-14614 Delecia A Holt**

**Chapter 7**

**#26.00** Hearing RE: Order to Show Cause RE: Dismissal for Failure to Comply with Rule 1006(B) - Installments (\$83.75 Due 1/20/2020) (OSC Issued 1/28/2020)

Docket 37

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: \$167.50 Paid in Full on 1/30/2020, Receipt #80074639**

**Courtroom Deputy:**

**OFF CALENDAR: \$167.50 Paid in Full on 1/30/2020, Receipt #80074639 - td (1/30/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

Delecia A Holt

Pro Se

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 5, 2020**

**Hearing Room 5A**

10:30 AM

**8:18-10053 William S. Stewart and Barbara E. Stewart**

**Chapter 7**

**#26.10** CON'TD Hearing RE: Chapter 7 Trustee's Motion for an Order: (1) Approving Compromise of Estate's Litigation Claims or, Alternatively; (2) Authorizing Sale of Litigation Claims to Successful Overbidder; and (3) Establishing Overbidding Procedures

FR: 12-19-19

Docket 32

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 19, 2019**

Grant motion subject to overbid.  
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**March 5, 2020**

Deny motion.

As of March 2, 2020, AIRTECH was still in FTB Forfeited status -- meaning it cannot consummate the settlement agreement.

**Party Information**

**Debtor(s):**

William S. Stewart

Pro Se

**Joint Debtor(s):**

Barbara E. Stewart

Pro Se

**Trustee(s):**

Karen S Naylor (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, March 5, 2020**

**Hearing Room 5A**

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10:30 AM

**CONT...**

**William S. Stewart and Barbara E. Stewart**

Nanette D Sanders  
Brian R Nelson  
Christopher Minier

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, March 5, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01205 Elieff et al v. Kurtin

**#27.00** Hearing RE: Motion for Approval of Official Committee of Unsecured Creditors of Bruce Elieff to Intervene in Adversary Proceeding

Docket 34

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Hearing Advanced to 2/20/2020 at 10:30 a.m., Per Order Shortening Time Entered 2/5/2020 (xx)**

**Courtroom Deputy:**

**OFF CALENDAR: Hearing Advanced to 2/20/2020 at 10:30 a.m., Per Order Shortening Time Entered 2/5/2020 (xx) - td (2/20/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**Plaintiff(s):**

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot

Bruce Elieff

Represented By  
Paul J Couchot



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, March 11, 2020**

**Hearing Room**

**5A**

11:00 AM

**8:20-10513 Fernando Serrano**

**Chapter 13**

**#1.00** CON'TD Hearing RE: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

FR: 3-5-20

Docket 7

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 5, 2020**

Deny the motion. Debtor has not satisfied his burden of rebutting the presumed bad faith of this filing by clear and convincing evidence.

Debtor proposes to make disposable income payments of \$1100/mo for the months 1-3, followed by \$3500 payments for months 4-14 with no evidence of the ability to make such increased payments. Presumably the extra funds will come from collection of state court judgment but, again, Debtor provides no information as to how such judgment will be collected. Debtor also included the judgment proceeds in the plan in the prior chapter 13 case (\$5000/mo). Further, in the prior bankruptcy case, the FTB filed a proof of claim in the amount of \$145,874, \$123,893 of which was listed as secured, \$18,830 as priority unsecured and \$1,351 as non-priority unsecured. The plan in the current case does not provide for any of the secured amount of the FTB claim and only \$15,000 of the priority claim. Indeed, the total amount to be paid under the plan over 60 months is \$78,760, inclusive of \$22,000 being paid to the HOA, \$3,200 in arrearages to PHH Mortgage and \$6,510 to Debtor's bankruptcy counsel. The numbers don't add up.

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**March 11, 2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Wednesday, March 11, 2020

Hearing Room 5A

11:00 AM

CONT... Fernando Serrano

Chapter 13

In light of the supplemental pleadings and evidence filed, the motion is granted.

*Special note to Debtor's counsel:* This court has considered the 362(c)(3) issue for several years and, after much review, has opted to follow the "minority" view. While the court appreciates the time, effort and analysis presented in the supplemental memorandum of points and authorities, its position remains the same. The court elects to continue following *Resnick*.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

Fernando Serrano

Represented By  
Bert Briones

**Movant(s):**

Fernando Serrano

Represented By  
Bert Briones  
Bert Briones  
Bert Briones

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-13780 Maria H. Helton-Rehburg**

**Chapter 7**

Adv#: 8:19-01188 Kosmala v. Breidenbach et al

**#1.00 CON'TD STATUS CONFERENCE RE: Complaint for Avoidance of Transfers**

FR: 12-5-19; 2-6-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 5, 2019**

Continue Status Conference to February 6, 2020 at 9:30 a.m. (XX)

A motion for default judgment may self-calendared for the same date/time as the continued Status Conference date. Alternatively, the motion may be filed without a hearing pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).

The motion for default judgment, supported by evidence, must be served on defendant and defendant's counsel in accordance with Local Rule 9013-1(d).

If the motion for default judgment is not heard by the continued date of the Status Conference, **THE ADVERSARY MAY BE DISMISSED** at the Status Conference for failure to prosecute.

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.***

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**February 6, 2020**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

9:30 AM

CONT... Maria H. Helton-Rehburg

Chapter 7

No timely filed updated status report or motion for default judgment has been filed in this case. Accordingly, the court may impose sanctions in the amount of \$100 and/or issue an order to show cause why this adversary proceeding should not be dismissed for failure to prosecute.

**Note: Appearance at this hearing is required.**

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March 19, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue status conference one final time to April 2, 2020 at 9:30 a.m. in light of the pending motion to approve the settlement. An updated status report must be filed seven days prior to the continued hearing only if an objection to approval of the settlement is filed.

**Note: Appearance at this hearing is not required.**

Party Information

**Debtor(s):**

Maria H. Helton-Rehburg

Represented By  
Christopher P Walker

**Defendant(s):**

Andrea M. Breidenbach

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Maria H. Helton-Rehburg**

**Chapter 7**

Manuela I. Kitchen

Pro Se

**Plaintiff(s):**

Weneta M.A. Kosmala

Represented By  
Erin P Moriarty

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Erin P Moriarty

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01213 Marshack v. An et al

**#2.00** CON'TD STATUS CONFERENCE RE: Complaint for: 1. Avoidance and Recover of Constructive Fraudulent Transfers; 2. Avoidance and Recovery of Property of the Bankruptcy Estate; 3. Avoidance of Preferential Transfers; and 4. Recovery of Avoided Transfers

FR: 1-30-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/21/2020 AT 9:30 A.M.,  
PER ORDER ENTERED 3/6/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 5/21/2020 at 9:30 a.m., Per  
Order Entered 3/6/2020 (XX) - td (3/6/2020)**

**Tentative Ruling:**

**January 30, 2020**

Joint status report not timely filed.\* Parties must appear and advise the court re the status of this matter.

\* The Stipulation and Order [docket #s 5 & 6] only extended the answer date -- did not include an extension of the deadline to file a status report.

***Note: Appearances at the hearing are required.***

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Minho An

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

Byungwhan Chung

Pro Se

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Goe  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:18-10548 Lenore LuAnn Albert-Sheridan**

**Chapter 7**

Adv#: 8:18-01071 Albert-Sheridan v. Education Credit Management Corporation et al

**#3.00** CONT'D PRE-TRIAL CONFERENCE RE: Complaint seeking declaration that private student loan is dischargeable because not a qualified education loan and/or the loan is dischargeable due to undue hardship

FR: 7-10-18; 12-20-18; 1-31-19; 3-21-19; 6-20-19; 11-21-19; 1-30-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Judgment Pursuant to Stipulation for Entry of Judgment Entered 2/5/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Judgment pursuant Stipulation entered 2/5/20 --es**

**Tentative Ruling:**

**July 10, 2018**

Discovery Cut-off Date: 10/15/18  
Deadline to Attend Mandatory Mediation: 11/16/18  
Pretrial Conference Date: 12/20/18 at 9:30 a.m. (XX)  
Deadline to Lodge Joint Pretrial Stipulation: 11/13/18

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

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**March 21, 2019**

This matter will be trailed to today's 10:30 a.m. calendar.

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**June 20, 2019**



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Lenore LuAnn Albert-Sheridan Chapter 7**

Discovery Cut-off Date:	Sept. 30, 2019
Pretrial Conference Date:	Nov. 21, 2019 at 9:30 a.m. (XX)
Deadline to File Joint Pretrial Stipulation:	Nov. 7, 2019

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

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

Lenore LuAnn Albert-Sheridan	Pro Se
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**Defendant(s):**

Education Credit Management	Represented By Scott A Schiff
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The Education Resources Institute	Pro Se
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**Plaintiff(s):**

Lenore LuAnn Albert-Sheridan	Pro Se
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**Trustee(s):**

Jeffrey I Golden (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:00 AM

**8:12-18188 Luis Savastano**

**Chapter 7**

Adv#: 8:13-01220 Bobinski v. Savastano

**#4.00** CON'TD Third Person Examination of Dominic Savastano RE: Enforcement of Judgment

FR: 12-5-19; 1-16-20

Docket 183

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 5, 2019**

Examinee Dominic Savastano to appear in court for swearing in by the courtroom clerk; the examination will thereafter proceed outside the courtroom.  
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**January 16, 2020**

Examinee Dominic Savastano to appear in court for swearing in by the courtroom clerk; the examination will thereafter proceed outside the courtroom  
-----

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:00 AM

CONT... Luis Savastano

Chapter 7

**registration for parties without an attorney.**

Continue his matter to April 30, 2020 at 10:00 a.m. in light of special pandemic policy in effect. The parties are, however, free to stipulate to an examination outside the courthouse prior to April 30, 2020.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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

**Debtor(s):**

Luis Savastano

Represented By  
Nathan Fransen

**Defendant(s):**

Luis Savastano

Represented By  
Nathan Fransen

**Plaintiff(s):**

Richard Bobinski

Represented By  
Crystal Bergstrom

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Karen S Naylor (TR)

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:00 AM

**8:12-18188 Luis Savastano**

**Chapter 7**

Adv#: 8:13-01220 Bobinski v. Savastano

**#5.00** CON'TD Third Person Examination of Guadalupe (Lupe) Savastano RE:  
Enforcement of Judgment

FR: 9-12-19; 11-19-19; 1-16-20

Docket 175

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**September 12, 2019**

Examinee Guadalupe Savastano to appear in court to be sworn in by the court clerk. Thereafter, the examination will take place outside the courtroom  
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**November 19, 2019**

Continued to Jan. 16, 2020 at 10:30 a.m. per stipulation of the parties. (XX)  
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**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:00 AM

CONT... Luis Savastano

Chapter 7

**registration for parties without an attorney.**

Continue his matter to April 30, 2020 at 10:00 a.m. in light of special pandemic policy in effect. The parties are, however, free to stipulate to an examination outside the courthouse prior to April 30, 2020.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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

**Debtor(s):**

Luis Savastano

Represented By  
Nathan Fransen

**Defendant(s):**

Luis Savastano

Represented By  
Nathan Fransen

**Plaintiff(s):**

Richard Bobinski

Represented By  
Crystal Bergstrom

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Karen S Naylor (TR)

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:00 AM

8:19-10247 Loren Tramontano and Monique Chevalier

Chapter 13

#6.00 CONT'D Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

U.S. BANK N.A.

VS.

DEBTORS

FR: 1-30-20

Docket 34

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Voluntary Dismissal of  
Motion, filed 3/18/2020

Courtroom Deputy:

OFF CALENDAR: Voluntary Dismissal of Motion, filed 3/18/2020 - td  
(3/18/2020)

Tentative Ruling:

March 19, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Movant to advise the court re the status of the loan modification process. If more time to complete the same is needed, Movant may request a further continuance

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:00 AM

**CONT...**      **Loren Tramontano and Monique Chevalier**      **Chapter 13**  
of the hearing at the time of the calendar roll call by the court clerk.

Available continued dates: 4/2, 4/9, 4/16, 4/30 and 5/7 at 10:00 a.m.

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

**Debtor(s):**

Loren Tramontano

Represented By  
Paul Y Lee

**Joint Debtor(s):**

Monique Chevalier

Represented By  
Paul Y Lee

**Movant(s):**

U.S. Bank National Association, as

Represented By  
Robert P Zahradka

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-10678 Fernando Contreras**

**Chapter 13**

**#7.00** Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
BMW BANK OF NORTH AMERICA  
VS.  
DEBTOR

Motion for relief from the automatic PERSONAL PROPERTY RE: 2012 BMW 3 Series 328i Sedan 4D .

Docket 35

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Withdrawal of Motion,  
filed 3/4/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Withdrawal of Motion, filed 3/4/2020 - td (3/4/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Fernando Contreras

Represented By  
Andy C Warshaw

**Movant(s):**

BMW Bank of North America

Represented By  
Cheryl A Skigin

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:00 AM

8:19-13404 Peter Stankovich

Chapter 7

#8.00 Hearing RE: Motion for the relief from the automatic stay [REAL PROPERTY]  
MERCEDES-BENZ FINANCIAL SERVICES USA LLC  
VS.  
DEBTOR

Docket 39

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.*

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

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10:00 AM

**CONT... Peter Stankovich**

**Chapter 7**

**Debtor(s):**

Peter Stankovich

Represented By  
Christopher J Langley

**Movant(s):**

Mercedes-Benz Financial Services

Represented By  
Sheryl K Ith

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:00 AM

8:19-13587 Trent Tyrell Berglin and Adrienne Lynn Berglin

Chapter 11

#9.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

NISSAN-INFINITI LT

VS.

DEBTORS

Docket 44

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

**Note: This matter is not opposed by Debtors. Accordingly, no court appearance by the Movant is required.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room      5A**

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10:00 AM

**CONT...      Trent Tyrell Berglin and Adrienne Lynn Berglin**

**Chapter 11**

**Debtor(s):**

Trent Tyrell Berglin

Represented By  
Michael Jones  
Sara Tidd

**Joint Debtor(s):**

Adrienne Lynn Berglin

Represented By  
Michael Jones  
Sara Tidd

**Movant(s):**

NISSAN-INFINITI LT.

Represented By  
Michael D Vanlochem

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13600 Ellie Elape Lam**

**Chapter 13**

**#10.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

U.S. BANK NATIONAL ASSOCIATION, NOT INDIVIDUALLY BUT SOLELY AS TRUSTEE FOR BLUEWATER INVESTMENT TRUST 2018-1, ITS SUCCESSOR AND ASSIGNS

VS.

DEBTOR

Docket 30

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion with 4001(a)(3) waiver unless Debtor is postpetition current by the time of the hearing (in which case a standard "3 Strikes" adequate protection order will be granted) or if the parties have reached an alternate resolution. If more time is needed to reach resolution, Movant may request a continuance of the hearing at the time of the calendar roll call by the court clerk on the day of the hearing. Available continued dates are: 4/2, 4/9, 4/16, 4/30 and 5/2 at 10:00 a.m.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Ellie Elape Lam**

**Chapter 13**

**Party Information**

**Debtor(s):**

Ellie Elape Lam

Represented By  
Christopher J Langley

**Movant(s):**

U.S. Bank National Association, not

Represented By  
Dane W Exnowski  
Sean C Ferry  
Lemuel Bryant Jaquez

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:00 AM

8:19-14213 Esther Rico

Chapter 7

#11.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

THE BANK OF NEW YORK MELLON

VS.

DEBTOR

Docket 55

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.*

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Esther Rico**

**Chapter 7**

**Debtor(s):**

Esther Rico

Represented By  
Bert Briones

**Movant(s):**

The Bank of New York Mellon f/k/a

Represented By  
Kirsten Martinez

**Trustee(s):**

Richard A Marshack (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:00 AM

8:19-14227 Xelem Xochitl Aguilar

Chapter 7

#12.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

U.S. BANK NATIONAL ASSOCIATION

VS.

DEBTOR

Docket 9

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Xelem Xochitl Aguilar**

**Chapter 7**

**Debtor(s):**

Xelem Xochitl Aguilar

Represented By  
Ethan Kiwhan Chin

**Movant(s):**

U.S. Bank National Association

Represented By  
Dane W Exnowski

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:00 AM

8:19-14918 Simon Alcala Alvarez and Claudia G. Moran

Chapter 7

#13.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
AMERICAN HONDA FINANCE CORPORATION  
VS.  
DEBTORS; AND RICHARD A. MARSHACK, CHAPTER 7 TRUSTEE

Docket 14

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Simon Alcala Alvarez and Claudia G. Moran**

**Chapter 7**

**Debtor(s):**

Simon Alcala Alvarez

Represented By  
Joseph A Weber

**Joint Debtor(s):**

Claudia G. Moran

Represented By  
Joseph A Weber

**Movant(s):**

American Honda Finance

Represented By  
Vincent V Frounjian

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:00 AM

8:19-14918 Simon Alcala Alvarez and Claudia G. Moran

Chapter 7

#14.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
FORD MOTOR CREDIT COMPANY LLC  
VS.  
DEBTORS

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Simon Alcala Alvarez and Claudia G. Moran**

**Chapter 7**

**Debtor(s):**

Simon Alcala Alvarez

Represented By  
Joseph A Weber

**Joint Debtor(s):**

Claudia G. Moran

Represented By  
Joseph A Weber

**Movant(s):**

Ford Motor Credit Company LLC

Represented By  
Sheryl K Ith

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:00 AM

8:20-10262 MESCO, Inc.

Chapter 11

#15.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
FORD MOTOR CREDIT COMPANY LLC  
VS.  
DEBTOR

Docket 22

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion  
for Relief from the Automatic Stay Under 11 U.S.C. §362 (Settled by  
Stipulation) Entered 3/13/2020

**Courtroom Deputy:**

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic  
Stay Under 11 U.S.C. §362 (Settled by Stipulation) Entered 3/13/2020 - td  
(3/13/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

MESCO, Inc.

Represented By  
Michael G Spector  
Vicki L Schennum

**Movant(s):**

Ford Motor Credit Company LLC

Represented By  
Randall P Mroczynski

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:00 AM

8:20-10286 Anthony Jon Castro and Lisa Felice Castro

Chapter 7

#16.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
SANTANDER CONSUMER USA INC.  
VS.  
DEBTORS

Docket 8

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

March 19, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.*

Party Information



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

---

10:00 AM

**CONT... Anthony Jon Castro and Lisa Felice Castro**

**Chapter 7**

**Debtor(s):**

Anthony Jon Castro

Represented By  
Joseph M Tosti

**Joint Debtor(s):**

Lisa Felice Castro

Represented By  
Joseph M Tosti

**Movant(s):**

Santander Consumer USA Inc. dba

Represented By  
Sheryl K Ith

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:00 AM

8:20-10324 Dylan Tai Dang

Chapter 7

#17.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

HMC ASSETS, LLC

VS.

DEBTOR

Docket 35

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver and 362(d)(4) relief as well as all other relief requested in the Motion except Relief Request #11.

This court does not grant *in rem* relief in perpetuity.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:00 AM

CONT... Dylan Tai Dang

Chapter 7

***late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

Dylan Tai Dang

Represented By  
Alex L Benedict

**Movant(s):**

HMC Assets, LLC, solely as

Represented By  
Seth P Cox

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:00 AM

8:20-10511 Riobardo Vera

Chapter 7

#18.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]  
NEWLAND GARDENS APARTMENTS LP  
VS.  
DEBTOR

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.*

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Riobardo Vera**

**Chapter 7**

**Debtor(s):**

Riobardo Vera

Represented By  
Randy Alexander

**Movant(s):**

Todd Brisco

Represented By  
Todd A Brisco

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:00 AM

8:20-10620 Nelson D. Randin

Chapter 13

#19.00 Hearing RE: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant Motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Nelson D. Randin

Represented By  
Joseph A Weber

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Nelson D. Randin**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:30 AM

8:17-11063 Karem Angelica Blair

Chapter 7

#20.00 Hearing RE: Chapter 7 Trustee's Final Report and Application for Approval of Final Compensation and Reimbursement of Expenses

[RICHARD A. MARSHACK, CHAPTER 7 TRUSTEE]

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 19, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Approve fees and expenses as requested.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.*

Party Information



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room      5A**

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10:30 AM

**CONT...      Karem Angelica Blair**

**Chapter 7**

**Debtor(s):**

Karem Angelica Blair

Represented By  
Kelly H. Zinser

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Kristine A Thagard  
Chad V Haes

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:30 AM

8:17-11063 Karem Angelica Blair

Chapter 7

#21.00 Hearing RE: Second and Final Application for Allowance of Fees and Costs

[MARSHACK HAYS LLP, GENERAL COUNSEL FOR RICHARD A.  
MARSHACK, CHAPTER 7 TRUSTEE]

Docket 79

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 19, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Approve fees and expenses as requested.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.*

Party Information

Debtor(s):

Karem Angelica Blair

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... Kareem Angelica Blair**

Kelly H. Zinser

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Kristine A Thagard  
Chad V Haes

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:30 AM

8:17-11063 Karem Angelica Blair

Chapter 7

#22.00 Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses  
From April 19, 2019 Through December 3, 2019

[HAHN FIFE & COMPANY LLP, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]

Docket 78

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 19, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Approve fees and expenses as requested.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.*

Party Information

Debtor(s):

Karem Angelica Blair

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... Kareem Angelica Blair**

Kelly H. Zinser

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Kristine A Thagard  
Chad V Haes

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:30 AM

**8:18-11352 Hong-Hai Thi Tran**

**Chapter 13**

**#23.00** Hearing RE: Motion Objecting to Proof of Claim filed by Tran T. Phung (\$8,106.69)

Docket 40

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion in part. Grant to reduce allowed priority claim for wages in the amount of \$902.97 and grant to disallow all other liquidate damages and other penalties.

Basis for Tentative Ruling:

1. The proof of claim is presumed valid unless Debtor comes forward with evidence sufficient to rebut the presumption, at which point the final burden rests with the Claimant. Here, the Claimant asserts entitlement to wages in the amount of \$902.97 for 66.64 hours of work at \$13.55 per hour. Debtor has not provided evidence to refute the number of hours or the hourly rate. Debtor has not even substantiated the \$541.80 that was admitted as owing to Client.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, March 19, 2020

Hearing Room 5A

10:30 AM

CONT... **Hong-Hai Thi Tran** **Chapter 13**

Debtor's allegations that the Claimant was not liked by clients, was "conflictive" and misappropriated funds from Debtor's business are vague and without any details or specifics whatsoever.

2. Debtor has provided some evidence that there was \$541 (even \$902.97) in Debtor's bank account, at least through May 31, 2018. However, the Claimant has not come forward with evidence that the check was returned as stated in the proof of claim or with any other evidence that would provide a basis for entitlement to consequential liquidated damages and other penalties provided for under the California Labor Code in the amount of \$7,203.72.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

Hong-Hai Thi Tran

Represented By  
Brian J Soo-Hoo

**Movant(s):**

Hong-Hai Thi Tran

Represented By  
Brian J Soo-Hoo  
Brian J Soo-Hoo

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, March 19, 2020

Hearing Room 5A

10:30 AM

8:18-11594 George Carl Natzic and Cheri Lynn Natzic

Chapter 7

#24.00 Hearing RE: Chapter 7 Trustee's Motion for Order Approving Sale and Settlement Agreement Among (1) The Trustee, (2) Add2Net, Inc., and (3) The Debtors and Authorizing Disposition of Disputed Property of the Estate Pursuant to 11 U.S.C. Section 363(b)

Docket 107

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion subject to overbid. If there are any overbids, the auction shall take place outside the courtroom at a place to be designated by the Trustee. Once the auction has completed, the parties shall re-register with CourtCall to complete the hearing.

**Party Information**

**Debtor(s):**

George Carl Natzic

Represented By  
Moises S Bardavid



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... George Carl Natzic and Cheri Lynn Natzic**

**Chapter 7**

**Joint Debtor(s):**

Cheri Lynn Natzic

Represented By  
Moises S Bardavid

**Movant(s):**

Thomas H Casey (TR)

Pro Se

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, March 19, 2020

Hearing Room 5A

10:30 AM

8:18-14511 One Source Facility Solution, Inc.

Chapter 7

#25.00 Hearing RE: Chapter 7 Creditor's Motion for an Order Authorizing Deposition Examination and Production of Documents from Debtor's Officer Dilip Joshi Pursuant to Federal Rule of Bankruptcy Procedure 2004

Docket 64

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In light of the current pandemic crisis, continue this matter to April 30, 2020 at 10:30 a.m. In the interim, no deposition or production of documents are required to take place.

**Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.**

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

One Source Facility Solution, Inc.

Represented By  
James R Selth  
Nina Z Javan

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

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10:30 AM

**CONT... One Source Facility Solution, Inc.**

**Chapter 7**

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:30 AM

8:18-14511 One Source Facility Solution, Inc.

Chapter 7

#26.00 Hearing RE: Chapter 7 Creditor's Motion for an Order Authorizing Deposition Examination and Production of Documents from Debtor's Officer Nishan Joshi Pursuant to Federal Rule of Bankruptcy Procedure 2004

Docket 65

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In light of the current pandemic crisis, continue this matter to April 30, 2020 at 10:30 a.m. In the interim, no deposition or production of documents are required to take place.

**Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.**

**Party Information**

**Debtor(s):**

One Source Facility Solution, Inc.

Represented By  
James R Selth  
Nina Z Javan

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... One Source Facility Solution, Inc.**

**Chapter 7**

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:30 AM

8:18-14511 One Source Facility Solution, Inc.

Chapter 7

#27.00 Hearing RE: Chapter 7 Creditor's Motion for an Order Authorizing Deposition Examination and Production of Documents from Debtor's Officer Vansanti Joshi Pursuant to Federal Rule of Bankruptcy Procedure 2004

Docket 66

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In light of the current pandemic crisis, continue this matter to April 30, 2020 at 10:30 a.m. In the interim, no deposition or production of documents are required to take place.

**Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.**

**Party Information**

**Debtor(s):**

One Source Facility Solution, Inc.

Represented By  
James R Selth  
Nina Z Javan

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

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10:30 AM

**CONT... One Source Facility Solution, Inc.**

**Chapter 7**

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, March 19, 2020

Hearing Room 5A

10:30 AM

8:18-14512 One Source Facility Maintenance, Inc.

Chapter 7

#28.00 Hearing RE: Chapter 7 Creditor's Motion for an Order Authorizing Deposition Examination and Production of Documents From Debtor's Officer Dilip Joshi Pursuant to Federal Rule of Bankruptcy Procedure 2004

Docket 42

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In light of the current pandemic crisis, continue this matter to April 30, 2020 at 10:30 a.m. In the interim, no deposition or production of documents are required to take place.

**Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.**

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

One Source Facility Maintenance,

Represented By  
James R Selth



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... One Source Facility Maintenance, Inc.**

**Chapter 7**

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:30 AM

8:18-14512 One Source Facility Maintenance, Inc.

Chapter 7

#29.00 Hearing RE: Chapter 7 Creditor's Motion for an Order Authorizing Deposition Examination and Production of Documents from Debtor's Officer Vansant Joshi Pursuant to Federal Rule of Bankruptcy Procedure 2004

Docket 43

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In light of the current pandemic crisis, continue this matter to April 30, 2020 at 10:30 a.m. In the interim, no deposition or production of documents are required to take place.

**Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.**

**Party Information**

**Debtor(s):**

One Source Facility Maintenance,

Represented By  
James R Selth

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

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10:30 AM

**CONT... One Source Facility Maintenance, Inc.**

**Chapter 7**

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13587 Trent Tyrell Berglin and Adrienne Lynn Berglin**

**Chapter 11**

**#30.00** Hearing RE: Motion by United States Trustee to Dismiss Case or Convert Case to one Under Chapter 7 Pursuant to 11 U.S.C. Section 1112(b)

Docket 37

**\*\*\* VACATED \*\*\* REASON: Voluntary Dismissal of the Motion filed by the UST on March 5, 2020 [dkt. # 51]**

**Courtroom Deputy:**

**OFF CALENDAR: Voluntary Dismissal of Motion filed by U.S. Trustee on 3/5/2020 - td (3/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Trent Tyrell Berglin

Represented By  
Michael Jones  
Sara Tidd

**Joint Debtor(s):**

Adrienne Lynn Berglin

Represented By  
Michael Jones  
Sara Tidd

**Movant(s):**

United States Trustee (SA)

Represented By  
Michael J Hauser

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, March 19, 2020

Hearing Room 5A

10:30 AM

8:19-13587 Trent Tyrell Berglin and Adrienne Lynn Berglin

Chapter 11

#31.00 Hearing RE: Disclosure Statement Describing Chapter 11 Plan of Reorganization

Docket 32

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue the hearing to April 30, 2020 at 10:30 a.m. to allow Debtors to address service and other issues raised by the court. An amended plan and disclosure statement should be filed no later than April 2, 2020 and creditors should be notified to file any response or opposition to approval of the disclosure statement no later than April 16, 2020.

Court's Comments re the Disclosure Statement:

A. Service issue: It does not appear that creditors were given notice of the deadline for filing objections to the adequacy of the disclosure statement as provided by LBR 3017-1(b) ("Objections to the adequacy of a disclosure statement must be filed and served on the proponent not less than 14 days

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:30 AM

**CONT...** Trent Tyrell Berglin and Adrienne Lynn Berglin  
before the hearing, unless otherwise ordered by the court.").

**Chapter 11**

**B. Adequacy of the Disclosure Statement ("DS")**

1. Regarding the treatment of the two auto leases (Classes 2A and 2B): Debtors need to disclose the amount of the monthly payments and the number of remaining months under the leases. The court assumes the amounts to be paid on the effective constitute the total arrears.

2. DS, pp.8-9: "Debtor" and "Joint Debtor should be defined.

3. DS, p.9:18: Change "with provide" to "to provide"

4. DS, p. 21:9-11: Why is there a Class 5 designation if there are claim in such class? Should be deleted and Class 6 should become Class 5. Need to change plan accordingly.

5. Special Note: Debtors purport to provide "added value" of \$2500. However, the same amount is recouped by Debtors in Year 4 by withholding money from creditors to contribute to their 401k. And this withholding for the 401k contribution quadruples in Year 5. This circumstance could prove fatal to confirmation if cram down becomes necessary.

***Note: If Debtors accept the foregoing tentative ruling, appearances at this hearing are not required.***

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

**Debtor(s):**

Trent Tyrell Berglin

Represented By  
Michael Jones  
Sara Tidd

**Joint Debtor(s):**

Adrienne Lynn Berglin

Represented By  
Michael Jones  
Sara Tidd

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, March 19, 2020

Hearing Room 5A

10:30 AM

8:19-13587 Trent Tyrell Berglin and Adrienne Lynn Berglin

Chapter 11

#32.00 CONT'D STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and (2)  
Requiring Report on Status of Chapter 11 Case

FR: 11-21-19; 2-20-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.  
November 21, 2019

Claims bar date: Jan. 27, 2020 (notice to creditors by 11/27/19)

Deadline to file plan/DS : Jan. 31, 2020

Continued Status Conference: Feb. 20, 2020 at 10:30 a.m. (XX)

Updated Status Report due: Feb. 6, 2020 (waived if plan/DS timely filed)

***Note: If Debtors accept the foregoing tentative ruling and are in substantial compliance with the requirements of the U.S. Trustee, appearance at this hearing is not required. It is the responsibility of Debtors to confirm compliance with the U.S. Trustee prior to the hearing.***

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United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:30 AM

CONT... Trent Tyrell Berglin and Adrienne Lynn Berglin

Chapter 11

**February 20, 2020**

Continue hearing to March 19, 2020 at 10:30 a.m.; same date/time as hearing on approval of disclosure statement. (XX)

***Note: Appearance at today's hearing is not required; updated status report not required for 3/19/20 hearing.***

-----

**March 19, 2020**

Continue status conference to April 30, 2020 at 10:30 a.m.; updated status report not required.

***Note: Appearance at today's hearing is not required; updated status report not required for 4/30/20 hearing.***

**Party Information**

**Debtor(s):**

Trent Tyrell Berglin

Represented By  
Michael Jones

**Joint Debtor(s):**

Adrienne Lynn Berglin

Represented By  
Michael Jones



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, March 19, 2020

Hearing Room 5A

10:30 AM

8:19-13681 Jennifer Ribertelli

Chapter 7

#33.00 Hearing RE: Debtor's Motion to Reopen Chapter 7 Case  
(\$260 Filing Fee Not Paid; Request that Fee Be Waived)

Docket 21

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant the Motion as follows: Grant motion to re-open, vacate the dismissal order and reinstate the case, including the automatic stay and waive the filing fee.

The basis for the tentative ruling is that there is no record of Debtor receiving notice of the continued 341a meeting prior to the dismissal of the case.

***Note: Appearance at this hearing is not required. The court will issue an order consistent with the above tentative ruling.***

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

**Debtor(s):**

Jennifer Ribertelli

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Jennifer Ribertelli**

**Chapter 7**

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:30 AM

8:19-14478 Rosibel Flores

Chapter 13

#34.00 Hearing RE: Debtor's Motion Objecting to Claim No. 6 of Systems & Services Technology, Inc. as Servicing Agent for CIGPF 1; Request for Claim to Be Disallowed

Docket 41

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant the motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Rosibel Flores

Represented By  
Tuan Le

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

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10:30 AM

**CONT... Rosibel Flores**

**Chapter 13**

**Movant(s):**

Rosibel Flores

Represented By  
Tuan Le

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, March 19, 2020

Hearing Room 5A

10:30 AM

8:20-10127 Milan & Sahadev Inc.

Chapter 7

#35.00 Hearing RE: Chapter 7 Trustee's Motion to Sell Liquor License Free and Clear of Liens

Docket 8

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion, subject to the Trustee providing 14 day notice to Capital One Bank (served per 7004(h)) and receiving no opposition. Once the objection period has expired, the Trustee may file a declaration re non-opposition and lodge the proposed order.

Capital One Bank filed a proof of claim on February 25, 2020, after the Motion was filed.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... Milan & Sahadev Inc.**

**Chapter 7**

**Debtor(s):**

Milan & Sahadev Inc.

Represented By  
John R Setlich

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Donald W Sieveke

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10434 Delecia A Holt**

**Chapter 13**

**#36.00** CONT'D Hearing RE: Order to Show Cause Why Case Should Not Be Dismissed  
(OSC Issued 2/11/2020)

FR: 2-20-20

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Dismiss the chapter 13 case.

*Special note: Debtor also has a chapter 7 pending. It appears that no objections to Debtor's discharge has been filed and there appears to be no impediment to the entry of a discharge order in the chapter 7 case.*

**Note: Appearance at this hearing is not required.**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Delecia A Holt**

**Chapter 13**

**February 20, 2020**

This court is inclined to dismiss this case with a 180-day bar for the following reasons:

1. This is the second chapter 13 case filed while Debtor's chapter 7 case is pending and no discharge has been entered in the chapter 7 case. The court acknowledges that there is case authority supporting the filing of chapter 13 case after a discharge order has been entered in the chapter 7 case but before the chapter 7 case is formally closed. However, in this case, not only has the discharge order not been entered in the chapter 7 case, the deadline for filing objections to discharge has not even expired.

2. This chapter 13 case appears to have been filed in bad faith for the sole purpose of avoiding and undermining this court's order granting relief from stay as to certain leased vehicles. The first chapter 13 case was filed on the same day that the court granted relief from stay at a hearing (the case was subsequently dismissed the same day at a hearing on Debtor's request to pay the filing fee in installments, at which hearing the court found that Debtor was not eligible to be a chapter 13 debtor because she had negative disposable income and filed a plan designed to improperly reduce the subject lease payments from approximately \$900/mo. to approximately \$223/mo). The very next day, Debtor filed the current chapter 13 case, this time adding income that did not exist the day before.

**Party Information**



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room      5A**

10:30 AM

**CONT...      Delecia A Holt**

**Chapter 13**

**Debtor(s):**

Delecia A Holt

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#37.00** Hearing RE: Creditor Todd Kurtin's Motion to Continue Debtors' Motion for Reconsideration of Order Granting Motion for Relief from Stay

Docket 268

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 19, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#38.00** Hearing RE: Motion for Reconsideration of Order Granting Motion for Relief from Stay Pursuant to Federal Rules of Bankruptcy Procedure 9013 and 9024

(Advanced from 4-9-20)

Docket 169

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Movant(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01015 Speier v. SunCal Management LLC et al

**#1.00 ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management, LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20

Docket 417

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01015 Speier v. SunCal Management LLC et al

**#2.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Breach of Contract; (2) Restitution and/or Unjust Enrichment; (3) To Avoid and Recover Fraudulent Transfers; and (4) To Avoid and Recover Preferential Transfers **[Debtor: SunCal Oak Knoll, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20

Docket 95

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

**Represented By**

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01021 Speier v. SunCal Management LLC et al

**#3.00 ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management, LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20

Docket 372

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01021 Speier v. SunCal Management LLC et al

**#4.00** CONT'D STATUS CONFERENCE RE: Third Amended Complaint (1) To Avoid and Recover Fraudulent Transfers and (2) To Avoid and Recover Preferential Transfers **[Debtor: SunCal Torrance, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20

Docket 327

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch

Argent Management, LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01022 Speier v. SunCal Management LLC et al

**#5.00 ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management, LLC Was an Insider of the Debtor

FR: 10-10-19; 1-9-20

Docket 374

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01022 Speier v. SunCal Management LLC et al

**#6.00** CONT'D STATUS CONFERENCE RE: Third Amended Complaint to Avoid and Recover Fraudulent Transfers **[Debtor: SunCal PSV, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20

Docket 329

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch

Argent Management, LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01023      SPEIER v. SUNCAL MANAGEMENT, LLC et al

**#7.00**      CON'TD STATUS CONFERENCE RE: Third Amended Complaint (1) To Avoid and Recover Fraudulent Transfers and (2) To Avoid and Recover Preferential Transfers **[Debtor: Palmdale Hills Property, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20

Docket      298

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Mike D Neue

**Defendant(s):**

SUNCAL MANAGEMENT, LLC

Represented By  
Craig H Averch

Argent Management LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

STEVEN M. SPEIER

Represented By  
Evan C Borges  
Mike D Neue  
William N Lobel  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01024      SPEIER v. SUNCAL MANAGEMENT, LLC et al

**#8.00**      CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; and (4) To Avoid and Recover Fraudulent Transfers  
**[Debtor: SunCal Summit Valley, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20

Docket      68

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

**Represented By**

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SUNCAL MANAGEMENT, LLC

Represented By  
Craig H Averch

Argent Management LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

STEVEN M. SPEIER

Represented By  
Evan C Borges  
Mike D Neue  
William N Lobel  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01025      SPEIER v. SUNCAL MANAGEMENT, LLC et al

**#9.00**      CONT'D STATUS CONFERENCE RE: Second Amended Complaint: (1) To Avoid and Recover Preferential Transfers; (2) For Declaratory Relief, (3) In the Alternative, Breach of Contract; (4) Restitution and/or Unjust Enrichment; and (5) To Avoid and Recover Fraudulent Transfers  
**[Debtor: SunCal Bickford Ranch, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20

Docket      77

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

**Represented By**

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SUNCAL MANAGEMENT, LLC

Represented By  
Craig H Averch

Argent Management LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

STEVEN M. SPEIER

Represented By  
Evan C Borges  
Mike D Neue  
William N Lobel  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01026 Speier v. SunCal Management LLC et al

**#10.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) To Avoid and Recover Preferential Transfers; (2) For Declaratory Relief, (3) In the Alternative, Breach of Contract; (4) Restitution and/or Unjust Enrichment; and (5) to Avoid and Recover Fraudulent Transfers **[Debtor: SunCal Emerald Meadows, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20

Docket 69

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

**Represented By**

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch

Argent Management, LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01125 Speier v. SunCal Management LLC et al

**#11.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief; (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fradudulent Transfers; and (5) To Avoid and Recover Preferential Transfers  
**[Debtor: SunCal Marblehead, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20

Docket 105

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

**Represented By**

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Doah Kim  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Doah Kim  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01126 Speier v. SunCal Management, LLC et al

**#12.00 ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20

Docket 530

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

**Defendant(s):**

SunCal Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01126 Speier v. SunCal Management, LLC et al

**#13.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers; and (5) To Avoid and Recover Preferential Transfers  
**[Debtor: SunCal Heartland, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20

Docket 99

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

**Represented By**

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01127 Speier v. SunCal Management LLC et al

**#14.00 ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication That SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20

Docket 518

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01127 Speier v. SunCal Management LLC et al

**#15.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers  
**[Debtor: SunCal Northlake, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20

Docket 98

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

**Represented By**

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01128 Speier v. SunCal Management LLC et al

**#16.00 ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20

Docket 518

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01128 Speier v. SunCal Management LLC et al

**#17.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; and (4) to Avoid and Recover Fraudulent Transfers  
**[Debtor: LBL-SunCal Oak Valley, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20

Docket 98

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

**Represented By**

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01129 Speier v. Argent Management, LLC et al

**#18.00 ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20

Docket 522

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01129 Speier v. Argent Management, LLC et al

**#19.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers; and (5) To Avoid and Recover Preferential Transfers  
**[Debtor: Delta Coves Venture LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20

Docket 100

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

**Represented By**

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, March 26, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-10423 Chad Paul Delannoy**

**Chapter 7**

Adv#: 8:17-01073 Woodlawn Colonial, L P v. Delannoy

**#1.00** CON'TD STATUS CONFERENCE RE: Complaint for Determination of Non-Dischargeability of Debt

FR: 7-27-17; 9-21-17, 4-12-18; 5-31-18; 7-19-18; 9-20-18; 12-6-18; 3-21-19; 5-9-19; 6-18-19; 9-19-19; 11-21-19; 1-30-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 7/16/2020 AT 9:30 A.M.,  
Per Order Entered 3/27/2020 (XX)**

**Courtroom Deputy:**

**SPECIAL NOTE: Order Granting Plaintiff Woodlawn Colonial, L.P.'s Motion (1) to Dismiss Plaintiff's First & Second Claims for Relief; & (2) for Entry of Judgment on Plaintiff's Third Claim for Relief Entered 9/6/2019; Non-Dischargeable Judgment Entered 9/6/2019. Remaining Issue is Defendant's Counterclaim fld 6/12/17, dkt #7 - td (9/6/2019)**

**CONTINUED: Status Conference Continued to 7/16/2020 at 9:30 a.m., Per Order Entered 3/27/2020 (XX) - td (3/27/2020)**

**Tentative Ruling:**

**July 27, 2017**

No tentative ruling -- the disposition of the status conference will depend upon the outcome of Plaintiff's motion for stay of the adversary proceeding, which set on today's 10:30am calendar.

-----  
**September 21, 2017**

Impose sanctions against counsel for Plaintiff in the amount of \$100 for failure to file joint status report as required by LBR 7016-1.

Discovery Cut-off Date: Jan. 18, 2018

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 2, 2020

Hearing Room 5A

9:30 AM

CONT...

**Chad Paul Delannoy**

**Chapter 7**

Deadline to File Pretrial Motions: Feb. 1, 2018  
Reserved hearing date re Pretrial Motions: Mar. 8, 2018 at 2:00 p.m. (xx)  
Pretrial Conference: Apr. 12, 2018 at 9:30 a.m. (XX)  
Deadline to File Pretrial Stipulation Mar. 29, 2018

*Special Note: Defendant's counterclaim may be moot in light of the sale of the truck by the Trustee.*

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

-----  
**July 19, 2018**

In light of pending appeal, continue status conference to September 20, 2018 at 9:30 a.m., updated status report must be filed by September 13, 2018. (XX)

***Note: Appearances at this hearing are not required.***

-----  
**September 20, 2018**

Continue status conference to December 6, 2018 at 9:30 a.m.; updated status report must be filed by November 29, 2018. (XX)

***Note: Appearances at today's hearing are not required; Plaintiff to serve notice of the continued hearing date/time.***

-----  
**December 6, 2018**

Continue status conference to March 21, 2019 at 9:30 a.m.; updated joint status report must be filed by March 7, 2019 (XX)

***Note: Appearances at today's hearing are not required; Plaintiff to serve notice of the continued hearing date/time.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

CONT... Chad Paul Delannoy

Chapter 7

**March 21, 2019**

Continue status conference to May 9, 2019 at 2:00 p.m., same date/time as hearing on Plaintiff's motion for summary judgment; updated status report not required. (XX)

***Note: Appearances at the March 21, 2019 status conference are not required.***

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

**Debtor(s):**

Chad Paul Delannoy

Represented By  
Robert P Goe  
Charity J Miller

**Defendant(s):**

Chad Paul Delannoy

Pro Se

**Plaintiff(s):**

Woodlawn Colonial, L P

Represented By  
Howard M Bidna

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-13780 Maria H. Helton-Rehburg**

**Chapter 7**

Adv#: 8:18-01049 Rehburg v. Helton-Rehburg

**#2.00** CONT'D STATUS CONFERENCE RE: Complaint to: 1) Determine Non-Dischargeability of Debt 11 USC Sections 523(a)(2)(A), 523(a)(4) and 523(a)(6), and 2) Deny Discharge of Debtor Under 11 USC Sections 727(a)(2)(A), 727(a)(3), and 727(a)(4)(A)

FR: 6-21-18; 1-31-19; 5-2-19; 5-7-19; 8-8-19; 11-21-19; 1-30-20

Docket 1

**Courtroom Deputy:**

**OFF CALENDAR: Order approving the motion re compromise resolving this adversary ENTERED 3/27/20 --eas**

**Tentative Ruling:**

**June 21, 2018**

Discovery Cut-off Date:	Nov. 1, 2018
Deadline to Attend Mediation:	Jan. 11, 2019
Pretrial Conference Date:	Jan. 31, 2019 at 9:30 a.m.
	(XX)
Deadline to Lodge Joint Pretrial Stipulation:	Jan. 17, 2019

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

-----

**November 21, 2019**

Impose sanctions in the amount of \$100 each against counsel for Plaintiff and counsel for Defendant for failure to timely file a pretrial stipulation.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Maria H. Helton-Rehburg**

**Chapter 7**

Appearances at today's hearing are required.  
-----

**April 2, 2020**

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

**Debtor(s):**

Maria H. Helton-Rehburg

Represented By  
Christopher P Walker

**Defendant(s):**

Maria H. Helton-Rehburg

Pro Se

**Plaintiff(s):**

Lisa M. Rehburg

Represented By  
Bradley D Blakeley

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-13780 Maria H. Helton-Rehburg**

**Chapter 7**

Adv#: 8:19-01189 Kosmala v. Merhab Robinson, Jackson & Clarkson, APC et al

**#3.00** CON'TD STATUS CONFERENCE RE: Complaint to Determine and Preserve Void Lien (11 U.S.C. §§506(d), 551); Avoid, Recover and Preserve Unperfected Lien (11 U.S.C. §§544, 550, 551); Avoid, Recover and Preserve Preferential Transfers (11 U.S.C. §§547, 550 551); and Disallow/Subordinate Homestead Exemption)

FR: 12-5-19; 2-20-20

Docket 1

**Courtroom Deputy:**

**OFF CALENDAR: Order approving the motion re compromise resolving this adversary ENTERED 3/27/20 --eas**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Maria H. Helton-Rehburg

Represented By  
Christopher P Walker

**Defendant(s):**

Merhab Robinson, Jackson &

Pro Se

Merhab Robinson & Clarkson, APC

Pro Se

James T. Jackson, APC

Pro Se

James T. Jackson

Pro Se

Maria H. Helton-Rehburg

Pro Se

**Plaintiff(s):**

Weneta M.A. Kosmala

Represented By  
Erin P Moriarty

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Maria H. Helton-Rehburg**

**Chapter 7**

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Erin P Moriarty



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14077 Team Business Solutions, Inc.**

**Chapter 7**

Adv#: 8:18-01141 Richard A Marshack v. SNCR California, Inc., et al

**#4.00** CONT'D STATUS CONFERENCE RE: First Amended Complaint for: 1. Declaratory Relief (Successor Liability); 2. Intentional Fraudulent Transfer; 3. Constructive Fraudulent Transfer; 4. Preservation of Avoided Transfer; 5. Turnover of Assets; 6. Breach of Fiduciary Duty; 7. Misappropriation of Trade Secrets; 8. Unjust Enrichment (Another Summons Issued 12/6/10)

FR: 2-12-19; 3-12-19; 4-4-19; 4-16-19; 6-20-19; 8-22-19; 11-7-19; 1-9-20

Docket 55

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/4/2020 AT 9:30 A.M.,  
Per Order Entered 3/16/2020 (XX)**

**Courtroom Deputy:**

**SPECIAL NOTE: Notice of Voluntary Dismissal of Adversary Proceeding  
Against Kirk Nelson Only filed 1/7/2019, Document # 72 - td (1/9/2019)**

**CONTINUED: Status Conference Continued to 6/4/2020 at 9:30 a.m., Per  
Order Entered 3/16/2020 (XX) - td (3/16/2020)**

**Tentative Ruling:**

**June 20, 2019**

Joint status report not filed by June 13, 2019 pursuant to this court's order entered 4/25/19. Impose sanctions in the amount of \$100 against each party for the failure to do so.

***Note: Appearances at this hearing are required.***

-----

**August 22, 2019**

Joint status report not filed by August 8, 2019 pursuant to this court's order entered June 17, 2019. Impose sanctions in the amount of \$100 against each

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

**CONT...**      **Team Business Solutions, Inc.**  
party's attorney for the failure to do so.

**Chapter 7**

***Note: Appearances at this hearing are required.***  
-----

**January 9, 2020**

Updated joint status report not filed as required by this court's order entered October 17, 2019 [docket #117]. Impose sanctions of \$200 against counsel for plaintiff and defendants.

***Note: Appearances at this hearing are required.***

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

Team Business Solutions, Inc.	Represented By J Scott Williams
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**Defendant(s):**

SNCR California, Inc.,	Represented By Michael G Spector
John Creamer	Pro Se
Kirk Nelson	Pro Se

**Plaintiff(s):**

Richard A Marshack	Represented By Thomas J Eastmond Robert P Goe
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**Trustee(s):**

Richard A Marshack (TR)	Represented By Thomas J Eastmond Robert P Goe
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14406 Kirk M. Nelson**

**Chapter 7**

Adv#: 8:19-01016 Marshack v. Nelson

**#5.00** CON'TD STATUS CONFERENCE RE: Complaint: 1. To Determine Non-Dischargeability Of Debt Pursuant to 11 U.S.C. Section 523(a)(3)(B)

FR: 4-11-19; 5-30-19; 9-12-19; 11-7-19; 1-9-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/4/2020 AT 9:30 A.M.,  
Per Order Entered 3/16/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 6/4/2020 at 9:30 a.m., Per  
Order Entered 3/16/2020 (XX) - td (3/16/2020)**

**Tentative Ruling:**

**April 11, 2019**

Continue Status Conference to May 30, 2019 at 10:30 a.m., same date/time as hearing on Defendants' motion to dismiss. Joint status report not required. (XX)

***Note: Appearances at this hearing are not required.***

-----

**May 30, 2019**

No tentative ruling -- trail matter to the 2:00pm calendar

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**January 9, 2020**

Updated joint status report not filed as required by this court's order entered October 17, 2019 [docket #22]. Impose sanctions of \$100 against counsel for plaintiff and defendants.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

CONT... **Kirk M. Nelson**

**Chapter 7**

***Note: Appearances at this hearing are required.***

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

**Debtor(s):**

Kirk M. Nelson

Represented By  
J Scott Williams

**Defendant(s):**

Kirk M Nelson

Pro Se

**Plaintiff(s):**

Richard A Marshack

Represented By  
Robert P Goe  
Thomas J Eastmond

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01215 Marshack v. R-Techo, Co., Ltd.

**#6.00** CONT'D STATUS CONFERENCE RE: Complaint for: 1. Avoidance and Recovery of Intentional Fraudulent Transfers; 2. Avoidance and Recovery of Constructive Fraudulent Transfers; 3. Avoidance and Recovery of Preferential Transfers; 4. Recovery of Avoided Transfers; 5. Declaratory Judgment: Alber Ego; 6. Recovery of Unauthorized, Improper Distributions to Shareholders; 7. Substantive Consolidation; 8. Breach of Fiduciary Duty; 9. Turnover of Property of the Estate; 10. Preservations of Avoided Transfers; 11. Disallowance of Claims; and 12. Temporary Restraining Order and Preliminary Injunction

FR: 2-6-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/4/2020 AT 9:30 A.M.,  
Per Order Entered 3/30/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 6/4/2020 at 9:30 am, Per  
Order Entered 3/30/2020 (XX) - td (3/30/2020)**

**Tentative Ruling:**

**February 6, 2020**

No timely filed updated status report or motion for default judgment has been filed in this case. Accordingly, the court may impose sanctions in the amount of \$100 and/or issue an order to show cause why this adversary proceeding should not be dismissed for failure to prosecute.

***Note: Appearance at this hearing is required.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

**Party Information**

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

R-Techo, Co., Ltd.

Pro Se

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01217 Marshack v. Mr. C's Towing at Southgate, Inc.

**#7.00** CONT'D STATUS CONFERENCE RE: Complaint for: 1. Avoidance and Recovery of Constructive Fraudulent Transfers pursuant to 11 U.S.C. Sections 544, 548, 550, 551; California Civil Code Sections 3439.04, 3439.05, 3439.07, 3439.08, 3439.09; 2. Recovery of Avoided Transfers; 3. Turnover of Property of the Estate; 4. Preservation of Avoided Transfers; 5. Temporary Restraining Order and Preliminary Injunction against Mr. C's Towing at Southgate, Inc.

FR: 2-6-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/4/2020 AT 9:30 A.M.,  
Per Order Entered 3/30/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 6/4/2020 at 9:30 am, Per  
Order Entered 3/30/2020 (XX) - td (3/30/2020)**

**Tentative Ruling:**

**February 6, 2020**

A proof of service showing proper service of the summons and complaint has not been filed. Further, no timely filed updated status report or motion for default judgment has been filed in this case. Accordingly, the court may impose sanctions in the amount of \$100 and/or issue an order to show cause why this adversary proceeding should not be dismissed for failure to prosecute.

***Note: Appearance at this hearing is required.***

-----

**April 2, 2020**

Continue status conference to May 21, 2020 at 9:30 a.m.; Joint status report must be filed by May 7, 2020.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 2, 2020

Hearing Room 5A

9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

The tentative ruling is based on the fact that it is not clear that the service issue has been resolved.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall lodge an order consistent with the same.***

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Mr. C's Towing at Southgate, Inc.

Represented By  
Ryan S Riddles

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-10996 Raju Gobindlal Shewa**

**Chapter 7**

Adv#: 8:19-01129 Gama World Technologies, Inc. v. Shewa

**#8.00** STATUS CONFERENCE RE: Complaint to Determine Nondischargeability of Debt Pursuant to 11 U.S.C. Sections 523(a)(2)(A),(B), 523(a)(4) and (6); 11 U.S.C. Section 727(a) et seq.; and For Injunctive Relief

FR: 9-19-19; 2-20-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Due to Entry of an Order Approving the Settlement Agreement Between the Parties**

**Courtroom Deputy:**

**OFF CALENDAR: Due to Entry of an Order Approving the Settlement Agreement Between the Parties - ES/ td (3/27/2020)**

**Tentative Ruling:**

**September 19, 2019**

Discovery Cut-off Date:	Dec. 19, 2019
Deadline to Attend Mediation:	Jan. 23, 2020
Pretrial Conference Date: (XX)	Feb. 20, 2020 at 9:30 a.m.
Deadline to File Joint Pretrial Stipulation:	Feb. 6, 2020

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

-----  
**February 20, 2020**

In light of contemplated settlement of this matter, continue as a status conference to April 2, 2020 at 9:30a.m.; updated status report must be filed 14

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Raju Gobindlal Shewa Chapter 7**

days prior to the continued hearing if the settlement has not been approved by such date. (XX)

***Note: Appearances at this hearing are not required.***

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

**Debtor(s):**

Raju Gobindlal Shewa

Represented By  
Leonard M Shulman

**Defendant(s):**

Raju Shewa

Pro Se

**Plaintiff(s):**

Gama World Technologies, Inc.

Represented By  
Esther P Holm  
Bryan Leifer  
Paul Y. Lee

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-12704 Emma Arroyo Banda**

**Chapter 7**

Adv#: 8:19-01192      SCHOOLSFIRST FEDERAL CREDIT UNION v. Banda

**#9.00**      CON'TD STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt

FR: 12-12-19; 2-20-20

Docket      1

**\*\*\* VACATED \*\*\*      REASON: OFF CALENDAR: Order Approving Stipulation for Settlement of Complaint to Determine Dischargeability of Debt Entered 3/11/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Approving Stipulation for Settlement of Complaint to Determine Dischargeability of Debt Entered 3/11/2020 - td (3/24/2020)**

**Tentative Ruling:**

**December 12, 2019**

Continue Status Conference to February 20, 2020 at 9:30 a.m. (XX)

A motion for default judgment may self-calendared for the same date/time as the continued Status Conference date. Alternatively, the motion may be filed without a hearing pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).

The motion for default judgment, supported by evidence, must be served on defendant and defendant's counsel in accordance with Local Rule 9013-1(d).

If the motion for default judgment is not heard by the continued date of the Status Conference, **THE ADVERSARY MAY BE DISMISSED** at the Status Conference for failure to prosecute.

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

CONT... Emma Arroyo Banda

Chapter 7

**February 20, 2020**

In light of contemplated settlement of this matter, continue as a status conference to April 2, 2020 at 9:30a.m.; updated status report must be filed 14 days prior to the continued hearing if the settlement has not been approved by such date. (XX)

***Note: Appearances at this hearing are not required.***

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

**Debtor(s):**

Emma Arroyo Banda

Represented By  
Marlin Branstetter

**Defendant(s):**

Emma Arroyo Banda

Pro Se

**Plaintiff(s):**

SCHOOLSFIRST FEDERAL

Represented By  
Paul V Reza

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 2, 2020

Hearing Room 5A

9:30 AM

**8:19-13752 Catherine Melissa-Ann Guinto**

**Chapter 7**

Adv#: 8:20-01004 Upstream Capital Investments LLC v. Guinto

**#10.00 STATUS CONFERENCE RE: Complaint Seeking Non-Dischargeability of Debt in Core Adversary Proceeding.**

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

No proof of service or joint status report have been filed. Plaintiff must appear and advise the court as to why the same were not timely filed.

**Note: Telephonic appearance by Plaintiff's counsel is required.**

**Party Information**

**Debtor(s):**

Catherine Melissa-Ann Guinto

Represented By  
Lawrence B Yang

**Defendant(s):**

Catherine Melissa-Ann Guinto

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Catherine Melissa-Ann Guinto**

**Chapter 7**

**Plaintiff(s):**

Upstream Capital Investments LLC

Represented By  
Lynda E Jacobs

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 2, 2020

Hearing Room 5A

9:30 AM

8:19-13858 Bruce Elieff

Chapter 11

Adv#: 8:19-01234 Miller v. Elieff et al

#11.00 STATUS CONFERENCE RE: Amended Complaint to Determine Dischargeability Pursuant to 11 U.S.C. Section 523(a)(2) and (6)

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

April 2, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

No joint status report has been timely filed. The parties must appear and advise the court as to why the JSR was not timely filed..

**Note: Telephonic appearances by the parties' counsel are required.**

Party Information

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Bruce Elieff

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Bruce Elieff**  
4627 Camden, LLC

Pro Se

**Chapter 11**

**Plaintiff(s):**

Jacqueline Miller

Represented By  
James Denison



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 2, 2020

Hearing Room 5A

9:30 AM

**8:17-13780 Maria H. Helton-Rehburg**

**Chapter 7**

Adv#: 8:19-01188 Kosmala v. Breidenbach et al

**#11.10** CON'TD STATUS CONFERENCE RE: Complaint for Avoidance of Transfers

FR: 12-5-19; 2-6-20; 3-19-20

Docket 1

**Courtroom Deputy:**

**OFF CALENDAR: Order approving the motion re compromise resolving this adversary ENTERED 3/27/20 --eas**

**Tentative Ruling:**

**December 5, 2019**

Continue Status Conference to February 6, 2020 at 9:30 a.m. (XX)

A motion for default judgment may self-calendared for the same date/time as the continued Status Conference date. Alternatively, the motion may be filed without a hearing pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).

The motion for default judgment, supported by evidence, must be served on defendant and defendant's counsel in accordance with Local Rule 9013-1(d).

If the motion for default judgment is not heard by the continued date of the Status Conference, **THE ADVERSARY MAY BE DISMISSED** at the Status Conference for failure to prosecute.

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.***

-----  
**February 6, 2020**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 2, 2020

Hearing Room 5A

9:30 AM

CONT... Maria H. Helton-Rehburg

Chapter 7

No timely filed updated status report or motion for default judgment has been filed in this case. Accordingly, the court may impose sanctions in the amount of \$100 and/or issue an order to show cause why this adversary proceeding should not be dismissed for failure to prosecute.

**Note: Appearance at this hearing is required.**

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March 19, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue status conference one final time to April 2, 2020 at 9:30 a.m. in light of the pending motion to approve the settlement. An updated status report must be filed seven days prior to the continued hearing only if an objection to approval of the settlement is filed. (XX)

**Note: Appearance at this hearing is not required.**

Party Information

**Debtor(s):**

Maria H. Helton-Rehburg

Represented By  
Christopher P Walker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Maria H. Helton-Rehburg**

**Chapter 7**

**Defendant(s):**

Andrea M. Breidenbach Pro Se

Manuela I. Kitchen Pro Se

**Plaintiff(s):**

Weneta M.A. Kosmala Represented By  
Erin P Moriarty

**Trustee(s):**

Weneta M Kosmala (TR) Represented By  
Erin P Moriarty

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 2, 2020

Hearing Room 5A

10:00 AM

**8:15-15096 Darshan Upadhyaya**

**Chapter 7**

Adv#: 8:16-01024 Floorit Financial, Inc. v. Upadhyaya

**#12.00** Examination of Third Person Amanda Upadhyaya aka Amanda C. Ramos  
Upadhyaya Re: Enforcement of Judgment

Docket 20

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In order to comply with social distancing guidelines, continue the examination to June 4, 2020 at 10:00 a.m., except that the parties are free to stipulate to a remote videoconference examination at a mutually agreeable time prior to June 4, 2020.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall lodge an order consistent with the same.***

**Party Information**

**Debtor(s):**

Darshan Upadhyaya

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Darshan Upadhyaya**

**Chapter 7**

Amid Bahadori

**Defendant(s):**

Darshan Upadhyaya

Represented By  
Amid Bahadori

**Plaintiff(s):**

Floorit Financial, Inc.

Represented By  
Tom Roddy Normandin  
James T Jackson

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By  
Jeremy Faith  
Nina Z Javan  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:00 AM

**8:18-12797 Johnny Phan**

**Chapter 13**

**#13.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]  
SELENE AS ATTORNEY IN FACT U.S. BANK NATIONAL ASSOCIATION  
VS.  
DEBTOR

Docket 56

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant relief from stay co-debtor stay relief and without FRBP 4001(a)(3) waiver unless the parties agree to an alternative resolution. If more time is needed, and Movant agrees to such additional time, continue the hearing to June 4, 2020 at 10:00 a.m. upon request of Movant during the pre-hearing calendar roll call by the court clerk.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Johnny Phan**

**Chapter 13**

**Debtor(s):**

Johnny Phan

Represented By  
Christopher J Langley

**Movant(s):**

U.S. BANK NATIONAL

Represented By  
Dane W Exnowski  
Sean C Ferry

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 2, 2020

Hearing Room 5A

10:00 AM

8:18-12967 Lillian Sikanovski Dulac

Chapter 7

#14.00 Hearing RE: Motion for relief from automatic stay  
[ACTION IN NON-BANKRUPTCY FORUM]

RONALD DULAC

VS.

DEBTOR

Docket 107

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue the hearing to June 18, 2020 at 10:00 a.m. The parties are ordered to meet and confer by telephone or videoconference regarding a resolution by or before May 21, 2020 and file a joint status report regarding the same no later than June 4, 2020. If Movant is not agreeable to a continuance (and waiver of the 30-day requirement), the motion will be denied without prejudice.



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Lillian Sikanovski Dulac**  
Basis for the Tentative Ruling:

**Chapter 7**

On March 27, 2020, the Orange County Superior Court issued a press release effectively shutting down the Court as to all nonemergency matters for sixty days. The press release states in part:

"All other Civil hearing dates on any civil case set during the next 60 days (including court and jury trials in progress or calendared to begin during this timeframe) are deemed vacated and will be reset for a date beyond 60 days. Notice will be provided to all parties. Although hearings may continue to display as calendared in electronic online case access, no hearings will be conducted during this period. See Administrative Order 2020/06 posted on the court's website [www.occourts.org](http://www.occourts.org)."

As little to nothing will be litigated in state court for at least the next 60 days, the time would be better spent attempting to reach resolution on some or all of the issues pending between the parties.

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

Lillian Sikanovski Dulac

Represented By  
Michael Jones  
Sara Tidd

**Movant(s):**

Ronald Dulac

Represented By  
Michael G Spector

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Erin P Moriarty

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-11870 Darlene Futrel**

**Chapter 13**

**#15.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

BANK OF AMERICA, N.A.

VS.S

DEBTOR

Docket 44

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4/30/2020 AT 10:00 A.M.,  
Per Order Entered 3/27/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 4/30/2020 at 10:00 a.m., per Order  
Entered 3/27/2020 (XX) - td (3/27/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Darlene Futrel

Represented By  
Christopher J Langley

**Movant(s):**

Bank of America, N.A

Represented By  
Nancy L Lee

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 2, 2020

Hearing Room 5A

10:00 AM

8:19-12472 Jason Giacomelli and Jennifer Giacomelli

Chapter 7

#16.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
SANTANDER CONSUMER USA INC.  
VS.  
DEBTORS

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

April 2, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.*

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Jason Giacopelli and Jennifer Giacopelli**

**Chapter 7**

**Debtor(s):**

Jason Giacopelli

Represented By  
Ryan S Carrigan

**Joint Debtor(s):**

Jennifer Giacopelli

Represented By  
Ryan S Carrigan

**Movant(s):**

Santander Consumer USA Inc.

Represented By  
Sheryl K Ith

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 2, 2020

Hearing Room 5A

10:00 AM

8:19-14161 April Suzanne Ferrara

Chapter 7

#17.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
BMW BANK OF NORTH AMERICA  
VS.  
DEBTOR

Docket 43

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

April 2, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.*

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... April Suzanne Ferrara**

**Chapter 7**

**Debtor(s):**

April Suzanne Ferrara

Represented By  
Edward T Weber

**Movant(s):**

BMW Bank of North America

Represented By  
Cheryl A Skigin

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 2, 2020

Hearing Room 5A

10:00 AM

8:20-10151 Marina Z. Cruz

Chapter 7

#18.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

TD AUTO FINANCE LLC

VS.

DEBTOR

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

April 2, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.*

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Marina Z. Cruz**

**Chapter 7**

**Debtor(s):**

Marina Z. Cruz

Represented By  
Timothy McFarlin

**Movant(s):**

TD Auto Finance LLC

Represented By  
Sheryl K Ith

**Trustee(s):**

Karen S Naylor (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 2, 2020

Hearing Room 5A

10:00 AM

8:20-10447 Monica Hernandez

Chapter 7

#19.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
TOYOTA MOTOR CREDIT CORPORATION  
VS.  
DEBTOR

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

April 2, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.*

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Monica Hernandez**

**Chapter 7**

**Debtor(s):**

Monica Hernandez

Represented By  
Amanda G Billyard

**Movant(s):**

Toyota Motor Credit Corporation

Represented By  
Kirsten Martinez

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10632 Victoria Walters**

**Chapter 7**

**#20.00** Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]

SIFU QI

VS.

DEBTOR

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant the motion with the waiver of the 14-day stay period under Federal Rules of Bankruptcy Procedure 4001(a)(3). Overrule Debtor's objections.

Basis for Tentative Ruling:

1. Under California law, the tenancy was terminated by the landlord once the notice to quit was served and the unlawful detainer was filed. The purpose of the

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Victoria Walters**

**Chapter 7**

unlawful detainer trial is a determination by the state court as to whether the termination was lawful or not. This is not a matter than can be determined by the bankruptcy court.

2. Debtor argues that the lease became a month to month tenancy under California law with out citing any specific statute or other legal authority. The court notes that California Civil Code Section 1945 provides that "If a lessee of real property remains in possession thereof after the expiration of the hiring, *and the lessor accepts rent from him*, the parties are presumed to have renewed the hiring on the same terms and for the same time, not exceeding one month when the rent is payable monthly, nor in any case one year." (emphasis added). Here, the lease expired on Feb 2, 2020 and the evidence indicates that the landlord did not accept any rent after Feb. 2, 2020 and there is insufficient evidence that the landlord entered into any other tenancy arrangement with Debtor.

3. Circumstances created by the COVID-19 pandemic does not establish grounds for denial of the motion under bankruptcy law. The bottom line is that the rights of the parties must be determined by the Orange County Superior Court and not this court.

4. As a practical matter, it is possible that the Superior Court might not conduct certain UD trials for the next 60 days. On March 27, the Orange County Superior Court issued a press release indicating that the superior courts in this County are closed except for certain matters. As to unlawful detainer matters, the press release states:

"Emergency Ex-parte Lock-out matters (Unlawful Detainer/Eviction)

1. The court will be available for the following unlawful detainer/eviction related services:

➤ Emergency request to stay lock-out date (Unlawful Detainer/Eviction)

Requests to stay lock-out date can be submitted either via email or by paper filing as follows:

➤ Email: Submit applicable forms/petitions to [CivilUrgent@occourts.org](mailto:CivilUrgent@occourts.org)

➤ Paper: Alternatively, submit applicable forms/petitions in person at Central Justice Center

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:00 AM

**CONT...**      **Victoria Walters**  
via the drop box by the front entrance

**Chapter 7**

➤ For assistance, Self Help Services will be available onsite at Central Justice Center. Follow the instructions posted on the front entrance by the table

➤ Once reviewed by the court,

- If filed in person via drop box, the order will be provided to petitioner
- If filed via email, the order will be sent to petitioner via email and certified copies via mail

➤ If filing fees are due, notice of fees due will be included and fees will be collected at the next court hearing

2. All other Unlawful Detainer/Eviction hearing dates set during the next 60 days are deemed vacated and will be reset for a date beyond 60 days. Notice will be provided to all parties. Although hearings may continue to display as calendared in electronic online case access, no hearings will be conducted during this period. See Administrative Order 2020/06 posted on the court's website [www.occourts.org](http://www.occourts.org) "

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

Victoria Walters	Pro Se
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**Movant(s):**

Sifu Qi	Represented By Kevin Liu
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**Trustee(s):**

Karen S Naylor (TR)	Pro Se
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United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 2, 2020

Hearing Room 5A

10:00 AM

8:20-10678 Alan Ploshchansky

Chapter 7

#21.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
HONDA LEASE TRUST  
VS.  
DEBTOR; AND THOMAS H. CASEY, CHAPTER 7 TRUSTEE

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

April 2, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.*

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room      5A**

10:00 AM

**CONT...      Alan Ploshchansky**

**Chapter 7**

**Debtor(s):**

Alan Ploshchansky

Pro Se

**Movant(s):**

Honda Lease Trust

Represented By  
Vincent V Frounjian

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 2, 2020

Hearing Room 5A

10:00 AM

8:20-10750 Zakiya Ann Maxey

Chapter 7

#22.00 Hearing RE: Motion for relief from automatic stay  
[ACTION IN NON-BANKRUPTCY FORUM]

ESA MANAGEMENT, LLC

VS.

DEBTOR

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver and relief request #6 (180-day prospective relief); deny request #7 (indefinite *in rem* relief); Movant is obviously subject to any applicable nonbankruptcy state law or orders re eviction moratoriums.

*Special note: The automatic stay will have expired by the time of the hearing pursuant to Bankruptcy Code Section 362(c)(3).*



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Zakiya Ann Maxey**

**Chapter 7**

*Additional Note: It is possible that the Superior Court might not conduct certain UD trials for the next 60 days. On March 27, the Orange County Superior Court issued a press release indicating that the superior courts in this County are closed except for certain matters. As to unlawful detainer matters, the press release states:*

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

Zakiya Ann Maxey

Pro Se

**Movant(s):**

ESA MANAGEMENT, LLC

Represented By  
Juliana C Ferraz

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 2, 2020

Hearing Room 5A

10:00 AM

8:20-10820 Jose Vitorino De Aguiar

Chapter 7

#23.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]

JOHN TAYLOR PEDICINI AND MARY SUE PEDICINI AS TRUSTEE OF THE T  
& G TRUST

VS.

DEBTOR

Docket 7

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

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10:00 AM

**CONT... Jose Vitorino De Aguiar**

**Chapter 7**

**Debtor(s):**

Jose Vitorino De Aguiar

Represented By  
Anerio V Altman

**Movant(s):**

John Taylor Pedicini and Mary Sue

Represented By  
Richard Sontag

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10846 Robert P Fiorentino**

**Chapter 13**

**#24.00** Hearing RE: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 12

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Voluntary  
Withdrawal of Motion, filed 3/31/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Voluntary Withdrawal of Motion, filed  
3/31/2020 - td (3/31/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Robert P Fiorentino

Represented By  
Joseph Arthur Roberts

**Movant(s):**

Robert P Fiorentino

Represented By  
Joseph Arthur Roberts

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, April 2, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10654 Maria Dolores Orozco**

**Chapter 7**

**#25.00** Hearing RE: Order to Show Cause Why Case Should Not Be Dismissed  
(OSC Issued 2/28/2020)

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

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No response filed by Debtor. Dismiss case.

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

Maria Dolores Orozco

Pro Se

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
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Judge Erithe Smith, Presiding  
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Thursday, April 2, 2020

Hearing Room 5A

10:30 AM

**8:08-11747 John W Norling**

**Chapter 7**

Adv#: 8:08-01263 Werth et al v. Norling et al

#26.00 Hearing RE: Plaintiffs' Motion to Reopen Adversary Proceeding

Docket 51

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

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Grant motion. The Clerk may re-close the adversary sixty (60) days following entry of the order granting the motion without further notice or order of the court.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

John W Norling

Represented By  
Stephen D Brittain

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**CONT... John W Norling**

**Chapter 7**

**Defendant(s):**

John W Norling

Represented By  
Leighton Anderson

Sakura D Norling

Represented By  
Leighton Anderson

**Joint Debtor(s):**

Sakura D Norling

Represented By  
Stephen D Brittain

**Movant(s):**

Elvyn Dona Werth

Represented By  
David T Ward  
Paul J Kurtzhall  
J Scott Williams

Alice Dona Werth

Represented By  
David T Ward  
Paul J Kurtzhall  
J Scott Williams

**Plaintiff(s):**

Alice Dona Werth

Represented By  
David T Ward  
Paul J Kurtzhall  
J Scott Williams

Elvyn Dona Werth

Represented By  
David T Ward  
Paul J Kurtzhall  
J Scott Williams

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, April 2, 2020**

**Hearing Room**

**5A**

10:30 AM

**8:10-14723 Susan Doan**

**Chapter 7**

**#27.00** CON'TD Hearing RE: Debtor's First Omnibus Motion For Order Disallowing the Following Claims as They Are Not Obligations of the Debtor:

Claim #1	Wells Fargo Bank, NA	\$430,075.54
Claim #2	Wells Fargo Bank, NA	\$522,390.39
Claim #3	Wells Fargo Dealer Services	\$10,087.46
Claim #4	Capital One Bank (USA), N.A.	\$7,491.25
Claim #5	Pacific Bell Telephone Company c/o AT&T Inc	\$119.70
Claim #6	ECMC	\$1,371.22
Claim #7	Capital One Bank (USA), N.A.	\$444.16
Claim #8	Fred S. Pardes, A Professional Corporation	\$56,409.78

FR: 2-11-20

Docket 99

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 11, 2020**

Grant in part; deny in part; continue hearing in part. Grant as to Claim #s 4 and 7 (Capital One); continue hearing to March 19, 2020 at 10:30 a.m. as to Claim #s 1, 2, 3, 5 and 6 to allow Debtor to address various service/evidentiary issues;



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**CONT... Susan Doan**

**Chapter 7**

Deny as to Claim #8 without prejudice as moot.

Basis for Tentative Ruling:

I. Service:

The court shares the concern of the chapter 7 trustee regarding service given the unusual circumstances of this case. The court is concerned that the notice information given on the proofs of claim may not be current as this case was originally closed over 8 years ago on July 25, 2011, creditors had no duty or responsibility to maintain current addresses for notice. For example, as to the Wells Fargo, the proofs of claim include the name of a law firm, which may or may not still be the attorney of record for Wells Fargo. Because of the passage of time, the court will require that all creditors, save Capital One (Claim #s 4 and 7) and Fred S. Pardes (Claim #8), be re-served per FRBP 7004(b)(3) for corporate entities or 7004(h) for banks.

2. Substantive Issues:

a. Claim #1 (WF Bank): Debtor asserts that WF Bank is owed nothing on this claim due to its approval of a short sale of the property known as 29252 Silverado Canyon Road, Silverado, CA. However, there is no documentary evidence of any such approval (or even a demand into escrow) and the escrow settlement document doesn't show any distribution to WF as a secured creditor. Further, there is no evidence of the release of the WF lien. Debtor has not met her initial burden of presenting evidence sufficient to refute the presumed validity of this proof of claim. Absent additional evidence, the motion will be denied as to Claim #1 at the continued hearing.

b. Claim #2 (WF Bank): Debtor asserts that WF Bank is owed nothing on this claim due to its approval of a short sale of the property known as 29222 Shadybrook Drive, Silverado, CA. However, there is no documentary evidence of any such approval or a demand into escrow. Though the escrow settlement statement shows a distribution of document shows a distribution of \$199,556.11 of WF's \$522,390 claim, there is no evidence of acceptance by WF of this amount in full satisfaction of its claim. Further, there is no evidence of the

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**CONT... Susan Doan**

**Chapter 7**

release of the WF lien. Debtor has not met her initial burden of presenting evidence sufficient to refute the presumed validity of this proof of claim. Absent additional evidence, the motion will be denied as to Claim #2 at the continued hearing.

c. Claim #3 Wells Fargo Dealer Services Inc: The court could not verify that the post office box number indicated on the proof of claim is still viable. Accordingly, the motion must be reserved pursuant to FRBP 7004(b)(3). If no response is filed following re-service, the motion will be granted as to this claim at the continued hearing.

d. Claim #4 Capital One: In light of the amended claim in the amount of \$0.00 filed 2/10/20, the motion is granted as to this claim.

e. Claim #5 AT&T: Debtor has only provided the front of a check which purports to represent payment of the amount set forth in the proof of claim. Debtor must provide proof of either 1) the cancelled check or 2) bank statement showing the amount was deducted from her account. If Debtor provides such proof no later than 14 days prior to the hearing, the motion will be granted as to this claim. Re-service per 7004(b)(3) is required.

f. Claim #6 ECMC: The motion needs to be re-served per 7004(b)(3) as the court cannot verify that the P.O. Box on the proof of claim remains viable.. Further, the court cannot verify that the document attached as Exhibit 6 to Debtor's declaration is the same loan/debt referenced in proof of claim #6. Absent additional verification, the motion will be denied as to this claim at the continued hearing.

g. Claim #7 Capital One Bank: As Capital One Bank filed an amended proof of claim on 2/10/20 reducing the claim to \$0.00, the motion is granted as to this claim.

h. Claim #8 Fred S. Pardes: Debtor objected to Claim #8 as it was filed on August 20, 2010 in the amount of \$56,409.78. Since the objection was filed, Mr. Pardes amended the claim on January 29, 2020 to increase the claim to \$157,947.38, thereby mooting the current claim objection. Without ruling on the

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current objection, the court makes the following observations regarding Mr. Pardes' opposition and Debtor's reply in order to assist the parties should a new objection to the amended Claim #8 be filed:

-- Debtor raises the issue of the statute of limitations on the claim for the first time in the reply. This is a substantive argument that should have been raised in the motion. LBR 9013-1(g)(4). Should Debtor file a new objection, this is an issue Mr. Pardes will obviously need to address.

-- Mr. Pardes admits he cannot produce a fully executed retainer agreement. Accordingly, it would appear he cannot claim interest in the amount set forth in such unsigned retainer agreement. Further, the state court judgment rate would appear not apply as no state court judgment has been entered to this court's knowledge. Should this be a surplus estate, the chapter 7 trustee will distribute interest to unsecured creditors at the *federal* judgment rate based on the allowed amount of the claim. See, *In re Cardelucci*, 285 F.3d 1241, 1234 (9th Cir. 2002).

-- The case of *Leighton v. Forster*, 8 Cal App 5th 467, 485-492 (2017) is instructive regarding the application and interpretation of Cal Bus & Prof Code 6178: (" [S]ection 6148(a) expressly states that "[a]t the time the contract is entered into, the attorney shall provide a duplicate copy of the contract signed by both the attorney and the client....") (Alleged client deemed to have voided the retainer agreement under 6178(c) by not signing the retainer agreement or paying the invoice) ("when an agreement is voided under section 6148(c) 'the attorney shall, upon the agreement being voided, be entitled to collect a reasonable fee.' This provision of section 6148 codifies the general rule that when legal services have been provided without a valid written fee agreement, the attorney may recover the reasonable value of the services she performed in the action pursuant to a common count for *quantum meruit*") (" The two-year statute of limitations in Code of Civil Procedure section 339 governs claims for quantum meruit. (*Iverson*, supra, 76 Cal.App.4th at p. 996, 90 Cal.Rptr.2d 665; Code Civ. Proc., § 339.) Where the claim of quantum meruit is based upon services performed under a contract that was void or voidable, the limitations period commences to run on either the date the last payment was made toward the attorney fees, or the last date that the attorney performed services in the case."). The court in *Leighton* also rejected the attorney's

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argument that failure to object to an invoice constituted implied consent to pay it.

-- Contrary to Mr. Pardes' representation in his opposition, Debtor *did* list his claim as disputed.

-- The court is perplexed by Mr. Pardes' assertion that this court lack jurisdiction to adjudicate claims objections simply because the case was closed and later re-opened. The court is unaware of any legal authority that would limit this court's jurisdiction over the claims process pursuant to 28 U.S.C. 157(b)(2)(B) and Mr. Pardes has cited the court to no such authority.

-- The evidentiary objection of Debtor to the declaration of Mr. Pardes is well-taken. Hearsay, insufficient foundation for business record exception. FRE 803(6).

-----  
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Grant motion as to Claim #s 1, 2, 3, 5 and 8 (the court has previously granted the motion as to Claim #s 4 and 7); Deny as to Claim #6

Basis for Tentative Ruling

Claim #s 1, 2, 3 and 5: Debtor has resolved all service and evidentiary issues since the last hearing and has provided evidence sufficient to shift the burden of proof to the claimants, who have the ultimate burden of proof. No response was filed by any of the claimants.

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**CONT... Susan Doan**

**Chapter 7**

Claim #6 : This claim was filed on the official proof of claim form, with supporting documentation. See, Obj., Ex. 6. Therefore, Claim #6 is entitled to the presumption of prima facie validity, and Debtor must overcome this presumptive validity by negating one or more of the sworn facts in the claim.

At the previous hearing, the Court could not verify that the document attached as Exhibit 6 to Debtor's declaration is the same loan referenced in Claim #6. See Doan Decl., Ex. 6; see also Tentative Ruling, p. 4.

Here, Debtor still has not carried her burden of proof as to Claim #6. The February 26, 2014 notice from ECMC ("ECMC Note") suggested that the balance on the student loan account 867760/01 had been paid in full, but it did not mean that other loans, if any, were paid in full ("Please note this notice shall not constitute a waiver of ECMC's right to collect on educational loans which were not paid-in-full"). Doan Suppl. Decl., Ex. 9. Moreover, Debtor argues that the distributed amount of \$2,800 on ECMC Note matches with the \$2,800 "Requested Loan Amount" on the promissory note filed as supporting document with Claim #6. See Id.; Doan Suppl. Decl., p. 3:25-27; Doan Decl., Ex. 6, p. 84 of 92 (top of page). Nevertheless, Claim #6 asserts a debt of \$1,371.22 with a principal amount of \$1,100.48, not \$2,800. It is still unclear whether ECMC Note and Claim #6 are referring to the same loan/debt. Accordingly, Debtor has not presented evidence sufficient to rebut the presumed validity of Claim #6.

Claim #8 - Pardes

As a preliminary matter, Mr. Pardes' request that this hearing be continued until he can appear in person in court is denied. First, given the uncertainty of the current pandemic environment, social distancing could be the norm for months to come. Second, this court has conducted telephonic hearings for more than 15 years and accustomed to making determinations regarding the merits of oral argument whether a party is appearing in person or telephonically. Third, this matter is not a trial or evidentiary hearing where credibility of factual testimony could be impacted by the physical demeanor of the witness. At issue here are legal arguments which are readily conducive to telephonic argument so long as all parties can be clearly heard.

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**CONT... Susan Doan**

**Chapter 7**

- a. This Court Has Jurisdiction to Adjudicate the Claim Objection at Issue.

In its prior Tentatively Ruling, the Court noted that Pardes failed to cite to any authorities to support his argument that this Court lacks jurisdiction. See above Tentative Ruling. Pardes's supplemental opposition, however, again fails to cite to any legal authorities to support his argument that because the case was re-opened for the narrow purpose for the Trustee to administer Debtor's undisclosed assets, the Court has no jurisdiction to hear claim objections. See Pardes Second Opp'n, p. 15:2-20. Pardes simply declares that his argument is "logical and rationale, and is made in good faith." Id., p. 15:16. This is insufficient to rebut the fact that this Court has jurisdiction to adjudicate the instant matter pursuant to 28 U.S.C. § 157(b)(2)(B)(core proceedings include, "allowance or disallowance of claims against the estate ...").

- b. The Retainer Does Not Comply with California Business & Professions Code § 6148

Under California Business & Professions ("B&P") Code § 6148(a):

"[i]n any case ... in which ... it is reasonably foreseeable that total expense to a client, including attorney fees, will exceed one thousand dollars (\$1,000), the contract for services in the case shall be in writing. At the time the contract is entered into, the attorney shall provide a duplicate copy of the contract signed by both the attorney and the client ..."

As the Court pointed out in previous Tentatively Ruling, *Leighton v. Forster*, 8 Cal. App. 5th 467 (2017) is instructive regarding the application and interpretation of B&P Code § 6148 on attorney fee agreement.

*Leighton* involved an engagement letter that an attorney e-mailed to her client, who never signed the letter. 8 Cal. App. 5th at 475-6. After the client passed away, the attorney filed a complaint against the client's widow for breach

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Chapter 7

of a written attorney fee contract and an account stated. *Id.* at 481. The *Leighton* court, however, concluded that the (1) engagement letter was not in compliance with B&P Code § 6148(a) because it was not signed; *Id.* at 484. (2) Client's widow implicitly voided the engagement letter by refusing to pay; *Id.* at 487. (3) The Attorney's Quantum Meruit claim was barred by the two-year statute of limitations; *Id.* at 490. (4) The Attorney's account stated claim failed as a matter of law. *Id.* at 490-491.

Contrary to Pardes's belief, *Leighton* is instructive because it is not only factually similar, but also on all fours with the instant matter. The fact that the client in that case was not actively involved in the underlying legal proceedings is immaterial. See Pardes Second Opp'n, p. 10:16-18. The client's widow did not sign the engagement letter, making it unenforceable pursuant to B&P Code § 6148(a). *Leighton*, 8 Cal. App. 5th at 484. Once the client passed away, the attorney could not collect her fees from or litigate against the client anymore. See *Id.* at 470. The Court observed that "section 6148(a) expressly states that '[a]t the time the contract is entered into, the attorney shall provide a duplicate copy of the contract signed by both the attorney and the client...' 8 Cal. App. 5th at 486. In other words, for a contract to be enforceable under Section 6148(a), (1) the attorney must provide a duplicate copy of the contract and (2) the contract must be signed by both parties (3) at the time the contract is entered into. *Id.*

Here, the retainer agreement provided by Pardes (the "Retainer") does not meet the requirements of B&P Code § 6148(a). Although Pardes mailed the Retainer to Debtor, neither Pardes nor Debtor signed it. Pardes Opp'n, Ex. 6-4. On the cover sheet of the two letters that Pardes sent to Debtor, he specifically asked Debtor to "please sign and return" the Retainer, but Debtor did not do so. Pardes Opp'n, Ex. 6-1, Ex. 7. "[T]he fact that an alleged attorney fee contract has not been signed by anyone does not constitute a technicality, but a material failure to comply with a crucial statutory requirement." *Leighton*, 8 Cal. App. 5th at 484-485. Further, *Leighton* also rejected the attorney's argument that failure to object to an invoice constituted implied consent to pay it. *Id.* Similarly, the fact that Debtor did not sign or return the Retainer even when she was instructed to do so suggests that her decision not to sign was intentional and therefore refutes Pardes's argument that Debtor's silence constitutes acceptance of the retainer agreement. Pardes cannot argue that the Debtor did not object the invoices he

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**CONT... Susan Doan**

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sent constitute consent to pay them either.

- c. Debtor Impliedly Voided the Retainer Pursuant to B&P Code § 6148(c) and § 6148(d)(3)

Under B&P Code § 6148(c), Pardes's failure to comply with § 6148(a) renders the retainer agreement voidable at the option of Debtor. A client does not have to void a noncompliant agreement expressly. See *Leighton*, 8 Cal. App. 5th at 487-488. In *Leighton*, the court inferred that the client and his widow "implicitly voided" an engagement letter by failing to sign it and refusing to pay a subsequent invoice from the attorney. *Id.* Similarly, by failing to sign the Retainer and returning the invoices, Debtor voided the Retainer.

A client may waive the right to void an agreement if she "knowingly states in writing, after full disclosure of this section, that a writing concerning fees is not required." B&P. Code § 6148(d)(3). Here, no evidence suggests that Pardes disclosed § 6148 to Debtor or that Debtor knowingly stated in writing that "a writing concerning fees is not required." See *Id.* Therefore, Debtor did not waive her option to render the Retainer void.

Pardes's argument that Debtor is estopped to from voiding the Retainer is not persuasive. The authorities cited by Pardes discuss generally the rationale of the doctrine of estoppel by statement or conduct, but none of them specifically involve an attorney fee contract under B&P Code § 6148 or is remotely factually similar to the instant matter. See *In re Marriage of Valle*, 53 Cal. App. 3d 837 (1975)(ruling on an action brought by wife for dissolution of marriage, child custody and support and division of community property); *United States v. Moore*, 522 F.2d 1068 (9th Cir. 1975)(discussing criminal law issues, such as search and seizure); *Jenkins v. Anderson*, 447 U.S. 231 (1980)(discussing the Fifth Amendment issues and impeachment of witness in criminal cases); *S. Stone Co. v. Singer*, 665 F.2d 698 (5th Cir. 1982)(discussing parol evidence under Georgia law).

Because Debtor has voided the Retainer impliedly, there is no enforceable contract of services between Pardes and Debtor.



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**Susan Doan**

**Chapter 7**

- d. Interest Rate Cannot be Calculated Based on the Retainer Since It is Unenforceable

Since there is no enforceable contract, interest, if any, cannot be calculated based on the rate set in paragraph 7 of the retainer agreement, which is 18%. Pardes Opp'n, Ex. 6-4. Contrary to Pardes's belief that "at minimum" he can alternatively charge Debtor with the state interest rate, which is 10%, the federal interest rate should apply. Opp'n, Pardes Decl. 6:20. Under 11 U.S.C. 726(a)(5), an unsecured creditor is entitled to "payment of interest at the legal rate from the date of the filing of the petition" before any distribution of remaining assets to the debtor. In *Onink v. Cardelucci*, 285 F.3d 1231, 1234 (9th Cir. 2002), the Ninth Circuit Court of Appeals adopted the Bankruptcy Appellate Panel's reasoning in *In re Beguelin*, 220 B.R. 94, 99 (9th Cir. BAP 1988) and concluded that "interest at the legal rate" referred to federal judgment rate. Accordingly, at most Pardes may charge Debtor with an interest rate of 0.44%, which was the federal judgment rate of interest when Debtor filed her bankruptcy petition on April 13, 2010. See, *Post-Judgment Interest Rates – 2010*, [https://www.casb.uscourts.gov/sites/casb/files/documents/postjudgment/historic\\_rates.pdf](https://www.casb.uscourts.gov/sites/casb/files/documents/postjudgment/historic_rates.pdf).

- e. Pardes's Quantum Meruit Claim Is Barred by the Two-Year Statute of Limitations Pursuant to CCP § 339

While Debtor raised the statute of limitations defense to Pardes's quantum meruit argument for the first time in her Reply to Pardes's original opposition, since the Court continued the hearing, Pardes had an opportunity to address the statute of limitations defense, and he did so in his second opposition. See Reply, p. 4-6; see also Pardes Second Opp'n.

The court in *Leighton* held that B&P Code § 6148(c) "codifies the general rule that when legal services have been provided without a valid written fee agreement, the attorney may recover the reasonable value of the services she performed in the action pursuant to a common count for quantum meruit." 8 Cal. App. 5th at 490. Citing to *Iverson*, 76 Cal. App. 4th at p. 996, *Leighton* further observed:

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CONT...

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**Chapter 7**

"[the two-year statute of limitations in Code of Civil Procedure § 339 governs claims for quantum meruit ... Where the claim of quantum meruit is based upon services performed under a contract that was void or voidable, the limitations period commences to run on either the date the last payment was made toward the attorney fees, or the last date that the attorney performed services in the case."

*Leighton*, 8 Cal. App. 5th at 490.

In the instant matter, Pardes admits that the last payment Debtor made to him was on August 11, 2006. Pardes Second Opp'n, p. 2:1.

The last date that Pardes performed services for Debtor is less clear. In her request for fee arbitration, she stated that, "My real balance to Fred Pardes was approximately \$10,000 in August 2006. I fired him then[.]" Pardes Supp. Decl., Ex. 11-2, Section 17. If Debtor terminated Pardes as her lawyer in August 2006, any services rendered by Pardes thereafter was not authorized. Consequently, the statute of limitations would begin to run from the date of last payment, which was August 11, 2006.

The invoices show, and Debtor acknowledges, that the last service for which Debtor allegedly incurred a charge occurred on February 28, 2007. See Pardes Decl., Ex. 8-24; see also Pardes Suppl. Decl., p. 4, ¶ 69 ("That the last legal bill with legal fees charged was March 23, 2007 ... (Exh. 8-24)."). On April 18, 2007, Pardes also performed some "records search" for Debtor for which he did not charge Debtor. Pardes Decl., Ex. 8-23.

Even if the statute of limitations did not start to run until April 18, 2007, the bar date would be April 18, 2009, nearly one year prior to the filing of the bankruptcy petition on April 13, 2010. Therefore, the two-year statute of limitations has expired already regardless. The first state court lawsuit was dismissed without prejudice, and Pardes did not file the second state-court lawsuit until July 20, 2010, three months after the

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**CONT... Susan Doan**

**Chapter 7**

petition date and after the expiration of the statute of limitations.

In conclusion, Pardes's Quantum Meruit claim is time-barred by the two-year statute of limitations pursuant to CCP § 339.

f. Pardes's Account Stated Claim Has No Merit.

The essential elements of an account stated are (1) previous transactions between the parties establishing the relationship of debtor and creditor; (2) an agreement between the parties, express or implied, on the amount due from the debtor to the creditor; and (3) a promise by the debtor, express or implied, to pay the amount due. *Leighton*, 8 Cal. App. 5th at 491. The *Leighton* court observed:

"Indeed, courts uniformly hold that a plaintiff cannot use the device of pleading a common count, such as an open book account or account stated, in order to extend the statute of limitations period when the basis of the common count claim is factually identical to the barred contract claim.... Appellant's common count theory is based on the identical evidence appellant uses to support her first cause of action for breach of a written attorney fee agreement. However, there is insufficient evidence in this record to create a triable issue of fact with respect to the existence of a written attorney fee agreement between appellant and Rochelle. This deficiency establishes that any claim appellant has against Rochelle for her unpaid fees could only arise from an obligation that it not based on a writing. The statute of limitations for such a claim is two years."

*Id.* at 494.

Under *Leighton*, Pardes' account stated claim cannot stand. In sum, there is no enforceable written fee contract that could establish a debtor-creditor relationship between Doan and Pardes. See *Leighton*, 8 Cal. App. 5th at 492. and B&P Code § 6148(c). The fact that Debtor did not object to the invoices Pardes sent cannot be inferred as consent to pay him. See *Leighton*, 8 Cal. App. 5th at 492. To the contrary, Debtor's failure to pay Pardes and her decision to

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seek fee arbitration was further notice to Pardes that Debtor did not agree that she incurred such a debt. *See Id.* at 493; Pardes Second Opp'n, Ex. 11. In addition, Pardes's account state claim is based upon the identical evidence he uses to support his breach of written contract claim. As such, the two-year statute of limitations is applicable here and Pardes's claim is time-barred.

Pardes argues that the instant matter is distinguishable from *Leighton*, but he fails to cite to any authorities that support his proposition that a combination of payments made by Debtor and her failure to object to the remaining balance created an account stated. *See* Pardes Second Opp'n, p. 6:3-9.

g. Equitable Tolling Is Not Applicable

While California courts have applied the doctrine of equitable tolling in bankruptcy cases, Pardes fails to satisfy the requirements of equitable tolling for it to apply here. *See, e.g., In re Capital Options, LLC*, 719 F. App'x 609 (9th Cir. 2018); *In re Milby*, 875 F.3d 1229 (9th Cir. 2017). In *In re Capital Options*, the debtor sued to recover on breach of contract theory. 719 F. App'x at 610. The court first pointed out that a two-year statute of limitations applied to alleged breaches of oral contracts pursuant to CCP § 339. *Id.* at 611. The court then rejected the debtor's (plaintiff) argument of equitable tolling for several reasons, amount which two of them are instructive for the instant matter: (1) the debtor "alleged no facts regarding equitable tolling in its complaint, which it had the burden of doing"; and (2) the plaintiff fails to show "among other things, it acted reasonably and in good faith." *Id.* at 621 (citing *Addison v. State*, 21 Cal. 3d 313, 319).

In the instant matter, Pardes has failed to show that he has acted reasonably and in good faith. *See In re Capital Options*, 719 F. App'x at 612. The plaintiff in *In re Capital Options* failed to show reasonableness or good faith because "little [was] known about the state-court litigation other than that it lasted for 13 months and was dismissed at [debtor's] request." *Id.* at 612-13. Similarly, in this matter little is known about the first state-court litigation between Debtor and Pardes except that it lasted a year and was dismissed without prejudice. Pardes could have filed another complaint before the expiration of the two-year statute of limitations, but he did not do so. Pardes declares that his actions meet

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**CONT... Susan Doan**

**Chapter 7**

all the requirements of equitable tolling, but he does not provide any evidence to support his claim. See Pardes Second Opp'n, p. 14:24-26.

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

**Debtor(s):**

Susan Doan

Represented By  
Gregory J Doan  
Bryan L Ngo

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Tinho Mang

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**8:16-11882 Stephen J Haythorne**

**Chapter 7**

Adv#: 8:16-01247      Damon v. Haythorne

**#28.00**      CON'TD Examination of Judgment Debtor Stephen J. Haythorne RE: Enforcement of Judgment

FR: 7-16-19; 8-15-19; 10-17-19; 11-21-19; 1-30-20

Docket      128

**\*\*\* VACATED \*\*\*      REASON: CONTINUED TO 6/11/2020 AT 10:30 A.M.,  
Per Order Entered 3/30/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Examination Continued to 6/11/2020 at 10:30 a.m., Per Order Entered 3/30/2020 (XX) - td (3/30/2020)**

**Tentative Ruling:**

**July 16, 2019**

Stephen Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.

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**August 8, 2019**

Stephen Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.

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**August 15, 2019**

Stephen Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.

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**October 17, 2019**

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**CONT... Stephen J Haythorne**

**Chapter 7**

Judgment creditor has not sought the issuance of an OSC re contempt.  
Continue hearing to November 21, 2019 at 10:30 a.m. Any motion for OSC re contempt may be heard on the same date.  
-----

**November 21, 2019**

Judgment creditor to advise the court re the status of this matter. The court notes that judgment creditor has not sought the issuance of an OSC re contempt.  
-----

**January 30, 2020**

Judgment creditor to advise the court re the status of this matter, e.g., production of documents. Stephen Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.

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

**Debtor(s):**

Stephen J Haythorne

Represented By  
David S Henshaw

**Defendant(s):**

Stephen J Haythorne

Pro Se

**Plaintiff(s):**

Hugh C Damon

Represented By  
Robert P Goe  
Charity J Manee

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

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**8:16-11882 Stephen J Haythorne**

**Chapter 7**

Adv#: 8:16-01247      Damon v. Haythorne

**#29.00**      CON'TD Examination of Judgment Debtor/Third Person Kelli R. Haythorne RE:  
Enforcement of Judgment

FR: 7-16-19; 8-15-19; 10-17-19; 11-21-19; 1-30-20

Docket      130

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/11/2020 AT 10:30 A.M.,  
Per Order Entered 3/30/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Examination Continued to 6/11/2020 at 10:30 a.m., Per Order  
Entered 3/30/2020 (XX) - td (3/30/2020)**

**Tentative Ruling:**

**July 16, 2019**

Kelli Haythorne to appear in court to be sworn in by the court clerk; the  
examination will take place outside the courtroom.

-----

**August 8, 2019**

Kelli Haythorne to appear in court to be sworn in by the court clerk; the  
examination will take place outside the courtroom.

-----

**August 15, 2019**

Kelli Haythorne to appear in court to be sworn in by the court clerk; the  
examination will take place outside the courtroom.

-----

**October 17, 2019**



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**CONT... Stephen J Haythorne**

**Chapter 7**

Judgment creditor has not sought the issuance of an OSC re contempt.  
Continue hearing to November 21, 2019 at 10:30 a.m. Any motion for OSC re contempt may be heard on the same date.  
-----

**November 21, 2019**

Judgment creditor to advise the court re the status of this matter. The court notes that judgment creditor has not sought the issuance of an OSC re contempt.  
-----

**January 30, 2020**

Judgment creditor to advise the court re the status of this matter, e.g., production of documents. Kelli Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom (no doctor's note was filed by January 16, 2020 excusing her appearance).

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

**Debtor(s):**

Stephen J Haythorne

Represented By  
David S Henshaw

**Defendant(s):**

Stephen J Haythorne

Pro Se

**Plaintiff(s):**

Hugh C Damon

Represented By  
Robert P Goe  
Charity J Manee

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**CONT... Stephen J Haythorne**

**Chapter 7**

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

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10:30 AM

**8:17-10706 John Jean Bral**

**Chapter 11**

**#30.00** Hearing RE: Reorganized Debtor's Motion for Order: (1) Compelling Barry Beitler to Perform Under the Terms of the Chapter 11 Plan; (2) Sanctioning Barry Beitler and His Counsel for Attorney's Fees Incurred by the Debtor Prosecuting This Motion; and (3) Authorizing the Use of Funds on Hand in the Estate to Pay Professionals' Fees

Docket 895

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant in part; deny in part. Grant as to the request for the distribution of funds on hand for attorneys fees. Deny all other relief requested in the Motion.

Basis for Tentative Ruling:

The court agrees with Beitler that Section 1142(b) cannot be used as a substitute for modification of the terms of the confirmed Fourth Amended Chapter 11 Plan ("Confirmed Plan"), which is what Debtor is requesting of the court. Ironically, the Third Amended Plan ("TAP") filed May 21, 2019 [docket #719] actually included

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**CONT... John Jean Bral**

**Chapter 11**

the procedure Debtor now seeks under the section entitled Means for Execution of Plan, to wit:

"To the extent the Debtor and Beitler cannot agree on the selection of the retired judge from the names of the six proposed retired judges they together exchange, the names of the six proposed retired judges shall be submitted to the presiding judge of the Los Angeles Superior Court, who, after briefing and a noticed hearing, shall make the selection. *If the presiding judge of the Los Angeles Superior Court is unwilling or unable to make a selection, the names of the six proposed retired judges shall be submitted to the Court and the Court, after briefing and a noticed hearing, shall make the selection.*" (emphasis added) [Docket #719]

"Court" is defined in the TAP as the Bankruptcy Court. In addition, the related motion for approval of modifications to the TAP also filed on May 21, 2019 requested approval of the identical language at p. 7, lines 8-11. [Docket #721]. Though the modification motion was ultimately granted by the court, subsequent versions of the plan, i.e., the Third Amended Plan as Modified and the Confirmed Plan, do not include the italicized language above. It is not at all clear to the court why the procedure to allow this court to appoint the arbitrator was deleted from the Confirmed Plan. But it was. Notably, the confirmation order references the Second Amended Plan and the Third Amended Plan as Modified but not the TAP.

If Debtor now wishes to modify the Confirmed Plan to include the procedure provided for in the TAP, he must file a proper motion to modify under 1127.

All requests for sanctions/attorneys fees are denied.

*Special note: The court is tremendously disappointed that the parties have been unable to agree on a retired judicial officer to act as arbitrator. If one side prefers an arbitrator from Los Angeles and the other prefers one from Orange County, why not one from Riverside County or San Diego County? Why does it make sense to either side to continue to drag out a matter that is easily resolvable? Life is short.*

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CONT... John Jean Bral

Chapter 11

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

**Party Information**

**Debtor(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel  
Bobby Samini  
Dean A Ziehl  
Gary A Pemberton

**Movant(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel  
Bobby Samini  
Dean A Ziehl  
Gary A Pemberton

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10:30 AM

**8:19-11546 Joseph Ra**

**Chapter 7**

**#31.00** STATUS CONFERENCE RE: Compliance RE: Motion For Order to Show Cause Why Alleged Contemnors: Joseph RA, Jong Hea Ra, Christopher Lee, Viken Chelebrian; and David Spreen should not be held in Contempt of Court for failing to comply with Court Orders (ECF Nos. 70, 83, 102, 108 and 109)

FR: 2-20-10

Docket 127

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Grant the Motion. Order should provide that the respondents can purge contempt by agreeing to comply with the court's orders within 30 days of the entry of the OSC.

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**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

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**CONT... Joseph Ra Chapter 7**

Continue the hearing to June 4, 2020 at 10:30 a.m. The examinees must provide a declaration to the trustee's counsel no later than May 21, 2020 confirming that all documents under their custody and control have been produced.

The court is hesitant to order any party to appear face to face for an examination in light of the uncertainty of the current COVID-19 circumstance, even two months out. The court would suggest that the trustee consider conducting the examinations via a video conference platform on a date and at a time agreeable to the parties prior to June 4, 2020. The court will determine the appropriate remedy re Mr. Ra at the continued hearing.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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

**Debtor(s):**

Joseph Ra

Represented By  
David B Golubchik  
Jaenam J Coe

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector  
Thomas J Polis

**United States Bankruptcy Court  
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**Thursday, April 2, 2020**

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10:30 AM

**8:19-11771 Gustavo Bautista Ortiz and Amparo Hernandez Castro**

**Chapter 11**

**#32.00** Hearing RE: Debtors and Debtors-In-Possessions'  
Disclosure Statement Describing Chapter 11 Plan of Reorganization

Docket 139

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Approve disclosure statement on condition that an amended disclosure statement and blacklined copy are filed by April 16, 2020 to address issues raised by the court. Deadline to serve plan package (disclosure statement, plan and ballot) is April 30, 2020; Deadline for creditors to return ballots and/or object to plan confirmation is May 28, 2020; Deadline for Debtors to file a ballot tally analysis and confirmation brief is June 8, 2020. Confirmation Hearing Date: June 18, 2020 at 10:30 a.m.

Matters to be addressed in Amended Disclosure Statement:

1. The business structure of KB Oil should be described, e.g., is it a dba or corporation?



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**CONT... Gustavo Bautista Ortiz and Amparo Hernandez Castro**

**Chapter 11**

2. The liquidation analysis should include unpaid chapter 11 administrative expenses. Also, the liquidation analysis lists unsecured claims of \$692,241.50 but Exh. G lists such claims in the amount of \$651,613.82.
3. The risk analysis should disclose any possible negative impact of the pandemic on Debtor's business revenues.
4. Debtors need to explain how they will have cash on hand of \$24,000 by the effective date when the February monthly operating report shows an ending balance of less than \$600.
5. Debtors need to explain why projected business expenses of approximately \$16,000 is significantly less than the business expense reported in the February monthly operating report.
6. On p. 8, if there are no other legal proceedings, paragraph no. 2 should be deleted.
7. On p. 10, line 4, Debtors need to explain the \$2,000 monthly payment of attorneys fees -- what is the total sum to be paid?
8. On p. 18, the collateral for the secured tax claim needs to be identified.

***Note: If Debtors accept the foregoing tentative ruling, appearance at this hearing is not required.***

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

**Debtor(s):**

Gustavo Bautista Ortiz

Represented By  
Giovanni Orantes  
Luis A Solorzano

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**CONT... Gustavo Bautista Ortiz and Amparo Hernandez Castro**

**Chapter 11**

**Joint Debtor(s):**

Amparo Hernandez Castro

Represented By  
Giovanni Orantes  
Luis A Solorzano

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**8:19-11771 Gustavo Bautista Ortiz and Amparo Hernandez Castro Chapter 11**

**#33.00 CONT'D STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case**

FR: 12-19-19

Docket 91

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 19, 2019**

Claims Bar Date:	Mar. 3, 2020
Deadline to file plan/DS:	Feb 14, 2020
Continued Status Conference:	Apr. 2, 2020 at 10:30 a.m. (XX)
Updated Status Report due*:	Mar. 19, 2020

\*Updated status report not required if plan/DS have been filed by such date.

***Note: Appearance at this hearing is not required if Debtor is in substantial compliance with the requirements of the U.S. Trustee. It is Debtor's responsibility to ascertain its compliance status prior to the hearing.***

-----

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must

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CONT... Gustavo Bautista Ortiz and Amparo Hernandez Castro Chapter 11

**register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

Continue status conference to the same date/time as the plan confirmation hearing; updated status report not required.

***Note: Appearance at this hearing is not required if Debtor is in substantial compliance with the requirements of the U.S. Trustee. It is Debtor's responsibility to ascertain its compliance status prior to the hearing.***

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

**Debtor(s):**

Gustavo Bautista Ortiz

Represented By  
Giovanni Orantes  
Luis A Solorzano

**Joint Debtor(s):**

Amparo Hernandez Castro

Represented By  
Giovanni Orantes  
Luis A Solorzano

United States Bankruptcy Court  
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Thursday, April 2, 2020

Hearing Room 5A

10:30 AM

8:19-13547 Luis Alberto Rodriguez, Jr.

Chapter 11

#34.00 Hearing RE: Motion by United States Trustee to Dismiss Case or Convert Case to One Under Chapter 7 Pursuant to 11 U.S.C. Section 1112(b)

Docket 57

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Voluntary Dismissal of U.S. Trustee's Motion, filed 3/5/2020

Courtroom Deputy:

OFF CALENDAR: Voluntary Dismissal of U.S. Trustee's Motion, filed 3/5/2020 - td (3/5/2020)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luis Alberto Rodriguez Jr.

Represented By  
Michael Jones  
Sara Tidd

United States Bankruptcy Court  
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Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, April 2, 2020

Hearing Room 5A

10:30 AM

8:20-10262 MESCO, Inc.

Chapter 11

#35.00 STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and (2)  
Requiring Report on Status of Chapter 11 Case

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Debtor's counsel to advise the court re the status of procuring insurance for the uninsured properties.

Deadline to file plan and disclosure statement is July 25, 2020. Continue status conference to August 20, 2020 at 10:30 a.m. Updated status report must be filed by August 6, 2020 unless a plan and disclosure statement has been filed by such date, in which case the requirement of a status report will be waived.

**Note: Appearance at this hearing is required.**

**Party Information**

**Debtor(s):**

MESCO, Inc.

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**CONT... MESCO, Inc.**

Michael G Spector

**Chapter 11**

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Judge Erithe Smith, Presiding  
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**Thursday, April 2, 2020**

**Hearing Room 5A**

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**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#35.10** Hearing RE: Creditor Todd Kurtin's Motion For Order Converting Case to Chapter 7

Docket 26

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

The court is inclined to deny this motion as premature and serving no cognizable purpose. Movant argues that Debtor has no assets and, therefore, no path to reorganization. Accepting that as true, what would be accomplished by a conversion to chapter 7? That said, Debtor needs to advise the court of the reorganization exit strategy in this case.

**Party Information**

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**Movant(s):**

Todd Kurtin

Represented By  
Lewis R Landau



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Broadband Nation LLC**

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#36.00** Hearing RE: Debtor's Application to Employ Goe Forsythe & Hodges LLP, as Its Chapter 11 General Bankruptcy Counsel

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Approve application. Overrule objections filed by Todd Kurtin

*Special note: Debtor's counsel shall issue separate billing statements from the other related Debtors.*

**Party Information**

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#37.00 STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and (2)  
Requiring Report on Status of Chapter 11 Case**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

The reorganization purpose of this filing is not clearly articulated in the status report. Debtor states that the case was filed to "preserve assets" for the benefit of creditors. What assets? Debtor's Schedules A/B show receivables from related entities with a value of \$0.00. Further, Debtor vaguely states that it intends to participate in a joint plan with other unnamed related debtors. What does this Debtor, with no assets of value, have to contribute to a joint plan?

**Party Information**

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#37.10** Hearing RE: Creditor Todd Kurtin's Motion For Order Converting Case to Chapter 7

Docket 25

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

The court is inclined to deny this motion as premature and serving no cognizable purpose. Movant argues that Debtor has no assets and, therefore, no path to reorganization. Accepting that as true, what would be accomplished by a conversion to chapter 7? That said, Debtor needs to advise the court of the reorganization exit strategy in this case.

**Party Information**

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**Movant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Heritage Colorado LLC**

**Chapter 11**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 2, 2020

Hearing Room 5A

10:30 AM

8:20-10373 Heritage Colorado LLC

Chapter 11

#38.00 Hearing RE: Debtor's Application to Employ Goe Forsythe & Hodges LLP, as its Chapter 11 General Bankruptcy Counsel

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Approve application. Overrule objections filed by Todd Kurtin

*Special note: Debtor's counsel shall issue separate billing statements from the other related Debtors.*

**Party Information**

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**Movant(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Heritage Colorado LLC**

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 2, 2020

Hearing Room 5A

10:30 AM

8:20-10373 Heritage Colorado LLC

Chapter 11

#39.00 STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and (2)  
Requiring Report on Status of Chapter 11 Case

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

The reorganization purpose of this filing is not clearly articulated in the status report. Debtor states that the case was filed to "preserve assets" for the benefit of creditors. What assets? Debtor's Schedules A/B show receivables from related entities with a value of \$0.00. Further, Debtor vaguely states that it intends to participate in a joint plan with other unnamed related debtors. What does this Debtor, with no assets of value, have to contribute to a joint plan?

**Party Information**

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#39.10** Hearing RE: Creditor Todd Kurtin's Motion For Order Converting Case to Chapter 7

Docket 25

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

The court is inclined to deny this motion as premature and serving no cognizable purpose. Movant argues that Debtor has no assets and, therefore, no path to reorganization. Accepting that as true, what would be accomplished by a conversion to chapter 7? That said, Debtor needs to advise the court of the reorganization exit strategy in this case.

**Party Information**

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe

**Movant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... TDV Development Corporation**

**Chapter 11**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 2, 2020

Hearing Room 5A

10:30 AM

8:20-10374 TDV Development Corporation

Chapter 11

#40.00 Hearing RE: Debtor's Application to Employ Goe Forsythe & Hodges LLP, as its Chapter 11 General Bankruptcy Counsel

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Approve application. Overrule objections filed by Todd Kurtin

*Special note: Debtor's counsel shall issue separate billing statements from the other related Debtors.*

**Party Information**

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe

**Movant(s):**

TDV Development Corporation

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... TDV Development Corporation**

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 2, 2020

Hearing Room 5A

10:30 AM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#41.00** STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and (2)  
Requiring Report on Status of Chapter 11 Case

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

The reorganization purpose of this filing is not clearly articulated in the status report. Debtor states that the case was filed to "preserve assets" for the benefit of creditors. What assets? Debtor's Schedules A/B show receivables from related entities with a value of \$0.00. Further, Debtor vaguely states that it intends to participate in a joint plan with other unnamed related debtors. What does this Debtor, with no assets of value, have to contribute to a joint plan?

**Party Information**

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

2:00 PM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01216 Marshack v. Hyundai Steel Company

**#42.00** Hearing RE: Defendant Hyundai Steel Company's Motion to Dismiss

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Hyundai Steel Company

Represented By  
Philip S Warden

**Movant(s):**

Hyundai Steel Company

Represented By  
Philip S Warden

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Prime Metals U.S.A., Inc.**

David M Goodrich  
Robert P Goe

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

2:00 PM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01216 Marshack v. Hyundai Steel Company

**#43.00** CON'TD STATUS CONFERENCE RE: Complaint For: 1. Breach of Contract; 2. Breach of Implied Covenant of Good Faith and Fair Dealing; 3. Avoidance and Recovery of Intentional Fraudulent Transfers; 4. Avoidance and Recovery of Constructive Fraudulent Transfers; 5. Avoidance and Recovery of Property of the Bankruptcy Estate; 6. Temporary Restraining Order and Preliminary Injunction; 7. Avoidance of Preferential Transfers; 8. Recovery of Avoided Transfers; 9. Substantive Consolidation; 10. Declaratory Judgment: Alter Ego

FR: 2-6-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Hyundai Steel Company

Pro Se

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 2, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 9, 2020

Hearing Room 5A

9:30 AM

**8:16-12895 29 Prime, Inc.**

**Chapter 7**

Adv#: 8:17-01226 Marshack v. Wallace et al

**#1.00 CON'TD PRE-TRIAL CONFERENCE RE: First Amended Complaint for: (1) Breach of Fiduciary Duty - Derivative; (2) Constructive Trust (As to Defendant Russell Wallace Only)**

(Advanced from 6-14-18)

FR: 6-7-18; 7-19-18; 12-20-18; 5-2-19; 5-7-19; 8-22-19; 11-7-19; 12-12-19; 1-30-20

Docket 47

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**July 19, 2018**

The following discovery schedule applies to Plaintiff and Defendant Haleh Fardi:

Discovery Cut-off Date:	Oct. 19, 2018
Deadline to Attend Mediation:	Nov. 16, 2018
Pretrial Conference Date:	Dec. 20, 2018 at 9:30
a.m.	(XX)
Deadline to Lodge Joint Pretrial Stipulation:	Dec. 6, 2018

Deadline for Plaintiff to move for entry of default judgments as to non-answering defendants:	Sept. 21, 2018
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**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

9:30 AM

CONT... 29 Prime, Inc.

**Chapter 7**

**May 7, 2019**

Court's Comments re the Joint Pretrial Stipulation:

1. A demand for jury trial has been made. Each party is required indicate whether they consent or do not consent to the jury trial being conducted in this court. Absent 100% consent by all parties, the jury trial must be held in District Court. Statements re consent or nonconsent to this court conducting the jury trial must be filed with the court by **May 21, 2019**.
2. The facts to which Defendant Russell Wallace admitted to in his answer should be reflected in the Admitted Facts Section of the Stipulation.
3. Re Section (c)(1) of the Issues of Law, why must a determination be made at trial re whether Mr. Redman and Mr. Martin breached their fiduciary duties to 29 Prime when defaults have been entered against both gentlemen?
4. Why isn't Ms. Fardi ready for trial? The reason(s) should have been set forth in the Stipuation.
5. Any motions *in limine* need to be filed no later than **June 18, 2019** and scheduled for hearing no later than **July 16, 2019**.

***Note: Appearances at this hearing are required.***

-----

**August 22, 2019**

Comments re the Joint Pretrial Stipulation filed 8/16/19:

1. Who has signed off on the JPS. No signatures for either of the remaining defendants, Russell Wallace or Haleh Fardi. Did either of them participate in the preparation of this JPS?
2. The JPS is supposed to include a section on all admitted facts that require no proof. So, why does that section include the statement that Ms. Fardi

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 9, 2020

Hearing Room 5A

9:30 AM

CONT... 29 Prime, Inc.

Chapter 7

"disputes" the admitted facts? That would make them NOT admitted. Which facts does she actually dispute?

3. Why does the admitted facts section include Nos. 13, 18 - 48 which all appear to be DISPUTED FACTS????

4. Why does (f) state that plaintiff "intends to file a motion *in limine*" when such a motion was already filed as of August 16, 2019, the date the JPS was submitted?

***Special Note: If at all possible, the court would like for the trustee, Richard Marshack to participate in this hearing.***

***Note: Appearances at this hearing are required.***

-----

**November 7, 2019**

Continue the Pretrial Conference to December 12, 2019 at 9:30 a.m. The court shall issue an Order to Show Cause Why This Adversary Proceeding Should Not Be Dismissed Due to the Inability of Plaintiff to Properly Prosecute This Adversary Proceeding. The OSC hearing shall take place on Dec. 12, 2019 at 9:30 a.m. (XX)

Plaintiff's counsel has failed to timely comply with a strict order of this court re the service of an amended joint pretrial stipulation -- once again causing further delay and confusion for the defendants. The apologies offered are shallow and of no moment. The pretrial conference has previously been continued twice due to counsel's inability to present a proper, coherent and timely pretrial stipulation. Enough is enough.

-----

**December 12, 2019**

Take matter off calendar in light of tentative ruling for Calendar #2 dismissing adversary proceeding.

-----

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

9:30 AM

CONT... 29 Prime, Inc.

Chapter 7

**January 30, 2020**

The court is inclined to approve the pretrial statement filed January 9, 2020 (docket #157) on the following conditions:

1. A Final Pretrial Statement is filed within 7 days of the hearing that a) deletes the words "And Order" from the caption (a separate order approving the Stipulation must be lodged); and b) deletes the "Status of the Parties" and related chart as such is beyond the scope of LBR 7016-1(b) and clutters up what should be a straightforward statement.
  
2. Counsel for Plaintiff appears at the hearing and advises the court of the basis for motion to strike Defendant Wallace's answer at this late stage.

The court's usual trial procedure is to required direct testimony by declarations (filed 30 days before by Plaintiff and 21 days before by Defendant) with adverse and rebuttal testimony being presented live. All declarants must be present for cross examination. Plaintiff's counsel to advise the court if Plaintiff would prefer all live direct testimony instead of by declaration. See this court's Trial Procedures on the court's website.

***Note: Appearance at this hearing is required.***

-----

**April 9, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 9, 2020

Hearing Room 5A

9:30 AM

CONT... 29 Prime, Inc.

Chapter 7

Approve the unilateral "Final Pretrial Statement" filed 3/26/20 [docket #162].  
Trial Dates: October 28, 2020 and October 29, 2020 at 9:00 a.m. Plaintiff must serve a copy of this court's trial procedures on the remaining defendant, Mr. Wallace, no later than September 28, 2020.

All parties are ordered to comply with this court's trial procedures which are available on the court's website at: [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov). Among other things, the court's trial procedures require that direct testimony, other than adverse or rebuttal, be submitted by written declaration (30 days prior to trial for plaintiffs and 21 days prior to trial for defendants). Requests for waiver of the declaration requirement must be made at the pre-trial conference.

Failure to comply with the trial procedures may result in the imposition of monetary sanctions, dismissal of the adversary proceeding or the entry of a default judgment.

***Note: If the parties accept the foregoing tentative ruling, appearances at today's hearing are not required and Plaintiff shall lodge a Pretrial Order consistent with the same within 7 days of today's hearing.  
Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

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

**Debtor(s):**

29 Prime, Inc.

Represented By  
Richard L Barnett

**Defendant(s):**

Russell B. Wallace

Pro Se

Tony Redman

Pro Se

Jason Martin

Pro Se

Local Zoom, Inc.

Pro Se

OC Listing, Inc.

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... 29 Prime, Inc.**

**Chapter 7**

Sky Motorsports, Inc. Pro Se

Haleh Fardi Pro Se

1Network.Com Pro Se

**Plaintiff(s):**

Richard A. Marshack

Represented By  
Rosemary Amezcua-Moll

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Caroline Djang  
Rosemary Amezcua-Moll

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 9, 2020

Hearing Room 5A

9:30 AM

8:18-12003 Jack G. Gaglio

Chapter 7

Adv#: 8:18-01172 Pacific Western Bank v. Gaglio et al

#2.00 CON'TD PRE-TRIAL CONFERENCE RE: Complaint (1) Objecting to Discharge Pursuant to 11 U.S.C. §727(A)(2) and (2) to Determine Debt Non-dischargeable Pursuant to 11 U.S.C. §523(A)(6)

FR: 12-6-18; 12-20-18; 6-20-19; 8-1-19; 10-3-19

Docket 1

\*\*\* VACATED \*\*\* REASON: STATUS CONFERENCE CONTINUED TO 9/10/2020 AT 9:30 AM, Per Order Entered 4/3/2020 (XX)

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 9/10/2020 at 9:30 am, Per Order Entered 4/3/2020 (XX) - td (4/3/2020)**

**Tentative Ruling:**

**December 20, 2018**

Discovery Cut-off Date:	May 3, 2019
Pretrial Conference Date:	June 20, 2019 at 9:30 a.m.
	(XX)
Deadline to Lodge Joint Pretrial Stipulation:	June 6, 2019

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

**Party Information**

**Debtor(s):**

Jack G. Gaglio

Represented By  
Timothy S Huyck



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Jack G. Gaglio**

**Chapter 7**

**Defendant(s):**

Jack G. Gaglio Pro Se

Laura A. Gaglio Pro Se

**Joint Debtor(s):**

Laura A. Gaglio Represented By  
Timothy S Huyck

**Plaintiff(s):**

Pacific Western Bank Represented By  
Kenneth Hennesay

**Trustee(s):**

Karen S Naylor (TR) Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 9, 2020

Hearing Room 5A

9:30 AM

8:18-14372 Narendra Mohan

Chapter 7

Adv#: 8:19-01037 Last Chance Funding, Inc. v. Mohan et al

#3.00 PRE-TRIAL CONFERENCE RE: Complaint to Determine the Dischargeability of a Debt and Objection to Discharge of the Debtors

FR: 5-30-19; 10-17-19; 11-19-19

Docket 1

Courtroom Deputy:

**SPECIAL NOTE: Order on Request for Dismissal of Claims for Relief Under Section 727 Entered 4/6/2020. Stipulation for Entry of Nondischargeable Judgment filed 3/17/2020; Order Entry of Nondischargeable Judgment RE: Sections 523(a)(4) and 523(a)(6) Not Yet Lodged - td (4/6/2020)**

Tentative Ruling:

**November 19, 2019**

Discovery Cut-off Date: Feb. 28, 2020  
Pretrial Conference Date: Apr. 9, 2020 at 9:30 a.m. (XX)

Deadline to Lodge Joint Pretrial Stipulation: Mar. 26, 2020

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

**April 9, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 9, 2020

Hearing Room 5A

9:30 AM

CONT... Narendra Mohan

Chapter 7

**The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

Plaintiff must lodge a judgment re nondischargeability (523(a) claims for relief) consistent with the stipulation filed March 17, 2020 [docket #26].

*Special Note:* Absent the entry of a judgment, this adversary will remain open.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

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

**Debtor(s):**

Narendra Mohan

Represented By  
Harlene Miller

**Defendant(s):**

Narendra Mohan

Pro Se

Anshu Mohan

Pro Se

**Joint Debtor(s):**

Anshu Mohan

Represented By  
Harlene Miller

**Plaintiff(s):**

Last Chance Funding, Inc.

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Narendra Mohan**

Robert L Rentto

**Chapter 7**

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:00 AM

**8:15-15096 Darshan Upadhyaya**

**Chapter 7**

Adv#: 8:16-01024 Floorit Financial, Inc. v. Upadhyaya

**#4.00 Examination of Third Person Amanda Upadhyaya aka Amanda C. Ramos  
Upadhyaya Re: Enforcement of Judgment**

Docket 20

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/4/2020 at 10:00 a.m.;  
Plaintiff's Counsel to Service Notice (Mail is Acceptable) of the Continued  
Hearing Date/Time by 4/30/2020, Per Hearing Held 4/2/2020 (XX)**

**Courtroom Deputy:**

**CONTINUE: Hearing is Continued to 6/4/2020 at 10:00 a.m.; Plaintiff's  
Counsel to Service Notice (Mail is Acceptable) of the Continued Hearing  
Date/Time by 4/30/2020, Per Hearing Held 4/2/2020 (XX) - td (4/3/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Darshan Upadhyaya

Represented By  
Amid Bahadori

**Defendant(s):**

Darshan Upadhyaya

Represented By  
Amid Bahadori

**Plaintiff(s):**

Floorit Financial, Inc.

Represented By  
Tom Roddy Normandin  
James T Jackson

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By  
Jeremy Faith  
Nina Z Javan

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Darshan Upadhyaya**

Meghann A Triplett

**Chapter 7**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 9, 2020

Hearing Room 5A

10:00 AM

8:15-11341 Donna Yardley

Chapter 13

#5.00 CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

DITECH FINANCIAL LLC

VS.

DEBTOR

FR: 3-5-20

Docket 56

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion  
for Relief from the Automatic Stay (Settled by Stipulation) / APO Entered  
4/7/2020

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic  
Stay (Settled by Stipulation) / APO Entered 4/7/2020 - td (4/7/2020)**

Tentative Ruling:

**March 5, 2020**

Grant with 4001(a)(3) waiver and co-debtor relief.

***Note: This matter appears to be uncontested. Accordingly, no court  
appearance by the Movant is required. Should an opposing party file a  
late opposition or appear at the hearing, the court will determine  
whether further hearing is required and Movant will be so notified.***

**April 9, 2020**

Continue the hearing to April 30, 2020 at 10:00 a.m. to allow the parties to

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 9, 2020

Hearing Room 5A

10:00 AM

CONT... Donna Yardley

Chapter 13

memorialize a stipulation regarding an adequate protection order.

***Note: If the parties accept this tentative ruling, appearances are not required -- the court will interpret the nonappearances as consent to the tentative ruling.***

Party Information
-------------------

**Debtor(s):**

Donna Yardley

Represented By  
Christine A Kingston

**Movant(s):**

Ditech Financial LLC

Represented By  
Darlene C Vigil  
Julian T Cotton

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 9, 2020

Hearing Room 5A

10:00 AM

8:18-10450 Jorge D. Muniz and Aida A. Muniz

Chapter 13

#6.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
TOYOTA MOTOR CREDIT CORPORATION  
VS.  
DEBTORS

Docket 57

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 9, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Jorge D. Muniz and Aida A. Muniz**

**Chapter 13**

**Party Information**

**Debtor(s):**

Jorge D. Muniz

Represented By  
Christine A Kingston

**Joint Debtor(s):**

Aida A. Muniz

Represented By  
Christine A Kingston

**Movant(s):**

Toyota Lease Trust., as serviced by

Represented By  
Austin P Nagel

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 9, 2020

Hearing Room 5A

10:00 AM

8:19-11141 Douglas Robert Redding and Dana Marie Redding

Chapter 13

#7.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

US BANK TRUST NA

VS.

DEBTORS

Docket 45

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 9, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue hearing to April 30, 2020 at 10:00 a.m.; a payment history was not attached to the Motion as Exhibit 5 as represented in the Motion. The payment history must be filed and served no later than April 9, 2020.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance by the parties shall be deemed acceptance of the tentative ruling.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Douglas Robert Redding and Dana Marie Redding**

**Chapter 13**

**Debtor(s):**

Douglas Robert Redding

Represented By  
Sunita N Sood

**Joint Debtor(s):**

Dana Marie Redding

Represented By  
Sunita N Sood

**Movant(s):**

US Bank Trust NA

Represented By  
Kristin A Zilberstein  
Lemuel Bryant Jaquez

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-11419 Mohammad I. Niazi and Parwin Saddozai**

**Chapter 7**

**#8.00** Hearing RE: Motion for relief from automatic stay  
[ACTION IN NON-BANKRUPTCY FORUM]

ORANGE COUNTY BAIL BONDS, INC.

VS.

DEBTORS

Docket 69

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 9, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue hearing to May 7, 2020 at 10:00 a.m. to allow Movant to provide more information regarding the appellate action; supplemental pleading must be filed no later than April 23, 2020.

Basis for Tentative Ruling

Movant has provided insufficient information regarding the appellate matter,

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Mohammad I. Niazi and Parwin Saddozai**

**Chapter 7**

e.g., a description of the judgment that is the subject of the appeal, the identity of the third party against whom Movant seeks relief, the basis for Movant's representation that the bankruptcy estate will not be impacted by the litigation, the meaning "the one final rule" doctrine, etc.

***Note: If Movant accepts the tentative ruling, appearance at this hearing is not required; Movant shall serve notice of the continued hearing. Nonappearance at the hearing shall be deemed acceptance of the tentative ruling.***

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

Mohammad I. Niazi

Represented By  
Freddie V Vega

**Joint Debtor(s):**

Parwin Saddozai

Represented By  
Freddie V Vega

**Movant(s):**

Orange County Bail Bonds, Inc.

Represented By  
Marc C Forsythe

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 9, 2020

Hearing Room 5A

10:00 AM

8:19-14614 Delecia A Holt

Chapter 7

#9.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
BMW BANK OF NORTH AMERICA  
VS.  
DEBTOR

Docket 57

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Voluntary Dismissal of  
Motion, filed 4/7/2020

Courtroom Deputy:

**OFF CALENDAR: Voluntary Dismissal of Motion, filed 4/7/2020 - td  
(4/7/2020)**

Tentative Ruling:

**April 9, 2020**

Grant with 4001(a)(3) waiver.

*Special note: Debtor's discharge order was entered on March 23, 2020*

***Note: Debtor has filed a response to the Motion but does not appear to be opposing the Motion. Accordingly, no court appearance by either party is required. Should an opposing party appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**Debtor(s):**

Delecia A Holt

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

---

10:00 AM

**CONT... Delecia A Holt**

**Chapter 7**

**Movant(s):**

BMW Bank of North America

Represented By  
Cheryl A Skigin

**Trustee(s):**

Thomas H Casey (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 9, 2020

Hearing Room 5A

10:00 AM

8:20-10456 Jonathan Bondoc and Nida Bondoc

Chapter 7

#10.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
AMERICAN HONDA FINANCE CORPORATION  
VS.  
DEBTORS; AND WENETA M. KOSMALA, CHAPTER 7 TRUSTEE

Docket 18

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 9, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Jonathan Bondoc and Nida Bondoc**

**Chapter 7**

**Party Information**

**Debtor(s):**

Jonathan Bondoc

Represented By  
Cara J Hagan

**Joint Debtor(s):**

Nida Bondoc

Represented By  
Cara J Hagan

**Movant(s):**

American Honda Finance

Represented By  
Vincent V Frounjian

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 9, 2020

Hearing Room 5A

10:00 AM

8:20-10820 Jose Vitorino De Aguiar

Chapter 7

#11.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
BANK OF THE WEST  
VS.  
DEBTOR

Docket 9

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 9, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Jose Vitorino De Aguiar**

**Chapter 7**

**Party Information**

**Debtor(s):**

Jose Vitorino De Aguiar

Represented By  
Anerio V Altman

**Movant(s):**

Bank of the West

Represented By  
Mary Ellmann Tang

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:18-13119 DFH Network Inc.**

**Chapter 11**

**#12.00** Post Confirmation Status Conference RE: Final Chapter 11 Plan of Reorganization

(Set at Conf. Hrg. Held 10-3-19)

Docket 143

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion in Chapter 11 Case for the Entry of a Final Decree and an Order Closing Case Entered 12/5/2019**

**Courtroom Deputy:**

**OFF CALENDAR: Order Granting Motion in Chapter 11 Case for the Entry of a Final Decree and an Order Closing Case Entered 12/5/2019 - td (4/3/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

DFH Network Inc.

Represented By  
Andy C Warshaw  
Richard L. Sturdevant

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-12337 Jorge David Gonzalez**

**Chapter 7**

**#13.00** Hearing RE: Debtor's Motion Objecting to Debtor's Claimed Homestead Exemption as Amended

Docket 38

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/21/2020 AT 10:30 A.M.,  
Per Order Entered 4/6/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/21/2020 at 10:30 a.m., Per Order  
Entered 4/6/2020 (XX) - td (4/6/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jorge David Gonzalez

Represented By  
Brian J Soo-Hoo

**Movant(s):**

Richard A Marshack (TR)

Represented By  
Robert P Goe

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-12411 Orange County Bail Bonds, Inc.**

**Chapter 11**

**#14.00** CONT'D Hearing RE: Disclosure Statement Describing Debtor's Chapter 11 Plan of Reorganization Dated December 20, 2019

FR: 2-20-20

Docket 82

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Petition Amended to Subchapter V Under Chapter 11 filed 3/3/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Petition Amended to Subchapter V Under Chapter 11 filed 3/3/2020 - td (3/19/2020)**

**Tentative Ruling:**

**February 20, 2020**

Continue disclosure statement approval hearing to April 9, 2020 at 10:30 a.m.; amended disclosure statement and plan must be filed no later than March 12, 2020; responses to the amended plan must be filed by March 19, 2020 and any reply by March 26, 2020. (XX)

Court's Comments Re the Disclosure Statemen (DS):

1. Debtor must amend the DS to address the concerns of the UST, except as to the timeliness issue re American. Debtors only file claims on behalf of creditors who have not filed a claim by the claims bar date; debtors cannot know whether a creditor will file a claim until after the bar date has expired. By definition, claims filed by a debtor on behalf of a creditor will not be filed "timely."

2. Re American, Debtor needs to explain the basis for the estimated claim amount of \$7,831,800 when it currently only has \$10,000 of this type of debt. See DS at p. 24.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Orange County Bail Bonds, Inc. Chapter 11**

3. DS at p. 17:20: Capitalized terms "Landlord" and "Lease" are not defined terms in the DS.
4. DS at p.18: Debtor states there are no Class 1 priority claims but at p. 21 that Miller has such a claim in the amount of \$13,650. This discrepancy needs to be corrected in the Plan as well.
5. DS at p. 19:8: Delete "(Class 1)"
6. DS at p. 19:23-27: Debtor needs to disclose the compensation structure to Magarian & DiMercurio. "TBD" is insufficient. This also begs the question, why has the application not been filed and what is the current status of the appeal?
7. DS at p. 21:8: Typo re "T" and "the" needs to be capitalized.
8. DS at p. 21:7: "Shareholder" should be modified to "Interest" to be consistent with the preceding paragraph.
9. DS at p. 26, fn 2: Somewhere in the DS, Debtor needs to explain what will happen if cramdown is required -- the absolute priority rule and new value. Fn 2 for this purpose is insufficient.
10. DS at pP. 28 and 31: Contradictory statements as to reversion of property.
- 11: How will Miller's prepetition, non-priority wage claim be treated under the Plan?
12. Re separate classification issue: The court will defer this as a confirmation issue. Because, as pointed out by Debtor in its reply, Global may have redress against parties other than Debtor (e.g., Debtor's principals), the court cannot find at this time that the classification renders the plan patently unconfirmable.
- 13: Re feasibility: The court will defer this as a confirmation issue.



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Orange County Bail Bonds, Inc. Chapter 11**

14. Outlook for the industry: Debtor needs to fully disclose as a risk factor the consequences of state law that will go into effect if the referendum is not successful.

***Note: Appearances at this hearing are not required if all parties accept the foregoing tentative ruling.***

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

**Debtor(s):**

Orange County Bail Bonds, Inc.

Represented By  
Marc C Forsythe  
Ryan S Riddles

**Trustee(s):**

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-12411 Orange County Bail Bonds, Inc.**

**Chapter 11**

**#15.00 CONT'D STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case**

FR: 8-22-19; 10-17-19; 11-7-19; 1-30-20; 2-20-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Petition Amended to  
Subchapter V Under Chapter 11 filed 3/3/2020; Status Conference Under  
Subchapter V is Set for 4/30/2020 at 10:30 a.m. (xx)**

**Courtroom Deputy:**

**OFF CALENDAR: Petition Amended to Subchapter V Under Chapter 11  
filed 3/3/2020; Status Conference Under Subchapter V is Set for  
4/30/2020 at 10:30 a.m. (xx) - td (3/13/2020)**

**Tentative Ruling:**

**August 22, 2019**

Deadline to file Plan and Disclosure Statement: 10/21/19

Continued Status Conference Date: 11/21/19 at 10:30 a.m.

Updated Status Report due date: 11/7/19 unless a plan  
& DS

filed, in which case

requirement of a report will

have been

the

be waived.

*Special Note: The court does not ordinarily set a deadline for the filing of  
objections to claim.*

***Note: If Debtor is in substantial compliance with the requirements of the  
United States Trustee, appearance at this hearing is not required. It is***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 9, 2020

Hearing Room 5A

10:30 AM

CONT... Orange County Bail Bonds, Inc.

Chapter 11

***Debtor's responsibility to confirm compliance with the UST prior to the hearing.***

-----  
**October 17, 2019**

Continue status conference to November 7, 2019 at 10:30 a.m., same date/time as hearing on Debtor's motion to extend exclusivity. Updated status report not required. (XX)

-----  
**November 7, 2019**

Deadline to file plan/disclosure statement: Dec. 20, 2019

Continued status conference: Jan. 30, 2020 at 10:30 am  
(XX)

Updated status report due (only if plan &  
DS not timely filed by 12/20/19): Jan. 16, 2020

***Note: If Debtor is in substantial compliance with the requirements of the United States Trustee, appearance at this hearing is not required. It is Debtor's responsibility to confirm compliance with the UST prior to the hearing.***

-----  
**January 30, 2020**

Continue status conference to 2/20/20 at 10:30 a.m., same date/time as hearing on approval of disclosure statement; updated status report not required. (XX)

***Note: Appearance at this hearing is not required.***

-----  
**February 20, 2020**

Continue status conference to April 9, 2020 at 10:30 a.m.; updated status

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Orange County Bail Bonds, Inc.**  
report not required. (XX)

**Chapter 11**

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Orange County Bail Bonds, Inc.

Represented By  
Marc C Forsythe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13242 10827 Studebaker LLC, a California limited liabili**

**Chapter 11**

**#16.00 CON'TD STATUS CONFERENCE RE: (1) Status of Chapter 11 Case; and (2)  
Requiring Report on Status of Chapter 11 Case**

FR: 10-17-19

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**October 17, 2019**

Claims bar date: 11/15/19	Jan. 17, 2020 (notice to be served by
Deadline to file plan/DS	Feb. 20, 2020
Continued Status Conf.:	Apr. 9, 2020 at 10:30 a.m. (XX)
Updated Status Report Due: been	Mar. 19, 2019 (unless the plan/DS has
the report	filed by such date, in which case
	requirement will be waived)

***Note: If Debtor is in substantial compliance with the requirements of the United States Trustee, appearance at this hearing is not required. It is Debtor's responsibility to confirm compliance with the UST prior to the hearing.***

-----

**April 9, 2020**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 9, 2020

Hearing Room 5A

10:30 AM

CONT... 10827 Studebaker LLC, a California limited liabili

Chapter 11

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue Status Conference to April 30, 2020 at 10:30 a.m., the same date/time as hearing on approval of Debtor's Disclosure Statement; an updated status report is not required.

***Note: Appearance at this hearing is not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

Party Information

Debtor(s):

10827 Studebaker LLC, a California

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13547 Luis Alberto Rodriguez, Jr.**

**Chapter 11**

**#17.00** Hearing RE: Debtor's Disclosure Statement Describing Chapter 11 Plan of Reorganization

Docket 54

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 9, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue hearing to May 21, 2020 at 10:30 a.m. to allow Debtor to correct notice issue and to address issues raised by the court. An amended disclosure statement and plan must be filed no later than April 23, 2020.

Basis for Tentative Ruling:

A. Notice: Neither the motion or the disclosure statement (DS) advise creditors of the deadline to file opposition or other response to the adequacy of the DS See LBR 9013-1(c)(2), and LBR 3017-1(b)("Objections to the adequacy of a disclosure statement must be filed and served on the proponent not less than 14 days before the hearing, unless otherwise ordered by the court."); FRBP 2002(b)(2).

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Luis Alberto Rodriguez, Jr.**

**Chapter 11**

**B. Comments re DS**

General Comment: The DS, at times, unnecessarily includes provisions and language that are inapplicable to this Debtor and should, therefore, be deleted altogether.

- DS, p. 15- Delete Class 1 because there are no Class 1 claimants. The deletion will necessarily change the numbering of the other classes.
- DS, p. 16:2. Exhibit H should be changed to Exhibit F.
- DS, p. 21:2: The word "None" should be deleted as there is a class 3 claimant.
- DS, p. 23:1-5. There no student loan debt. Delete Class 5 because it is unnecessary. Also treatment of the plan needs to be disclosed -- will the Claimant be paid monthly, quarterly (if so in what amount) or in a lump sum payment within 6 months?
- DS, p. 28 -- re Section F 1: If there are no executory contracts or unexpired leases to assume or reject, delete subsections a and b and simply state there are none. Query re lines 5-6 indicating Debtor might have some business lease? There is no other discussion of Debtor being involved in any business activity. This appears to be boilerplate language that does not apply to this case and should be deleted.
- DS, p. 28:12-13: Section F 2 should be deleted.
- DS, p. 35:11 and third line of projections on p. 36: Contradictory amounts of the "added value" are provided- \$2,000 vs. \$2,500.

*Special note:* Question for future confirmation hearing: If the underlying unsecured debt to Ditech was discharged in the prior chapter 7, why is the unsecured amount provided for in full if Ditech makes a 1111(b) election?

***Note: If Debtor understands and has no questions regarding the issues***



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 9, 2020

Hearing Room 5A

10:30 AM

CONT... Luis Alberto Rodriguez, Jr.

Chapter 11

*mentioned above, appearance at the hearing is not required. Debtor's non-appearance at the hearing will be deemed acceptance of the tentative ruling.*

Party Information

Debtor(s):

Luis Alberto Rodriguez Jr.

Represented By  
Michael Jones  
Sara Tidd

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13547 Luis Alberto Rodriguez, Jr.**

**Chapter 11**

**#18.00** CON'TD STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case

FR: 12-5-19

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 5, 2019**

Deadline to file plan/disclosure statement: Feb. 28, 2020  
Continued status conference: Apr. 9, 2020 at 10:30  
a.m. (XX)  
Deadline to file updated status report: Mar.26, 2020\*

\*Requirement of an updated status report is waived if the plan and disclosure statement are timely filed.

***Note: If Debtors accept the foregoing tentative ruling and are in substantial compliance with the requirements of the U.S. Trustee, appearance at this hearing is not required. It is the responsibility of Debtors to confirm compliance with the U.S. Trustee prior to the hearing.***

-----

**April 9, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

CONT... Luis Alberto Rodriguez, Jr.

Chapter 11

**register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

Continue the status conference to May 21, 2020 at 10:30 a.m.; updated status report not required.

***Note: Appearances at this hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

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

Luis Alberto Rodriguez Jr.

Represented By  
Michael Jones

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13770 Dove Real Estate & Association Management LLC**

**Chapter 11**

**#19.00 Hearing RE: Disclosure Statement Describing Debtor's Chapter 11 Plan of Reorganization Dated February 21, 2020**

Docket 72

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 9, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Approve Amended Disclosure Statement on condition that Debtor further amends the same to address the issues raised by the court in its tentative ruling. Debtor shall file a final disclosure statement, as well as a black-lined version, no later than April 16, 2020. The deadline to serve the plan package is April 23, 2020. The deadline for creditors to return ballots and object to plan confirmation is May 21, 2020. The deadline for Debtor to file the ballot tally analysis and confirmation brief is June 1, 2020. The confirmation hearing date will be June 11, 2020 at 10:30 a.m.

Court's Comments re the Amended Disclosure Statement (DS)

1. DS, p. 14:9: Correct typo -- delete "as a" before "real estate broker"

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 9, 2020

Hearing Room 5A

10:30 AM

CONT... **Dove Real Estate & Association Management LLC** **Chapter 11**

2. DS, p.14:12: "Dove" is being used to refer to Debtor for the first time and is not a defined term.

3. DS, pp. 24-25: Re Classes 1, 2, and 3, Debtor should disclose the priority of the various secured creditors since they are all secured by the same assets. Further, it appears that the secured debt exceeds the value of the collateral, creating the possibility of an 1111(b) election. Unless there is an agreement with the undersecured creditor to the contrary, a brief discussion of the impact of an 1111(b) election should be included in the amended disclosure statement.

4. DS, p. 28: The DS indicates that \$35,000 will be needed on the Effective Dates but the chart shows a total of only \$23,116.13. An explanation of the \$12,000 difference should be explained.

5. DS, p. 28: Risk Factors -- if Debtor believes that its operations could be negatively impacted by the pandemic, this should be disclosed as a risk factor. If not, no further revision is required.

6. DS, p.29: Re the assumption of executory contracts and unexpired leases, while the court's approval of the new commercial lease and the increased monthly rent should be disclosed, it is inappropriate as a matter of law to describe it as being "assumed." Assumption of leases under Section 365 applies to prepetition leases only, not postpetition leases. See *In re Dant and Russell, Inc.*, 853 F.2d 700, 706 (9th Cir. 1988) ("section 365(a) is inapplicable to leases executed postpetition as that section contemplates a *prepetition* lease or executory contract which is unexpired on the date of the petition.") (emphasis added)

*Special Note:* Though the amended disclosure statement was filed just 16 days ago, the amendments are not material enough to require additional notice.

***Note: If Debtor understands and has no questions regarding the issues mentioned above, appearance at the hearing is not required. Debtor's non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Dove Real Estate & Association Management LLC**

**Chapter 11**

**Party Information**

**Debtor(s):**

Dove Real Estate & Association

Represented By  
Daniel J Weintraub  
Crystle Jane Lindsey

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13770 Dove Real Estate & Association Management LLC**

**Chapter 11**

**#20.00** Hearing RE: Debtor and Debtor in Possession's Motion for Authority to Enter Into New "Commercial Lease Agreement" by and Between Debtor and Orange County Department of Education Facilities Corporation and Entry of Order Regarding Same

Docket 78

**Courtroom Deputy:**

**April 9, 2020**

Grant motion on condition that Debtor files, within 7 days of today's hearing, an amended proof of service or declaration confirming service of notice of the motion on the lessor, Orange County Department of Education Utilities

**Tentative Ruling:**

**April 9, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion on condition that Debtor files, within 7 days of today's hearing, an amended proof of service or declaration confirming service of notice of the motion on the lessor, Orange County Department of Education Facilities Corporation, the subject of the motion.

**Note: This matter appears to be uncontested. Accordingly, no court**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 9, 2020

Hearing Room 5A

10:30 AM

CONT... Dove Real Estate & Association Management LLC Chapter 11

***appearance by the Movant is required. Debtor's nonappearance at the hearing will be deemed acceptance of the tentative ruling. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**Debtor(s):**

Dove Real Estate & Association

Represented By  
Daniel J Weintraub  
Crystle Jane Lindsey



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 9, 2020

Hearing Room 5A

10:30 AM

8:19-13770 Dove Real Estate & Association Management LLC

Chapter 11

#21.00 CON'TD STATUS CONFERENCE RE: Status of Chapter 11 Case; and (2)  
Requiring Report on Status of Chapter 11 Case

FR: 12-5-19

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 5, 2019**

Claims bar date:	Feb. 14, 2020
Deadline to serve notice of claims bar date:	Dec. 13, 2019
Deadline to file plan/disclosure statement:	Feb. 21, 2020
Continued status conference: a.m. (XX)	Apr. 9, 2020 at 10:30
Deadline to file updated status report:	Mar.26, 2020*

\*Requirement of an updated status report is waived if the plan and disclosure statement are timely filed.

***Note: If Debtors accept the foregoing tentative ruling and are in substantial compliance with the requirements of the U.S. Trustee, appearance at this hearing is not required. It is the responsibility of Debtors to confirm compliance with the U.S. Trustee prior to the hearing.***

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**April 9, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Dove Real Estate & Association Management LLC Chapter 11**

**Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

Continue the status conference to June 11, 2020 at 10:30 a.m.; updated status report not required.

***Note: Appearances at this status conference are not required.***

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

**Debtor(s):**

Dove Real Estate & Association

Represented By  
Daniel J Weintraub

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 9, 2020

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 11

#22.00 CON'TD STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case

FR: 12-5-19

Docket 1

**Courtroom Deputy:**

**SPECIAL NOTE: Order Granting Motion to Approve Joint Administration of Cases in Part and Setting Hearing on Certain Issues Entered 10/10/2019. LEAD CASE: BRUCE ELIEFF, Case No. (8:19-bk-13858-ES) Jointly Administered with Member Cases: Morse Properties, LLC, Case No. (8:19-bk-13874-ES); and 4627 Camden, LLC, Case No. (8:19-bk-13875-ES).**

**Tentative Ruling:**

**December 5, 2019**

Claims bar date:	Feb. 14, 2020
Deadline to serve notice of claims bar date:	Dec. 13, 2019
Deadline to file plan/disclosure statement:	Feb. 21, 2020
Continued status conference: a.m. (XX)	Apr. 9, 2020 at 10:30
Deadline to file updated status report:	Mar.26, 2020*

*\*Special note: a hearing on the motion for summary judgment re the subordination action cannot be heard prior to April 9, 2020 at 2:00 p.m.*

*\*Requirement of an updated status report is waived if the plan and disclosure statement are timely filed.*

***Note: If Debtors accept the foregoing tentative ruling and are in substantial compliance with the requirements of the U.S. Trustee,***

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 9, 2020

Hearing Room 5A

10:30 AM

CONT...

Bruce Elieff

Chapter 11

*appearance at this hearing is not required. It is the responsibility of Debtors to confirm compliance with the U.S. Trustee prior to the hearing.*

-----

April 9, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue this status conference to July 23, 2020 at 10:30 a.m., the date currently set for hearing on the adequacy of Debtor's disclosure statement; an updated status report is not required.

*Special note: Unless, Debtors' counsel has an urgent update to report, the court would prefer not to engage in a general discussion about upcoming hearings scheduled for this and related cases.*

**Note: If Debtors accept the foregoing tentative ruling and are in substantial compliance with the requirements of the U.S. Trustee, appearance at this hearing is not required. It is the responsibility of Debtors to confirm compliance with the U.S. Trustee prior to the hearing. Nonappearance by Debtors and the U.S. Trustee will be deemed acceptance of the tentative ruling. Nonappearance by Debtors and the U.S. Trustee shall be deemed acceptance of the tentative ruling.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Bruce Elieff**

**Chapter 11**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-14950 Lonnie M Tee**

**Chapter 13**

**#23.00** Hearing RE: Chapter 13 Trustee's Objection to Debtor's Claims of Exemption

Docket 24

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Trustee's Notice of  
Withdrawal of Motion, filed 3/25/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Trustee's Notice of Withdrawal of Motion, filed  
3/25/2020 - td (3/26/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Lonnie M Tee

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 9, 2020

Hearing Room 5A

10:30 AM

8:20-10691 Teresita Lases

Chapter 13

#24.00 Hearing RE: Debtor's Motion to Value Collateral Held by Hyundai Motor Finance

Docket 15

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

April 9, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Movant's nonappearance at the hearing will be deemed acceptance of the tentative ruling. Movant shall lodge an order within 7 days of the hearing.**

Party Information

**Debtor(s):**

Teresita Lases

Represented By  
Rabin J Pournazarian

**Movant(s):**

Teresita Lases

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Teresita Lases**

Rabin J Pournazarian

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:17-10706 John Jean Bral**

**Chapter 11**

Adv#: 8:17-01095 Steward Financial LLC v. Bral

**#25.00** Hearing RE: Plaintiff's Motion For Order: (1) Staying Adversary Proceeding Pending Resolution of Appeal of Order Sustaining Objection to Claim No. 19; or, Alternatively (2) Authorizing Steward Financial LLC to Dismiss Adversary Proceeding Without Prejudice

Docket 121

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 9, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant the Motion to stay the adversary proceeding pending the completion of the appeal process regarding Plaintiff's Claim #19 based on the legal analysis and argument of Plaintiff in the Motion and Reply pleadings. Extend the deadline for Defendant to file an answer to thirty days following the entry of an appellate order concluding the appeal. A status conference regarding the status of any pending appeal will be set every six months, commencing October 8, 2020 at 9:30 a.m. A joint status report must be filed no later than October 1, 2020.

A more detailed analysis for the tentative ruling may be posted at any time prior to today's hearing.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... John Jean Bral**

**Chapter 11**

**Party Information**

**Debtor(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel  
Bobby Samini  
Dean A Ziehl  
Gary A Pemberton

**Defendant(s):**

John Jean Bral

Represented By  
William N Lobel  
Beth Gaschen  
Alan J Friedman  
Gary A Pemberton

**Plaintiff(s):**

Steward Financial LLC

Represented By  
Krikor J Meshefejian  
Gary E Klausner

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#26.00** Hearing RE: Motion for Reconsideration of Order Granting Motion for Relief from Stay Pursuant to Federal Rules of Bankruptcy Procedure 9013 and 9024

Docket 169

**\*\*\* VACATED \*\*\* REASON: ADVANCED TO 3/19/2020 AT 2:00 P.M.;**  
**See Notice of Rescheduled Hearing Filed 1/9/2020 (XX)**

**Courtroom Deputy:**

**ADVANCED: Hearing Advanced to 3/19/2020 at 2:00 p.m.; See Notice of Rescheduled Hearing filed 1/9/2020 (XX) - td (1/10/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Movant(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01205 Elieff et al v. Kurtin

**#27.00** Hearing RE: Joint Motion for Summary Judgment on Claim for Mandatory Subordination of Claim Pursuant to 11 U.S.C. Section 510(b)

Docket 57

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4/23/2020 AT 2:00 P.M.,  
Per Order Entered 3/19/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 4/23/2020 at 2:00 p.m., Per Order  
Entered 3/19/2020 (XX) - td (3/19/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01205 Elieff et al v. Kurtin

**#28.00** CONT'D Hearing RE: Defendant's Motion to Dismiss Second Amended Complaint

FR: 1-30-20

Docket 19

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4/23/2020 AT 2:00 P.M.,  
Per Order Entered 3/19/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 4/23/2020 at 2:00 p.m., Per Order  
Entered 3/19/2020 (XX) - td (3/19/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**Movant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 9, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Bruce Elieff**

**Chapter 11**

4627 Camden, LLC

Represented By  
Paul J Couchot

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 9, 2020

Hearing Room 5A

2:00 PM

8:19-13858 Bruce Elieff

Chapter 11

Adv#: 8:19-01205 Elieff et al v. Kurtin

#29.00 CONT'D STATUS CONFERENCE RE: Second Amended Complaint for Mandatory Subordination and Recovery of Liens Pursuant to 11 U.S.C. §§ 510(b) and 510(c)(2), Avoidance and Recovery of Preferential and Fraudulent Transfers, and Disallowance of Claims Pursuant to 11 U.S.C. §502(d)

FR: 3-5-20

Docket 11

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4/23/2020 AT 2:00 P.M.,  
Per Order Entered 3/19/2020 (XX)

Courtroom Deputy:

**CONTINUED: Hearing Continued to 4/23/2020 at 2:00 p.m., Per Order Entered 3/19/2020 (XX) - td (3/19/2020)**

Tentative Ruling:

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Pro Se

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 16, 2020

Hearing Room 5A

9:30 AM

8:18-10971 James Christopher Patow

Chapter 7

Adv#: 8:19-01061 Marshack (TR) v. Patow et al

#1.00 CONT'D PRE-TRIAL CONFERENCE RE: First Amended Complaint for: (1) Avoidance, Recovery, and Preservation of Actual Fraudulent Transfer; (2) Avoidance, Recovery, and Preservation of Constructive Fraudulent Transfer; (3) Declaratory Relief as to Whether, and to what Extent, Assets Constitute Property of the Estate; (4) Turnover of Estates Interest in Trust Assets; and (5) Injunctive Relief

FR: 8-15-19; 1-16-20

Docket 7

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 7/16/2020 AT 9:30 A.M.,  
Per Order Entered 3/26/2020 (XX)

**Courtroom Deputy:**

**CONTINUED: Pre-trial Conference Continued to 7/16/2020 at 9:30 a.m.,  
Per Order Entered 3/26/2020 (XX) - td (3/26/2020)**

**Tentative Ruling:**

**August 15, 2019**

Discovery Cut-off Date: 11/30/19  
Pretrial Conference Date: 1/16/20 at 9:30 a.m. (XX)  
Deadline to file Pretrial Stipulation: 1/9/20

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

**Party Information**

**Debtor(s):**

James Christopher Patow

Represented By  
Kevin J Kunde



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 16, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... James Christopher Patow**

**Chapter 7**

**Defendant(s):**

James Christopher Patow	Pro Se
Alvin and Linda Patow 2006 Trust	Pro Se
Linda Patow, as Trustee of the Alvin	Pro Se
Linda Patow	Pro Se

**Plaintiff(s):**

Richard A. Marshack (TR)	Represented By D Edward Hays Chad V Haes
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**Trustee(s):**

Richard A Marshack (TR)	Represented By D Edward Hays Chad V Haes
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 16, 2020**

**Hearing Room 5A**

9:30 AM

**8:18-11594 George Carl Natzic**

**Chapter 7**

Adv#: 8:18-01170 Add2Net, Inc. v. Natzic et al

**#2.00** CONT'D STATUS CONFERENCE RE: Complaint for Non-dischargeability of Debt Due to: 1. Fraud (11 U.S.C. §523(a)(2)); 2. Fraud in a Fiduciary Capacity (11 U.S.C. §523(a)(4)); 3. Willful and Malicious Injury by the Debtor to Plaintiff (11 U.S.C. §523(a)(6)); and (4) Denial of Limited Discharge (11 U.S.C. §524(a)(3))

FR: 12-6-18; 1-24-19; 4-18-19; 6-20-19; 8-22-19; 9-19-19; 12-5-19; 2-20-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 7/16/2020 A 9:30 A.M.,  
Per Order Entered 4/6/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 7/16/2020 at 9:30 a.m., Per  
Order Entered 4/6/2020 (XX) - td (4/6/2020)**

**Tentative Ruling:**

**June 20, 2019**

No tentative ruling. This tentative will be trailed to the 2:00 p.m. calendar along with the Motion to Dismiss

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**September 19, 2019**

In light of the upcoming trial in the state court litigation, continue status conference to December 5, 2019 at 9:30 a.m.; updated status report must be filed by November 21, 2019. (XX)

***Note: Appearances at today's hearing are not required; Plaintiff to serve notice of the continued hearing date/time.***

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 16, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... George Carl Natzic**

**Chapter 7**

**Debtor(s):**

George Carl Natzic

Represented By  
Moises S Bardavid

**Defendant(s):**

George Carl Natzic

Pro Se

Cheri Lynn Natzic

Pro Se

**Joint Debtor(s):**

Cheri Lynn Natzic

Represented By  
Moises S Bardavid

**Plaintiff(s):**

Add2Net, Inc.

Represented By  
Kevin Meek

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 16, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-10917 Alice L. Madonna Zimmerman**

**Chapter 7**

Adv#: 8:19-01123 Will v. Madonna Zimmerman

**#3.00** CON'TD STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt Pursuant to 11 U.S.C. §§523(a)(20, 523(a)(4), and 523 (a)(6)

FR: 9-19-19; 12-19-19

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**September 19, 2019**

Continue status conference to December 19, 2019 at 9:30 a.m.; updated joint status report must be filed by December 5, 2019. (XX)

Basis for Tentative Ruling:

Relief from stay was granted to permit the probate matter to proceed on all issues other than a determination regarding ownership of the subject property. See Plaintiffs Reply to Defendant's Opposition to the RFS Motion at p. 2, lines 27-28. In order to award "damages" the probate court must necessarily determine whether Defendant's alleged conduct warrants a judgment of damages in Plaintiff's favor. Accordingly, Defendant's interpretation of the scope of the stay relief granted is flawed.

***Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

-----  
**December 19, 2019**

In light of pending probate action, continue this status conference to April 16, 2020 at 9:30 a.m.; updated joint status report must be filed by April 2, 2020. (XX)

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 16, 2020

Hearing Room 5A

9:30 AM

CONT... Alice L. Madonna Zimmerman

Chapter 7

***Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall serve notice of the continued hearing date/time.***

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April 16, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Based upon the request of the parties, continue the status conference to August 20, 2020 at 9:30 a.m.; updated joint status report must be filed no later than August 6, 2020.

***Note: Appearances at this status conference are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling. Plaintiff shall serve notice of the continued hearing date/time.***

Party Information

**Debtor(s):**

Alice L. Madonna Zimmerman

Represented By  
Leslie K Kaufman

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 16, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Alice L. Madonna Zimmerman**

**Chapter 7**

**Defendant(s):**

Alice L. Madonna Zimmerman                      Pro Se

**Plaintiff(s):**

Lisa Will    Represented By  
   Bert Briones

**Trustee(s):**

Weneta M Kosmala (TR)                              Represented By  
   Reem J Bello

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 16, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-11546 Joseph Ra**

**Chapter 7**

Adv#: 8:19-01157 Caraveo et al v. Ra

**#4.00 PRE-TRIAL CONFERENCE RE: Complaint to Determine Dischargeability of Debt**

FR: 10-17-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 7/16/2020 AT 9:30 A.M.,  
PER ORDER ENTERED 3/2/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Pre-trial Conference Continued to 7/16/2020 at 9:30 a.m.,  
Per Order Entered 3/2/2020 (XX) - td (3/3/2020)**

**Tentative Ruling:**

**October 17, 2019**

Discovery Cut-off Date:	Mar. 16, 2020
Deadline to Attend Mediation:	Feb. 7, 2020
Pretrial Conference Date: (XX)	Apr. 16, 2020 at 9:30 a.m.
Deadline to File Joint Pretrial Stipulation:	Apr. 2, 2020

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required; Plaintiff to lodge a scheduling order within 7 days of the hearing.***

**Party Information**

**Debtor(s):**

Joseph Ra

Represented By  
David B Golubchik

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 16, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Joseph Ra**

**Chapter 7**

**Defendant(s):**

Joseph Ra

Pro Se

**Plaintiff(s):**

Marcelo Caraveo

Represented By  
Christopher Barry

Holy Shirts and Pants, LLC

Represented By  
Christopher Barry

Early Bird Restaurant, LLC

Represented By  
Christopher Barry

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 16, 2020

Hearing Room 5A

9:30 AM

**8:19-12337 Jorge David Gonzalez**

**Chapter 7**

Adv#: 8:19-01184 Richard A. Marshack v. Carrillo

**#5.00** PRE-TRIAL CONFERENCE RE: Complaint for: 1. Avoidance and Recovery of Constructive Fraudulent Transfer; 2. Avoidance and Recovery of Intentional Fraudulent Transfer; 3. Avoidance and Recovery of Preferential Transfer; and 4. Avoidance and Recovery of Property of the Bankruptcy Estate

FR: 12-5-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/8/2020 AT 9:30 A.M.,  
Per Order Entered 4/9/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Pre-trial Conference Continued to 6/8/2020 at 9:30 a.m.,  
Per Order Entered 4/9/2020 (XX) - td (4/9/2020)**

**Tentative Ruling:**

**December 5, 2019**

Discovery Cut-off Date:	Mar. 6, 2020
Pretrial Conference Date: (XX)	Apr. 16, 2020 at 9:30 a.m.
Deadline to file Joint Pretrial Stipulation:	Apr. 2, 2020

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

**Party Information**

**Debtor(s):**

Jorge David Gonzalez

Represented By  
Brian J Soo-Hoo

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 16, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Jorge David Gonzalez**

**Chapter 7**

**Defendant(s):**

Claudia M. Carrillo

Pro Se

**Plaintiff(s):**

Richard A. Marshack

Represented By  
Robert P Goe

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 16, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14596 Jason M. Barrette**

**Chapter 7**

Adv#: 8:20-01008 Barrette v. United States of America, Treasury Department, Int

**#6.00 STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt  
[11 U.S.C. Section 523]**

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/11/2020 AT 9:30 A.M.,  
Per Order Entered 4/9/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 6/11/2020 at 9:30 am, Per  
Order Entered 4/9/2020 (XX) - td (4/9/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jason M. Barrette

Represented By  
James D. Hornbuckle

**Defendant(s):**

United States of America, Treasury

Pro Se

**Plaintiff(s):**

Jason M. Barrette

Represented By  
James D. Hornbuckle

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 16, 2020

Hearing Room 5A

10:00 AM

8:19-13509 Erica Duarte Bruce

Chapter 13

#7.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

EAGLE COMMUNITY CREDIT UNION

VS.

DEBTOR

Docket 43

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion  
for Relief from the Automatic Stay (Settled by Stipulation)/APO Entered  
4/9/2020

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic  
Stay (Settled by Stipulation)/APO Entered 4/9/2020 - td (4/9/2020)**

Tentative Ruling:

- NONE LISTED -

**Party Information**

**Debtor(s):**

Erica Duarte Bruce

Represented By  
Andrew Moher

**Movant(s):**

Eagle Community Credit Union

Represented By  
Alana B Anaya

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 16, 2020

Hearing Room 5A

10:00 AM

8:19-13587 Trent Tyrell Berglin and Adrienne Lynn Berglin

Chapter 11

#8.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

ACAR LEASING LTD

VS.

DEBTORS

Docket 52

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion  
for Relief from the Automatic Stay (Settled by Stipulation) Entered 4/15/2020

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic  
Stay (Settled by Stipulation) Entered 4/15/2020 - td (4/15/2020)**

Tentative Ruling:

**Party Information**

**Debtor(s):**

Trent Tyrell Berglin

Represented By  
Michael Jones  
Sara Tidd

**Joint Debtor(s):**

Adrienne Lynn Berglin

Represented By  
Michael Jones  
Sara Tidd

**Movant(s):**

Acar Leasing Ltd. d/b/a GM

Represented By  
Randall P Mroczynski

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 16, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-14426 Michael Alan Kohn**

**Chapter 13**

**#9.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

KINECTA FEDERAL CREDIT UNION

VS.

DEBTOR

Docket 41

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 16, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion without 4001(a)(3) waiver unless the parties have agreed to or are in the process of negotiating the terms of an adequate protection order, in which case the hearing may be continued to April 30, 2020 at 10:30 a.m., if more time is needed to finalize the agreement. The parties may request a continuance during the calendar roll call prior to the hearing.

***Note: If the parties agree to the continuance of the hearing to June 4, 2020, appearances at this hearing are not required. Nonappearance by the parties will be deemed acceptance of the tentative ruling.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 16, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Michael Alan Kohn**

**Chapter 13**

**Party Information**

**Debtor(s):**

Michael Alan Kohn

Represented By  
Christopher J Langley

**Movant(s):**

Kinecta Federal Credit Union

Represented By  
Erin M McCartney  
Mark S Krause

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 16, 2020

Hearing Room 5A

10:00 AM

8:20-10903 Jeffrey Murray

Chapter 13

#10.00 Hearing RE: Motion for relief from automatic stay  
[ACTION IN NON-BANKRUPTCY FORUM]

FRANSHELLE MURRAY

VS.

DEBTOR

Docket 10

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion  
for Relief from the Automatic Stay (Settled by Stipulation) Entered 4/13/2020

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic  
Stay (Settled by Stipulation) Entered 4/13/2020 - td (4/13/2020)**

Tentative Ruling:

**Party Information**

**Debtor(s):**

Jeffrey Murray

Represented By  
Jeffrey B Smith

**Movant(s):**

Franshelle Murray

Represented By  
Christine A Kingston

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 16, 2020**

**Hearing Room 5A**

10:30 AM

**8:10-10857 James W Royer**

**Chapter 7**

**#11.00** Hearing RE: Polaris Development, LLC's Motion for Clarification in the Alternative to Amend Judgment to Include as Judgment Debtor James W. Royer who was Alter Ego of Centerpointe Electronics, A California Corporation Judgment Debtor

Docket 275

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 16, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Deny motion.

Basis for the tentative ruling

A. Timeliness:

The Motion was filed on February 19, 2020. See Docket #275. In light of the fact that the court electronic filing system was "down" on February 18, 2020, the deadline for filing the Motion, the Motion shall be deemed to be timely.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 16, 2020

Hearing Room 5A

10:30 AM

CONT... James W Royer

Chapter 7

B. Merits:

1. The trustee obtained a judgment in the amount of \$400,000 against various defendants, including Centerpointe Electronics, a California corporation ("Centerpointe") on December 2, 2013 for the avoidance of certain transfers of assets of Centerpointe pursuant to 11 U.S.C. § 547 (preference) and 11 U.S.C. § 548 (fraudulent transfer), as well as pursuant to California fraudulent transfer statutes CCP § 3439.04 and 3439.04 ("Judgment") and holds the defendants jointly and severally liable.

2. The Judgment includes multiple defendants, including Centerpointe Electronic Components, Inc., a Utah corporation, Jennifer Vanderham, Joshua Vanderham, and Suzanne Taylor, and Centerpointe. The Judgment also states that Centerpointe is the alter ego of Debtor.

3. The recovery of transfers avoided pursuant to the aforementioned statutes is authorized exclusively by 11 U.S.C. § 550(a). Under 11 U.S.C. § 550(a), upon the avoidance of certain transfers, the trustee may recover the property transferred or the value of such property from the initial transferee or the entity for whose benefit the avoided transfer was made. *In re Mortgage Store, Inc.*, 773 F.3d 990, 994 (9th Cir. 2014). "[S]ection 550 specifies the conditions under which, once a transfer is avoided under section 544 or other provisions, a trustee can recover from various transferees." *Lippi v. City Bank*, 955 F.2d 599, 605 (9th Cir.1992). "The legislative history explains that 'Section 550 prescribes the liability of a transferee of an avoided transfer and enunciates the separation between the concepts of avoiding a transfer and recovering from the transferee.'" *Id.*; *In re Acequia*, 34 F.3d 800, 810 (9th Cir. 1994).

4. The Judgment and the Findings of Fact and Conclusions of Law [Docket # 64] are consistent with a finding that the trustee was entitled to recover the transfers from the *initial transferees*. The finding that Centerpointe is the alter ego of Debtor was necessary in order for the trustee to satisfy the transfer requirements of 11 U.S.C. §§ 547, 548 and CCP 3439, i.e., that property of Debtor was transferred based on alter ego. Centerpointe, however, was not an initial transferee but, rather, was the *transferor*. This is a critical distinction for purposes of establishing liability under 11 U.S.C. § 550(a).

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 16, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... James W Royer**

**Chapter 7**

5. As noted above, 11 U.S.C. § 550(a) permits a trustee to recover an avoidable transfer from certain transferees and also from "the entity for whose benefit the avoided transfer was made." Though some trustees/ plaintiffs have argued that a debtor could be such an "entity," the court is not aware of any legal authority supporting that argument, and Movant has cited the court to none. The court is, however, aware of persuasive caselaw to the contrary. See, *In re Wolf*, 595, B.R. 735, 789 (Bankr.ND Ill. 2018) (interpreting the debtor's liability under 11 U.S.C. § 550(a): "[t]he Debtor-transferor . . . may not be held liable as a transferor, an initial transferee, or as the entity for whose benefit the transfer was made."). The Eleventh Circuit in *In re Coggin*, 30 3d. 1443, 1454 (11th Cir. 1994), abrogated on other grounds by *Kontrick v. Ryan*, 540 U.S. 443, 124 S. Ct. 906, 157 L.Ed.2d 867 (2004), in rejecting the argument that 550(a) could be interpreted as allowing recovery against the transferring debtor, held:

"We have found no cases in which a court allowed a trustee to recover the value of an avoidable conveyance directly from the transferring debtor under section 550(a)(1). Having no guidance, we have applied the language of the statute and its apparent purpose, as well as economic reality and the contextual sense of the statutory scheme, to interpret the likelihood that Congress intended to include the debtor as an "entity" from which the trustee could recover under section 550(a)(1). After examining these factors, we agree with the bankruptcy and district courts that *there is no cause of action created by section 550(a)(1) in a trustee to recover the value of an avoidable conveyance from a transferring debtor.*' (emphasis added).

*Id.*; *Accord, In re Fleming*, 424 B.R. 795, 801 (Bankr. W.D. Mich. 2010) ("Section 550(a) has been interpreted as excluding from its scope the actual transferor of an avoided conveyance," citing *Coggin*); *Renda v. Nevarez*, 223 Cal.App.4th, 167 Cal.Rptr.3d 874, 877 (2014) ("Renda has cited no case holding such a debtor is subject to a money judgment under the UFTA, and we have found none," citing *Coggin*); *In re Wolf, supra*.

6. Thus, in light of the foregoing, whether it was Centerpointe, or Debtor under an alter ego theory, a transferor does not fall within the realm of 11 U.S.C. § 550(a) liability. If there is to be any clarification or amendment of the

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 16, 2020**

**Hearing Room**

**5A**

10:30 AM

**CONT... James W Royer**

**Chapter 7**

Judgment, it would be to exclude Centerpointe as a judgment debtor.

7. Based upon the court's conclusion that neither Centerpointe nor Debtor are liable under 11 U.S.C. § 550(a) for the avoidable transfers as a matter of law, the court deems it unnecessary to address the various and specific arguments and counter-arguments made by Movant and Debtor. *See also, In re Int'l Fibercom, Inc.*, 503 F.3d 933, 939 (9th Cir. 2007)(affirming bankruptcy court's reconsideration under FRCP 60 (b)(6) and clarification of its prior order because the prior order violated the Bankruptcy Code by granting assumption of a non-assumable contract).

***Note: If both parties accept foregoing tentative ruling, appearances at the hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

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

**Debtor(s):**

James W Royer

Pro Se

**Movant(s):**

Polaris Development LLC

Represented By  
Kenneth D Worth  
Samuel G Lockhart

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Melissa Davis Lowe  
Leonard M Shulman  
Ryan D O'Dea

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 16, 2020

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#12.00 CON'TD Hearing RE: Trustee's Motion to Assume and Assign Admiral Insurance Policy Pursuant to 11 U.S.C. Section 363 and 365

FR: 3-5-20

Docket 333

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 16, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant the motion -- the assignment shall be deemed effective one business day after close of escrow, but in any event no later than June 1, 2020.

*Special note: The trustee does not indicate in the status report when escrow is expected to close, so the court picked a date that seemed reasonable.*

**Note: If all parties accept the foregoing tentative ruling, appearances at the hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 16, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Friendly Village MHP Associates LP**

**Chapter 7**

**Party Information**

**Debtor(s):**

Friendly Village MHP Associates LP

Represented By  
Howard Camhi

**Movant(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Kristine A Thagard  
Arthur Grebow  
David Wood  
Tinho Mang

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Kristine A Thagard  
Arthur Grebow  
David Wood  
Tinho Mang

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 16, 2020

Hearing Room 5A

10:30 AM

8:18-13864 Friendly Village GP, LLC

Chapter 7

#13.00 CON'TD Hearing RE: Trustee's Motion to Assume and Assign Admiral Insurance Policy Pursuant to 11 U.S.C. Section 363 and 365

FR: 3-5-20

Docket 154

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 16, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant the motion -- the assignment shall be deemed effective one business day after close of escrow, but in any event no later than June 1, 2020.

*Special note: The trustee does not indicate in the status report when escrow is expected to close, so the court picked a date that seemed reasonable.*

**Note: If all parties accept the foregoing tentative ruling, appearances at the hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Courtroom 5A Calendar**

**Thursday, April 16, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Friendly Village GP, LLC**

**Chapter 7**

**Debtor(s):**

Friendly Village GP, LLC

Represented By  
Howard Camhi

**Movant(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
David Wood  
Kristine A Thagard

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
David Wood  
Kristine A Thagard



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, April 16, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-10275 Michael J Duff**

**Chapter 7**

Adv#: 8:19-01084 Constantin et al v. Duff

**#14.00** Hearing RE: Plaintiff's Motion to Amend Adversary Complaint

Docket 33

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 16, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant the Motion. The amended complaint must be filed by April 24, 2020; a responsive pleading must be filed by Defendant by May 14, 2020. Discovery shall be re-opened from April 16 through and including May 22, 2020; the pretrial conference shall be continued from May 21, 2020 to June 18, 2020 at 9:30 a.m.; the joint pretrial stipulation must be filed no later than June 8, 2020.

Basis for Tentative Ruling

Under FRCP 15(a)(2), made applicable herein by FRBP 7015, a party may amend its complaint "only with the opposing party's written consent or the court's leave." "The court should freely give leave when justice so requires

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**CONT... Michael J Duff**

**Chapter 7**

Leave to amend a complaint or claim is generally within the discretion of the bankruptcy court and is reviewed under the abuse of discretion standard. *Mende v. Dun & Bradstreet, Inc.*, 670 F.2d 129 (9th Cir. 1982). Federal Rule of Civil Procedure 15 (made applicable to this proceeding by Federal Rule of Bankruptcy Procedure 7015) provides that a party may amend the party's pleading by leave of court and leave shall be freely given when justice so requires. Fed. R. Civ. P. 15(a). The Ninth Circuit applies this rule with "extreme liberality." *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1482 (9th Cir. 1997). In exercising its discretion, a bankruptcy court "must be guided by the underlying purpose of Rule 15 to facilitate decision on the merits, rather than on the pleadings or technicalities." *In re Magno*, 216 B.R. 34 (9th Cir. BAP 1997). A bankruptcy court considers the following factors in determining whether a motion to amend should be granted: (1) undue delay; (2) bad faith; (3) futility of amendment; and (4) prejudice to the opposing party. *Hurn v. Retirement Fund Trust of Plumbing, Etc.*, 648 F.2d 1252, 1254 (9th Cir. 1981).

First, there was no undue delay in seeking the amendment. Plaintiffs state that although Defendant's deposition occurred in November 2019, Plaintiffs delayed their filing of the Motion because the parties went to mediation. See, Mot., p. 5:15-18. Moreover, the additional documents produced by Defendant were not produced until March 24, 2020- the same date the Motion was filed, so there was no undue delay. See, Opp'n, p. 3, ¶5.

Second, the amendment was not filed in bad faith. Defendant argues that the proposed amendment is in bad faith because Plaintiffs concealed material facts by providing only an excerpt of Defendant's November 2019 deposition transcript where Defendant states that he has no financial records and by failing to disclose Defendant's 28-page Errata to the deposition transcript. See, Opp'n, p. 10, ¶28 and p. 995-1022 (Ex. 28- the Errata pages). Thus, Defendant is arguing that the Motion was filed in bad faith because the Motion is based on testimony that was later corrected to state that financial records do exist. See, Opp'n, Ex. 28, p. 997:94-100. This argument is unpersuasive because, notwithstanding Defendant's corrected testimony, Defendant did not provide any of the alleged financial records to Plaintiffs until March 24, 2020. See, Opp'n, p. 3, ¶5. Thus, Defendants'

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**CONT...**

**Michael J Duff**

**Chapter 7**

argument is effectively that the Motion was filed in bad faith because Plaintiffs did not take Defendant at his word that financial records exist even though Defendant did not produce the documents until months later. And as pointed out by Plaintiffs, it is unclear what the documents that Defendant produced on March 24, 2020 actually are because the documents appear to be cell phone pictures of miscellaneous documents that are not numbered or labeled. See, Reply, p. 7:17-26 (Decl. of Marc Lieberman) and Exhibit 5.

Defendant's belief that Plaintiffs are seeking leave to file the FAC as retribution against Defendant because Plaintiffs "have finally realized that their Superior Court Complaint violated the stay[.]" is unsubstantiated and unpersuasive. See, Opp'n, p. 9:26-28.

Third, there is no futility of amendment because, unlike *In re Magno*, 216 B.R. 34, 38 (B.A.P. 9th Cir. 1997)(denying amendment to add § 523 cause of action to § 727 complaint after the deadline to file nondischargeability complaint expired because the § 523 cause of action did not relate back to the § 727 cause of action), the additional § 727 causes of action are not time barred since they relate back to the same general set of facts underlying the initial § 727 causes of action. See FRCP 15(c)(1)(B)(" An amendment to a pleading relates back to the date of the original pleading when... the amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set out—or attempted to be set out—in the original pleading[.]") Here, the additional § 727 causes of action arise out of Defendant's alleged prepetition conduct to conceal his assets. See, Mot., p. 5L18-28; Reply, p. 4:9-17; Compl., p. 3, ¶¶9 and p. 6, ¶17; Mot., Ex. C, bates stamp 000028, ¶¶15-16 and 19-20 (the new causes of action in the FAC).

To the extent that Defendant is arguing that amendment is futile because Defendant's evidence attached to the Opposition conclusively demonstrates that the new §§ 727(a)(3) and (a)(5) causes of action lack merit, such determination will be made through the pretrial motion or trial process. See, Opp'n p. 3-8, ¶¶7-24; Reply, p. 2:10-13.

Fourth, Defendant complains that he will be prejudiced because the pretrial conference is set for May 21, 2020 and Defendant won't be able to

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**CONT... Michael J Duff**

**Chapter 7**

propound discovery on Plaintiffs. See Opp'n, p. 11, ¶34. These concerns are easily allayed by re-scheduling the pretrial conference and re-opening discovery for a brief period of time.

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

Michael J Duff	Pro Se
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**Defendant(s):**

Michael J. Duff	Represented By David Brian Lally
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**Plaintiff(s):**

Holly Constantin	Represented By Alan W Forsley
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Michael Constantin	Represented By Alan W Forsley
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**Trustee(s):**

Richard A Marshack (TR)	Pro Se
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United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 16, 2020

Hearing Room 5A

10:30 AM

8:19-12199 Frank Albert Villar, Jr.

Chapter 7

#15.00 Hearing RE: Trustee's Final Report and Application for Final Fees and Expenses

[THOMAS H. CASEY, CHAPTER 7 TRUSTEE]

Docket 37

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

April 16, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Approve fees and expenses as requested.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.*

Party Information

**United States Bankruptcy Court  
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**Thursday, April 16, 2020**

**Hearing Room 5A**

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10:30 AM

**CONT... Frank Albert Villar, Jr.**

**Chapter 7**

**Debtor(s):**

Frank Albert Villar Jr.

Represented By  
Jacqueline D Serrao

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Thursday, April 16, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#16.00** Hearing RE: Related Debtors' Motion for Order Disallowing Claims of Todd C. Kurtin Pursuant to 11 U.S.C. Section 502(d):

Claim No. 29 Kurtin-\$33,892,117.62 [Debtor: Elieff]

Claim No. 9 Kurtin-\$33,892,117.62 [Debtor: Morse]

Claim No. 12 Kurtin-\$33,892,117.62 [Debtor: Camden]

Docket 323

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/12/2020 AT 10:30 A.M.,  
Per Order Entered 3/30/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/12/2020 at 10:30 a.m., Per Order  
Entered 3/30/2020 (XX) - td (3/30/2020)**

**Tentative Ruling:**

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

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Thursday, April 16, 2020

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 11

#17.00 CON'TD Hearing RE: Motion to Approve Compromise Under Rule 9019  
Between Related Debtor Bruce Elieff, Citi Investments Capital Inc., and W.C.R.  
Development Company, LLC

FR: 1-30-20; (Advanced from 4-17-20)

Docket 179

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of  
Motion and to Take Matter Off Calendar Filed 4/6/2020; Order Vacating  
4/16/2020 Hearing on Motion Entered 4/9/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal of Motion and to Take Matter Off  
Calendar Filed 4/6/2020; Order Vacating 4/16/2020 Hearing on Motion  
Entered 4/9/2020 - td (4/9/2020)**

**Tentative Ruling:**

**January 30, 2020**

Deny the motion in its entirety.

The court is inclined to order that all the relevant parties attend a judicial mediation, such relevant parties being Debtor, WCR, Todd Kurtin, the IRS, Citi Investment, the Creditors Committee, Chase and Ms. Elieff.

Basis for the Tentative Ruling:

For various and far-ranging reasons, this court cannot approve the Motion or the proposed agreement to which it relates as presented. The basis for the tentative ruling is summarized below:

1. As a preliminary matter, the Motion seeks this court's approval of an unexecuted, nonfinal "memorandum of understanding." Given the complexities noted below, the court will not consider approving anything other



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**CONT... Bruce Elieff**

**Chapter 11**

than a completed and executed final document.

2. The Motion appears to be a "quasi" 363 sale motion without the protections afforded creditors, e.g., under 363(f) and the opportunity for overbidding. Debtor has admitted receiving an unsolicited offer for the subject property of \$6.5M or nearly \$1M more than that paid by Citi at the foreclosure sale. Proper marketing of the property could generate an even higher amount for the benefit of the estate. The court is somewhat surprised by the position of the Creditors' Committee, which appears to be uninterested in maximizing the value of the subject property.

3. Debtor's attempt to style the Motion as one designed to effectuate a fraudulent transfer recovery under 550 and 551 falls short. According to the Declaration of Bruce Elieff ("Debtor"), Debtor caused WCR (the transferee of the Parham property in 2018) to transfer the subject property back to him on October 2, 2019 before the filing of the within chapter 11 case on the same date. Indeed, the quitclaim deed signed by Debtor (as the 100% owner of WCR) is dated October 2, 2019 and the same reflects a notary's affidavit with the same date. Thus, it appears that delivery of whatever interest WCR held in the property was delivered to Debtor by himself on October 2, 2019 prior to the bankruptcy filing. The deed was not recorded, however, until October 4, 2019, i.e., postpetition. Either way, whether the reconveyance occurred just prior to or shortly after the filing, as of at least October 4, 2019 there appears to be no transfer to avoid or recover. In any event, Debtor has presented insufficient evidence or legal analysis to support this court's finding of a viable 550(a) recovery claim.

4. The court does not share the confidence of either Debtor or Citi that the foreclosure sale was absolutely valid and that the notice of rescission was absolutely invalid. See, e.g., *Bank of America v. La Jolla Group II*, 129 Cal.App. 4th 706, 712 (2005) (Court upheld the invalidation of a trustee's deed where the trustor and beneficiary mutually consented to cure the default less than 5 days prior to the foreclosure sale, finding that the beneficiary had no power to sell the property, notwithstanding CC 2924(c) and notwithstanding the fact that the third party purchaser had no knowledge of the cure agreement).

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**CONT... Bruce Elieff**

**Chapter 11**

5. If the foreclosure sale was invalid, Citi gets its \$5.6M back and the property is property of the estate and available for sale at a price higher than \$5.6M, subject to all valid liens, which liens will likely exceed the ultimate value of the property.

6. If the foreclosure sale was valid, the \$5.6M is property of the bankruptcy estate within the meaning of 11 U.S.C. 541 over which this court has subject matter jurisdiction, contrary to the position apparently taken by MTC Financial. Such proceeds would, of course, be subject to any valid liens.

7. Even if Debtor could somehow persuade this court of the application of the avoidance/recovery provisions, the issue regarding Ms. Elieff's interest in the property is nuanced and needs to be adequately addressed by Debtor. Characterizing her interest as community property may or may not be accurate. The property was held by Debtor and Ms. Elieff as joint tenants. There is an open question as to the interest of a nondebtor *joint tenant* spouse. See, *In re Brace*, 908 F.3d 531 (9th Cir. 2018). In *Brace*, the chapter 7 trustee avoided a real property transfer in which the debtor and the non-debtor held the property as joint tenants pre-transfer. The issue before the bankruptcy court was whether the trustee had recovered a community interest as whole or only debtor's one-half interest in the property as a joint tenant. The 9th Circuit has certified the following question to the California Supreme Court:

"Does the form of title presumption set forth in section 662 of the California Evidence Code overcome the community property presumption set forth in section 760 of the California Family Code in Chapter 7 bankruptcy cases where: (1) the debtor husband and non-debtor wife acquire property from a third party as joint tenants; (2) the deed to that property conveys the property at issue to the debtor husband and non-debtor wife as joint tenants; and (3) the interests of the debtor and non-debtor spouse are aligned against the trustee of the bankruptcy estate?"

The question remains pending before the California Supreme Court.

8. Finally, the court cannot make a finding that the proposed compromise is fair, reasonable or adequate. *A&C Properties*, 784 F.2d 1377, 1381 (9th Cir.

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Santa Ana  
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**CONT...**

**Bruce Elieff**

**Chapter 11**

1986). As stated earlier, the compromise is structured to create an avoidance recovery where there is none and to avoid "a whole layer of additional entanglement" that a proper motion to sell would require. Motion at p. 13. The court declines Debtor's invitation to sanction a legal fiction (avoidance recovery) for the sake of convenience and is not persuaded that the proposed settlement is of paramount interest to creditors in light of the apparent below-market value offered in the compromise. At bottom, Debtor is endeavoring to jam a square peg into a round hole.

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

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, April 16, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-14169 Gary Clesceri**

**Chapter 7**

Adv#: 8:20-01013 Hopwood et al v. Clesceri et al

**#18.00** Hearing RE: Defendants' Motion for Sanctions Against Andrew Hopwood, Kathleen Hopwood and Lisa Salisbury, Pursuant to Bankruptcy Rule 9011

Docket 7

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 16, 2020**

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Continue hearing to May 21, 2020 at 2:00 p.m., same date/time as hearing on Defendants' motion to dismiss the adversary proceeding.

Court's Comments for the 5/21/20 Hearing

As many of the issues raised by the Motion are also relevant to the pending 12(b)(6) motion to dismiss filed by Defendants and scheduled for May 21, 2020, the court would prefer to hear both motions at the same time. For the convenience of the parties, the court has identified below various issues regarding the Motion.

1. It is undisputed that the Complaint was untimely filed. It is also undisputed

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CONT... Gary Clesceri

Chapter 7

that the decisions of the 9th Circuit are binding on this court. In *Anwar v. Johnson*, 720 F.3d 1183, plaintiff's counsel missed the deadline for filing a 523(a) nondischargeability action by less than hour due to technical problems with his computer. In affirming the decision of the bankruptcy court to dismiss the action with prejudice on the grounds that it lacked authority to retroactively extend the deadline, the 9th Circuit held:

"Reinforcing the statement that creditors must move for extensions of FRBP 4007(c)'s filing deadline before the time for filing has expired, FRBP 9006(b)(3) states that bankruptcy courts may extend this deadline "only to the extent and under the conditions stated in" FRBP 4007(c) itself. Fed. R. Bankr.P. 9006(b)(3). This requirement distinguishes FRBP 4007(c)'s deadline from most others set by the bankruptcy rules, which bankruptcy courts may extend at any time upon a showing of good cause or excusable neglect. Fed. R. Bankr.P. 9006(b)(1).

Consistent with the plain language of FRBP 4007(c) and 9006(b)(3), we have repeatedly held that the sixty-day time limit for filing nondischargeability complaints under 11 U.S.C. § 523(c) is "strict" and, without qualification, "cannot be extended unless a motion is made before the 60-day limit expires." *In re Kennerley*, 995 F.2d at 146 (citing *Anwiler v. Patchett (In re Anwiler)*, 958 F.2d 925 (9th Cir.1992)); see also, e.g., *Classic Auto Refinishing, Inc. v. Marino (In re Marino)*, 37 F.3d 1354, 1358 (9th Cir.1994); *Jones v. Hill (In re Hill)*, 811 F.2d 484, 486 (9th Cir.1987). Accordingly, Anwar was not entitled to a retroactive extension of the filing deadline based on equitable considerations or a local rule of bankruptcy procedure that purports to grant the bankruptcy court discretion to excuse untimely filings. The bankruptcy court lacked equitable power to grant Anwar relief from her untimely filings. "In bankruptcy cases, a court's equitable power is derived from 11 U.S.C. § 105(a)," *In re Anwiler*, 958 F.2d at 928 n. 5, which authorizes the court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]," 11 U.S.C. § 105(a). However, "whatever equitable powers remain in the bankruptcy courts must and can only be exercised within the confines of the Bankruptcy Code." *Norwest Bank Worthington v. Ahlers*, 485 U.S. 197, 206, 108 S.Ct. 963, 99 L.Ed.2d 169 (1988). These confines include deadlines set by the Federal Rules of Bankruptcy Procedure. See *Zidell, Inc. v. Forsch (In re Coastal Alaska Lines, Inc.)*, 920 F.2d 1428, 1432 (9th Cir.1990) (holding that the bankruptcy court may not invoke its equitable power under § 105(a) to enlarge the time for filing a proof of claim under FRBP 3002(c), where FRBP 9006(b)(3) limits the grounds for extension to those stated in FRBP 3002(c) itself). Because granting Anwar a retroactive extension of the filing deadline would conflict with the plain language of FRBP 4007(c) and 9006(b)(3), the bankruptcy court could not rely on its equitable powers to do so. See *Childress v. Middleton Arms, L.P. (In re Middleton Arms, L.P.)*, 934 F.2d 723, 725 (6th Cir.1991) ("bankruptcy courts cannot use equitable principles to disregard unambiguous statutory language") (internal quotation marks and citation omitted).

Thus, the fact that Anwar missed the filing deadline by less than an hour is immaterial. See *Kelly v. Gordon (In re Gordon)*, 988 F.2d 1000, 1001 1183 (9th Cir. 2013)."

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**CONT... Gary Clesceri**

**Chapter 7**

2. Contrary to the position taken by Plaintiffs, the restriction of FRBP 9006(b) (3) does apply to nondischargeability actions. Importantly, Plaintiffs do not address *Anwar* at all in their Opposition. The court finds this surprising as Plaintiffs were alerted to *Anwar* by Defendant's counsel prior to the filing of the Motion and in the Motion itself.

3. The Circuit does offer tardy plaintiffs a sliver of hope by not entirely ruling out the possibility that there could be a "unique and exceptional circumstances" equitable exception to Rule 4007(c), opining that "absent unique and exceptional circumstances not present here, we do not inquire into the reason a party failed to file on time in assessing whether she is entitled to an equitable exception from FRBP 4007(c)'s filing deadline; under the plain language of the rules and our controlling precedent, there is no such exception."

4. At the May 21, 2020 hearing, the parties should be prepared to argue whether "unique and exceptional" circumstances exist in this case. On the one hand, the Court in *Anwar* noted that the "fact that Anwar's untimely filing stemmed from difficulty with an electronic filing system is immaterial." On the other hand, the filing problem in *Anwar* was caused by technical issues with the attorneys own computer, whereas the assertion here is that the court's ECF system was the cause of the tardiness.

5. The caption of the Complaint states claims under both 523 and "727(a)(2) through 7." However, the body of the Complaint does not allege any facts or raise any issues of law concerning 727(a) and Plaintiffs do not discuss any claims under 727 in their opposition to the Motion. The inclusion of 727 in the caption has caused a delay in the entry of Debtor's discharge order as to debt other than Plaintiff's 523 claim. On the face of it, Plaintiffs' refusal to withdraw the 727 language appears to be unfounded and a basis for 9011 sanctions.

6. The sole claim for relief pled in the Complaint is fraud under 523(a)(2)(A). The elements of fraud include a knowing misrepresentation, false statement omission made by a defendant to a plaintiff with the intent to deceive the plaintiff. In this matter, no such allegations are made as to Charlene Clesceri. If Plaintiffs cannot allege any statements made by defendant Charlene Clesceri, the complaint would appear to be unfounded as to her. The refusal

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CONT... Gary Clesceri

Chapter 7

to dismiss her from the complaint may be grounds for 9011 sanctions.

7. The court is not inclined to grant Defendant's request for daily sanctions of \$500 since February 3, 2020 (or \$36,500 as of today's hearing).

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

**Debtor(s):**

Gary Clesceri

Represented By  
Michael G Spector

**Defendant(s):**

Gary Clesceri

Represented By  
Michael G Spector

Charlene Clesceri

Represented By  
Michael G Spector

**Joint Debtor(s):**

Charlene Clesceri

Represented By  
Michael G Spector

**Movant(s):**

Gary Clesceri

Represented By  
Michael G Spector

Charlene Clesceri

Represented By  
Michael G Spector

**Plaintiff(s):**

Kathleen M Hopwood

Represented By  
Lisa G Salisbury

Andrew J Hopwood

Represented By  
Lisa G Salisbury

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, April 16, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10107 Martha Leticia Gonzalez**

**Chapter 7**

**#19.00** Hearing RE: Order to Show Cause RE: Dismissal for Failure to Comply with Rule 1006(b) (\$100.00 Due on 3/13/2020) (OSC Issued 3/17/2020)

Docket 10

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: \$100.00 Installment  
Payment Paid on 3/30/2020, Receipt #80074911**

**Courtroom Deputy:**

**OFF CALENDAR: \$100.00 Installment Payment Paid on 3/30/2020,  
Receipt #80074911 - td (3/31/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

Martha Leticia Gonzalez Pro Se

**Trustee(s):**

Karen S Naylor (TR) Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 16, 2020

Hearing Room 5A

10:30 AM

8:20-10509 Michael Lee Allen

Chapter 11

#20.00 STATUS CONFERENCE RE: Status of Chapter 11 Case and (2) Requiring Report on Status of Chapter 11 Case

Docket 1

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Case Reassigned to Judge Catherine E. Bauer due to Related Case 8:15-13279-CB. Status Conference Set for 2/26/2020 at 10:00 a.m. before Judge Bauer, Courtroom 5D (xx)

Courtroom Deputy:

**OFF CALENDAR: Case Reassigned to Judge Catherine E. Bauer due to Related Case 8:15-13279-CB. Status Conference Set for 2/26/2020 at 10:00 a.m. before Judge Bauer, Courtroom 5D (xx) - td (2/18/2020)**

Tentative Ruling:

- NONE LISTED -

**Party Information**

**Debtor(s):**

Michael Lee Allen

Represented By  
Michael Jones

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Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 16, 2020**

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10:30 AM

**8:10-14723 Susan Doan**

**Chapter 7**

**#21.00 ORAL RULING** Hearing RE: Debtor's First Omnibus Motion For Order Disallowing the Following Claims as They Are Not Obligations of the Debtor: **(RE CLAIM # 8)**

Claim #8 Fred S. Pardes, A Professional Corporation \$56,409.78

FR: 2-11-20; 4-2-20

Docket 99

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 11, 2020**

Grant in part; deny in part; continue hearing in part. Grant as to Claim #s 4 and 7 (Capital One); continue hearing to March 19, 2020 at 10:30 a.m. as to Claim #s 1, 2, 3, 5 and 6 to allow Debtor to address various service/evidentiary issues; Deny as to Claim #8 without prejudice as moot.

Basis for Tentative Ruling:

I. Service:

The court shares the concern of the chapter 7 trustee regarding service given the unusual circumstances of this case. The court is concerned that the notice information given on the proofs of claim may not be current as this case was originally closed over 8 years ago on July 25, 2011, creditors had no duty or responsibility to maintain current addresses for notice. For example, as to the Wells Fargo, the proofs of claim include the name of a law firm, which may or may not still the attorney of record for Wells Fargo. Because of the passage of time, the court will require that all creditors, save

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Capital One (Claim #s 4 and 7) and Fred S. Pardes (Claim #8), be re-served per FRBP 7004(b)(3) for corporate entities or 7004(h) for banks.

2. Substantive Issues:

a. Claim #1 (WF Bank): Debtor asserts that WF Bank is owed nothing on this claim due to its approval of a short sale of the property known as 29252 Silverado Canyon Road, Silverado, CA. However, there is no documentary evidence of any such approval (or even a demand into escrow) and the escrow settlement document doesn't show any distribution to WF as a secured creditor. Further, there is no evidence of the release of the WF lien. Debtor has not met her initial burden of presenting evidence sufficient to refute the presumed validity of this proof of claim. Absent additional evidence, the motion will be denied as to Claim #1 at the continued hearing.

b. Claim #2 (WF Bank): Debtor asserts that WF Bank is owed nothing on this claim due to its approval of a short sale of the property known as 29222 Shadybrook Drive, Silverado, CA. However, there is no documentary evidence of any such approval or a demand into escrow. Though the escrow settlement statement shows a distribution of document shows a distribution of \$199,556.11 of WF's \$522,390 claim, there is no evidence of acceptance by WF of this amount in full satisfaction of its claim. Further, there is no evidence of the release of the WF lien. Debtor has not met her initial burden of presenting evidence sufficient to refute the presumed validity of this proof of claim. Absent additional evidence, the motion will be denied as to Claim # 2 at the continued hearing.

c. Claim #3 Wells Fargo Dealer Services Inc: The court could not verify that the post office box number indicated on the proof of claim is still viable. Accordingly, the motion must be reserved pursuant to FRBP 7004(b)(3). If no response is filed following re-service, the motion will be granted as to this claim at the continued hearing.

d. Claim #4 Capital One: In light of the amended claim in the amount of \$0.00 filed 2/10/20, the motion is granted as to this claim.

e. Claim #5 AT&T: Debtor has only provided the front of a check

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which purports to represent payment of the amount set forth in the proof of claim. Debtor must provide proof of either 1) the cancelled check or 2) bank statement showing the amount was deducted from her account. If Debtor provides such proof no later than 14 days prior to the hearing, the motion will be granted as to this claim. Re-service per 7004(b)(3) is required.

f. Claim #6 ECMC: The motion needs to be re-served per 7004(b)(3) as the court cannot verify that the P.O. Box on the proof of claim remains viable.. Further, the court cannot verify that the document attached as Exhibit 6 to Debtor's declaration is the same loan/debt referenced in proof of claim # 6. Absent additional verification, the motion will be denied as to this claim at the continued hearing.

g. Claim #7 Capital One Bank: As Capital One Bank filed an amended proof of claim on 2/10/20 reducing the claim to \$0.00, the motion is granted as to this claim.

h. Claim #8 Fred S. Pardes: Debtor objected to Claim #8 as it was filed on August 20, 2010 in the amount of \$56,409.78. Since the objection was filed, Mr. Pardes amended the claim on January 29, 2020 to increase the claim to \$157,947.38, thereby mooting the current claim objection. Without ruling on the current objection, the court makes the following observations regarding Mr. Pardes' opposition and Debtor's reply in order to assist the parties should a new objection to the amended Claim #8 be filed:

-- Debtor raises the issue of the statute of limitations on the claim for the first time in the reply. This is a substantive argument that should have been raised in the motion. LBR 9013-1(g)(4). Should Debtor file a new objection, this is an issue Mr. Pardes will obviously need to address.

-- Mr. Pardes admits he cannot produce a fully executed retainer agreement. Accordingly, it would appear he cannot claim interest in the amount set forth in such unsigned retainer agreement. Further, the state court judgment rate would appear not apply as no state court judgment has been entered to this court's knowledge. Should this be a surplus estate, the chapter 7 trustee will distribute interest to unsecured creditors at the *federal* judgment rate based on the allowed amount of the claim. See, *In re*

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*Cardelucci*, 285 F.3d 1241, 1234 (9th Cir. 2002).

-- The case of *Leighton v. Forster*, 8 Cal App 5th 467, 485-492 (2017) is instructive regarding the application and interpretation of Cal Bus & Prof Code 6178: (" [S]ection 6148(a) expressly states that "[a]t the time the contract is entered into, the attorney shall provide a duplicate copy of the contract signed by both the attorney and the client..." ) (Alleged client deemed to have voided the retainer agreement under 6178(c) by not signing the retainer agreement or paying the invoice) ("when an agreement is voided under section 6148(c) 'the attorney shall, upon the agreement being voided, be entitled to collect a reasonable fee.' This provision of section 6148 codifies the general rule that when legal services have been provided without a valid written fee agreement, the attorney may recover the reasonable value of the services she performed in the action pursuant to a common count for *quantum meruit*") (" The two-year statute of limitations in Code of Civil Procedure section 339 governs claims for quantum meruit. (*Iverson*, supra, 76 Cal.App.4th at p. 996, 90 Cal.Rptr.2d 665; Code Civ. Proc., § 339.) Where the claim of quantum meruit is based upon services performed under a contract that was void or voidable, the limitations period commences to run on either the date the last payment was made toward the attorney fees, or the last date that the attorney performed services in the case." ). The court in *Leighton* also rejected the attorney's argument that failure to object to an invoice constituted implied consent to pay it.

-- Contrary to Mr. Pardes' representation in his opposition, Debtor *did* list his claim as disputed.

-- The court is perplexed by Mr. Pardes' assertion that this court lack jurisdiction to adjudicate claims objections simply because the case was closed and later re-opened. The court is unaware of any legal authority that would limit this court's jurisdiction over the claims process pursuant to 28 U.S.C. 157(b)(2)(B) and Mr. Pardes has cited the court to no such authority.

-- The evidentiary objection of Debtor to the declaration of Mr. Pardes is well-taken. Hearsay, insufficient foundation for business record exception. FRE 803(6).

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April 2, 2020

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**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion as to Claim #s 1, 2, 3, 5 and 8 (the court has previously granted the motion as to Claim #s 4 and 7); Deny as to Claim #6

Basis for Tentative Ruling

Claim #s 1, 2, 3 and 5: Debtor has resolved all service and evidentiary issues since the last hearing and has provided evidence sufficient to shift the burden of proof to the claimants, who have the ultimate burden of proof. No response was filed by any of the claimants.

Claim #6 : This claim was filed on the official proof of claim form, with supporting documentation. See, Obj., Ex. 6. Therefore, Claim #6 is entitled to the presumption of prima facie validity, and Debtor must overcome this presumptive validity by negating one or more of the sworn facts in the claim.

At the previous hearing, the Court could not verify that the document attached as Exhibit 6 to Debtor's declaration is the same loan referenced in Claim #6. See Doan Decl., Ex. 6; see also Tentative Ruling, p. 4.

Here, Debtor still has not carried her burden of proof as to Claim #6. The February 26, 2014 notice from ECMC ("ECMC Note") suggested that the balance on the student loan account 867760/01 had been paid in full, but it did not mean that other loans, if any, were paid in full ("Please note this notice shall not constitute a waiver of ECMC's right to collect on educational loans

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which were not paid-in-full"). Doan Suppl. Decl., Ex. 9. Moreover, Debtor argues that the distributed amount of \$2,800 on ECMC Note matches with the \$2,800 "Requested Loan Amount" on the promissory note filed as supporting document with Claim #6. See Id.; Doan Suppl. Decl., p. 3:25-27; Doan Decl., Ex. 6, p. 84 of 92 (top of page). Nevertheless, Claim #6 asserts a debt of \$1,371.22 with a principal amount of \$1,100.48, not \$2,800. It is still unclear whether ECMC Note and Claim #6 are referring to the same loan/debt. Accordingly, Debtor has not presented evidence sufficient to rebut the presumed validity of Claim #6.

Claim #8 - Pardes

As a preliminary matter, Mr. Pardes' request that this hearing be continued until he can appear in person in court is denied. First, given the uncertainty of the current pandemic environment, social distancing could be the norm for months to come. Second, this court has conducted telephonic hearings for more than 15 years and accustomed to making determinations regarding the merits of oral argument whether a party is appearing in person or telephonically. Third, this matter is not a trial or evidentiary hearing where credibility of factual testimony could be impact by the physical demeanor of the witness. At issue here are legal arguments which are readily conducive to telephonic argument so long as all parties can be clearly heard.

- a. This Court Has Jurisdiction to Adjudicate the Claim Objection at Issue.

In its prior Tentatively Ruling, the Court noted that Pardes failed to cite to any authorities to support his argument that this Court lacks jurisdiction. See above Tentative Ruling. Pardes's supplemental opposition, however, again fails to cite to any legal authorities to support his argument that because the case was re-opened for the narrow purpose for the Trustee to administer Debtor's undisclosed assets, the Court has no jurisdiction to hear claim objections. See Pardes Second Opp'n, p. 15:2-20. Pardes simply declares that his argument is "logical and rationale, and is made in good faith." Id., p. 15:16. This is insufficient to rebut the fact that this Court has jurisdiction to adjudicate the instant matter pursuant to 28 U.S.C. § 157(b)(2)

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(B)(core proceedings include, "allowance or disallowance of claims against the estate ...").

- b. The Retainer Does Not Comply with California Business & Professions Code § 6148

Under California Business & Professions ("B&P") Code § 6148(a):

"[i]n any case ... in which ... it is reasonably foreseeable that total expense to a client, including attorney fees, will exceed one thousand dollars (\$1,000), the contract for services in the case shall be in writing. At the time the contract is entered into, the attorney shall provide a duplicate copy of the contract signed by both the attorney and the client ..."

As the Court pointed out in previous Tentatively Ruling, *Leighton v. Forster*, 8 Cal. App. 5th 467 (2017) is instructive regarding the application and interpretation of B&P Code § 6148 on attorney fee agreement.

*Leighton* involved an engagement letter that an attorney e-mailed to her client, who never signed the letter. 8 Cal. App. 5th at 475-6. After the client passed away, the attorney filed a complaint against the client's widow for breach of a written attorney fee contract and an account stated. *Id.* at 481. The *Leighton* court, however, concluded that the (1) engagement letter was not in compliance with B&P Code § 6148(a) because it was not signed; *Id.* at 484. (2) Client's widow implicitly voided the engagement letter by refusing to pay; *Id.* at 487. (3) The Attorney's Quantum Meruit claim was barred by the two-year statute of limitations; *Id.* at 490. (4) The Attorney's account stated claim failed as a matter of law. *Id.* at 490-491.

Contrary to Pardes's belief, *Leighton* is instructive because it is not only factually similar, but also on all fours with the instant matter. The fact that the client in that case was not actively involved in the underlying legal proceedings is immaterial. See Pardes Second Opp'n, p. 10:16-18. The client's widow did not sign the engagement letter, making it unenforceable pursuant to B&P Code § 6148(a). *Leighton*, 8 Cal. App. 5th at 484. Once the client passed away, the attorney could not collect her fees from or litigate



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against the client anymore. *See Id.* at 470. The Court observed that "section 6148(a) expressly states that '[a]t the time the contract is entered into, the attorney shall provide a duplicate copy of the contract signed by both the attorney and the client...' 8 Cal. App. 5th at 486. In other words, for a contract to be enforceable under Section 6148(a), (1) the attorney must provide a duplicate copy of the contract and (2) the contract must be signed by both parties (3) at the time the contract is entered into. *Id.*

Here, the retainer agreement provided by Pardes (the "Retainer") does not meet the requirements of B&P Code § 6148(a). Although Pardes mailed the Retainer to Debtor, neither Pardes nor Debtor signed it. Pardes Opp'n, Ex. 6-4. On the cover sheet of the two letters that Pardes sent to Debtor, he specifically asked Debtor to "please sign and return" the Retainer, but Debtor did not do so. Pardes Opp'n, Ex. 6-1, Ex. 7. "[T]he fact that an alleged attorney fee contract has not been signed by anyone does not constitute a technicality, but a material failure to comply with a crucial statutory requirement." *Leighton*, 8 Cal. App. 5th at 484-485. Further, *Leighton* also rejected the attorney's argument that failure to object to an invoice constituted implied consent to pay it. *Id.* Similarly, the fact that Debtor did not sign or return the Retainer even when she was instructed to do so suggests that her decision not to sign was intentional and therefore refutes Pardes's argument that Debtor's silence constitutes acceptance of the retainer agreement. Pardes cannot argue that the Debtor did not object the invoices he sent constitute consent to pay them either.

c. Debtor Impliedly Voided the Retainer Pursuant to B&P Code § 6148(c) and § 6148(d)(3)

Under B&P Code § 6148(c), Pardes's failure to comply with § 6148(a) renders the retainer agreement voidable at the option of Debtor. A client does not have to void a noncompliant agreement expressly. *See Leighton*, 8 Cal. App. 5th at 487-488. In *Leighton*, the court inferred that the client and his widow "implicitly voided" an engagement letter by failing to sign it and refusing to pay a subsequent invoice from the attorney. *Id.* Similarly, by failing to sign the Retainer and returning the invoices, Debtor voided the Retainer.

A client may waive the right to void an agreement if she "knowingly

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states in writing, after full disclosure of this section, that a writing concerning fees is not required." B&P. Code § 6148(d)(3). Here, no evidence suggests that Pardes disclosed § 6148 to Debtor or that Debtor knowingly stated in writing that "a writing concerning fees is not required." See *Id.* Therefore, Debtor did not waive her option to render the Retainer void.

Pardes's argument that Debtor is estopped to from voiding the Retainer is not persuasive. The authorities cited by Pardes discuss generally the rationale of the doctrine of estoppel by statement or conduct, but none of them specifically involve an attorney fee contract under B&P Code § 6148 or is remotely factually similar to the instant matter. See *In re Marriage of Valle*, 53 Cal. App. 3d 837 (1975)(ruling on an action brought by wife for dissolution of marriage, child custody and support and division of community property); *United States v. Moore*, 522 F.2d 1068 (9th Cir. 1975)(discussing criminal law issues, such as search and seizure); *Jenkins v. Anderson*, 447 U.S. 231 (1980)(discussing the Fifth Amendment issues and impeachment of witness in criminal cases); *S. Stone Co. v. Singer*, 665 F.2d 698 (5th Cir. 1982) (discussing parol evidence under Georgia law).

Because Debtor has voided the Retainer impliedly, there is no enforceable contract of services between Pardes and Debtor.

d. Interest Rate Cannot be Calculated Based on the Retainer  
Since It is Unenforceable

Since there is no enforceable contract, interest, if any, cannot be calculated based on the rate set in paragraph 7 of the retainer agreement, which is 18%. Pardes Opp'n, Ex. 6-4. Contrary to Pardes's belief that "at minimum" he can alternatively charge Debtor with the state interest rate, which is 10%, the federal interest rate should apply. Opp'n, Pardes Decl. 6:20. Under 11 U.S.C. 726(a)(5), an unsecured creditor is entitled to "payment of interest at the legal rate from the date of the filing of the petition" before any distribution of remaining assets to the debtor. In *Onink v. Cardelucci*, 285 F.3d 1231, 1234 (9th Cir. 2002), the Ninth Circuit Court of Appeals adopted the Bankruptcy Appellate Panel's reasoning in *In re Beguelin*, 220 B.R. 94, 99 (9th Cir. BAP 1988) and concluded that "interest at the legal rate" referred to federal judgment rate. Accordingly, at most Pardes

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may charge Debtor with an interest rate of 0.44%, which was the federal judgment rate of interest when Debtor filed her bankruptcy petition on April 13, 2010. *See, Post-Judgment Interest Rates – 2010*, [https://www.casb.uscourts.gov/sites/casb/files/documents/postjudgment/historic\\_rates.pdf](https://www.casb.uscourts.gov/sites/casb/files/documents/postjudgment/historic_rates.pdf).

- e. Pardes's Quantum Meruit Claim Is Barred by the Two-Year Statute of Limitations Pursuant to CCP § 339

While Debtor raised the statute of limitations defense to Pardes's quantum meruit argument for the first time in her Reply to Pardes's original opposition, since the Court continued the hearing, Pardes had an opportunity to address the statute of limitations defense, and he did so in his second opposition. *See Reply*, p. 4-6; *see also Pardes Second Opp'n*.

The court in *Leighton* held that B&P Code § 6148(c) "codifies the general rule that when legal services have been provided without a valid written fee agreement, the attorney may recover the reasonable value of the services she performed in the action pursuant to a common count for quantum meruit." 8 Cal. App. 5th at 490. Citing to *Iverson*, 76 Cal. App. 4th at p. 996, *Leighton* further observed:

"[the two-year statute of limitations in Code of Civil Procedure § 339 governs claims for quantum meruit ... Where the claim of quantum meruit is based upon services performed under a contract that was void or voidable, the limitations period commences to run on either the date the last payment was made toward the attorney fees, or the last date that the attorney performed services in the case."

*Leighton*, 8 Cal. App. 5th at 490.

In the instant matter, Pardes admits that the last payment Debtor made to him was on August 11, 2006. *Pardes Second Opp'n*, p. 2:1.

The last date that Pardes performed services for Debtor is less

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clear. In her request for fee arbitration, she stated that, "My real balance to Fred Pardes was approximately \$10,000 in August 2006. I fired him then[.]" Pardes Supp. Decl., Ex. 11-2, Section 17. If Debtor terminated Pardes as her lawyer in August 2006, any services rendered by Pardes thereafter was not authorized. Consequently, the statute of limitations would begin to run from the date of last payment, which was August 11, 2006.

The invoices show, and Debtor acknowledges, that the last service for which Debtor allegedly incurred a charge occurred on February 28, 2007. See Pardes Decl., Ex. 8-24; see also Pardes Suppl. Decl., p. 4, ¶ 69 ("That the last legal bill with legal fees charged was March 23, 2007 ... (Exh. 8-24)."). On April 18, 2007, Pardes also performed some "records search" for Debtor for which he did not charge Debtor. Pardes Decl., Ex. 8-23.

Even if the statute of limitations did not start to run until April 18, 2007, the bar date would be April 18, 2009, nearly one year prior to the filing of the bankruptcy petition on April 13, 2010. Therefore, the two-year statute of limitations has expired already regardless. The first state court lawsuit was dismissed without prejudice, and Pardes did not file the second state-court lawsuit until July 20, 2010, three months after the petition date and after the expiration of the statute of limitations.

In conclusion, Pardes's Quantum Meruit claim is time-barred by the two-year statute of limitations pursuant to CCP § 339.

f. Pardes's Account Stated Claim Has No Merit.

The essential elements of an account stated are (1) previous transactions between the parties establishing the relationship of debtor and creditor; (2) an agreement between the parties, express or implied, on the amount due from the debtor to the creditor; and (3) a promise by the debtor, express or implied, to pay the amount due. *Leighton*, 8 Cal. App. 5th at 491. The *Leighton* court observed:

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"Indeed, courts uniformly hold that a plaintiff cannot use the device of pleading a common count, such as an open book account or account stated, in order to extend the statute of limitations period when the basis of the common count claim is factually identical to the barred contract claim.... Appellant's common count theory is based on the identical evidence appellant uses to support her first cause of action for breach of a written attorney fee agreement. However, there is insufficient evidence in this record to create a triable issue of fact with respect to the existence of a written attorney fee agreement between appellant and Rochelle. This deficiency establishes that any claim appellant has against Rochelle for her unpaid fees could only arise from an obligation that it not based on a writing. The statute of limitations for such a claim is two years."

*Id.* at 494.

Under *Leighton*, Pardes' account stated claim cannot stand. In sum, there is no enforceable written fee contract that could establish a debtor-creditor relationship between Doan and Pardes. See *Leighton*, 8 Cal. App. 5th at 492. and B&P Code § 6148(c). The fact that Debtor did not object to the invoices Pardes sent cannot be inferred as consent to pay him. See *Leighton*, 8 Cal. App. 5th at 492. To the contrary, Debtor's failure to pay Pardes and her decision to seek fee arbitration was further notice to Pardes that Debtor did not agree that she incurred such a debt. See *Id.* at 493; Pardes Second Opp'n, Ex. 11. In addition, Pardes's account state claim is based upon the identical evidence he uses to support his breach of written contract claim. As such, the two-year statute of limitations is applicable here and Pardes's claim is time-barred.

Pardes argues that the instant matter is distinguishable from *Leighton*, but he fails to cite to any authorities that support his proposition that a combination of payments made by Debtor and her failure to object to the remaining balance created an account stated. See Pardes Second Opp'n, p. 6:3-9.

g. Equitable Tolling Is Not Applicable

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While California courts have applied the doctrine of equitable tolling in bankruptcy cases, Pardes fails to satisfy the requirements of equitable tolling for it to apply here. See, e.g., *In re Capital Options, LLC*, 719 F. App'x 609 (9th Cir. 2018); *In re Milby*, 875 F.3d 1229 (9th Cir. 2017). In *In re Capital Options*, the debtor sued to recover on breach of contract theory. 719 F. App'x at 610. The court first pointed out that a two-year statute of limitations applied to alleged breaches of oral contracts pursuant to CCP § 339. *Id.* at 611. The court then rejected the debtor's (plaintiff) argument of equitable tolling for several reasons, amount which two of them are instructive for the instant matter: (1) the debtor "alleged no facts regarding equitable tolling in its complaint, which it had the burden of doing"; and (2) the plaintiff fails to show "among other things, it acted reasonably and in good faith." *Id.* at 621 (citing *Addison v. State*, 21 Cal.3d 313, 319).

In the instant matter, Pardes has failed to show that he has acted reasonably and in good faith. See *In re Capital Options*, 719 F. App'x at 612. The plaintiff in *In re Capital Options* failed to show reasonableness or good faith because "little [was] known about the state-court litigation other than that it lasted for 13 months and was dismissed at [debtor's] request." *Id.* at 612-13. Similarly, in this matter little is known about the first state-court litigation between Debtor and Pardes except that it lasted a year and was dismissed without prejudice. Pardes could have filed another complaint before the expiration of the two-year statute of limitations, but he did not do so. Pardes declares that his actions meet all the requirements of equitable tolling, but he does not provide any evidence to support his claim. See Pardes Second Opp'n, p. 14:24-26.

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*This matter remains under review by the court. The court's ruling regarding Claim #8 (Pardes) might be posted prior to the hearing.*

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**Chapter 7**

**Debtor(s):**

Susan Doan

Represented By  
Gregory J Doan  
Bryan L Ngo

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Tinho Mang

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**8:19-13858 Bruce Elieff**

**Chapter 11**

**#1.00** CON'TD Hearing RE: Motion to Approve Compromise Under Rule 9019  
Between Related Debtor Bruce Elieff, Citi Investments Capital Inc., and W.C.R.  
Development Company, LLC

FR: 1-30-20

Docket 179

**\*\*\* VACATED \*\*\* REASON: HEARING ADVANCED TO 4/16/2020 AT  
10:30 A.M., Per Order Entered 3/30/2020 (XX)**

**Courtroom Deputy:**

**ADVANCED: Hearing Advanced to 4/16/2020 at 10:30 a.m., Per Order  
Entered 3/30/2020 (XX) - td (3/30/2020)**

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

Bruce Elieff

Represented By  
Paul J Couchot



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Friday, April 17, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#2.00** CONT'D Hearing RE: Creditor Todd Kurtin's Motion for Order Directing Appointment of Chapter 11 Trustee

FR: 1-30-20

Docket 209

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/14/2020 AT 10:00 A.M.,  
Per Order Entered 3/27/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/14/2020 at 10:00 a.m., Per Order  
Entered 3/27/2020 (XX) - td (3/27/2020)**

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Friday, April 17, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#3.00** Hearing RE: Motion for Approval of Stipulation Between Bruce Elieff and the Official Committee of Unsecured Creditors of Bruce Elieff Granting the Committee Standing to Pursue Avoidance Actions and Actions Against Insiders on Behalf of Bruce Elieff's Estate; Stipulation

Docket 217

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/14/2020 AT 10:00 A.M.,  
Per Order Entered 3/27/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/14/2020 at 10:00 a.m., Per Order  
Entered 3/27/2020 (XX) - td (3/27/2020)**

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

Bruce Elieff

Represented By  
Paul J Couchot

**Movant(s):**

Official Committee of Unsecured

Represented By  
Richard Lee Wynne

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, April 23, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01205 Elieff et al v. Kurtin

**#1.00** CONT'D Hearing RE: Joint Motion for Summary Judgment on Claim for Mandatory Subordination of Claim Pursuant to 11 U.S.C. Section 510(b)

FR: 4-9-20

Docket 57

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 23, 2020**

This motion for partial summary adjudication as to the subordination claims shall be continued to July 23, 2020 at 2:00 p.m. (XX)

Basis for Tentative Ruling:

1. Defendant asserts he needs time to conduct discovery,
2. If the tentative ruling for #2 on today's calendar stands, Plaintiffs will be filing a third amended complaint.

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

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**United States Bankruptcy Court  
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**CONT... Bruce Elieff**

**Chapter 11**

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01205 Elieff et al v. Kurtin

**#2.00** CONT'D Hearing RE: Defendant's Motion to Dismiss Second Amended Complaint

FR: 1-30-20; 4-9-20

Docket 19

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 23, 2020**

Grant in part; deny in part. Grant with leave to amend as claims for relief under Sections 547 and related 550/551 as to Elieff and Camden; Grant without leave to amend as to all claims for relief for lien avoidance under 510(c); Deny motion as to all other claims for relief. Third amended complaint must be filed no later than May 14, 2020; responsive pleading no later than June 11, 2020.

*Special note: The court apologizes to the parties for the analysis which follows. Due to the difficulty in reviewing the massive amount of pleadings and documents electronically (a skill the court is still developing), the tentative ruling has not been edited to "perfection." Hopefully, it will nevertheless assist the*

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CONT...

**Bruce Elieff**

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*parties in honing their oral argument.*

***Oral Argument: Movant will have 30 minutes max for argument;  
Respondents will have up to 30 minutes to respond; Movant will have 15  
minutes for reply.***

Basis for Tentative Ruling

Bruce Elieff ("Elieff") filed a voluntary chapter 11 on October 2, 2019, and Morse Properties, LLC ("Morse") and 4627 Camden, LLC ("Camden") filed voluntary chapter 11 petitions on October 3, 2019 (Debtor, Morse, and Camden, collectively, "Debtors"). Debtors' cases are being jointly administered. On January 23, 2020, the UST appointed the following members to serve on the committee of creditors for Elieff's estate: (1) Bond Safeguard Insurance Company, (2) Miller Barondess, LLP, and (3) E.O.C. Ord, A Professional Corporation (collectively, the "Committee").

The Adversary Proceeding

On October 15, 2019, Debtors filed an adversary complaint against defendant Todd Kurtin ("Kurtin") to avoid Kurtin's \$34 million judgment lien and subordinate Kurtin's claim (the "AP"). On December 11, 2019, Debtors filed a second amended complaint (the "SAC")[AP dkt. #11]. On February 27, 2020, Debtors and the Committee filed a joint motion for summary judgment on the first claim for relief in the SAC, mandatory subordination under § 510(b) [AP dkt. # 57]. The motion for summary judgment is set for hearing with this Motion. On March 3, 2020, the order granting the Committee's motion to intervene as to the first claim for relief only was entered [AP dkt. #65].

Kurtin moves to dismiss the entire SAC for failure to state a claim under FRCP 12(b)(6) (the "Motion")[AP dkt. #19]. Debtors and the Committee opposes the Motion.

A. The Alleged Facts & Claims For Relief In The SAC

Kurtin and Elieff were business partners in the real estate development

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field in the 1990s. (Comp., ¶ 14). In 2005, the parties entered into a contract denominated a Settlement Agreement (the "Settlement Agreement") which was a securities purchase agreement. (Comp., ¶¶ 18-19). In this writing, Elieff agreed to buy and Kurtin agreed to sell Kurtin's equity interests in thirty-four of the thirty-six business entities listed on Exhibit "B" to the Settlement Agreement (the "Joint Entities" or "Suncal LLCs"). (Comp., ¶¶ 18-21). The purchase price payable for these securities was \$48.8 million. (Comp., ¶ 19).

Elieff made the first two installments due under the Settlement Agreement. (Comp., ¶¶ 18-19). However, only a partial payment was made on the third installment and nothing was paid on the fourth installment. (Comp., ¶¶ 24-25). Thereafter, litigation ensued over the balance due under the Settlement Agreement for over a decade. (Comp., ¶¶ 26-39). In 2019, this litigation concluded with Kurtin obtaining the 2017 Judgment. *Id.*

Prior to October 2, 2019, the Elieff's petition date, Kurtin recorded the following liens against Elieff: a lis pendens on 9/6/2012, an abstract of judgment on 5/12/2017, an abstract of judgment on 12/20/2017, an abstract of judgment on 2/11/2019, an abstract of judgment on 4/29/2019, and an abstract of judgment on 9/18/19 (together the "Kurtin Liens" or "Kurtin Lien" individually) (Comp., ¶ 53).

Based upon a state court order finding Elieff to be the alter ego of Camden and Morse, Kurtin recorded liens against the real properties owned by Camden and Morse. (Comp., ¶ 40). Against Camden, Kurtin filed a lis pendens on 9/6/2012, an abstract of judgment on 2/11/2019, an abstract of judgment on 4/29/2019, and an abstract of judgment on 9/18/2019 (the "Camden Liens"). (Comp., ¶ 56). Against Morse, Kurtin filed an abstract of judgment on 9/18/2019 (the "Morse Lien"). (Comp., ¶ 57).

In the SAC, Debtors allege eighteen claims for relief ("Claims") as follows (with the name of plaintiff alleging the Claim):

1. Elieff- mandatory subordination under §§ 510(b) and 510(c)(2)
2. Elieff- preference under § 547 (re: the Kurtin Lien recorded 9/18/19)

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3. Elieff- constructive fraudulent transfer under § 548
4. Elieff- constructive fraudulent transfer under § 544 and Civil Code §§ 3439.4(a)(2) and 3439.05
5. Elieff- preference under § 547 (re: the Perham Property)
6. Elieff- §§ 550/551
7. Morse- mandatory subordination under §§ 510(b) and (c)(2)
8. Morse- preference under § 547 (re: the Morse Lien recorded 9/18/19)
9. Morse- §§ 550/551
10. Camden- mandatory subordination under §§ 510(b) and (c)(2)
11. Camden- preference under § 547 (re: the Camden Lien recorded 9/18/19)
12. Camden- constructive fraudulent transfer under § 548
13. Camden- constructive fraudulent transfer under § 544 and Civil Code §§ 3439.4(a)(2) and 3439.05
14. Camden- preference under § 547 (re: the Riverside Lots)
15. Camden- §§ 550/551
16. Elieff- §502(d)
17. Morse- § 502(d)
18. Camden- § 502(d)

Because many of the Claims are based on similar statutes, the analysis below groups similar claims for relief together. The Motion does not specifically address the 2<sup>nd</sup> and 11<sup>th</sup> Claims.

**B. FRCP 12(b)(6) Standard**

FRCP 12(b)(6) is made applicable to this AP under Rule 7012. 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. *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009). 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. The plausibility standard is not akin to a "probability requirement," but it asks more than a sheer possibility that a defendant has acted unlawfully. Where a complaint pleads facts that are merely consistent with a defendant's liability, it stops short of the line

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between possibility and probability of entitlement to relief. In keeping with these principles a court considering a motion to dismiss can choose to begin by identifying pleadings that, because they are no more than conclusions, are not entitled to the assumption of truth. *Id.* at 1950. While legal conclusions can provide the framework of a complaint, they must be supported by factual allegations. When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief. *Id.* The court must construe the complaint in the light most favorable to the plaintiff, and accept all well-pleaded factual allegations as true. *Johnson v. Riverside Healthcare Sys., LP.*, 534 F.3d 1116, 1122 (9<sup>th</sup> Cir. 1990).

In *Atlantic Corp. v. Twombly*, 550 U.S. 544, 561 (2007), the Supreme Court established more stringent notice-pleading standard for motions to dismiss for failure to state a claim upon which relief may be granted. A plaintiff is required to provide more than "labels and conclusions, and a formulaic recitation of the elements of a cause of action ...." *Id.* The plaintiff must provide "enough facts to state a claim to relief that is plausible on its face." *Twombly* overruled the more liberal *Conley v. Gibson* standard, which held that 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 which would entitle him to relief. With the new standard in *Twombly*, the Supreme Court has said that the facts asserted in support of the claim need to cross the line "from conceivable to plausible."

The Court may consider: 1) the complaint and answer; 2) any documents attached or mentioned in the pleadings; 3) documents not attached but "integral" to the claims; and 4) matters subject to judicial notice. *Coto Settlement v. Eisenberg*, 593 F.3d 1031, 1038 (9th Cir. 2010); *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 1988)("The court need not, however, accept as true allegations that contradict matters properly subject to judicial notice or by exhibit."); *Gerritsen v. Warner Bros. Ent. Inc.*, 116 F. Supp. 3d 1104, 1118 (C.D. Cal. 2015)("The incorporation by reference doctrine "permits a district court to consider documents whose contents are alleged in a complaint and whose authenticity no party questions, but which are not physically attached to the [plaintiff's] pleadings."). If the court considers evidence that is outside the four categories listed above, the court must cover the FRCP 12(b)(6) motion to a



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motion for summary judgment under FRCP 56. See, FRCP 12(d); *Gerritson, supra*, at 1118.

Per FRE 201, a court may take judicial notice of facts that are not subject to reasonable dispute in that 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." "It is well established that a court may take judicial notice of its own records... But this does not mean that a court can take judicial notice of the truth of all documents found within a court's records. That a fact sought to be noticed is found in a court's records is not talismanic; the fact still must be of the type described in [FRE] 201. *In re Blumer*, 95 B.R. 143, 146 (BAP 9th Cir. 1988). Per FRE 201, a court may take judicial notice of facts that are not subject to reasonable dispute in that 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."

"A court may take judicial notice of 'matters of public record' without converting a motion to dismiss into a motion for summary judgment. *MGIC Indem. Corp. v. Weisman*, 803 F.2d 500, 504 (9th Cir.1986). But a court may not take judicial notice of a fact that is "subject to reasonable dispute." Fed.R.Evid. 201(b)." *Lee v. City of Los Angeles*, 250 F.3d 668, 689–90 (9th Cir. 2001).

In this case, both Kurtin and Debtors request that the Court take judicial notice of facts within prior pleadings filed in both state court and bankruptcy court, prior state court orders and jury verdicts, and recorded abstracts of judgment. The court will only take judicial notice of pleadings and documents that are integral to the SAC itself. Stated otherwise, the court will only take judicial notice of documents outside the four corners of the SAC that are actually referenced therein, including, without limitation, the Settlement Agreement, complaints referenced in the SAC, arbitration award, and judicial opinions. All other documents will not be judicially noticed.

The Court should grant the request to take judicial notice of pleadings, orders, and abstracts of judgment but not of the truth of any factual statements made in the pleadings or documents because these facts are not the type of

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facts that may be judicially noticed, i.e., they are not generally known with the court's territorial jurisdiction and are subject to reasonable dispute.

"On a Rule 12(b)(6) motion to dismiss, when a court takes judicial notice of another court's opinion, it may do so 'not for the truth of the facts recited therein, but for the existence of the opinion, which is not subject to reasonable dispute over its authenticity.'" *Lee v. City of Los Angeles*, 250 F.3d at 690 (reversing district court in 42 U.S.C. § 1983 action for taking judicial notice regarding the validity of an extradition waiver instead of only taking judicial notice that the waiver was filed).

**C. The Motion Should Be Partially Granted As To The § 510(b)  
Mandatory Subordination Claims**

[1<sup>st</sup> (Elieff) 7<sup>th</sup> (Morse) and 10<sup>th</sup> (Camden) Claims]

Under § 510(b), "a claim arising from rescission of a purchase or sale of a security of the debtor or of an affiliate of the debtor, for damages arising from the purchase or sale of such a security, or for reimbursement or contribution allowed under section 502 on account of such a claim, shall be subordinated to all claims or interests that are senior to or equal the claim or interest represented by such security[.]"

Thus, § 510(b) effectuates "one of the general principles of corporate and bankruptcy law: that creditors are entitled to be paid ahead of shareholders in the distribution of corporate assets." See, *In re Am. Wagering, Inc.*, 493 F.3d 1067, 1071 (9<sup>th</sup> Cir. 2007). The rationale behind § 510(b) is the dissimilar risk and return expectations of shareholders and creditors, and the reliance of creditors on the equity cushion provided by shareholder investment. See, *In re Betacom of Phoenix, Inc.* 240 F.3d 823, 830 (9<sup>th</sup> Cir. 200). Section 510(b) "contemplates three types of claims—rescission, damages, and Here, Kurtin advances three main arguments why the mandatory subordination claims should be dismissed: (1) the Settlement Agreement is not an agreement to purchase or sale of securities, (2) even it were, the 2017 Judgment (the basis of Kurtin's proofs of claim) does not "arise from" the sale or purchase of securities because the 2017 Judgment was based on Elieff's liability for diversion of assets, and (3) Debtors

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cannot transfer the liens securing the 2017 Judgment under § 510(c)(2) because that section is inapplicable to mandatory subordination.

1. The 2017 Judgment is a Claim for Damages

As a preliminary matter, Kurtin holds a claim, "a right to repayment," against Debtors based on the 2017 Judgment and the alter ego findings entered against Morse and Camden. See, SAC, ¶¶36-38, 40, 69, 100, 113; 11 U.S.C. § 101(5)(A). Moreover, the amounts owed under a judgment constitute "damages" under § 510(b). See, *In re Tristar Esperanza Properties, LLC*, 782 F.3d 492, 495-96 (9th Cir. 2015)(finding that money judgment based on underlying breach of contract claim for failure to pay amounts owed under buyout provision of LLC's operating agreement was "damages" under § 510(b)). Thus, the SAC has sufficiently pleaded damages for § 510(b) purposes.

2. The SAC Sufficiently Alleges that Kurtin's Interest In the Suncal LLCs and the Suncal LLCs are Debtors' Affiliates

The SAC alleges that Elieff and Kurtin owned equity interests in the Suncal LLCs, a combination of limited liability companies, limited partnerships or limited liability partnerships, which were subsequently purchased by Elieff. SAC, ¶¶15-16 and 19; see, Kurtin RJN, Ex. 4, p. 119. Interests in an LLC is a "security" under the Bankruptcy Code. *Tristar*, 782 F.3d at 495. 492, 495 (9th Cir. 2015). "The term 'security'... includes...interest of a limited partner in a limited partnership." 11 U.S.C. § 101(49)(A)(xiii). The SAC further alleges that the Suncal LLCs are Debtors' affiliates. SAC, ¶¶42-43, 69, 100, and 113; see, 11 U.S.C. § 101(2)(A). Thus, the SAC sufficiently pleads that securities of Debtors' affiliates are at issue.

3. The SAC Sufficiently Pleads that the Settlement Agreement was one to Purchase or Securities within the meaning of 510(b)

Turning to Kurtin's first two arguments, Kurtin argues that (1) the Settlement Agreement is not an agreement to purchase or securities, (2) and even it were, the 2017 Judgment does not "arise from" the sale and purchase of

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securities because the 2017 Judgment was based on Elieff's liability for diversion of assets

The Ninth Circuit has adopted a broad interpretation of what constitutes "a claim arising from the purchase or sale of a security." *Am. Wagering, Inc.*, 493 F.3d at 1072. "[T]he statute sweeps broadly...and reaches even ordinary breach of contract claims so long as there is a sufficient nexus between the claim and the purchase of securities." *In re Tristar Esperanza Properties, LLC*, 782 F.3d 492, 495 (9th Cir. 2015); *Am. Wagering, supra*, at 1072 ("As noted above, a number of courts, including this one, have held that breach of contract claims may be subordinated under section 510(b) where there exists some nexus or causal relationship between the claim and the purchase of the securities....").

reimbursement/contribution—that all have a nexus with the purchase or sale of a security." *In re Tristar Esperanza Properties, LLC*, 488 B.R. 394, 399 (B.A.P. 9th Cir. 2013), *aff'd*, 782 F.3d 492 (9th Cir. 2015).

In assessing the "arising from" element, the courts focus upon the origin or source of the claim. "The phrase 'arising from' as employed in § 510(b) 'connotes, in ordinary usage, something broader than causation' and is instead 'ordinarily understood to mean originating from, having its origin in, growing out of, or flowing from or in short, incident to, or having connection with.'" *In re Del Biaggio*, 834 F.3d 1003, 1009 (9th Cir. 2016).

"[T]he status of the claim on the date of the petition does not end the § 510(b) inquiry," so the "critical question for purposes of § 510(b), then, is not whether the claim is debt or equity at the time of the petition, but rather whether the claim *arises from* the purchase or sale of a security." *Tristar*, 782 F.3d at 497 (emphasis in original). To that end, courts may "look behind" a judgment to determine whether the claim arises from the purchase or sale of securities. See, *Am. Wagering*, 493 F.3d at 1071 (analyzing the terms of the underlying consulting contract to determine whether a money judgment based on the value of stock arose from the purchase or sale of securities); *Betacom*, 240 F.3d at 831-32 (remanding to the bankruptcy court the determination of whether two promissory notes arose from the purchase or sale of stock because "there is little evidence in the record to explain their origin" and directing that if the promissory

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notes are "linked" to a merger agreement, they should be subordinated); See also, *In re SeaQuest Diving, LP*, 579 F.3d 411, 425 (5<sup>th</sup> Cir. 2009)("Rather, the court must look behind the judgment and examine the totality of the circumstances to determine whether the transaction is a 'rescission of a purchase or sale of a security of a debtor.'").

However, "there is a limit to the reach of § 510(b), which stops short of encompassing every transaction that touches on or involves stock in a corporation." *In re Kahn*, 846 F.3d 1058, 1064 (9<sup>th</sup> Cir. 2017).

Here, the SAC alleges that Kurtin and Elieff agreed to resolve the First Action through Elieff's leveraged buyout of "Kurtin's equity in their partnerships, inclusive of Kurtin's interest in the SunCal LLC, for \$48.8 million." SAC, ¶¶18-19 and 39. This allegation is supported by the actual terms of the Settlement Agreement (which was referenced in the SAC, so it may be considered) which provide that the Settlement Agreement resolves the First Action and requires Kurtin to transfer his interest in the SunCal LLCs to Elieff, and transfer his interests in the trade name "SunCal".

Kurtin argues that the Court should interpret the Settlement Agreement by only examining the plain language of the Settlement Agreement and find that, because the Settlement Agreement uses the term "settlement" throughout and settles the First Action, the Settlement Agreement is not an agreement to purchase or sale securities. See, Reply, p. 13:3-14:20. For pleading purposes, the argument is unpersuasive for two reasons.

First, the plain language of the Settlement Agreement also includes the provisions requiring Kurtin to transfer his interests in the SunCal LLCs. Kurtin does not explain why the Court should consider the plain language of one section of the Settlement Agreement but ignore the plain language of the Settlement Agreement in another section. For Rule 8 and Rule 12(b)(6) purposes, the

Second, in determining whether the Settlement Agreement "arises from" the purchase or sale of securities, the Court may "look behind" the 2017 Judgment and examine the the underlying transaction. As discussed above, the Settlement Agreement did more than simply provide for the dismissal of the First Action after Elieff paid the first \$21 million for which Elieff was personally liable. Here, Kurtin agreed to transfer his equity interest in the Suncal LLCs and,

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importantly, several entities included in the list of entities comprising the "Suncal LLCs" were not even parties to the First Action, for example KRE, LLC and Moorepark 150, LLC. Cf., RJN Ex. 3, p. 094 (first amended complaint the First Action) and Ex. 4, p. 119 (list of the Suncal LLCs). Thus, the Settlement Agreement was more than just a settlement of litigation between parties to the litigation.

In sum, 1<sup>st</sup>, 7<sup>th</sup>, and 10<sup>th</sup> Claims state plausible claims for relief under § 510(b).

4. The Kurtin Liens May Not Be Transferred Under §510(c)(2)  
as a Matter of Law

11 U.S.C. § 510(c) provides:

(c) Notwithstanding subsections (a) and (b) of this section, after notice and a hearing, the court may—

- (1) 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 or all or part of an allowed interest to all or part of another allowed interest; or
- (2) order that any lien securing such a subordinated claim be transferred to the estate.

The SAC alleges that pursuant to § 510(c)(2), all judgment liens securing the 2017 Judgment should be transferred to Debtors' estates. SAC, ¶¶71, 102, 115. Kurtin argues that the § 510(c)(2) claim should be dismissed because, per the plain language of § 510(c)(2), the remedy of transferring a lien securing a subordinated claim to the estate is only available for equitable subordination. See, Mot., p. 27; Reply, p. 21:20-22:21. Debtors counterargue that, per the plain language of § 510(c), the word "or" between (c)(1) and (c)(2) of § 510 means that the remedy of § 510(c)(2) is available as a remedy for mandatory subordination of § 510(b). See, Opp'n, p. 20:6-21:19. The Court agrees with

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Kurtin and the First Circuits interpretation of 510(c) in *In re Merrimac Paper Co., Inc.*, 420 F.3d 53, 65 (1st Cir. 2005)(reversing bankruptcy court's order equitably subordinating claims and the transfer of an attachment against debtor's real estate) which stated that "a lien can only be transferred under [§ 510(c)(2)] when the underlying claim has been equitably subordinated. The Court agrees that the natural and logical reading of 510(c) is that the subsections (1) and (2) relate to *equitable* subordination only, to the exclusion of 510(a) and (b). Under 510(c), the bankruptcy court is provided with options regarding equitably subordinated claims. This Court rejects the interpretation offered by Debtors as an unnatural reading of the plain language of the statute.

Accordingly, because § 510(c)(2) cannot be used as a remedy for § 510(b), the 1<sup>st</sup>, 7<sup>th</sup>, and 10<sup>th</sup> claims are not plausible and must be dismissed.

D. The Motion is Granted as to the § 547 Claims, except as to Morse

[5<sup>th</sup> (Elieff), 8<sup>th</sup> (Morse), 11<sup>th</sup> (Camden), 14<sup>th</sup> (Camden) Claims]

No objection was made to the following § 547 claims for relief: 2<sup>nd</sup> (Elieff) and 11<sup>th</sup> (Camden) Claims

To the extent that the SAC does not address the liens filed in 2017, it does not sufficiently state a claim under 547. For example, if an abstract of judgment was recorded in 2017 and the property was subsequently transferred, the lien would remain on the property and any transferee would take subject to such lien. In other words the lien is not legally stripped by the transfer, fraudulent or otherwise. The SAC is silent regarding the legal impact of the earlier pre-transfer liens.

Morse alleges a plausible claim for relief under § 547(b) because the SAC sufficiently pleads facts that demonstrate that the 90-Day Lien was recorded by Kurtin during the ninety day preference period, during which time Morse is presumed to be insolvent on account of the antecedent 2017 Judgment. See, SAC, ¶¶53, 103-109. Kurtin's two counter arguments, that the 8<sup>th</sup> Claim is a sham pleading because it contradicts Morse's schedules and Kurtin did not receive more than he would have in chapter 7 because the claims filed against

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the Morse estate should not be allowed (because they are "manufactured" claims and the claimants cannot rely on the alter ego doctrine) are unpersuasive for three reasons. See, Mot., p. 31-32; Reply, p. 25:24-26:16.

First, notwithstanding Kurtin's pending claim objections to the alleged claims "manufactured" by Morse, there has been no order disallowing those claims so they are currently deemed allowed. See, 11 U.S.C. § 502(a). Second, Kurtin's arguments is procedurally improper because it is effectively requesting that the Court turn this Motion into a claim objection and disallow the alleged manufactured claims without providing any notice to the claimants. Thus, assuming that the claims filed against Morse presumed valid until disallowed, the 8<sup>th</sup> claim is plausible.

Finally, as to the 14<sup>th</sup> Claim, Camden moves to avoid the "Riverside Lots Lien" which was recorded on February 13, 2019 in Riverside County thereby encumbering real property defined as the "Riverside Lots. SAC, ¶¶56, 58-62, 134-140. Camden alleges that the Riverside Lots Lien did not attach to the Riverside Lots on February 13, 2019 because, on August 17, 2018, Camden had transferred the Riverside Lots to a third party entity. Camden further alleges that the Riverside Lots were transferred back to Camden on October 2, 2019 (during the preference period) and at that time, the Riverside Lots Lien attached to the Riverside Lots. Id.

Kurtin argues that Riverside Lots Lien attached to the Riverside Lots on February 13, 2019 because the transfer to the third party was a fraudulent transfer and therefore had no legal effect and is void. See, Mot., p. 31:7-15. Kurtin's argument is persuasive. In *In re Cass*, 476 B.R. 602, 608 (Bankr. C.D. Cal. 2012) the "dispute between the parties...is whether Defendants' judgment lien- perfected under state law after the Debtor made a fraudulent transfer of the Residence- attached to the property." The bankruptcy court found that, "California law has well established the a judgment lien attaches to real property that is fraudulently transferred by treating the transfer as void in the first place, and not just voidable." Id. at 614 (*citing Hassen v. Jonas*, 373 F.2d 880, 883 (9<sup>th</sup> Cir. 1967))("The effect of [§3439.07] that transfers within the statute are fraudulent is that such transfers are deemed void as to creditors."). The bankruptcy court concluded that, " Because the fraudulent transfer is



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disregarded, a perfected judgment lien reaches the interest of a judgment debtor in property that has been fraudulent transferred to another-even if the transfer place before the judgment lien attached." *Id.* at 615. The court held that the judgment lien perfected after the property had been fraudulent transferred attached to debtor's residence because the fraudulent transfer was void. *Id.* at 618.

The Ninth Circuit BAP affirmed the *Cass* bankruptcy court's decision and found that, "Under California law, a transferee of property transferred in fraud of creditors by the transferor holds only nominal or bare legal title to the property conveyed; the transferor retains the beneficial and equitable interest in the conveyed property, which remains liable to the debts of creditors." *In re Cass*, 2013 WL 1459272 \*15 (BAP 9<sup>th</sup> Cir., Apr. 11, 2013).

In this case, the SAC admits that the transfer of the Riverside Lots on July 17, 2018 was a constructive fraudulent transfer under both federal and state law. SAC, ¶60. Thus, as discussed in *Cass*, the transfer was void under California law and Kurtin's judgment lien on the Riverside Lots attached on February 13, 2019- well outside the ninety day preference period. Accordingly, the 14<sup>th</sup> Claim fails to allege a plausible claim for relief under § 547(b).

The term "Kurtin Liens" refers to abstracts specially recorded against Elieff- not Camden- and the SAC is devoid of any factual allegations that Camden has an interest in Elieff's assets. SAC, ¶53. The SAC should have sought to avoid the "Camden Liens," which is defined in ¶56 as liens against Camden's real properties. Thus, on the face of the SAC, the 14<sup>th</sup> Claim is also not plausible because Camden is seeking to avoid the preferential transfer of an interest in Elieff's property, not its own property.

In sum, Elieff and Camden fail to allege plausible claims for relief in the 5<sup>th</sup> and 14<sup>th</sup> Claims. Morse, however, alleges a plausible claim for relief under the 8<sup>th</sup> Claim.

The Motion is Denied as to the § 548(a)(2)(B) Claims [3<sup>rd</sup> (Elieff),  
12<sup>th</sup> (Camden) Claims]

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Under § 548(a)(1)(B), "constructive" fraudulent transfers are avoidable if the transfer, or debt incurred, was for less than reasonably equivalent value and the debtor was, or by way of the transfer or debt incurred became, insolvent.

Per FRCP 9, "In alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake." Unlike an intentional fraudulent transfer causes of action, however, a "cause of action asserting a constructively fraudulent transfer is not subject to the heightened pleading standards [of FRCP 9]... These causes of action are adequately pled as to most elements with a short plain statement as required by [FRCP] 8, as modified by *Twombly*." *In re Automated Fin. Corp.*, 2011 WL 10502417, at \*4 (Bankr. C.D. Cal. Jan. 25, 2011).

As for the 3<sup>rd</sup> Claim, Elieff seeks to avoid Kurtin Liens that were recorded within two years of the petition date as constructive fraudulent transfers. See, SAC, ¶¶80-84. And as for the 12<sup>th</sup> Claim, Camden seeks to avoid the Camden Liens that were recorded within two years of the petition date as constructive fraudulent transfers. *Id.*, ¶¶123-128.

Kurtin first argues that Elieff and Camden have cited the elements in a conclusory fashion. See, Mot., p. 28:19-29:3. This argument is unpersuasive because, as discussed above, "short plain statements" satisfy the pleading requirements for constructive fraudulent transfer claims, and the SAC provides those "short plain statements." See, SAC, ¶¶80-84 and 123-128.

Kurtin also argues that because Elieff and Camden received reasonably equivalent value under § 548(d)(2)(A), the recording of the Kurtin's judgment liens was not a constructive fraudulent transfer. See, Reply, 22:23-24:5. This argument is also unpersuasive.

Under § 548(d)(2)(A), "value" for purposes of § 548 is defined as "property, or satisfaction or *securing of a present or antecedent debt of the debtor*, but does not include an unperformed promise to furnish support to the debtor or to a relative of the debtor[.]" (emphasis added). *In re Fitness Holdings Intern. Inc.*, 714 F.3d 1141, 1145-46 (9th Cir. 2013)(finding what while "reasonably equivalent value is not defined, the term "value" is defined as

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"satisfaction or securing of a present or antecedent debt of the debtor"); *In re GTI Capital Holdings, LLC*, 373 B.R. 671, 680 (Bankr. D. Ariz. 2007) ("Debtor did roughly receive a dollar-for-dollar value exchange. Comerica received a security interest in the Debtor's personal property, and the Debtor received the value of having secured the antecedent debt acquired by Comerica in an amount that was equal to the value of the personal property."); *Anand v. Nat'l Republic Bank of Chicago*, 239 B.R. 511, 517 ("There is no dispute that collateralization of an antecedent debt confers value on the debtor, since the bankruptcy statute's definition of 'value' includes "securing of a present or antecedent debtor of the debtor.").

The determination of the "reasonably equivalent value is factual question, however, to be decided on the facts of each case." *GTI Capital*, 373 B.R. at 671 (citing *In re United Energy Corp.*, 944 F.2d 589, 597 (9<sup>th</sup> Cir. 1991)). Thus, while there is no per se rule that if "a debtor grants a security interest to a creditor, the debtor receives reasonably equivalent value by securing the antecedent debt," see, *GTI Capital*, 373 B.R. at 676-677, the debtor will receive reasonably equivalent value "if the collateral securing the antecedent debt was equal to, or less than, the amount of the debtor." *Id.* at 680. In this case, the recording of Kurtin's judgment liens against Elieff and Camden during the two years prior to the petition date could be "value" under § 548(d)(2)(A). However, the determination of whether this "value" is "reasonably equivalent value" is a factual question which cannot be made at the pleading stage.

"At the motion to dismiss stage, to plead adequately a constructive fraud claim all that is needed... is an allegation that there was a transfer for less than reasonably equivalent value at a time when the Debtors were insolvent." *Beskroner v. OpenGate Capital Grp. (In re Pennysaver USA Publ'g, LLC)*, 587 B.R. 445, 456 (Bankr. D. Del. 2018) (quotations and citation omitted). "Reasonably equivalent value and insolvency are generally factual determinations that should be reserved for discovery." *Id.* (citation omitted). And, "[a] constructive fraudulent conveyance claim is sufficient under Rule 8(a)(2) even if it alleges an aggregate monetary amount for multiple transfers during a multi-year period without a breakdown of individual transfers." *Tronox Inc. v. Anadarko Petroleum Corp. (In re Tronox Inc.)*, 429 B.R. 73 (Bankr. S.D.N.Y. 2010).

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Thus, deeming the allegations in the SAC that Elieff and Camden did not receive reasonably equivalent value as true, the 3<sup>rd</sup> and 12<sup>th</sup> Claims are plausible.

E. The Motion is Denied as to the § 544 Claims

[4<sup>th</sup> (Elieff), 13<sup>th</sup> (Camden) Claims]

The "strong-arm" powers under § 544(b) allow Plaintiff to utilize remedies available to creditors under state law, including the California's Uniform Voidable Transactions Act under California Civil Code ("Civil Code") § 3439 *et seq.* provides such a remedy. In the SAC, Elieff and Camden seek to avoid all of the Kurtin Liens and the Camden Liens as constructive fraudulent transfers pursuant to § 544(b) and Civil Code §§ 3439.04(a)(2) and 3439.05. SAC, ¶¶85-89, 129-133.

Under Civil Code § 3439.04(a)(2), like § 548(a)(1)(B), a plaintiff may avoid "constructive" fraudulent transfers if transfer was made for less than reasonably equivalent value and the debtor was, or by way of the transfer, became insolvent. Under Civil Code § 3439.05, "A transfer made or obligation incurred by a debtor is voidable as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation."

Here, Kurtin argues that Civil Code § 3439.08(e)(2) limits the application of Civil Code §§ 3439.04(a)(2) and 3439.05 because the Kurtin's judgment liens were enforced, through recordation, without collusion with Debtors. See, Mot., p. 29:19-30:3. In relevant part, Civil Code § 3439.08(e)(2) states, "A transfer is not voidable under paragraph (2) of subdivision (a) of Section 3439.04 or Section 3439.05 if the transfer results from... Enforcement of a lien in a noncollusive manner and in compliance with applicable law, including Division 9 (commencing with [Section 9101](#)) of the Commercial Code, other than a retention of collateral under [Sections 9620](#) and [9621 of the Commercial Code](#) and other than a voluntary transfer of the collateral by the debtor to the lienor in satisfaction of all or part of the secured obligation."

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Debtors counterargue that Civil Code § 3439.08(e)(2) is not applicable because the statute refers to "enforcement" and not the recording of the lien, and the section was intended to prevent the avoidance fraudulent transfers effectuated by collusive foreclosure sales. See, Opp'n, p. 24:19-25:6.

While neither party has provided a case on point, Debtors' argument, at a minimum supports the claim. The plain language of the statute states "enforcement of a lien." While Kurtin reasonably maintains that recording a lien is part of enforcing a lien, for pleading purposes, the SAC meets minimum pleading requirements.

Kurtin next argues that "an asset that encumbered by a valid security interest is not subject to the UVTA." Reply, p. 24:27-27. For support, Kurtin relies on *In re Consol. Pioneer Mortg. Entities*, 1999 WL 23156, \*1 (9<sup>th</sup> Cir. 1999)("Moreover, property encumbered by a valid security interest is not recoverable under California law. See Cal.Civ.Code § 3439.01(a)(1)"). *Consolidated Pioneer*, however, is factually distinguishable. In that case, the asset transferred was previously encumbered by the bank's UCC lien. *Consol., Pioneer, supra* at 1. Thus, the Ninth Circuit's reference to a "valid security interest" refers to a prior existing lien, and property with no equity can not be recovered as a fraudulent transfer. See, *In re Brun*, 360 B.R. 669, 674 (Bankr. C.D. Cal. 2007)("As such, property that is fully encumbered and/or exempt is not voidable as a fraudulent transfer.")(citing *Consol. Pioneer*). Here, because Kurtin did not have a prior lien on Debtors' assets before recording the Kurtin Liens and the Camden Liens, Consolidated Pioneer is inapplicable.

And as discussed above in the § 548 claims section, the issues of whether reasonably equivalent value was received and Debtors' insolvency are factual questions that should not be decided at the pleading stage. Thus, deeming the allegations in the SAC as true, the 4<sup>th</sup> and 13<sup>th</sup> Claims state plausible claims for relief under § 544 and avoidance of a constructive fraudulent transfer under California law.

F. The Motion is Denied as to §§ 550, 551, and 502(d) Claims

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[6<sup>th</sup> (Elieff- §§550/551), 9<sup>th</sup> (Morse- §§550/551), 15<sup>th</sup> (Camden- §§550/551), 16<sup>th</sup> (Elieff- §502(d)), 17<sup>th</sup> (Morse- §502(d)), 18<sup>th</sup> (Camden- §502(d)) Claims]

Under § 550(a), a debtor-in-possession or trustee may recover from the initial transferee for the benefit of the estate transfers set aside pursuant to § 544 or the value of those transfers. The use of the word "may" in § 550(a) provides bankruptcy courts with discretion to first determine whether to award any recovery under § 500, and second, to determine which of the alternative forms of relief to grant- the property itself or the value of the property transferred. *In re Taylor*, 599 F.3d 880, 890 (9th Cir. 2010)(citing *In re Bremer*, 408 B.R. 355, 359 (BAP 10th Cir. 2009). Per § 502(d), in relevant part, a bankruptcy court shall disallow any claim of any entity from which property is recoverable under § 550 or that is a transferee of a transfer avoidable under § 544, unless such entity has paid the amount or turned over the property recovered.

Here, Kurtin argues that the Claims under §§ 550, 551, and 502(d) should be dismissed because Debtors fail to allege any plausible claims under §§ 544, 547, or 548. See, Mot., p. 32:22-27. However, as discussed above, Debtors have alleged plausible claims under the 2<sup>nd</sup> Claim- § 547 (Elieff)(no objection filed), 3<sup>rd</sup> Claim- § 548 (Elieff), 4<sup>th</sup> Claim- § 544 (Elieff), 8<sup>th</sup> Claim- §547 (Morse), 11<sup>th</sup> Claim- § 547 (Camden)(no objection filed), 12<sup>th</sup> Claim- §548 (Camden), and 13<sup>th</sup> Claim- § 544 (Camden).

Accordingly, the Motion is denied as to claims under §§ 550, 551, and 502(d), except to the extent the court has granted the Motion as to certain 547 claims herein.

G. Leave to Amend

Leave to amend a complaint or claim is generally within the discretion of the bankruptcy court and is reviewed under the abuse of discretion standard. *Mende v. Dun & Bradstreet, Inc.*, 670 F.2d 129 (9th Cir. 1982). FRCP 15(a), made applicable herein by FRBP 7015, provides that a party may amend the party's pleading by leave of court and leave shall be freely given when justice so requires. The Ninth Circuit applies this rule with "extreme liberality." *Forsyth v.*

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*Humana, Inc.*, 114 F.3d 1467, 1482 (9th Cir. 1997). In exercising its discretion, a bankruptcy court "must be guided by the underlying purpose of Rule 15 to facilitate decision on the merits, rather than on the pleadings or technicalities." *In re Magno*, 216 B.R. 34 (9th Cir. BAP 1997). A bankruptcy court considers the following factors in determining whether a motion to amend should be granted: (1) undue delay; (2) bad faith; (3) futility of amendment; and (4) prejudice to the opposing party. *Hurn v. Retirement Fund Trust of Plumbing, Etc.*, 648 F.2d 1252, 1254 (9th Cir. 1981). While recognizing the principles that leave to amend should be freely granted and the preference for decisions on the merits, if the court finds that a complaint has failed to state a claim, dismissal may be without leave to amend. *Lopez v. Smith*, 203 F.3d 1122, 1126-30 (9th Cir. 2000). A court may also dismiss a complaint without leave to amend when amendment would be futile. *McQuillion v. Schwarzenegger*, 369 F.3d 1091, 1099 (9th Cir. 2004).

In this case, although Debtors have not requested leave to amend if any claim is dismissed, in light of the Ninth Circuit's liberal policy towards amendments, leave to amend will be allowed except as to the 510(c) claim

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

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Santa Ana  
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**Chapter 11**

**Movant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01205 Elieff et al v. Kurtin

**#3.00** CONT'D STATUS CONFERENCE RE: Second Amended Complaint for Mandatory Subordination and Recovery of Liens Pursuant to 11 U.S.C. §§510(b) and 510(c) (2), Avoidance and Recovery of Preferential and Fraudulent Transfers, and Disallowance of Claims Pursuant to 11 U.S.C. §502(d)

FR: 3-5-20; 4-9-20

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 23, 2020**

Continue status conference to August 20, 2020 at 9:30 a.m.; joint status report is due August 6, 2020 (XX)

**Party Information**



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**CONT... Bruce Elieff**

**Chapter 11**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Pro Se

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
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Santa Ana  
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**Monday, April 27, 2020**

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**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01015 Speier v. SunCal Management LLC et al

**#1.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management, LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20

Docket 417

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)**

**Courtroom Deputy:**

**CONTINUED: Oral Ruling Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

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

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez

**United States Bankruptcy Court  
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Santa Ana  
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**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

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Santa Ana  
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**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01015 Speier v. SunCal Management LLC et al

**#2.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Breach of Contract; (2) Restitution and/or Unjust Enrichment; (3) To Avoid and Recover Fraudulent Transfers; and (4) To Avoid and Recover Preferential Transfers **[Debtor: SunCal Oak Knoll, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20

Docket 95

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

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

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta

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**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

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Santa Ana  
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**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01021 Speier v. SunCal Management LLC et al

**#3.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management, LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20

Docket 372

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)**

**Courtroom Deputy:**

**CONTINUED: Oral Ruling Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

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

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Monday, April 27, 2020

Hearing Room 5A

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01021 Speier v. SunCal Management LLC et al

**#4.00** CONT'D STATUS CONFERENCE RE: Third Amended Complaint (1) To Avoid and Recover Fraudulent Transfers and (2) To Avoid and Recover Preferential Transfers [**Debtor: SunCal Torrance, LLC**]

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20

Docket 327

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch

Argent Management, LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Monday, April 27, 2020

Hearing Room

5A

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01022 Speier v. SunCal Management LLC et al

**#5.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management, LLC Was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20

Docket 374

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)**

**Courtroom Deputy:**

**CONTINUED: Oral Ruling Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Monday, April 27, 2020

Hearing Room 5A

2:00 PM

8:08-17206 Palmdale Hills Property, LLC

Chapter 11

Adv#: 8:18-01022 Speier v. SunCal Management LLC et al

#6.00 CONT'D STATUS CONFERENCE RE: Third Amended Complaint to Avoid and Recover Fraudulent Transfers **[Debtor: SunCal PSV, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20

Docket 329

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

Party Information

Debtor(s):

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch

Argent Management, LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Monday, April 27, 2020

Hearing Room 5A

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01023 SPEIER v. SUNCAL MANAGEMENT, LLC et al

**#7.00** CON'TD STATUS CONFERENCE RE: Third Amended Complaint (1) To Avoid and Recover Fraudulent Transfers and (2) To Avoid and Recover Preferential Transfers **[Debtor: Palmdale Hills Property, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20

Docket 298

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SUNCAL MANAGEMENT, LLC

Represented By  
Craig H Averch

Argent Management LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

STEVEN M. SPEIER

Represented By  
Evan C Borges  
Mike D Neue  
William N Lobel  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01024      SPEIER v. SUNCAL MANAGEMENT, LLC et al

**#8.00**    CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; and (4) To Avoid and Recover Fraudulent Transfers  
**[Debtor: SunCal Summit Valley, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20

Docket      68

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SUNCAL MANAGEMENT, LLC

Represented By  
Craig H Averch

Argent Management LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

STEVEN M. SPEIER

Represented By  
Evan C Borges  
Mike D Neue  
William N Lobel  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01025      SPEIER v. SUNCAL MANAGEMENT, LLC et al

**#9.00**      CONT'D STATUS CONFERENCE RE: Second Amended Complaint: (1) To Avoid and Recover Preferential Transfers; (2) For Declaratory Relief, (3) In the Alternative, Breach of Contract; (4) Restitution and/or Unjust Enrichment; and (5) To Avoid and Recover Fraudulent Transfers  
**[Debtor: SunCal Bickford Ranch, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20

Docket      77

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SUNCAL MANAGEMENT, LLC

Represented By  
Craig H Averch

Argent Management LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

STEVEN M. SPEIER

Represented By  
Evan C Borges  
Mike D Neue  
William N Lobel  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01026 Speier v. SunCal Management LLC et al

**#10.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) To Avoid and Recover Preferential Transfers; (2) For Declaratory Relief, (3) In the Alternative, Breach of Contract; (4) Restitution and/or Unjust Enrichment; and (5) to Avoid and Recover Fraudulent Transfers **[Debtor: SunCal Emerald Meadows, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20

Docket 69

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

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

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch

Argent Management, LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01125 Speier v. SunCal Management LLC et al

**#11.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief; (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers; and (5) To Avoid and Recover Preferential Transfers  
**[Debtor: SunCal Marblehead, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20

Docket 105

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

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

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Doah Kim  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Doah Kim  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Monday, April 27, 2020

Hearing Room 5A

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01126 Speier v. SunCal Management, LLC et al

**#12.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20

Docket 530

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)**

**Courtroom Deputy:**

**CONTINUED: Oral Ruling Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Monday, April 27, 2020

Hearing Room 5A

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01126 Speier v. SunCal Management, LLC et al

**#13.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers; and (5) To Avoid and Recover Preferential Transfers  
**[Debtor: SunCal Heartland, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20

Docket 99

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Monday, April 27, 2020

Hearing Room

5A

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01127 Speier v. SunCal Management LLC et al

**#14.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication That SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20

Docket 518

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)**

**Courtroom Deputy:**

**CONTINUED: Oral Ruling Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01127 Speier v. SunCal Management LLC et al

**#15.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers  
**[Debtor: SunCal Northlake, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20

Docket 98

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Monday, April 27, 2020

Hearing Room 5A

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01128 Speier v. SunCal Management LLC et al

**#16.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20

Docket 518

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)**

**Courtroom Deputy:**

**CONTINUED: Oral Ruling Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Monday, April 27, 2020

Hearing Room 5A

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01128 Speier v. SunCal Management LLC et al

**#17.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; and (4) to Avoid and Recover Fraudulent Transfers **[Debtor: LBL-SunCal Oak Valley, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20

Docket 98

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Monday, April 27, 2020

Hearing Room 5A

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01129 Speier v. Argent Management, LLC et al

**#18.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20

Docket 522

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)**

**Courtroom Deputy:**

**CONTINUED: Oral Ruling Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01129 Speier v. Argent Management, LLC et al

**#19.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers; and (5) To Avoid and Recover Preferential Transfers  
**[Debtor: Delta Coves Venture LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20

Docket 100

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/28/2020 AT 2:00 PM, on the Court's Own Motion (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 5/28/2020 at 2:00 p.m., on the Court's Own Motion (XX) - td (4/24/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, April 27, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10691 Teresita Lases**

**Chapter 13**

**#1.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Teresita Lases

Represented By  
Rabin J Pournazarian

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10648 Jose Guevara**

**Chapter 13**

**#2.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Hearing Re-Set for  
5/26/2020 at 1:30 pm, Per Court's Re-Notice filed 3/30/2020 (XX)**

**Courtroom Deputy:**

**OFF CALENDAR: Hearing Re-Set for 5/26/2020 at 1:30 pm, Per Court's Re-  
Notice filed 3/30/2020 (XX)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jose Guevara

Represented By  
Kevin Tang

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10620 Nelson D. Randin**

**Chapter 13**

**#3.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Hearing Re-Set for  
5/26/2020 at 1:30 pm, Per Court's Re-Notice filed 3/30/2020 (XX)**

**Courtroom Deputy:**

**OFF CALENDAR: Hearing Re-Set for 5/26/2020 at 1:30 pm, Per Court's Re-  
Notice filed 3/30/2020 (XX) - td (4/21/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Nelson D. Randin

Represented By  
Joseph A Weber

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10553 Heather Jane Andruss**

**Chapter 13**

**#4.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 11

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Hearing Re-Set for  
5/26/2020 at 1:30 pm, Per Court's Re-Notice filed 3/30/2020 (XX)**

**Courtroom Deputy:**

**OFF CALENDAR: Hearing Re-Set for 5/26/2020 at 1:30 pm, Per Court's Re-  
Notice filed 3/30/2020 (XX) - td (4/20/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Heather Jane Andruss

Represented By  
Kevin Tang

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10529 Can Lam**

**Chapter 13**

**#5.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR; Order Dismissing Case  
for Failure to File Schedules, Statements, and/or Plan Entered 3/9/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,  
Statements, and/or Plan Entered 3/9/2020 - td (3/9/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Can Lam

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10513 Fernando Serrano**

**Chapter 13**

**#6.00 Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

Docket 20

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Fernando Serrano

Represented By  
Bert Briones

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10465 David Stuart Powell and Christina Juliet Powell**

**Chapter 13**

**#7.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

David Stuart Powell

Represented By  
Andrew Moher

**Joint Debtor(s):**

Christina Juliet Powell

Represented By  
Andrew Moher

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10418 Delecia A Holt**

**Chapter 13**

**#8.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Case  
Due to Debtor's Inability to Qualify as a Debtor in a Chapter 13, Lack of  
Income to Fund a Plan Entered 2/6/2020; Case Closed 3/20/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case Due to Debtor's Inability to  
Qualify as a Debtor in a Chapter 13, Lack of Income to Fund a Plan  
Entered 2/6/2020; Case Closed 3/20/2020 - td (4/13/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Delecia A Holt

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10328 Juan Carlos Valdez**

**Chapter 13**

**#9.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Juan Carlos Valdez

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10307 David Patterson**

**Chapter 13**

**#10.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

David Patterson

Represented By  
Amanda G Billyard

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10294 German A Gutierrez**

**Chapter 13**

**#11.00** Hearing RE: Confirmation of 1st Amended Chapter 13 Plan

Docket 20

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

German A Gutierrez

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10250 Leticia Rubio**

**Chapter 13**

**#12.00** Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Leticia Rubio

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10240 Linda L Rock**

**Chapter 13**

**#13.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Case  
for Failure to File Schedules, Statements, and/or Plan Entered 2/11/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,  
Statements, and/or Plan Entered 2/11/2020 - td (4/1/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Linda L Rock

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10239 Diana Louise Marriott**

**Chapter 13**

**#14.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal  
Arising from Debtor's Request for Voluntary Dismissal of Chapter 13  
Entered 2/6/2020; Case Closed 3/20/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order of Dismissal Arising from Debtor's Request for  
Voluntary Dismissal of Chapter 13 Entered 2/6/2020; Case Closed  
3/20/2020 - td (4/6/13020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Diana Louise Marriott

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10208 Scott Allen Campbell**

**Chapter 13**

**#15.00** Hearing RE: Confirmation of 1st Amended Chapter 13 Plan

Docket 21

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Scott Allen Campbell

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, April 28, 2020

Hearing Room 5A

1:30 PM

8:20-10196 Robert Lynn McEwen

Chapter 13

#16.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order (1) Denying Debtor's Request for a Temporary Waiver and Extension of Time to File a Certificate of Credit Counseling and (2) Dismissing Case Entered 1/24/2020; Case Closed 3/20/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order (1) Denying Debtor's Request for a Temporary Waiver and Extension of Time to File a Certificate of Credit Counseling and (2) Dismissing Case Entered 1/24/2020; Case Closed 3/20/2020 - td (4/13/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Robert Lynn McEwen

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10183 Eric Lawrence Hinnenkamp**

**Chapter 13**

**#17.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Case  
for Failure to File Schedules, Statements, and/or Plan Entered 2/26/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,  
Statements, and/or Plan Entered 2/26/2020 - td (4/13/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Eric Lawrence Hinnenkamp

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10155 Thomas G. Peuser**

**Chapter 13**

**#18.00** Hearing RE: Confirmation of 1st Amended Chapter 13 Plan

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Thomas G. Peuser

Represented By  
Charles W Daff

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10139 Nevelle Neil Hardin**

**Chapter 13**

**#19.00** Hearing RE: Confirmation of 1st Amended Chapter 13 Plan

Docket 15

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Nevelle Neil Hardin

Represented By  
Krystina T Tran

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10135 Ixzalin Valdez**

**Chapter 13**

**#20.00** Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Ixzalin Valdez

Represented By  
Rebecca Tomilowitz

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, April 28, 2020

Hearing Room 5A

1:30 PM

8:20-10115 David M Champa and Lisa C Champa

Chapter 13

#21.00 Hearing RE: Confirmation of 1st Amended Chapter 13 Plan

Docket 12

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal  
Pursuant to 11 U.S.C. Section 521(i) (1) For Failure to File Copies of  
Payment Advices (Pay Stubs) Required Under Section 521(a)(1)(A)(iv)  
Entered 3/4/2020

**Courtroom Deputy:**

**OFF CALENDAR: Order of Dismissal Pursuant to 11 U.S.C. Section 521(i)  
(1) For Failure to File Copies of Payment Advices (Pay Stubs) Required  
Under Section 521(a)(1)(A)(iv) Entered 3/4/2020 - td (3/4/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

David M Champa

Represented By  
Mehran R Chini

**Joint Debtor(s):**

Lisa C Champa

Represented By  
Mehran R Chini

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10112 Monica M Wilson**

**Chapter 7**

**#22.00** Hearing RE: Confirmation of Chapter 13 Plan

Docket 12

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Debtor's Notice of  
Conversion of Bankruptcy Case From Chapter 13 to Chapter 7 filed  
2/12/2020; Case Converted to Chapter 7**

**Courtroom Deputy:**

**OFF CALENDAR: Debtor's Notice of Conversion of Bankruptcy Case From  
Chapter 13 to Chapter 7 filed 2/12/2020; Case Converted to Chapter 7 - td  
(2/19/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Monica M Wilson

Represented By  
John K Rounds

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10095 Nadine Almanza**

**Chapter 13**

**#23.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Nadine Almanza

Represented By  
Bert Briones

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10090 Brian N. Willis**

**Chapter 13**

**#24.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal  
Arising from Debtor's Request for Voluntary Dismissal of Chapter 13 With  
Restrictions (11 U.S.C. Sections 109(g)(2) and 1307(b) Entered 2/6/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order of Dismissal Arising from Debtor's Request for  
Voluntary Dismissal of Chapter 13 With Restrictions (11 U.S.C. Sections  
109(g)(2) and 1307(b) Entered 2/6/2020 - td (4/13/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Brian N. Willis

Represented By  
Fritz J Firman  
Joseph A Weber

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10069 Lauren Lizbeth Witek**

**Chapter 13**

**#25.00** Hearing RE: Confirmation of 1st Amended Chapter 13 Plan

Docket 29

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Lauren Lizbeth Witek

Represented By  
Dana M Douglas

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10062 Myrnalee B McLane**

**Chapter 13**

**#26.00** Hearing RE: Confirmation of Chapter 13 Plan

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Case  
for Failure to File Schedules, Statements, and/or Plan Entered 1/27/2020;  
Case Closed 3/20/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,  
Statements, and/or Plan Entered 1/27/2020; Case Closed 3/20/2020 - td  
(4/13/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Myrnalee B McLane

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10055 Kelly Renee Garis**

**Chapter 13**

**#27.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Kelly Renee Garis

Represented By  
L. Tegan Rodkey

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, April 28, 2020

Hearing Room 5A

1:30 PM

8:20-10027 Todd E. Fligner

Chapter 13

#28.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 8

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal  
Arising from Debtor's Request for Voluntary Dismissal of Chapter 13  
Entered 2/11/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order of Dismissal Arising from Debtor's Request for  
Voluntary Dismissal of Chapter 13 Entered 2/11/2020 - td (2/11/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Todd E. Fligner

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10019 Jose Saavedra**

**Chapter 13**

**#29.00** Hearing RE: Confirmation of 1st Amended Chapter 13 Plan

Docket 21

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jose Saavedra

Represented By  
Chris T Nguyen

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10017 Almazella Northington**

**Chapter 13**

**#30.00** Hearing RE: Confirmation of 1st Amended Chapter 13 Plan

Docket 17

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Almazella Northington

Represented By  
Norma Duenas

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10002 Jeffrey J. Axton**

**Chapter 13**

**#31.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jeffrey J. Axton

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14950 Lonnie M Tee**

**Chapter 13**

**#32.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 2-25-20

Docket 15

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Lonnie M Tee

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14869 Omar Vasquez and Elisabeth Aguilar**

**Chapter 13**

**#33.00 CONT'D Hearing RE: Confirmation of Chapter 13 Plan**

FR: 2-25-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Omar Vasquez

Represented By  
Sunita N Sood

**Joint Debtor(s):**

Elisabeth Aguilar

Represented By  
Sunita N Sood

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14822 Jesus M Razo**

**Chapter 13**

**#34.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 2-25-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Jesus M Razo

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14758 Edward J De Hertel**

**Chapter 13**

**#35.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 2-25-20

Docket 6

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Edward J De Hertel

Represented By  
Minh Duy Nguyen

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14728 Victor Manuel Rondon Diaz**

**Chapter 13**

**#36.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 2-25-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Victor Manuel Rondon Diaz

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14688 Jose Antonio Velazquez**

**Chapter 13**

**#37.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 2-25-20

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Jose Antonio Velazquez

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14580 Dae Min Kang and Jaie Yoon Kang**

**Chapter 13**

**#38.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 2-25-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Dae Min Kang

Represented By  
James D. Hornbuckle

**Joint Debtor(s):**

Jaie Yoon Kang

Represented By  
James D. Hornbuckle

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14528 Vishundyal Ramotar Mohabir**

**Chapter 13**

**#39.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 2-25-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Vishundyal Ramotar Mohabir

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14508 Stephen Carr Darden**

**Chapter 13**

**#40.00 CON'TD Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

FR: 2-25-20

Docket 15

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Stephen Carr Darden

Represented By  
Roya Rohani

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14478 Rosibel Flores**

**Chapter 13**

**#41.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 1-21-20; 2-25-20

Docket 11

**Courtroom Deputy:**

-

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Rosibel Flores

Represented By  
Tuan Le

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14308 Karla Golbert**

**Chapter 13**

**#42.00 CONT'D Hearing RE: Confirmation of Chapter 13 Plan**

FR: 1-21-20; 2-25-20

Docket 13

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 7/21/2020 AT 1:30 P.M.,  
Per Order Entered 4/27/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 7/21/2020 at 1:30 p.m., Per Order  
Entered 4/27/2020 (XX) - td (4/27/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Karla Golbert

Represented By  
Anerio V Altman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, April 28, 2020

Hearing Room 5A

1:30 PM

8:19-13845 Walt Dodge

Chapter 13

#43.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan

FR: 11-26-19; 12-20-19; 4-28-20

Docket 29

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal  
Arising from Debtor's Request for Voluntary Dismissal of Chapter 13  
Entered 3/30/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order of Dismissal Arising from Debtor's Request for  
Voluntary Dismissal of Chapter 13 Entered 3/30/2020 - td (3/31/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Walt Dodge

Represented By

Walter David Channels

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, April 28, 2020

Hearing Room 5A

2:30 PM

**8:19-10796 Mario Jonathan Saldivar and Alicia Marie Braddock**

**Chapter 13**

**#44.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding For Failure to Make Plan Payments

Docket 74

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion unless the Trustee has agreed to an alternative resolution or continuance of the hearing.

Debtors have filed an opposition to the Motion but have not stated any basis for the opposition or provided evidence in support of such opposition.

***Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required. Nonappearance by Movant shall be deemed acceptance of the tentative ruling.***

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

**Debtor(s):**

Mario Jonathan Saldivar

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

2:30 PM

**CONT... Mario Jonathan Saldivar and Alicia Marie Braddock**  
Joshua L Sternberg

**Chapter 13**

**Joint Debtor(s):**

Alicia Marie Braddock

Represented By  
Joshua L Sternberg

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

2:30 PM

**8:19-10560 Marvin L Sanders and Mary Ann Tan Sanders**

**Chapter 13**

**#45.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

Docket 63

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of Trustee's Motion for Order Dismissing Chapter 13, filed 2/25/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal of Trustee's Motion for Order Dismissing Chapter 13, filed 2/25/2020 - td (2/25/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Marvin L Sanders

Represented By  
Joshua L Sternberg

**Joint Debtor(s):**

Mary Ann Tan Sanders

Represented By  
Joshua L Sternberg

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, April 28, 2020

Hearing Room 5A

2:30 PM

8:19-10201 Robert Lynn McEwen

Chapter 13

#46.00 Hearing RE: Debtor's Motion Under LBR 3015-1(n) and (w) to Modify Plan or Suspend Plan Payments

Docket 60

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Court's comments:

-- The opposition by creditor to the Motion is well-taken -- Debtor is relying on the sale of the property but 1) the Motion does not set a deadline for selling the property; 2) no real estate broker has been employed; 3) no sale motion is pending.

-- Debtor's objection to Claim #9 is set for hearing this week on 4/30 Claimant has filed supporting loan documentation with the the POC and has not filed a response to the objection

***Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required. Nonappearance by Movant shall be deemed acceptance of the tentative ruling.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

2:30 PM

**CONT... Robert Lynn McEwen**

**Chapter 13**

**Party Information**

**Debtor(s):**

Robert Lynn McEwen

Represented By  
Jacqueline D Serrao

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

2:30 PM

**8:19-10201 Robert Lynn McEwen**

**Chapter 13**

**#47.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments**

FR: 10-22-19; 11-26-19; 1-21-20; 2-25-20

Docket 41

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Robert Lynn McEwen

Represented By  
Jacqueline D Serrao

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

2:30 PM

**8:19-10044 Gregory Bettison**

**Chapter 13**

**#48.00** CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

FR: 2-25-20

Docket 40

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Gregory Bettison

Represented By  
Anthony P Cara

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, April 28, 2020

Hearing Room 5A

2:30 PM

8:19-10043 Kevin S. Yoneda

Chapter 13

#49.00 Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

Docket 38

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion unless Debtor is now current with plan payments or the Trustee has agreed to an alternative resolution or continuance of the hearing.

No motion to modify or suspend payments has been filed.

**Party Information**

**Debtor(s):**

Kevin S. Yoneda

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, April 28, 2020

Hearing Room 5A

2:30 PM

8:18-14723 Bertha Zapata

Chapter 13

#50.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

FR: 2-25-20

Docket 57

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion unless Debtor is now current with plan payments or the Trustee has agreed to an alternative resolution or continuance of the hearing.

No motion to modify or suspend payments has been filed.

**Party Information**

**Debtor(s):**

Bertha Zapata

Represented By  
Gary Polston

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

2:30 PM

**CONT... Bertha Zapata**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, April 28, 2020

Hearing Room 5A

2:30 PM

8:18-14641 Richard Thomas McPhee

Chapter 13

#51.00 Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding  
for Failure to Make Plan Payments

Docket 35

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion unless Debtor is now current with plan payments or the Trustee has agreed to an alternative resolution or continuance of the hearing.

No motion to modify or suspend payments has been filed.

**Party Information**

**Debtor(s):**

Richard Thomas McPhee

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

2:30 PM

**CONT... Richard Thomas McPhee**

**Chapter 13**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

2:30 PM

**8:18-13583 Eric Michael Webber and Celena Renee Webber**

**Chapter 13**

**#52.00 CON'TD Hearing RE: Trustee's Motion for Order Dismissing Chapter 13  
Proceeding for Failure to Make Plan Payments**

FR: 2-25-20

Docket 56

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion unless Debtor is now current with plan payments or the Trustee has agreed to an alternative resolution or continuance of the hearing.

**Party Information**

**Debtor(s):**

Eric Michael Webber

Represented By  
Hasmik Jasmine Papian

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

---

2:30 PM

**CONT... Eric Michael Webber and Celena Renee Webber**

**Chapter 13**

**Joint Debtor(s):**

Celena Renee Webber

Represented By  
Hasmik Jasmine Papian

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, April 28, 2020

Hearing Room 5A

2:30 PM

8:17-10313 Michael Mitchell Wise

Chapter 13

#53.00 Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding

Docket 57

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Deny motion (unless withdrawn at the hearing). Order approving motion to modify has been entered..

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

**Debtor(s):**

Michael Mitchell Wise

Represented By  
Michael Jones  
Sara Tidd

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, April 28, 2020

Hearing Room 5A

2:30 PM

8:17-10019 Mac Thi Nguyen

Chapter 13

#54.00 Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

Docket 115

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion unless Debtor is now current with plan payments or the Trustee has agreed to an alternative resolution or continuance of the hearing.

No motion to modify or suspend payments has been filed.

**Party Information**

**Debtor(s):**

Mac Thi Nguyen

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

2:30 PM

**8:16-15227 Christopher Michael Brooksbank and Suzanne Michelle**

**Chapter 13**

**#55.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments**

FR: 1-21-20; 2-25-20

Docket 65

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion unless Debtor is now current with plan payments or the Trustee has agreed to an alternative resolution or continuance of the hearing.

No motion to modify or suspend payments has been filed.

**Party Information**

**Debtor(s):**

Christopher Michael Brooksbank

Represented By  
Karine Karadjian

**Joint Debtor(s):**

Suzanne Michelle Brooksbank

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

2:30 PM

**CONT... Christopher Michael Brooksbank and Suzanne Michelle  
Karine Karadjian**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, April 28, 2020

Hearing Room 5A

2:30 PM

8:16-10710 Christina Platt and Robert L Platt

Chapter 13

#56.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding

FR: 12-20-19; 2-25-20

Docket 71

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

No tentative ruling -- the court is unclear as to the status of this matter.

**Party Information**

**Debtor(s):**

Christina Platt

Represented By  
Julie J Villalobos

**Joint Debtor(s):**

Robert L Platt

Represented By  
Julie J Villalobos

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

2:30 PM

**CONT... Christina Platt and Robert L Platt**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, April 28, 2020

Hearing Room 5A

2:30 PM

8:15-14408 Thomas Winslor Eddy and Colleen Marie Eddy

Chapter 13

#57.00 Hearing RE: Debtors' Motion Under LBR 3015-1(n) and (w) to Modify Plan or Suspend Plan Payments

Docket 117

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

No tentative ruling -- the court notes that a relief from stay order was entered on March 18, 2020.

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

Thomas Winslor Eddy

Represented By  
Christopher J Langley

**Joint Debtor(s):**

Colleen Marie Eddy

Represented By  
Christopher J Langley

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

2:30 PM

**CONT... Thomas Winslor Eddy and Colleen Marie Eddy**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, April 28, 2020

Hearing Room 5A

2:30 PM

8:15-14408 Thomas Winslor Eddy and Colleen Marie Eddy

Chapter 13

#58.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

FR: 11-26-19; 1-21-20; 2-25-20

Docket 112

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion unless Debtor is now current with plan payments or the Trustee has agreed to an alternative resolution or continuance of the hearing.

No motion to modify or suspend payments has been filed.

**Party Information**

**Debtor(s):**

Thomas Winslor Eddy

Represented By  
Christopher J Langley

**Joint Debtor(s):**

Colleen Marie Eddy

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

2:30 PM

**CONT... Thomas Winslor Eddy and Colleen Marie Eddy  
Christopher J Langley**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

2:30 PM

**8:15-13895 Rocio Lopez Namdar**

**Chapter 13**

**#59.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments**

FR: 1-21-20; 2-25-20

Docket 108

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Chapter 13 Trustee's Notice of Withdrawal of Motion, filed 4/23/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Chapter 13 Trustee's Notice of Withdrawal of Motion, filed 4/23/2020 - td (4/24/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Rocio Lopez Namdar

Represented By  
Anerio V Altman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

2:30 PM

**8:15-12786 Michael Thomas Kapowai and Renee Satomi Kapowai**

**Chapter 13**

**#60.00 Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding**

Docket 52

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of Motion, filed 3/24/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal of Motion, filed 3/24/2020 - td  
(3/25/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Thomas Kapowai

Represented By  
Alon Darvish  
Bahram Madaen

**Joint Debtor(s):**

Renee Satomi Kapowai

Represented By  
Alon Darvish  
Bahram Madaen

**Movant(s):**

Amrane (SA) Cohen (TR)

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, April 28, 2020**

**Hearing Room 5A**

2:30 PM

**8:15-10898 Michael Edward De La Torre**

**Chapter 13**

**#61.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments Within its Terms**

FR: 2-25-20

Docket 93

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Chapter 13 Trustee's Amended Notice of Withdrawal of Motion, filed 4/24/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Chapter 13 Trustee's Amended Notice of Withdrawal of Motion, filed 4/24/2020 - td (4/24/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Michael Edward De La Torre

Represented By

Misty A Perry Isaacson

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, April 28, 2020

Hearing Room 5A

2:30 PM

8:15-10272 Ranulfo Figueroa

Chapter 13

#62.00 CON'TD earing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Complete the Plan Within its Terms

FR: 2-25-20

Docket 89

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion unless Debtor is now current with plan payments or the Trustee has agreed to an alternative resolution or continuance of the hearing.

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

**Debtor(s):**

Ranulfo Figueroa

Represented By  
Sunita N Sood  
Seema N Sood

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01218 Marshack v. Kim et al

**#1.00 STATUS CONFERENCE RE: RE: Complaint for: 1. Breach of Fiduciary Duty; 2. Accounting; and 3. Defalcation of Trust**

(Another Summons Issued 2/11/2020)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/4/2020 AT 9:30 A.M.,  
Per Order Entered 3/10/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 6/4/2020 at 9:30 a.m., Per  
Order Entered 3/10/2020 (XX) - td (3/10/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Ik Dong Kim

Pro Se

Gill Su Sun

Pro Se

Minho An

Represented By  
Michael H Yi

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

9:30 AM

**8:18-10566 Eugene Martin Huapaya**

**Chapter 7**

Adv#: 8:20-01019 Kosmala v. Journey Investments Inc et al

**#2.00 STATUS CONFERENCE RE: Complaint for Declaratory Relief; Breach of Contract; and Turnover Earnest Money Deposit (11 U.S. C. Section 542, 543)**

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In light of the pending resolution of the matter, continue the status conference to June 11, 2020 at 9:30 a.m.; updated status report must be filed by May 28, 2020 if the adversary proceeding has not been dismissed by such date.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

**Party Information**

**Debtor(s):**

Eugene Martin Huapaya

Represented By  
Joseph A Weber

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Eugene Martin Huapaya**

**Chapter 7**

Fritz J Firman

**Defendant(s):**

Journey Investments Inc

Pro Se

Lawyers Title of Los Angeles

Pro Se

**Plaintiff(s):**

Weneta M.A. Kosmala

Represented By  
Erin P Moriarty

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Erin P Moriarty

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

9:30 AM

**8:19-14169 Gary Clesceri**

**Chapter 7**

Adv#: 8:20-01013 Hopwood et al v. Clesceri et al

**#3.00** STATUS CONFERENCE RE: Complaint to Determine the Dischargeability and Objecting to Debtor's Discharge of Debt Pursuant to Sections 523 and 727 of The Bankruptcy Code

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue the status conference to May 21, 2020 at 2:00 p.m., same date/time as hearing on Defendants' motion to dismiss; updated status report not required.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

**Party Information**

**Debtor(s):**

Gary Clesceri

Represented By  
Michael G Spector

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Gary Clesceri**

**Chapter 7**

**Defendant(s):**

Gary Clesceri Pro Se

Charlene Clesceri Pro Se

**Joint Debtor(s):**

Charlene Clesceri Represented By  
Michael G Spector

**Plaintiff(s):**

Andrew J Hopwood Represented By  
Lisa G Salisbury

Kathleen M Hopwood Represented By  
Lisa G Salisbury

**Trustee(s):**

Karen S Naylor (TR) Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14255 Dana Kim**

**Chapter 7**

Adv#: 8:20-01016 Romex Textiles, Inc. v. Kim

**#4.00 STATUS CONFERENCE RE: Complaint to Determine Dischargeability of a Debt and Objectio to Discharge**

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED: Status Conference  
Continued to 8/6/2020 at 9:30 a.m, Per Order Entered 3/25/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 8/6/2020 at 9:30 a.m, Per  
Order Entered 3/25/2020 (XX) - td (3/25/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Dana Kim

Represented By  
Kelly K Chang

**Defendant(s):**

Dana Kim

Pro Se

**Plaintiff(s):**

Romex Textiles, Inc.

Represented By  
Nico N Tabibi

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

9:30 AM

**8:19-14336 Maxwell Shack**

**Chapter 7**

Adv#: 8:20-01018 Tustin Buick GMC v. Shack

**#5.00 STATUS CONFERENCE RE: Complaint for Non-Dischargeability of Debt**

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Discovery Cut-off Date: July 31, 2020  
Pretrial Conference Date: Sept. 17, 2020 at 9:30 a.m.  
Deadline to file Joint Pretrial Stipulation: Sept. 3, 2020

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling. Plaintiff to lodge a scheduling order consistent with the same within 7 days of the status conference.***

**Party Information**

**Debtor(s):**

Maxwell Shack

Represented By  
Stephen M Goodman

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room      5A**

---

9:30 AM

**CONT...      Maxwell Shack**

**Chapter 7**

**Defendant(s):**

Maxwell Shack

Pro Se

**Plaintiff(s):**

Tustin Buick GMC

Represented By  
Kaitlyn Q Chang

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:00 AM

**8:12-18188 Luis Savastano**

**Chapter 7**

Adv#: 8:13-01220 Bobinski v. Savastano

**#6.00** CON'TD Third Person Examination of Dominic Savastano RE: Enforcement of Judgment

FR: 12-5-19; 1-16-20; 3-19-20

Docket 183

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 5, 2019**

Examinee Dominic Savastano to appear in court for swearing in by the courtroom clerk; the examination will thereafter proceed outside the courtroom.  
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**January 16, 2020**

Examinee Dominic Savastano to appear in court for swearing in by the courtroom clerk; the examination will thereafter proceed outside the courtroom  
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**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:00 AM

CONT... Luis Savastano

Chapter 7

**registration for parties without an attorney.**

Continue his matter to April 30, 2020 at 10:00 a.m. in light of special pandemic policy in effect. The parties are, however, free to stipulate to an examination outside the courthouse prior to April 30, 2020. (XX)

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue his matter to July 23, 2020 at 10:00 a.m. in light of the special pandemic policy in effect. The parties are, however, free to stipulate to an examination outside the courthouse via video conference or otherwise prior to July 23, 2020.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

Party Information
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**Debtor(s):**

Luis Savastano

Represented By  
Nathan Fransen

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Luis Savastano**

**Chapter 7**

**Defendant(s):**

Luis Savastano

Represented By  
Nathan Fransen

**Plaintiff(s):**

Richard Bobinski

Represented By  
Crystal Bergstrom

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Karen S Naylor (TR)

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:00 AM

**8:12-18188 Luis Savastano**

**Chapter 7**

Adv#: 8:13-01220 Bobinski v. Savastano

**#7.00** CON'TD Third Person Examination of Guadalupe (Lupe) Savastano RE:  
Enforcement of Judgment

FR: 9-12-19; 11-19-19; 1-16-20; 3-19-20

Docket 175

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**September 12, 2019**

Examinee Guadalupe Savastano to appear in court to be sworn in by the court clerk. Thereafter, the examination will take place outside the courtroom  
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**November 19, 2019**

Continued to Jan. 16, 2020 at 10:30 a.m. per stipulation of the parties. (XX)  
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**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:00 AM

CONT... Luis Savastano

Chapter 7

**registration for parties without an attorney.**

Continue his matter to April 30, 2020 at 10:00 a.m. in light of special pandemic policy in effect. The parties are, however, free to stipulate to an examination outside the courthouse prior to April 30, 2020. (XX)

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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April 30, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue his matter to July 23, 2020 at 10:00 a.m. in light of the special pandemic policy in effect. The parties are, however, free to stipulate to an examination outside the courthouse via video conference or otherwise prior to July 23, 2020.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

Party Information

Debtor(s):

Luis Savastano

Represented By  
Nathan Fransen

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Luis Savastano**

**Chapter 7**

**Defendant(s):**

Luis Savastano

Represented By  
Nathan Fransen

**Plaintiff(s):**

Richard Bobinski

Represented By  
Crystal Bergstrom

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Karen S Naylor (TR)

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:00 AM

**8:18-14136 David Maurice Denman**

**Chapter 13**

**#8.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

DEUTSCHE BANK, TRUST COMPANY AMERICAS

VS.

DEBTOR

Docket 53

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/4/2020 AT 10:00 A.M.,  
Per Order Entered 4/27/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/4/2020 at 10:00 a.m., Per Order  
Entered 4/27/2020 (XX) - td (4/27/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

David Maurice Denman

Represented By  
Nicholas W Gebelt

**Movant(s):**

Deutsche Bank National Trust

Represented By  
Eric P Enciso  
Sean C Ferry  
Erin Elam

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:00 AM

8:19-11141 Douglas Robert Redding and Dana Marie Redding

Chapter 13

#9.00 CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

US BANK TRUST NA

VS.

DEBTORS

FR: 4-9-20

Docket 45

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 9, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue hearing to April 30, 2020 at 10:00 a.m.; a payment history was not attached to the Motion as Exhibit 5 as represented in the Motion. The payment history must be filed and served no later than April 9, 2020. (XX)

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:00 AM

CONT... Douglas Robert Redding and Dana Marie Redding Chapter 13

**Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance by the parties shall be deemed acceptance of the tentative ruling.**

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April 30, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion without 4001(a)(3) waiver unless Movant is willing to negotiate an adequate protection order, in which case Movant may request a further continuance of the hearing to May 21, 2020 at 10:00 a.m. during the courtroom clerk's calendar roll call just prior to the hearing.

**Party Information**

**Debtor(s):**

Douglas Robert Redding

Represented By  
Sunita N Sood

**Joint Debtor(s):**

Dana Marie Redding

Represented By  
Sunita N Sood

**Movant(s):**

US Bank Trust NA

Represented By  
Kristin A Zilberstein  
Lemuel Bryant Jaquez



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Douglas Robert Redding and Dana Marie Redding**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-11870 Darlene Futrel**

**Chapter 13**

**#10.00** CONT'D Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

BANK OF AMERICA, N.A.

VS.

DEBTOR

FR: 4-2-20

Docket 44

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue hearing to June 4, 2020 at 10:00 a.m. to allow the parties to complete resolution discussions.

*Special note:* If the parties have been unable to reach resolution and Movant

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Darlene Futrel Chapter 13**

wishes to proceed with this hearing, Movant so indicate to the clerk during the calendar roll call.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance by the parties shall be deemed acceptance of the tentative ruling.***

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

Darlene Futrel

Represented By  
Christopher J Langley

**Movant(s):**

Bank of America, N.A

Represented By  
Nancy L Lee

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13600 Ellie Elape Lam**

**Chapter 13**

**#11.00** CONT'D Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

U.S. BANK NATIONAL ASSOCIATION, NOT INDIVIDUALLY BUT SOLELY AS  
TRUSTEE FOR BLUEWATER INVESTMENT TRUST 2018-1, ITS  
SUCCESSOR AND ASSIGNS

VS.

DEBTOR

FR: 3-19-20

Docket 30

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion with 4001(a)(3) waiver unless Debtor is postpetition current by the time of the hearing (in which case a standard "3 Strikes" adequate protection

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:00 AM

CONT... Ellie Elape Lam

Chapter 13

order will be granted) or if the parties have reached an alternate resolution. If more time is needed to reach resolution, Movant may request a continuance of the hearing at the time of the calendar roll call by the court clerk on the day of the hearing. Available continued dates are: 4/2, 4/9, 4/16, 4/30 and 5/2 at 10:00 a.m.  
-----

April 30, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue hearing to June 4, 2020 at 10:00 a.m. to allow the parties to complete resolution discussions.

*Special note:* If the parties have been unable to reach resolution and Movant wishes to proceed with this hearing, Movant so indicate to the clerk during the calendar roll call.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance by the parties shall be deemed acceptance of the tentative ruling.***

Party Information

**Debtor(s):**

Ellie Elape Lam

Represented By  
Christopher J Langley

**Movant(s):**

U.S. Bank National Association, not

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Ellie Elape Lam**

**Chapter 13**

Dane W Exnowski  
Sean C Ferry  
Lemuel Bryant Jaquez

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:00 AM

8:19-14213 Esther Rico

Chapter 7

#12.00 CONT'D Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

THE BANK OF NEW YORK MELLON

VS.

DEBTOR

FR: 3-19-20

Docket 55

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Voluntary Dismissal of  
Motion, and Taking the Matter Off Calendar filed 4/3/2020

Courtroom Deputy:

OFF CALENDAR: Voluntary Dismissal of Motion, and Taking the Matter  
Off Calendar filed 4/3/2020 - td (4/3/2020)

Tentative Ruling:

March 19, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the  
COVID-19 virus, notice is hereby given that, starting with the March 19,  
2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE  
APPEARANCE ONLY until further notice. The courtroom will be locked.  
Any party who wishes to appear must register in advance by contacting  
CourtCall at (866) 582-6878. It is suggested that parties register with  
CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020,  
CourtCall is offering discounted registration for attorneys and free  
registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:00 AM

CONT... Esther Rico

Chapter 7

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.**

Party Information

**Debtor(s):**

Esther Rico

Represented By  
Bert Briones

**Movant(s):**

The Bank of New York Mellon f/k/a

Represented By  
Kirsten Martinez

**Trustee(s):**

Richard A Marshack (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:00 AM

8:20-10346 Ly Luan Chau

Chapter 7

#13.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
BMW FINANCIAL SERVICES NA, LLC  
VS.  
DEBTOR

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.*

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:00 AM

CONT... Ly Luan Chau

Chapter 7

***Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required. Nonappearance shall be deemed acceptance of the tentative ruling.***

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

**Debtor(s):**

Ly Luan Chau

Represented By  
Nguyen H Nguyen

**Movant(s):**

BMW Financial Services NA, LLC

Represented By  
Cheryl A Skigin

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:00 AM

8:20-10533 American Renewable Power LLC

Chapter 7

#14.00 Hearing RE: Motion for Relief from Stay  
[ACTION IN NONBANKRUPTCY FORUM]

NV ENERGY

VS.

DEBTOR; AND ARP LOYALTON COGEN LLC

Docket 41

**Courtroom Deputy:**

**This hearing will be trailed to the 2:00 p.m. calendar to be heard at the same time as the Trustee's Sale Motion. --eas**

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

No tentative ruling. The disposition of this Motion may be impacted by the outcome of the Trustee's Sale Motion on calendar for this date as well. Accordingly, the hearing on the Motion will be trailed to the 2:00 p.m. calendar.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... American Renewable Power LLC**

**Chapter 7**

**Debtor(s):**

American Renewable Power LLC

Represented By  
David B Golubchik  
Todd M Arnold

**Movant(s):**

NV Energy

Represented By  
Paul L Gale

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 6D Calendar

Thursday, April 30, 2020

Hearing Room 6D

10:00 AM

8:20-10561 Michael B. Dawidoff and Emily S. Dawidoff

Chapter 7

#15.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]  
DRI MORTGAGE OPPORTUNITY FUND LP  
VS.  
DEBTORS

Docket 14

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

April 30, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

**Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required. Nonappearance by Movant shall be deemed acceptance of the tentative ruling.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 6D Calendar**

**Thursday, April 30, 2020**

**Hearing Room      6D**

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10:00 AM

**CONT...      Michael B. Dawidoff and Emily S. Dawidoff**

**Chapter 7**

**Debtor(s):**

Michael B. Dawidoff

Represented By  
Christine A Kingston

**Joint Debtor(s):**

Emily S. Dawidoff

Represented By  
Christine A Kingston

**Movant(s):**

DRI Mortgage Opportunity Fund

Represented By  
Arturo M Cisneros  
Christina J Khil

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:00 AM

8:20-10774 Alin Manuel Ybarra

Chapter 7

#16.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
AMERICAN HONDA FINANCE  
VS.  
DEBTOR

Docket 9

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

April 30, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant with 4001(a)(3) waiver.

**Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required. Nonappearance by Movant shall be deemed acceptance of the tentative ruling.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Alin Manuel Ybarra**

**Chapter 7**

**Debtor(s):**

Alin Manuel Ybarra

Represented By  
Christopher J Langley

**Movant(s):**

American Honda Finance

Represented By  
Vincent V Frounjian

**Trustee(s):**

Richard A Marshack (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**8:17-12195 Mark Chaim Skurnik and Deborah Lynn Cunningham-**

**Chapter 13**

**#17.00** Hearing RE: Chapter 13 Trustee's Objection to Debtor's Claims of Exemption

Docket 35

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Chapter 13 Trustee's  
Notice of Withdrawal of Motion, filed 4/27/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Chapter 13 Trustee's Notice of Withdrawal of Motion,  
filed 4/27/2020 - td (4/28/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

Mark Chaim Skurnik

Represented By  
Anthony B Vigil

**Joint Debtor(s):**

Deborah Lynn Cunningham-Skurnik

Represented By  
Anthony B Vigil

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

8:18-14511 One Source Facility Solution, Inc.

Chapter 7

#18.00 CON'TD Hearing RE: Chapter 7 Creditor's Motion for an Order Authorizing Deposition Examination and Production of Documents from Debtor's Officer Dilip Joshi Pursuant to Federal Rule of Bankruptcy Procedure 2004

FR: 3-19-20

Docket 64

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In light of the current pandemic crisis, continue this matter to April 30, 2020 at 10:30 a.m. In the interim, no deposition or production of documents are required to take place. (XX)

**Note: *If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

-----

**April 30, 2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

CONT... One Source Facility Solution, Inc.

Chapter 7

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant the motion on the following terms:

1) Dilip Joshi shall be required to appear for a 2004 examination by video conference (in Texas) on June 5, 2020 at 12:00 p.m. CST, or on such other date or time as the parties may mutually agree. The video conference shall be set up by Movant and information/instructions regarding the logistics of the video appearance shall be provided to Mr. Joshi's counsel at least 7 days prior to the examination.

2) At least seven days prior to the examination, Mr. Joshi shall produce all documents requested in the Motion or provide a detailed declaration stating why particular documents are not being produced. The production of documents and/or declaration shall be delivered to Movant's attorney so that it is received by such attorney on the seventh day prior to the examination. The parties may agree to the delivery of the same by electronic mail.

3. Mr. Joshi shall make himself available for examination in a quiet setting.

Basis for the Tentative Ruling

-- The world has changed dramatically since the Motion was filed in early February; face-face examinations and depositions are inconsistent with pandemic guidelines in California.

-- The court is not persuaded by the responding party's argument that no

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room

5A

10:30 AM

CONT...

**One Source Facility Solution, Inc.**

**Chapter 7**

examination should take place on the basis of delay. There is no deadline for taking 2004 examinations and the court does not find the timing unreasonable.

-- The stipulation attached to the Motion sufficiently satisfies the court's Local Rules

-- As an officer or former officer of Debtor, the responding party cannot avoid providing information concerning assets and/or liabilities of Debtor by simply moving to another state shortly after filing the bankruptcy petition in this district. See, e.g., *In re Mograbi*, 197 B.R. 258, 259 (Bankr. N.D. Ohio 1996).

-- Conducting the examination by video conference a) will allow the responding party to remain in his current hometown, thereby eliminating any excuse for not appearing due to financial constraints and b) is the safest procedure for all concerned.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required. Non appearance by the parties will be deemed acceptance of the tentative ruling and the moving party shall lodge an order consistent with the same within 7 days of the hearing.***

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

One Source Facility Solution, Inc.

Represented By  
James R Selth  
Nina Z Javan

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**8:18-14511 One Source Facility Solution, Inc.**

**Chapter 7**

**#19.00** CON'TD Hearing RE: Chapter 7 Creditor's Motion for an Order Authorizing Deposition Examination and Production of Documents from Debtor's Officer Nishan Joshi Pursuant to Federal Rule of Bankruptcy Procedure 2004

FR: 3-19-20

Docket 65

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In light of the current pandemic crisis, continue this matter to April 30, 2020 at 10:30 a.m. In the interim, no deposition or production of documents are required to take place. (XX)

**Note: *If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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**April 30, 2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

CONT... One Source Facility Solution, Inc.

Chapter 7

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant the motion on the following terms:

1) Nishan Joshi shall be required to appear for a 2004 examination by video conference (in Texas) on June 3, 2020 at 12:00 p.m. CST, or on such other date or time as the parties may mutually agree. The video conference shall be set up by Movant and information/instructions regarding the logistics of the video appearance shall be provided to Mr. Joshi's counsel at least 7 days prior to the examination.

2) At least seven days prior to the examination, Mr. Joshi shall produce all documents requested in the Motion or provide a detailed declaration stating why particular documents are not being produced. The production of documents and/or declaration shall be delivered to Movant's attorney so that it is received by such attorney on the seventh day prior to the examination. The parties may agree to the delivery of the same by electronic mail.

3. Mr. Joshi shall make himself available for examination in a quiet setting.

Basis for the Tentative Ruling

-- The world has changed dramatically since the Motion was filed in early February; face-face examinations and depositions are inconsistent with pandemic guidelines in California.

-- The court is not persuaded by the responding party's argument that no

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... One Source Facility Solution, Inc. Chapter 7**

examination should take place on the basis of delay. There is no deadline for taking 2004 examinations and the court does not find the timing unreasonable.

-- The stipulation attached to the Motion sufficiently satisfies the court's Local Rules

-- As a former officer of Debtor, and as the owner of West One, the request to take the examination of Mr. Joshi is not unreasonable.

-- Conducting the examination by video conference is the safest procedure for all concerned.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required. Non appearance by the parties will be deemed acceptance of the tentative ruling and the moving party shall lodge an order consistent with the same within 7 days of the hearing.***

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

One Source Facility Solution, Inc.

Represented By  
James R Selth  
Nina Z Javan

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room

5A

10:30 AM

8:18-14511 One Source Facility Solution, Inc.

Chapter 7

#20.00 CON'TD Hearing RE: Chapter 7 Creditor's Motion for an Order Authorizing Deposition Examination and Production of Documents from Debtor's Officer Vansanti Joshi Pursuant to Federal Rule of Bankruptcy Procedure 2004

FR: 3-19-20

Docket 66

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In light of the current pandemic crisis, continue this matter to April 30, 2020 at 10:30 a.m. In the interim, no deposition or production of documents are required to take place. (XX)

**Note: *If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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**April 30, 2020**



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

CONT... One Source Facility Solution, Inc.

Chapter 7

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant the motion on the following terms:

1) Visanti Joshi shall be required to appear for a 2004 examination by video conference (in Texas) on June 4, 2020 at 12:00 p.m. CST, or on such other date or time as the parties may mutually agree. The video conference shall be set up by Movant and information/instructions regarding the logistics of the video appearance shall be provided to Ms. Joshi's counsel at least 7 days prior to the examination.

2) At least seven days prior to the examination, Ms. Joshi shall produce all documents requested in the Motion or provide a detailed declaration stating why particular documents are not being produced. The production of documents and/or declaration shall be delivered to Movant's attorney so that it is received by such attorney on the seventh day prior to the examination. The parties may agree to the delivery of the same by electronic mail.

3. Ms. Joshi shall make herself available for examination in a quiet setting.

Basis for the Tentative Ruling

-- The world has changed dramatically since the Motion was filed in early February; face-face examinations are inconsistent with pandemic guidelines in California.

-- The court is not persuaded by the responding party's argument that no

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

CONT... **One Source Facility Solution, Inc.** **Chapter 7**

examination should take place on the basis of delay. There is no deadline for taking 2004 examinations and the court does not find the timing unreasonable.

-- The stipulation attached to the Motion sufficiently satisfies the court's Local Rules

-- As an officer or former officer of Debtor, the responding party cannot avoid providing information concerning assets and/or liabilities of Debtor by simply moving to another state shortly after filing the bankruptcy petition in this district. See, e.g., *In re Mograbi*, 197 B.R. 258, 259 (Bankr. N.D. Ohio 1996).

-- Conducting the examination by video conference a) will allow the responding party to remain in her current hometown, thereby eliminating any excuse for not appearing due to financial constraints and b) is the safest procedure for all concerned.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required. Non appearance by the parties will be deemed acceptance of the tentative ruling and the moving party shall lodge an order consistent with the same within 7 days of the hearing.***

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

One Source Facility Solution, Inc.

Represented By  
James R Selth  
Nina Z Javan

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

8:18-14512 One Source Facility Maintenance, Inc.

Chapter 7

#21.00 CON'TD Hearing RE: Chapter 7 Creditor's Motion for an Order Authorizing Deposition Examination and Production of Documents From Debtor's Officer Dilip Joshi Pursuant to Federal Rule of Bankruptcy Procedure 2004

FR: 3-19-20

Docket 42

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In light of the current pandemic crisis, continue this matter to April 30, 2020 at 10:30 a.m. In the interim, no deposition or production of documents are required to take place. (XX)

**Note: *If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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**April 30, 2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

CONT... One Source Facility Maintenance, Inc.

Chapter 7

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant the motion on the following terms:

1) Dilip Joshi shall be required to appear for a 2004 examination by video conference (in Texas) on June 5, 2020 at 12:00 p.m. CST, or on such other date or time as the parties may mutually agree. The video conference shall be set up by Movant and information/instructions regarding the logistics of the video appearance shall be provided to Mr. Joshi's counsel at least 7 days prior to the examination.

2) At least seven days prior to the examination, Mr. Joshi shall produce all documents requested in the Motion or provide a detailed declaration stating why particular documents are not being produced. The production of documents and/or declaration shall be delivered to Movant's attorney so that it is received by such attorney on the seventh day prior to the examination. The parties may agree to the delivery of the same by electronic mail.

3. Mr. Joshi shall make himself available for examination in a quiet setting.

Basis for the Tentative Ruling

-- The world has changed dramatically since the Motion was filed in early February; face-face examinations and depositions are inconsistent with pandemic guidelines in California.

-- The court is not persuaded by the responding party's argument that no

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

CONT... **One Source Facility Maintenance, Inc.** **Chapter 7**

examination should take place on the basis of delay. There is no deadline for taking 2004 examinations and the court does not find the timing unreasonable.

-- The stipulation attached to the Motion sufficiently satisfies the court's Local Rules

-- As an officer or former officer of Debtor, the responding party cannot avoid providing information concerning assets and/or liabilities of Debtor by simply moving to another state shortly after filing the bankruptcy petition in this district. See, e.g., *In re Mograbi*, 197 B.R. 258, 259 (Bankr. N.D. Ohio 1996).

-- Conducting the examination by video conference a) will allow the responding party to remain in his current hometown, thereby eliminating any excuse for not appearing due to financial constraints and b) is the safest procedure for all concerned.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required. Non appearance by the parties will be deemed acceptance of the tentative ruling and the moving party shall lodge an order consistent with the same within 7 days of the hearing.***

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

One Source Facility Maintenance,

Represented By  
James R Selth

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room

5A

10:30 AM

8:18-14512 One Source Facility Maintenance, Inc.

Chapter 7

#22.00 CON'TD Hearing RE: Chapter 7 Creditor's Motion for an Order Authorizing Deposition Examination and Production of Documents from Debtor's Officer Vansant Joshi Pursuant to Federal Rule of Bankruptcy Procedure 2004

FR: 3-19-20

Docket 43

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In light of the current pandemic crisis, continue this matter to April 30, 2020 at 10:30 a.m. In the interim, no deposition or production of documents are required to take place.(XX)

**Note: *If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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**April 30, 2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

CONT... One Source Facility Maintenance, Inc.

Chapter 7

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant the motion on the following terms:

1) Visanti Joshi shall be required to appear for a 2004 examination by video conference (in Texas) on June 4, 2020 at 12:00 p.m. CST, or on such other date or time as the parties may mutually agree. The video conference shall be set up by Movant and information/instructions regarding the logistics of the video appearance shall be provided to Ms. Joshi's counsel at least 7 days prior to the examination.

2) At least seven days prior to the examination, Ms. Joshi shall produce all documents requested in the Motion or provide a detailed declaration stating why particular documents are not being produced. The production of documents and/or declaration shall be delivered to Movant's attorney so that it is received by such attorney on the seventh day prior to the examination. The parties may agree to the delivery of the same by electronic mail.

3. Ms. Joshi shall make herself available for examination in a quiet setting.

Basis for the Tentative Ruling

-- The world has changed dramatically since the Motion was filed in early February; face-face examinations are inconsistent with pandemic guidelines in California.

-- The court is not persuaded by the responding party's argument that no

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

CONT... **One Source Facility Maintenance, Inc.** **Chapter 7**

examination should take place on the basis of delay. There is no deadline for taking 2004 examinations and the court does not find the timing unreasonable.

-- The stipulation attached to the Motion sufficiently satisfies the court's Local Rules

-- As an officer or former officer of Debtor, the responding party cannot avoid providing information concerning assets and/or liabilities of Debtor by simply moving to another state shortly after filing the bankruptcy petition in this district. See, e.g., *In re Mograbi*, 197 B.R. 258, 259 (Bankr. N.D. Ohio 1996).

-- Conducting the examination by video conference a) will allow the responding party to remain in her current hometown, thereby eliminating any excuse for not appearing due to financial constraints and b) is the safest procedure for all concerned.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required. Non appearance by the parties will be deemed acceptance of the tentative ruling and the moving party shall lodge an order consistent with the same within 7 days of the hearing.***

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

**Debtor(s):**

One Source Facility Maintenance,

Represented By  
James R Selth

**Trustee(s):**

Thomas H Casey (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

8:19-10201 Robert Lynn McEwen

Chapter 13

#23.00 Hearing RE: Debtor's Motion for Order Disallowing Claim No. 9 filed by U.S. Department of Education

Docket 68

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal  
Arising from Motion to Dismiss Chapter 13 Entered 4/29/2020

**Courtroom Deputy:**

**OFF CALENDAR: Order of Dismissal Arising from Motion to Dismiss  
Chapter 13 Entered 4/29/2020 - td (4/29/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Robert Lynn McEwen

Represented By  
Jacqueline D Serrao

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

8:19-10917 Alice L. Madonna Zimmerman

Chapter 7

#24.00 Hearing RE: Motion to Compel Trustee to Abandon Property Pursuant to 11 USC Section 554(b) and Bankruptcy Rule 6007

Docket 64

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Non appearance at the hearing will be deemed acceptance of the tentative ruling.***

**Party Information**

**Debtor(s):**

Alice L. Madonna Zimmerman

Represented By  
Leslie K Kaufman

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Alice L. Madonna Zimmerman**

**Chapter 7**

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Reem J Bello

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

8:19-11546 Joseph Ra

Chapter 7

#25.00 Hearing RE: Chapter 7 Trustee's Motion for Order to Extend Time to File Complaint Under 11 U.S.C. Section 727 Re: Objection to Debtor's Discharge

Docket 210

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

April 30, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Movant is required. Non appearance at the hearing will be deemed acceptance of the tentative ruling.***

Party Information

**Debtor(s):**

Joseph Ra

Represented By  
David B Golubchik  
Jaenam J Coe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

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10:30 AM

**CONT... Joseph Ra**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector  
Thomas J Polis

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-11546 Joseph Ra**

**Chapter 7**

Adv#: 8:19-01163 O'Gara Coach Company, LLC v. Ra

**#26.00** Hearing RE: Plaintiff O'Gara Coach Company's, Motion Re: Extend Various Deadlines (I.e. Discovery Cut-off, Joint Pre-trial Conference) Pending Possible Prosecution of Chapter 7 Trustee's objection to Discharge

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion.

*Special Note: The court does not recognize the "joinder" filed by creditor Joseph Laplante on April 16, 2020. To the extent Laplante seeks relief via the joinder, it is an improper and untimely motion. Further, the court has recently entered an order in the Laplante adversary, 19-01164, approving the stipulation between Laplante and defendant staying all proceedings in that adversary on April 23, 2020.*

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Non appearance at the hearing will be deemed acceptance of the tentative ruling.**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Joseph Ra**

**Chapter 7**

**Party Information**

**Debtor(s):**

Joseph Ra

Represented By  
David B Golubchik  
Jaenam J Coe

**Defendant(s):**

Joseph Ra

Represented By  
Jaenam J Coe

**Plaintiff(s):**

O'Gara Coach Company, LLC

Represented By  
Thomas J Polis

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector  
Thomas J Polis

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-12411 Orange County Bail Bonds, Inc.**

**Chapter 11**

**#27.00** STATUS CONFERENCE Hearing RE: Status of Subchapter V Case; (2) Requiring Report on Status of of Subchapter V Case; (3) Requiring Subchapter V Trustee to Appear at the Status Conference; and (4) Setting Scheduling for Subchapter V Palm Confirmation

Docket 0

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue Status Conference to July 16, 2020 at 10:30 a.m. Debtor must file an amended plan and disclosure statement no later than June 3, 2020. The hearing on approval of Debtor's amended disclosure statement shall also be July 16, 2020 at 10:30 a.m. Any response/comments to the amended disclosure statement must be filed no later than June 24, 2020. The Subchapter V Trustee shall file an updated status report by June 24, 2020 but may, at his option, file comments to the amended disclosure statement in lieu of an updated status report. Any reply by Debtor must be filed no later than July 9, 2020.



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

CONT... Orange County Bail Bonds, Inc.

Chapter 11

**[GOLD STAR PLEADING]**\* The Subchapter V Trustee's status report filed as Docket #130 is designated as a "Gold Star Pleading" due to its thoroughness and thoughtful analysis.

*\*Special Note: "Gold Star" designation above signifies an exceptionally well-prepared pleading.*

**Note: If all parties, i.e., Debtor, Subch V Trustee, U.S. Trustee and Creditor GBF, accept the foregoing tentative ruling, appearances at this hearing are not required. Non appearances by all parties will be deemed acceptance of the tentative ruling.**

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

Orange County Bail Bonds, Inc.

Represented By  
Marc C Forsythe  
Ryan S Riddles

**Trustee(s):**

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room

5A

10:30 AM

8:19-13242 10827 Studebaker LLC, a California limited liabili

Chapter 11

#28.00 Hearing RE: Disclosure Statement Describing Debtor's Chapter 11 Plan of Reorganization

Docket 68

**Courtroom Deputy:**

**SPECIAL NOTE: Motion for Order Approving Debtor's Disclosure Statement, fld. 3/19/20, dkt #80; Notice of Motion, fld. 3/19/20, dkt #81 - td (3/19/2020)**

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue hearing to June 18, 2020 at 10:30 a.m. to allow Debtor to file an amended disclosure statement/plan. The amended disclosure statement must be filed no later than May 28, 2020 at 10:30 a.m. Any opposition/comments to the same must be filed by June 4, 2020 and any reply by June 11, 2020.

Comments re the Disclosure Statement (DS):

1. Buchanan has filed a relief from stay motion which is set for May 21, 2020. The court's tentative ruling for that hearing will be to continue the RFS hearing to June 18, 2020 at 10:30 a.m. so that it can be heard on the same date and at the

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

CONT... 10827 Studebaker LLC, a California limited liability  
same time as the continued disclosure statement hearing.

Chapter 11

2. Debtor has agreed to amend the DS to provide an update on Debtor's financing opportunities and, specifically, to delete reference to Banc of California and to disclose negotiations with Eyzenberg & Company. No further comment of the Court is necessary, except to say that financials of Eyzenberg & Co. need not be attached to the amended DS. Debtor's ability to fund the plan is a confirmation issue.

3. Re the amount of Buchanan's claim, the DS adequately discloses the amount Buchanan asserts and the amount Debtor believes is owed. The DS also adequately identifies the dispute re the amount and that ultimately adjudication by the Court through the claim objection process may be necessary. However, Debtor needs to disclose the impact on reorganization if it does not prevail on its objection to Buchanan's claim or if it is not able reach an amicable resolution with Buchanan. This should probably be discussed under Risk Factors.

4. Re the anticipated loan from Ivy Glen Partners, Debtor has agreed to clarify the terms of the financing (e.g., unsecured). As to the ability of IGP to fund the loan, such a feasibility issue that will be addressed at confirmation.

5. Debtor has agreed to amend the DS to discuss the impact of the COVID-19 pandemic on rent collections. No further comment from the Court is necessary.

6. The DS should be modified to state Buchanan's position regarding the basis for the notice of default. See Opposition at p. 4:7-11.

7. The DS should disclose the identity of the interest holder(s).

8. Debtor has agreed to provide more information regarding the status of property taxes. No further comment by the Court is necessary.

9. Debtor should disclose the identity of the leases to be assumed (e.g., in a list attached as an exhibit).

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required. Non appearance by the parties shall be deemed acceptance of the tentative ruling.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... 10827 Studebaker LLC, a California limited liabili**

**Chapter 11**

**Party Information**

**Debtor(s):**

10827 Studebaker LLC, a California

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13242 10827 Studebaker LLC, a California limited liabili**

**Chapter 11**

**#29.00 CON'TD STATUS CONFERENCE RE: (1) Status of Chapter 11 Case; and (2)  
Requiring Report on Status of Chapter 11 Case**

FR: 10-17-19; 4-9-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**October 17, 2019**

Claims bar date: 11/15/19	Jan. 17, 2020 (notice to be served by
Deadline to file plan/DS	Feb. 20, 2020
Continued Status Conf.:	Apr. 9, 2020 at 10:30 a.m. (XX)
Updated Status Report Due: been	Mar. 19, 2019 (unless the plan/DS has
the report	filed by such date, in which case
	requirement will be waived)

***Note: If Debtor is in substantial compliance with the requirements of the United States Trustee, appearance at this hearing is not required. It is Debtor's responsibility to confirm compliance with the UST prior to the hearing.***

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**April 9, 2020**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

CONT... 10827 Studebaker LLC, a California limited liabili

Chapter 11

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue Status Conference to April 30, 2020 at 10:30 a.m., the same date/time as hearing on approval of Debtor's Disclosure Statement; an updated status report is not required. (XX)

***Note: Appearance at this hearing is not required. Non appearance at the hearing will be deemed acceptance of the tentative ruling.***

**April 30, 2020**

Continue status conference to June 18, 2020 at 10:30 a.m., same date/time set for the continued hearing on approval of Debtor's disclosure statement.

***Note: Appearances at this hearing are not required. Non appearance at the hearing will be deemed acceptance of the tentative ruling.***

**Party Information**

**Debtor(s):**

10827 Studebaker LLC, a California

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13587 Trent Tyrell Berglin and Adrienne Lynn Berglin**

**Chapter 11**

**#30.00 CON'TD Hearing RE: Disclosure Statement Describing Chapter 11 Plan of Reorganization**

FR: 3-19-20

Docket 32

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue the hearing to April 30, 2020 at 10:30 a.m. to allow Debtors to address service and other issues raised by the court. An amended plan and disclosure statement should be filed no later than April 2, 2020 and creditors should be notified to file any response or opposition to approval of the disclosure statement no later than April 16, 2020. (XX)

Court's Comments re the Disclosure Statement:

A. Service issue: It does not appear that creditors were given notice of the deadline for filing objections to the adequacy of the disclosure statement as

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Trent Tyrell Berglin and Adrienne Lynn Berglin Chapter 11**

provided by LBR 3017-1(b)("Objections to the adequacy of a disclosure statement must be filed and served on the proponent not less than 14 days before the hearing, unless otherwise ordered by the court.").

**B. Adequacy of the Disclosure Statement ("DS")**

1. Regarding the treatment of the two auto leases (Classes 2A and 2B): Debtors need to disclose the amount of the monthly payments and the number of remaining months under the leases. The court assumes the amounts to be paid on the effective constitute the total arrears.

2. DS, pp.8-9: "Debtor" and "Joint Debtor should be defined.

3. DS, p.9:18: Change "with provide" to "to provide"

4. DS, p. 21:9-11: Why is there a Class 5 designation if there are claim in such class? Should be deleted and Class 6 should become Class 5. Need to change plan accordingly.

5. Special Note: Debtors purport to provide "added value" of \$2500. However, the same amount is recouped by Debtors in Year 4 by withholding money from creditors to contribute to their 401k. And this withholding for the 401k contribution quadruples in Year 5. This circumstance could prove fatal to confirmation if cram down becomes necessary.

***Note: If Debtors accept the foregoing tentative ruling, appearances at this hearing are not required.***

-----  
**April 30, 2020**

Continue hearing one final time to May 21, 2020 at 10:30 a.m.; Second Amended Plan and Disclosure Statement must be filed by or before May7, 2020. If the Second Amended Disclosure Statement is not adequate, approval will be denied.

Outstanding Issues re the Amended Disclosure Statement



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, April 30, 2020**

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10:30 AM

**CONT... Trent Tyrell Berglin and Adrienne Lynn Berglin**

**Chapter 11**

1. The document filed on April 2, 2020 should be re-titled Amended Disclosure Statement and the latest version of the Plan should be re-titled Amended Plan. Any subsequent versions should be titled Second Amended Disclosure Statement and Second Amended Plan.
2. Instead of addressing the Court's March 19 comments re the original Section III(C) -- Treatment of Claims, this section has been deleted entirely in the Second Amended Disclosure Statement. The treatment of claims needs to be added back in with revisions that address the court's March 19 comments.
3. Debtors fail to disclose that the added value of \$2500 is completely negated by subsequent contributions to Debtor's 401k account. See the Court's Comment #5 from the March 19, 2020 tentative ruling above.
4. The Amended Plan at p.11:2, states that unsecured claims total \$95,818.43. However, Exh. E of the Amended Disclosure Statement lists unsecured claims as \$99,421.21. If Exh. E is correct, the calculations in the Amended Plan need to be adjusted.
5. The payout amount in Exh B of the Amended Disclosure Statement (Exh B) shows a total payout of \$7,522.60 but the Amended Plan shows a payout of \$7,728.50. This discrepancy needs to be corrected.

***Note: If Debtors accept the foregoing tentative ruling, appearances at this hearing are not required. Non appearance at the hearing will be deemed acceptance of the tentative ruling.***

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

Trent Tyrell Berglin

Represented By  
Michael Jones  
Sara Tidd

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Trent Tyrell Berglin and Adrienne Lynn Berglin**

**Chapter 11**

**Joint Debtor(s):**

Adrienne Lynn Berglin

Represented By  
Michael Jones  
Sara Tidd

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

8:19-13587 Trent Tyrell Berglin and Adrienne Lynn Berglin

Chapter 11

#31.00 CONT'D STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and (2)  
Requiring Report on Status of Chapter 11 Case

FR: 11-21-19; 2-20-20; 3-19-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**November 21, 2019**

Claims bar date: Jan. 27, 2020 (notice to creditors by 11/27/19)

Deadline to file plan/DS : Jan. 31, 2020

Continued Status Conference: Feb. 20, 2020 at 10:30 a.m. (XX)

Updated Status Report due: Feb. 6, 2020 (waived if plan/DS timely filed)

***Note: If Debtors accept the foregoing tentative ruling and are in substantial compliance with the requirements of the U.S. Trustee, appearance at this hearing is not required. It is the responsibility of Debtors to confirm compliance with the U.S. Trustee prior to the hearing.***

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

CONT... Trent Tyrell Berglin and Adrienne Lynn Berglin

Chapter 11

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**February 20, 2020**

Continue hearing to March 19, 2020 at 10:30 a.m.; same date/time as hearing on approval of disclosure statement. (XX)

***Note: Appearance at today's hearing is not required; updated status report not required for 3/19/20 hearing.***

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**March 19, 2020**

Continue status conference to April 30, 2020 at 10:30 a.m.; updated status report not required. (XX)

***Note: Appearance at today's hearing is not required; updated status report not required for 4/30/20 hearing.***

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**April 30, 2020**

Continue status conference to May 21, 2020 at 10:30 a.m.; updated status report not required.

***Note: Appearance at today's hearing is not required; updated status report not required for 4/30/20 hearing.***

**Party Information**

**Debtor(s):**

Trent Tyrell Berglin

Represented By  
Michael Jones

**Joint Debtor(s):**

Adrienne Lynn Berglin

Represented By  
Michael Jones

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 11

#32.00 Hearing RE: First Interim Application for Allowance of Compensation and Reimbursement of Expenses **[Affects Bruce Elieff]**

**[COUCHOT LAW, LLP, GENERAL INSOLVENCY COUNSEL TO BRUCE ELIEFF]**

Docket 390

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 30, 2020**

There is no tentative ruling due to pleadings filed by the Elieff Creditors Committee and Todd Kurtin requiring a review of legal authority and non-judicially noticed pleadings that is beyond the normal review of fee applications. The parties will be permitted to make brief arguments. The hearings will likely be continued to May 14, 2020 at 10:30 a.m.

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Bruce Elieff**

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 11

#33.00 Hearing RE: First Interim Fee Application for Allowance and Payment of Fees and Reimbursement of Expenses Incurred as Financial Advisor to the Debtors of Bruce Elieff, Morse Properties, LLC and 4627 Camden, LLC **[Affects All Debtors]**

**[FORCE TEN PARTNERS, LLC, FINANCIAL ADVISOR TO THE DEBTORS]**

Docket 391

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 30, 2020**

There is no tentative ruling due to pleadings filed by the Elieff Creditors Committee and Todd Kurtin requiring a review of legal authority and non-judicially noticed pleadings that is beyond the normal review of fee applications. The parties will be permitted to make brief arguments. The hearings will likely be continued to May 14, 2020 at 10:30 a.m.

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Bruce Elieff**

**Chapter 11**



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 11

#34.00 Hearing RE: First Interim Application for Allowance and Payment of Fees and Reimbursement of Expenses

[HOGAN LOVELLS US LLP AS COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF BRUCE ELIEFF]

Docket 382

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 30, 2020**

There is no tentative ruling due to pleadings filed by the Elieff Creditors Committee and Todd Kurtin requiring a review of legal authority and non-judicially noticed pleadings that is beyond the normal review of fee applications. The parties will be permitted to make brief arguments. The hearings will likely be continued to May 14, 2020 at 10:30 a.m.

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**CONT...**

**Bruce Elieff**

Paul J Couchot

**Chapter 11**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 11

#35.00 Hearing RE: First Interim Application for Allowance and Payment of Fees and Reimbursement of Expenses

[TRAVERSE, LLC AS FINANCIAL ADVISOR TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF BRUCE ELIEFF]

Docket 384

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 30, 2020**

There is no tentative ruling due to pleadings filed by the Elieff Creditors Committee and Todd Kurtin requiring a review of legal authority and non-judicially noticed pleadings that is beyond the normal review of fee applications. The parties will be permitted to make brief arguments. The hearings will likely be continued to May 14, 2020 at 10:30 a.m.

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**CONT...**

**Bruce Elieff**

Paul J Couchot

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

8:19-13874 Morse Properties LLC

Chapter 11

#36.00 Hearing RE: First Interim Application for Allowance of Compensation and Reimbursement of Expenses

**[COUCHOT LAW LLP, GENERAL INSOLVENCY COUNSEL TO MORSE PROPERTIES, LLC]**

Docket 35

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 30, 2020**

There is no tentative ruling due to pleadings filed by the Elieff Creditors Committee and Todd Kurtin requiring a review of legal authority and non-judicially noticed pleadings that is beyond the normal review of fee applications. The parties will be permitted to make brief arguments. The hearings will likely be continued to May 14, 2020 at 10:30 a.m.

**Party Information**

**Debtor(s):**

Morse Properties LLC

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Morse Properties LLC**

**Chapter 11**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

8:19-13875 4627 Camden LLC

Chapter 11

#37.00 Hearing RE: First Interim Application for Allowance of Compensation and Reimbursement of Expenses

[COUCHOT LAW, LLP, GENERAL INSOLVENCY COUNSEL TO 4627 CAMDEN, LLC]

Docket 37

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 30, 2020**

There is no tentative ruling due to pleadings filed by the Elieff Creditors Committee and Todd Kurtin requiring a review of legal authority and non-judicially noticed pleadings that is beyond the normal review of fee applications. The parties will be permitted to make brief arguments. The hearings will likely be continued to May 14, 2020 at 10:30 a.m.

**Party Information**

**Debtor(s):**

4627 Camden LLC

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... 4627 Camden LLC**

Paul J Couchot

**Chapter 11**



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-14171 KOSEP USA, Inc.**

**Chapter 7**

**#38.00** Hearing RE: Chapter 7 Trustee's Motion for Order: (1) Approving the Sale of the Estate's Interest in Kode Novus I, L.L.C., A Texas Limited Liability Company, Free and Clear of Liens Pursuant to Bankruptcy Code Section 363(b)(1) and (f), Including Breakup Fee, Subject to Overbids, Combined with Notice of Bidding Procedures and Request for Approval of Bidding Procedures Utilized; and (2) Granting Related Relief

Docket 18

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant the Motion subject to overbid, including the requested overbid procedures except that any "break up" fee will be limited to 6% or \$2,400. Approval of sale free and clear of interests/liens is conditioned on the Trustee filing a supplemental declaration within seven days of today's hearing addressing any 363(f) issues. All other requests in the Motion is granted. The opposition to the Motion filed by Emil Hasiman is overruled.

Basis for Tentative Ruling:

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... KOSEP USA, Inc.**

**Chapter 7**

Under 11 U.S.C. § 363(b), a trustee is empowered to sell assets of the estate outside the ordinary course of business after notice and a hearing. In approving any sale outside the ordinary course of business, the court must not only articulate a sufficient business reason for the sale, it must further find it is in the best interest of the estate, i.e. it is fair and reasonable, that it has been given adequate marketing, that it has been negotiated and proposed in good faith, that the purchaser is proceeding in good faith, and that it is an "arms-length" transaction. *In re Wilde Horse Enterprise, Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). The standards for approval of a sale pursuant to § 363(b)(1) require that the proponent of the sale establish that: "(1) a sound business purpose exists for the sale; (2) the sale is in the best interest of the estate, i.e., the sale price is fair and reasonable; (3) notice to creditors was proper; and (4) the sale is made in good faith." *In re Slates*, 2012 WL 5359489 (B.A.P. 9th Cir. Oct. 31, 2012) (unpublished) (citation omitted). A bankruptcy court's power to authorize a sale under § 363(b) is reviewed for abuse of discretion. *In re Walter*, 83 B.R. 14, 19 (BAP 9th Cir. 1988). The paramount goal in any proposed sale of property of the estate is to maximize the proceeds received by the estate. See e.g., *In re Food Barn Stores, Inc.*, 107 F.3d 558, 564-65 (8th Cir. 2010). As long as the sale appears to enhance a debtor's estate, court approval of a trustee's decision to sell should only be withheld if the trustee's judgment is clearly erroneous, too speculative, or contrary to the provisions of the Code. *In re Lajjani*, 325 B.R. 282, 289 (BAP 9th Cir. 2005).

The proposed sale of the estate's interest in the Membership Interest is in the best interest of Debtor's estate. The court is persuaded that the estate is receiving fair market value for the asset. Notably, the Trustee does not have operational control of Kode Novus I, LLC, making the sale of the Membership Interest to a third party (other than Purchaser) infeasible and practically worthless to the estate unless sold to the Purchaser. See, Mot., p. 19, ¶12 (Thomas Casey Decl.). Thus, due to the limited market for the Membership Interest, and because the sale is subject to overbid, the \$40,000 purchase price appears to be fair market value for the asset.

Trustee has also demonstrated that there is a sound business purpose for the sale. There will be no sale commissions paid, so the entire \$40,000 will be

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... KOSEP USA, Inc.**

**Chapter 7**

net sale proceeds available for the estate. See Mot., p. 10:24-11: and p.19 ¶14. Notice to creditors was also proper. See id., p. 11:17-12:2. And as discussed below, the sale was in good faith.

Bidding procedures are designed to maximize the value for the estate. Such procedures should be reasonable and not so oppressive as to chill the bidding process. In this case, the minimum initial overbid of \$5,000 and subsequent incremental bids of at least \$1,000 are reasonable under the circumstances herein.

The Trustee has sufficiently demonstrated that the Purchaser is a good faith purchaser within the meaning of §363(m). A good faith buyer is one who buys 'in good faith' and 'for value.'" *In re Filtercorp, Inc.*, 163 F.3d 570, 577 (9th Cir. 1998); *In re Ewell*, 958 F.2d 276, 281 (9th Cir. 1992). Here, the Trustee has shown that the sale was negotiated at arm's length and was noncollusive. See, Mot., p. 12:3-16; Michael Cho Declaration, dkt. 25, p. 2-3, ¶¶5-8.

The Motion also requests that the Membership Interest be sold free and clear of liens and encumbrances. See, Mot., p. 4:8-12 and p. 16, ¶7. However, neither the Motion nor the declaration of the Trustee in support thereof definitively confirms that no party or entity has an interest in or lien on the Membership Interest. There is also no discussion of 363(f). Approval of free and clear of interests/liens will only be granted upon the submission of a supplemental declaration of the Trustee regarding the existence or nonexistence of any such interests or liens (and the steps he took to ascertain the same).

As for the requested break-up fee, the Trustee acknowledges that a break-up fee of 12.5% is "high" (it most certainly is) but fails to provide any substantive basis for such a high fee. Particularly, in light of the fact that the Purchaser is the majority interest holder and is (or should be) well acquainted with nature of the asset it is purchasing. The court is not persuaded that any extensive "due diligence" was required or necessary. The Trustee notes that such fee will only be paid if the Purchaser is not the prevailing bidder -- that is true of every case in which a break-up fee is permitted. Accordingly, the court will not approve a break-up fee of over 6% or \$2,400.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

10:30 AM

CONT... **KOSEP USA, Inc.**

**Chapter 7**

Opposition of Mr. Hashiman

The Opposition filed by Mr. Hashiman is overruled as he states no grounds for the denial of the sale of the Membership Interest. His stated concern is about the impact the sale of the Membership Interest will have on certain real property located in Ontario California. The Membership Interest involves the estate's interest in an out-of- state limited liability company and has absolutely nothing to do with any real property. This is a fact. Given that neither the Debtor or the estate asserts any interest in the real property that is the subject of Mr. Hashiman's Opposition, the legal authorities cited therein are wholly inapplicable. Rule 3002(c) is inapplicable because the time for filing a proof of claim has not expired since the claims bar date is June 29, 2020. The citation to *Vitro S.A.B. de C.V.*, 701 F.3d 1031, 1054 (5<sup>th</sup> Cir. 2012) is inapplicable because that case involves a chapter 15 and the validity of enforcement actions obtained against the foreign debtor in Mexico. And Hashiman's citation to *Fairfield Sentry Ltd*, No. 13 CIV 1524 (AkH) is likely an attempted citation to *In re Fairfield Sentry Ltd.*, 768 F.3d 239 (2d Cir. 2014), another chapter 15 case, in which the court found that bankruptcy court could not give deference in interests of comity to court in British Virgin Islands with regards to sale of debtor's litigations claims and must independently apply §363(b) to the sale. The instant case is not a chapter 15 case, so such case law is inapplicable. The bottom line is no Ontario real property is involved in the Trustee's sale of Detor's interest in the subject limited liability company.

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

KOSEP USA, Inc.

Represented By  
James C Bastian Jr

**Trustee(s):**

Thomas H Casey (TR)

Represented By  
James C Bastian Jr  
Jai H Kim

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

8:20-10533 American Renewable Power LLC

Chapter 11

#39.00 STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and (2) Status of Chapter 11 Case

Docket 1

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order on Debtors' Motion to Convert Case From Chapter 11 to Chapter 7 Entered 3/18/2020

Courtroom Deputy:

**SPECIAL NOTE: Order Granting Motion to Approve Joint Administration of Cases 8:20-bk-10535-ES and 8:20-bk-10535-ES Entered 2/27/20; Lead Case 8:20-bk-10533-ES - td (2/27/2020)**

**OFF CALENDAR: Order on Debtors' Motion to Convert Case From Chapter 11 to Chapter 7 Entered 3/18/2020 - td (3/18/2020)**

Tentative Ruling:

- NONE LISTED -

**Party Information**

**Debtor(s):**

American Renewable Power LLC

Represented By  
David B Golubchik  
Todd M Arnold

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, April 30, 2020

Hearing Room 5A

10:30 AM

8:20-10535 ARP-Loyalton Cogen LLC

Chapter 11

#40.00 STATUS CONFERENCE RE: Status of Chapter 11 Case; and (2) Requiring Report on Status of Chapter 11 Case

Docket 1

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion to Approve Joint Administration of Cases 8:20-bk-10535-ES and 8:20-bk-10535-ES Entered 2/27/20; See Lead Case 8:20-bk-10533-ES

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion to Approve Joint Administration of Cases 8:20-bk-10535-ES and 8:20-bk-10535-ES Entered 2/27/20; See Lead Case 8:20-bk-10533-ES - td (2/27/2020)**

Tentative Ruling:

- NONE LISTED -

**Party Information**

**Debtor(s):**

ARP-Loyalton Cogen LLC

Represented By  
David B Golubchik  
Todd M Arnold

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

2:00 PM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01214 Marshack v. Chang Ding Metal Co., Ltd. et al

**#41.00** Hearing RE: Defendant Chang Ding Metal Co., Ltd.'s Motion to Dismiss Adversary Proceeding Pursuant to Federal Rule of Civil Procedure 12(B)

Docket 10

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/4/2020 AT 10:30 A.M.,  
Per Order Entered 4/21/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/4/2020 at 10:30 a.m., Per Order  
Entered 4/21/2020 (XX) - td (4/21/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Chang Ding Metal Co., Ltd.

Represented By  
Mohammad Tehrani  
Jeff D Kahane

Hoa Phat Steel Co., Ltd.

Pro Se

Pomina 2 Steel Corporation

Pro Se

**Movant(s):**

Chang Ding Metal Co., Ltd.

Represented By  
Mohammad Tehrani  
Jeff D Kahane

**Plaintiff(s):**

Richard A Marshack

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

---

2:00 PM

**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

2:00 PM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01214 Marshack v. Chang Ding Metal Co., Ltd. et al

**#42.00** CON'TD STATUS CONFERENCE RE: Complaint for: 1. Breach of Contract Against Chang Ding; 2. Breach of Contract Against Hoa Phat; 3. Breach of Contract Against Pomina; 4. Avoidance and Recovery of Constructive Fraudulent Transfers Pursuant to 11 USC Sections 544, 548, 550, 551; California Civil Code Section 3439.04, 3439.05, 3439.07, 3439.08, 3439.09 Against Chang Ding; 5. Avoidance and Recovery of Constructive Fraudulent Transfers Pursuant to 11 USC Sections 544, 548, 550, 551; California Civil Code Section 3439.04, 3439.05, 3439.07, 3439.08, 3439.09 Against Hoa Phat; and 6. Avoidance and Recovery of Constructive Fraudulent Transfers Pursuant to 11 USC Sections 544, 548, 550, 551; California Civil Code Section 3439.04, 3439.05, 3439.07, 3439.08, 3439.09 Against Pomina

FR: 2-12-19; 4-30-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Another Summons  
Issued 4/15/2020; New Status Conference Set for 7/16/2020 at 9:30 a.m. (XX)**

**Courtroom Deputy:**

**OFF CALENDAR: Another Summons Issued 4/15/2020; New Status  
Conference Set for 7/16/2020 at 9:30 a.m. (XX) - td (4/15/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Chang Ding Metal Co., Ltd.

Pro Se

Hoa Phat Steel Co., Ltd.

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Prime Metals U.S.A., Inc.**  
Pomina 2 Steel Corporation

Pro Se

**Chapter 7**

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, April 30, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-10533 American Renewable Power LLC**

**Chapter 7**

**#43.00** Hearing RE: Chapter7 Trustee's Emergency Motion for Order: (1) Approving Asset Purchase Agreement and Authorizing Sale of Debtors' Assets Free and Clear of Liens, Claims and Interests Pursuant to 11 U.S.C. Sections 363(b) and (f); (2) Approving Overbid Procedures; (3) Approving Compromise of Secured Creditor's Claim Pursuant to Fed. R. of Bankr. P. 9019; (4) Approving Buyer, Successful Bidder, and Any Back-Up Bidder, as Good Faith Purchaser Pursuant to 11 U.S.C. Section 363(m); (5) Rejecting or Assuming and Assigning Certain Executory Contracts and Unexpired Leases; (6) Authorizing Use of Property of the Estates Pursuant to 11 U.S.C. Sections 363(b) and (c)

Docket 64

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

American Renewable Power LLC

Represented By  
David B Golubchik  
Todd M Arnold

**Trustee(s):**

Thomas H Casey (TR)

Represented By  
Beth Gaschen

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Friday, May 1, 2020**

**Hearing Room 5A**

3:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#1.00 AD HOC STATUS CONFERENCE**

(Set at Hearing Held 4/30/2020)

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, May 4, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#1.00 CONT'D AD HOC STATUS CONFERENCE**

(Set at Hearing Held 4/30/2020)  
FR: 5-1-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 7, 2020

Hearing Room 5A

9:30 AM

8:17-10706 John Jean Bral

Chapter 11

Adv#: 8:19-01031 Bral v. Samini et al

#1.00 CON'TD PRE-TRIAL CONFERENCE RE: Complaint for: (1) Breach of Contract;  
(2) Legal Malpractice; (3) Breach of Fiduciary Duty

FR: 5-9-19; 7-16-19; 8-22-19; 3-5-20

Docket 1

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Approving  
Stipulation for Dismissal With Prejudice Entered 4/1/2020

Courtroom Deputy:

OFF CALENDAR: Order Approving Stipulation for Dismissal With  
Prejudice Entered 4/1/2020 - td (4/1/2020)

Tentative Ruling:

August 22, 2019

Discovery Cut-off Date: Dec. 16, 2019  
Pretrial Conference Date: Jan. 30, 2020 at 9:30 a.m.

Deadline to File Pretrial Stipulation: Jan. 16, 2020

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

Party Information

Debtor(s):

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... John Jean Bral**

**Chapter 11**

Bobby Samini  
Dean A Ziehl

**Defendant(s):**

Babak Samini

Represented By  
David Choi

Matthew Hoesly

Represented By  
David Choi

Samini Scheinberg, APC

Represented By  
David Choi

**Plaintiff(s):**

John Jean Bral

Represented By  
Gary A Pemberton  
Alan J Friedman

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 7, 2020

Hearing Room 5A

9:30 AM

**8:19-10996 Raju Gobindlal Shewa**

**Chapter 7**

Adv#: 8:19-01231 Pacific Western Bank v. Shewa

**#2.00** CONT'D STATUS CONFERENCE RE: Complaint to Determine Non-Dischargeability of Debt Pursuant to 11 U.S.C. Section 523

FR: 3-5-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Stipulated Judgment for Nondischargeability of Debt Owed to Pacific Western Bank Entered 3/18/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Stipulated Judgment for Nondischargeability of Debt Owed to Pacific Western Bank Entered 3/18/2020 - td (3/18/2020)**

**Tentative Ruling:**

**March 5, 2020**

Continue Status Conference to May 7, 2020 at 9:30 a.m. (XX)

A motion for default judgment may self-calendared for the same date/time as the continued Status Conference date. Alternatively, the motion may be filed without a hearing pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).

The motion for default judgment, supported by evidence, must be served on defendant and defendant's counsel in accordance with Local Rule 9013-1(d).

If the motion for default judgment is not heard by the continued date of the Status Conference, **THE ADVERSARY MAY BE DISMISSED** at the Status Conference for failure to prosecute.

***Note: If Plaintiff accepts the foregoing tentative ruling, appearance at this hearing is not required; Plaintiff shall serve notice of the continued***



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Raju Gobindlal Shewa**  
***hearing date/time.***

**Chapter 7**

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

**Debtor(s):**

Raju Gobindlal Shewa

Represented By  
Leonard M Shulman

**Defendant(s):**

Raju Gobindlal Shewa

Pro Se

**Plaintiff(s):**

Pacific Western Bank

Represented By  
Leo D Plotkin

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 7, 2020

Hearing Room 5A

9:30 AM

**8:19-11139 Chirag Shewa**

**Chapter 7**

Adv#: 8:19-01232 Pacific Western Bank v. Shewa

**#3.00** CON'TD STATUS CONFERENCE RE: Complaint to Determine Non-Dischargeability of Debt Pursuant to 11 U.S.C. Section 523

FR: 3-5-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Stipulated Judgment for Nondischargeability of Debt Owed to Pacific Western Bank Entered 3/18/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Stipulated Judgment for Nondischargeability of Debt Owed to Pacific Western Bank Entered 3/18/2020 - td (3/18/2020)**

**Tentative Ruling:**

**March 5, 2020**

Continue Status Conference to May 7, 2020 at 9:30 a.m. (XX)

A motion for default judgment may self-calendared for the same date/time as the continued Status Conference date. Alternatively, the motion may be filed without a hearing pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).

The motion for default judgment, supported by evidence, must be served on defendant and defendant's counsel in accordance with Local Rule 9013-1(d).

If the motion for default judgment is not heard by the continued date of the Status Conference, **THE ADVERSARY MAY BE DISMISSED** at the Status Conference for failure to prosecute.

***Note: If Plaintiff accepts the foregoing tentative ruling, appearance at this hearing is not required; Plaintiff shall serve notice of the continued***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

9:30 AM

CONT... Chirag Shewa  
*hearing date/time.*

**Chapter 7**

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

**Debtor(s):**

Chirag Shewa

Represented By  
Leonard M Shulman

**Defendant(s):**

Chirag Shewa

Pro Se

**Plaintiff(s):**

Pacific Western Bank

Represented By  
Leo D Plotkin

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-11414 Peter Woo Sik Kim**

**Chapter 7**

Adv#: 8:19-01155 Kang Family 2007 Revocable Trust v. Kim et al

**#4.00 PRE-TRIAL CONFERENCE RE: Complaint Objecting to Discharge of Debt Under 11 U.S.C. §523(a)(3)(a) and 11 U.S.C. §523(a)(2)(B)**

FR: 10-17-19; 1-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/4/2020 AT 9:30 AM, Per Order Entered 5/1/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Order approving stipulation to continue the pretrial conference was Entered on 5/1/20 -- matter continued to June 4, 2020 at 9:30 a.m. (XX) - td (5/1/2020)**

**Tentative Ruling:**

**October 17, 2019**

Discovery Cut-off Date:	Mar. 6, 2020
Deadline to Attend Mediation:	Jan. 31, 2020
Pretrial Conference Date:	Apr. 30, 2020 at 9:30 a.m.
Deadline to Lodge Joint Pretrial Stipulation:	Apr. 16, 2020

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same divider***

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**January 16, 2020**

Discovery Cut-off Date:	Mar. 16, 2020
Pretrial Conference Date:	May 7, 2020 at 9:30 a.m. (XX)
Deadline to Lodge Joint Pretrial Stipulation:	Apr. 23, 2020

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 7, 2020

Hearing Room 5A

9:30 AM

CONT... Peter Woo Sik Kim

Chapter 7

**Note: If all parties accept the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

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

**Debtor(s):**

Peter Woo Sik Kim

Represented By  
Andrew S Bisom

**Defendant(s):**

Peter Kim

Pro Se

Sharon Kim

Pro Se

**Joint Debtor(s):**

Sharon Soyun Kim

Represented By  
Andrew S Bisom

**Plaintiff(s):**

Kang Family 2007 Revocable Trust

Represented By  
Edmond Richard McGuire

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Lynda T Bui  
Rika Kido

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 7, 2020

Hearing Room 5A

9:30 AM

8:19-14441 Aimen Elbusifi

Chapter 7

Adv#: 8:20-01020 Angar v. Aimen

#5.00 STATUS CONFERENCE RE: Adversary Complaint Against Debtor, Elbusifi,  
Aimen, For Fraudulent Agreement

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 7, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue the status conference to June 4, 2020 at 2:00 p.m., same date/time as hearing on Defendant's motion to dismiss. An updated status report is not required. (XX)

**Note: Appearances at this hearing are not required; non-appearance at the hearing will be deemed acceptance of the tentative ruling.**

**Party Information**

**Debtor(s):**

Aimen Elbusifi

Represented By  
Brian J Soo-Hoo

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room**

**5A**

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9:30 AM

**CONT... Aimen Elbusifi**

**Chapter 7**

**Defendant(s):**

Elbusifi Aimen

Pro Se

**Plaintiff(s):**

Mohammed Angar

Pro Se

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 7, 2020

Hearing Room 5A

10:00 AM

8:19-11419 Mohammad I. Niazi and Parwin Saddozai

Chapter 7

#6.00 CON'TD Hearing RE: Motion for relief from automatic stay  
[ACTION IN NON-BANKRUPTCY FORUM]

ORANGE COUNTY BAIL BONDS, INC.

VS.

DEBTORS

FR: 4-9-20

Docket 69

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 9, 2020**

Continue hearing to May 7, 2020 at 10:00 a.m. to allow Movant to provide more information regarding the appellate action; supplemental pleading must be filed no later than April 23, 2020. (XX)

Basis for Tentative Ruling



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 7, 2020

Hearing Room 5A

10:00 AM

CONT... **Mohammad I. Niazi and Parwin Saddozai**

**Chapter 7**

Movant has provided insufficient information regarding the appellate matter, e.g., a description of the judgment that is the subject of the appeal, the identity of the third party against whom Movant seeks relief, the basis for Movant's representation that the bankruptcy estate will not be impacted by the litigation, the meaning "the one final rule" doctrine, etc.

***Note: If Movant accepts the tentative ruling, appearance at this hearing is not required; Movant shall serve notice of the continued hearing. Nonappearance at the hearing shall be deemed acceptance of the tentative ruling.***

-----

**May 7, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Non appearance at the hearing will be deemed acceptance of the tentative ruling. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Mohammad I. Niazi

Represented By  
Freddie V Vega

**Joint Debtor(s):**

Parwin Saddozai

Represented By  
Freddie V Vega

**Movant(s):**

Orange County Bail Bonds, Inc.

Represented By  
Marc C Forsythe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Mohammad I. Niazi and Parwin Saddozai**

**Chapter 7**

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 7, 2020

Hearing Room 5A

10:00 AM

8:19-14528 Vishundyal Ramotar Mohabir

Chapter 13

#7.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]  
RE: 5091 Sharon Drive, La Palma, California 90623

U.S. BANK, N.A.

VS.

DEBTOR

Docket 34

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 7, 2020**

Grant motion with 4001(a)(3) waiver unless Debtor is postpetition current by the time of the hearing (in which case a standard "3 Strikes" adequate protection order will be granted) or if the parties have reached an alternate resolution. If more time is needed to reach resolution, Movant may request a continuance of the hearing at the time of the calendar roll call by the court clerk on the day of the hearing. Available continued dates are: 5/21, 6/4, 6/11 and 6/18/2020 at 10:00 a.m.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Vishundyal Ramotar Mohabir**

**Chapter 13**

**Party Information**

**Debtor(s):**

Vishundyal Ramotar Mohabir

Represented By  
Christopher J Langley

**Movant(s):**

U.S. Bank National Association

Represented By  
Sean C Ferry

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 7, 2020

Hearing Room 5A

10:00 AM

8:19-14834 Hussam Fayiz Darwish

Chapter 11

#8.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

NATIONSTAR MORTGAGE LLC

VS.

DEBTOR

Docket 48

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 7, 2020**

Grant the motion without the waiver of FRBP 4001(a)(3) under 362(d)(1) and 362(d)(2), unless Movant agrees to an alternate resolution with Debtor.

Basis for Tentative Ruling

A. 362(d)(1) - Cause

1. Lack of adequate protection: Debtor is at least 124 months (10 years) in

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 7, 2020

Hearing Room

5A

10:00 AM

CONT... **Hussam Fayiz Darwish**

**Chapter 11**

arrears in the amount of approximately \$644,000 and Debtor is not making regular postpetition monthly payments (\$6,000+). Further, Debtor's MORs do not support the ability to make such payments.

2. By Debtor's own admission there is no equity in the property sufficient to cover Movant's interest. Debtor has the burden of proof re adequate protection and has not satisfied that burden.

B. 362(d)(2) - Lack of Equity and Necessity for Reorganization

1. Movant has the burden of proof on the issue of equity and has adequately demonstrated Debtor's lack of equity in the property.

2. Debtor has the burden of proof on the necessity of the property for reorganization. Debtor's argument that the property is necessary for reorganization because the property provides a stable home is insufficient to satisfy the burden of necessity. As noted above, Debtor is \$644,000 in arrears and has not demonstrated any ability to make the regular monthly payments, let alone the enormous arrears. Debtor's Disclosure Statement filed 4/29/20 includes projected income from Debtor's business of \$18,000 per month. However, none of the MORs (January - March 2020) do not support income in any amount close to the projections. Debtor's plan provides for the cure of the arrears **20 years** after the effective date of the plan with payments increasing to more than \$11,000 per month starting in year five. Though Debtor's business is described as online and traditional clothing retail, Debtor is silent as to the impact the current pandemic will have on the already low revenues. Bottom line -- Debtor has not satisfied his burden of proof re necessity of the property for reorganization.

***Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required. Non appearance at the hearing by both parties will be deemed acceptance of the tentative ruling.***

**Party Information**

**Debtor(s):**

Hussam Fayiz Darwish

Represented By  
Michael Jones

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Hussam Fayiz Darwish**

**Chapter 11**

**Movant(s):**

U.S. Bank National Association, as

Represented By  
Kelly M Kaufmann

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 7, 2020

Hearing Room 5A

10:00 AM

8:20-10632 Victoria Walters

Chapter 7

#9.00 CONT'D Hearing RE: Motion for relief from the automatic stay  
[UNLAWFUL DETAINER]

SIFU QI

VS.

DEBTOR

FR: 4-2-20

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 2, 2020**

Grant the motion with the waiver of the 14-day stay period under Federal Rules of Bankruptcy Procedure 4001(a)(3). Overrule Debtor's objections.

Basis for Tentative Ruling:



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Victoria Walters**

**Chapter 7**

1. Under California law, the tenancy was terminated by the landlord once the notice to quit was served and the unlawful detainer was filed. The purpose of the unlawful detainer trial is a determination by the state court as to whether the termination was lawful or not. This is not a matter than can be determined by the bankruptcy court.

2. Debtor argues that the lease became a month to month tenancy under California law with out citing any specific statute or other legal authority. The court notes that California Civil Code Section 1945 provides that "If a lessee of real property remains in possession thereof after the expiration of the hiring, *and the lessor accepts rent from him*, the parties are presumed to have renewed the hiring on the same terms and for the same time, not exceeding one month when the rent is payable monthly, nor in any case one year." (emphasis added). Here, the lease expired on Feb 2, 2020 and the evidence indicates that the landlord did not accept any rent after Feb. 2, 2020 and there is insufficient evidence that the landlord entered into any other tenancy arrangement with Debtor.

3. Circumstances created by the COVID-19 pandemic does not establish grounds for denial of the motion under bankruptcy law. The bottom line is that the rights of the parties must be determined by the Orange County Superior Court and not this court.

4. As a practical matter, it is possible that the Superior Court might not conduct certain UD trials for the next 60 days. On March 27, the Orange County Superior Court issued a press release indicating that the superior courts in this County are closed except for certain matters. As to unlawful detainer matters, the press release states:

"Emergency Ex-parte Lock-out matters (Unlawful Detainer/Eviction)

1. The court will be available for the following unlawful detainer/eviction related services:

➤ Emergency request to stay lock-out date (Unlawful Detainer/Eviction)

Requests to stay lock-out date can be submitted either via email or by paper filing as follows:

➤ Email: Submit applicable forms/petitions to [CivilUrgent@occourts.org](mailto:CivilUrgent@occourts.org)

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Victoria Walters**

**Chapter 7**

- Paper: Alternatively, submit applicable forms/petitions in person at Central Justice Center via the drop box by the front entrance
- For assistance, Self Help Services will be available onsite at Central Justice Center. Follow the instructions posted on the front entrance by the table
- Once reviewed by the court,
  - If filed in person via drop box, the order will be provided to petitioner
  - If filed via email, the order will be sent to petitioner via email and certified copies via mail
- If filing fees are due, notice of fees due will be included and fees will be collected at the next court hearing

2. All other Unlawful Detainer/Eviction hearing dates set during the next 60 days are deemed vacated and will be reset for a date beyond 60 days. Notice will be provided to all parties. Although hearings may continue to display as calendared in electronic online case access, no hearings will be conducted during this period. See Administrative Order 2020/06 posted on the court's website [www.occourts.org](http://www.occourts.org) "

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**May 7, 2020**

Grant the motion with the waiver of the 14-day stay period under Federal Rules of Bankruptcy Procedure 4001(a)(3). Overrule Debtor's objections.

Basis for Tentative Ruling

1. The April 2, 2020 hearing was continued to allow Debtor to file supplemental pleadings by **April 23, 2020**. The moving party was allowed to file its reply to Debtor's supplemental pleadings by **April 30, 2020**. However, Debtor failed to comply with the court's ruling and, instead, filed her pleadings 11 days late on **May 4, 2020**, thereby depriving the moving party of the opportunity to timely file a reply. The court, therefore, will not consider the late filed pleadings.
2. Even if the court considered the late filed pleadings, it is clear that this is a

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Victoria Walters**

**Chapter 7**

matter that needs to resolved in state court as California law applies and no bankruptcy laws are implicated. The unlawful detainer and other tenant-based issues will not impact the administration of this chapter 7 bankruptcy case. The parties are free to attempt to resolve the matter on their own outside the jurisdiction of the bankruptcy court in accordance with applicable California law.

***Note: If both parties accept the tentative ruling, appearances at this hearing are not required.***

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

**Debtor(s):**

Victoria Walters

Pro Se

**Movant(s):**

Sifu Qi

Represented By  
Kevin Liu

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 7, 2020

Hearing Room 5A

10:30 AM

8:14-10918 Robert Boyajian

Chapter 11

#10.00 CON'TD Post-Confirmation Status Conference Re: Confirmation of Debtor's  
Second Amended Chapter 11 Plan [November 29, 2016]

(Set at Ch 11 Plan Hrg. Held 3-30-17)  
FR: 10-5-17; 4-5-18; 10-18-18; 4-11-19; 11-7-19

Docket 399

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion  
for Final Decree (Federal Rule of Bankruptcy Procedure 3022) Entered  
1/13/2020

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Final Decree (Federal Rule of  
Bankruptcy Procedure 3022) Entered 1/13/2020 - td (1/14/2020)**

Tentative Ruling:

**October 5, 2017**

Continue postconfirmation status conference to April 5, 2018 at 10:30 a.m.;  
updated status report must be filed by March 22, 2018. (XX)

***Note: If Debtor is in substantial compliance with the requirements of the  
US Trustee, appearance at this hearing is not required. It is Debtor's  
responsibility to confirm compliance with the US Trustee in advance of  
the hearing.***

-----  
**April 5, 2018**

Continue postconfirmation status conference to October 18, 2018 at 10:30 a.m.;  
updated status report must be filed by October 4, 2018. (XX)

***Note: If Debtor is in substantial compliance with the requirements of the  
US Trustee, appearance at this hearing is not required. It is Debtor's  
responsibility to confirm compliance with the US Trustee in advance of***

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 7, 2020

Hearing Room 5A

10:30 AM

CONT... Robert Boyajian  
*the hearing.*

Chapter 11

-----  
October 18, 2018 [GOLD STAR PLEADING]\*

Continue postconfirmation status conference to April 11, 2019 at 10:30 a.m.; updated status report must be filed by March 28, 2019. (XX)

***Note: If Debtor is in substantial compliance with the requirements of the US Trustee, appearance at this hearing is not required. It is Debtor's responsibility to confirm compliance with the US Trustee in advance of the hearing.***

*\*Special Note: "Gold Star" designation above signifies an exceptionally well-prepared pleading. The postconfirmation status report [docket #559] qualifies for a Gold Star designation.*

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**April 11, 2019**

Continue post-confirmation hearing to November 7, 2019 at 10:30 a.m.; updated status report must be filed by October 24, 2019. (XX)

***Note: If Debtor is in substantial compliance with the requirements of the US Trustee, appearance at this hearing is not required. It is Debtor's responsibility to confirm compliance with the US Trustee in advance of the hearing.***

-----

**November 7, 2019**

Continue post-confirmation hearing to May 7, 2020 at 10:30 a.m.; updated status report must be filed by April 23, 2020 if a final decree has not been entered by such date. (XX)

***Note: If Debtor is in substantial compliance with the requirements of the US Trustee, appearance at this hearing is not required. It is Debtor's***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Robert Boyajian Chapter 11**  
***responsibility to confirm compliance with the US Trustee in advance of  
the hearing.***

**Party Information**

**Debtor(s):**

Robert Boyajian

Represented By  
Tamar Terzian  
Alan G Tippie

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-11546 Joseph Ra**

**Chapter 7**

Adv#: 8:19-01164 Laplant v. Ra

**#11.00** Hearing RE: Plaintiff Joseph Laplant's Motion to Extend Various Deadlines (I.E. Discovery Cut-off, Joint Pre-trial Conference, Pending Possible Prosecution of Chapter 7 Trustee's Objection to Discharge

Docket 8

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Per Order Staying  
Proceeding Entered 4/23/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Per Order Staying Proceeding Entered 4/23/2020 - td  
(4/23/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Joseph Ra

Represented By  
David B Golubchik  
Jaenam J Coe

**Defendant(s):**

Joseph Ra

Represented By  
Jaenam J Coe  
Bret D Lewis

**Plaintiff(s):**

Joseph Laplant

Represented By  
Bret D Lewis

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector  
Thomas J Polis

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Joseph Ra**

**Chapter 7**



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-12411 Orange County Bail Bonds, Inc.**

**Chapter 11**

**#12.00** Hearing RE: Motion to (1) Dismiss Debtor's Chapter 11 Bankruptcy or, in the Alternative, to Convert Case to Chapter 7; and (2) Objecting to Amended Petition Electing Subchapter V

Docket 123

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/4/2020 AT 10:30 A.M.,  
Per Order Entered 4/27/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/4/2020 at 10:30 a.m., Per Order  
Entered 4/27/2020 (XX) - td (4/27/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Orange County Bail Bonds, Inc.

Represented By  
Marc C Forsythe  
Ryan S Riddles

**Trustee(s):**

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#13.00** Hearing RE: Creditor Todd Kurtin's Objection to Claim #27 by Stephan Z. Elieff - \$4,464,870.00

Docket 375

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 7/23/2020 AT 2:00 P.M.,  
Per Order Entered 5/1/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 7/23/2020 at 2:00 p.m., Per Order  
Entered 5/1/2020 (XX) - td (5/1/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#14.00** Hearing RE: Creditor Todd Kurtin's Objection to Claim #28 by Nevada Sun, Inc., a Nevada Corporation - \$28,367,797.00 [Affects Bruce Elieff]

Docket 376

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 7/23/2020 AT 2:00 P.M.,  
Per Order Entered 5/1/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 7/23/2020 at 2:00 p.m., Per Order  
Entered 5/1/2020 (XX) - td (5/1/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#15.00** Hearing RE: Creditor Todd Kurtin's Motion for Order Cancelling Alleged Retainer Agreements and Requiring Jeffery S. Benice and Benice Law to Immediately Disgorge \$4,182,244.73

Docket 381

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/21/2020 AT 10:30 A.M.,  
Per Order Entered 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/21/2020 at 10:30 a.m., Per Order  
Entered 5/4/2020 (XXX) - td (5/4/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#16.00** Hearing RE: The Official Committee of Unsecured Creditor's of Bruce Elieff's Motion for Order Substantially Consolidating Chapter 11 Estates of Morse Properties, LLC, 4627 Camden, LLC, TDV Development Corporation, Heritage Colorado LLC, and Broadband Nation LLC into Chapter 11 Estate of Bruce Elieff

Docket 421

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#17.00** Hearing RE: Debtors' Motion for an Order Authorizing Extension of Exclusivity Period for Soliciting Acceptances to the Plan, Pursuant to 11 U.S.C. Section 1121(d) [**Affects All Debtors**]

Docket 357

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:20-01046 Kurtin v. Benice et al

**#18.00** Hearing RE: Order to Show Cause RE: Preliminary Injunction  
(OSC Issued 4/13/2020)

Docket 2

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/21/2020 AT 10:30 A.M.,  
Per Order Entered 5/5/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/21/2020 at 10:30 a.m., Per Order  
Entered 5/5/2020 (XX) - td (5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Jeffrey S. Benice

Pro Se

Benice Law

Pro Se

**Plaintiff(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#19.00** Hearing RE: The Official Committee of Unsecured Creditor's of Bruce Elieff's Motion for Order Substantially Consolidating Chapter 11 Estates of Morse Properties, LLC, 4627 Camden, LLC, TDV Development Corporation, Heritage Colorado LLC, and Broadband Nation LLC into Chapter 11 Estate of Bruce Elieff

Docket 61

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#20.00** Hearing RE: The Official Committee of Unsecured Creditor's of Bruce Elieff's Motion for Order Substantially Consolidating Chapter 11 Estates of Morse Properties, LLC, 4627 Camden, LLC, TDV Development Corporation, Heritage Colorado LLC, and Broadband Nation LLC into Chapter 11 Estate of Bruce Elieff

Docket 54

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#21.00** Hearing RE: The Official Committee of Unsecured Creditor's of Bruce Elieff's Motion for Order Substantially Consolidating Chapter 11 Estates of Morse Properties, LLC, 4627 Camden, LLC, TDV Development Corporation, Heritage Colorado LLC, and Broadband Nation LLC into Chapter 11 Estate of Bruce Elieff

Docket 56

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

2:00 PM

**8:16-12110 Stuart Moore (USA) Ltd.**

**Chapter 7**

Adv#: 8:18-01085 Thomas H. Casey, Chapter 7 Trustee v. Moore et al

**#22.00** CON'TD Hearing RE: Defendant Stuart Moore's Motion to Dismiss or Abstain from Hearing Adversary Proceeding

FR: 1-31-19; 2-12-19; 4/18/19; 7-11-19; 7-16-19; 9-12-19; 11-21-19; 2-20-20

Docket 24

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 7, 2020**

Grant motion for permissive abstention under 28 U.S.C. 1334(c)(1).

Basis for Tentative Ruling;

Defendant Stuart Moore ("Defendant") filed the instant Motion requesting that the Court dismiss the First Amended Complaint ("FAC") as to all fraudulent transfer claims relating to the Copyright, either by reason of lack of jurisdiction or by reason of discretionary abstention. Additionally, Defendant requests that SMD should not be allowed to participate in the adversary proceeding until it has been properly substituted as a party plaintiff by order on motion as required by Rule 25.

Defendant's Motion sets forth the following arguments: (1) this Court lacks subject matter jurisdiction over the adversary proceeding; (2) SMD lacks statutory standing to pursue the avoidance action at issue; (3) should the Court find that it has subject matter jurisdiction and that SMD has standing to pursue the avoidance action, that it should exercise its discretion and abstain from hearing the adversary proceeding; (4) SMD has not been validly substituted and therefore should not be allowed to participate in the action until it has been substituted by motion as required; (5) the Court should dismiss the FAC for failure to state a claim.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, May 7, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Stuart Moore (USA) Ltd.**

**Chapter 7**

SMD's opposition to the Motion argues that: (1) the Court has subject matter jurisdiction over the copyright claims; (2) SMD has standing as it is properly substituted in as a transferee of a claim or interest by complying with FRCP 25(c); (3) the Court should not abstain from hearing the claims at issue because the bulk of the *Tucson Estates* factors weigh against abstention; and (4) that Trustee adequately stated a claim upon which relief can be granted. For these reasons, SMD requests that Defendant's Motion be denied, or alternatively, the Court should grant SMD leave to amend the FAC.

For the reasons set for below, the Court believes that permissive abstention under 28 U.S.C. 1334(c)(1) is warranted and, therefore, begins its analysis with permissive abstention.

Permissive Abstention

This Court has discretion to abstain from "hearing a particular proceeding arising under title 11 or arising in or related to a case under title 11." 28 U.S.C. § 1334(c)(1).

The Ninth Circuit has identified 12 factors that courts may consider in deciding whether or not to abstain:

(1) the effect or lack thereof on the efficient administration of the estate if a Court recommends abstention, (2) the extent to which state law issues predominate over bankruptcy issues, (3) the difficulty or unsettled nature of the applicable law, (4) the presence of a related proceeding commenced in state court or other nonbankruptcy court, (5) the jurisdictional basis, if any, other than 28 U.S.C. § 1334, (6) the degree of relatedness or remoteness of the proceeding to the main bankruptcy case, (7) the substance rather than form of an asserted "core" proceeding, (8) the feasibility of severing state law claims from core bankruptcy matters to allow judgments to be entered in state court with enforcement left to the bankruptcy court, (9) the burden of [the bankruptcy court's] docket, (10) the likelihood that the commencement of the proceeding in bankruptcy court involves forum shopping by one of the parties, (11) the existence of a right to a jury trial, and (12) the presence in the proceeding

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 7, 2020

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2:00 PM

CONT... **Stuart Moore (USA) Ltd.**  
of nondebtor parties.

Chapter 7

. *In re Tuscon Estates, Inc.*, 912 F.2d 1162, 1167 (9th Cir. 1990). This list serves to provide a guide to the judge who considers abstention and to enable a reviewing court to ascertain whether there has been an abuse of discretion and there is no requirement that all of the factors must be given the same weight or be applicable in determining whether to abstain. *Id.* at 1166. See also *Eastport Assocs. v. City of Los Angeles*, 935 F.3d 1071, 1075 (9th Cir. 1991).

*1. The effect or lack thereof on the efficient administration of the estate if a court recommends abstention*

The court agrees with Defendant that abstention in this matter will have absolutely no effect or impact on the administration of the estate as the estate has no interest in the outcome of the litigation. Any recovery by SMD will be for its sole benefit. This factor weighs in favor of abstention.

*2. The extent to which state law issues predominate over bankruptcy issues.*

There is no dispute that state law issues predominate. Indeed Section 544(b) is based on applicable state law. No bankruptcy laws are implicated. This circumstance militates in favor of abstention.

*3. The difficulty or unsettled nature of the applicable law*

There do not appear to be any difficult issues or issues of unsettled law. This factor tends to weigh slightly against abstention.

*4. The presence of a related proceeding commenced in state court or other non-bankruptcy court*

Here, there is no pending state court proceeding. The Court, however, is not persuaded that the action could not be re-filed in state court. Ultimately, the state court is as capable as this Court in adjudicating state law issues on the basis of the evidence presented. .

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

CONT... Stuart Moore (USA) Ltd.

Chapter 7

5. *The jurisdictional basis, if any, other than 28 U.S.C. § 1334*

In its Opposition, SMD admits that the estate has no interest in this litigation and that action is based solely on California state law. Accordingly, this factor favors abstention.

6. *The degree of relatedness or remoteness of the proceeding to the main bankruptcy case*

This action no longer has any relatedness to the main bankruptcy case and involves non-debtor parties. As previously noted, the outcome of the litigation will only impact the non-debtor parties.

7. *The substance rather than form of an asserted "core" proceeding*

Though it is arguable that, at the time the adversary was commenced by the chapter 7 trustee, the matter may have been "core," i.e., recovering property of the estate for the benefit of the estate, the continued designation of the proceeding as "core" at this point would be elevating form over substance. This factor favors abstention.

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*

Both Defendant and SMD acknowledge that the issues here are state law claims. Because the avoidance claim is based entirely state law and the estate has no interest in the outcome such that enforcement of any judgment would not be left to the bankruptcy court, this factor weighs in favor of abstention.

9. *The burden on the bankruptcy court's docket*

The Court does not find that continuing the proceeding before it would impose a burden on its current docket. That said, Defendant has demanded a jury trial (a right not disputed by SMD) and, as the parties are aware, this court cannot preside over a jury trial unless both parties consent to the same. Absent

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 7, 2020

Hearing Room 5A

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2:00 PM

CONT... **Stuart Moore (USA) Ltd.**

**Chapter 7**

such consent, the jury trial must take place in District Court. Given the fact that civil matters in District Court have been sharply, if not completely, curtailed in light of the pandemic, it is likely the proceeding could impose a burden on the District Court.

10. *The likelihood that the commencement of the proceeding in bankruptcy court involves forum shopping by one of the parties*

The Court is not persuaded that either party has engaged in forum shopping. Accordingly, this factor is not applicable to the court's determination re abstention.

11. *The existence of the right to a jury trial*

Defendant has asserted the right to a jury trial that has not been refuted by SMD. This factor favors abstention.

12. *The presence in the proceeding of non-debtor parties*

Both of the parties are non-debtors. This factor militates in favor of abstention.

In light of all of the foregoing, the Court concludes that abstention under 28 U.S.C. 1334(c)(1) is appropriate.

Other Issues:

FRBP 7025 incorporates FRCP 25. Rule 25(c) specifically requires that substitution of one party must be accomplished by motion and the granting of such motion is at the discretion of the court. The Ninth Circuit made this crystal clear in *In re Bernal*, 207 F.3d 595, 599 (9<sup>th</sup> Cir. 2000):

"We hold that *the proper procedure was a motion brought under Federal Rule of Civil Procedure 25(c) and addressed to the discretion of the bankruptcy court*. ECMC never sought to utilize that procedure, and it failed in its attempt to ensorcel the bankruptcy court into granting 25(c)-evading relief. Just as it failed there, it must fail here." (emphasis added).

**United States Bankruptcy Court  
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Santa Ana  
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**CONT...**

**Stuart Moore (USA) Ltd.**

**Chapter 7**

As SMD has never filed a proper motion for substitution under Rule 25(c), it is currently not a proper party in the adversary proceeding.

As to the issue of the ability of a chapter 7 trustee to assign an action to a creditor, even where the estate will receive no benefit from the outcome of the litigation, the court agrees with the analysis and case authority cited by SMD. That said, the assignment does immunize the assignee from permissive abstention under 28 U.S.C. 1334(c) (1).

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

**Debtor(s):**

Stuart Moore (USA) Ltd.

Represented By  
William M Burd  
Jeffrey S Shinbrot

**Defendant(s):**

Stuart Moore

Represented By  
Todd C. Ringstad

Sylvie Moore Masson

Pro Se

**Plaintiff(s):**

Thomas H. Casey, Chapter 7 Trustee

Represented By  
Jeffrey S Shinbrot

**Trustee(s):**

Thomas H Casey (TR)

Represented By  
Thomas H Casey  
Jeffrey S Shinbrot  
Jeffrey I Golden



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

2:00 PM

**8:16-12110 Stuart Moore (USA) Ltd.**

**Chapter 7**

Adv#: 8:18-01085 Thomas H. Casey, Chapter 7 Trustee v. Moore et al

**#23.00** CONT'D STATUS CONFERENCE RE: First Amended Complaint for Avoidance of Recovery of Fraudulent and Preferential Transfers (Another Summons Issued 9/13/18)

FR: 12-6-18; 1-31-19; 3-12-19; 4/18/19; 7-11-19, 7-16-19; 9-12-19; 11-21-19; 2-20-20

Docket 3

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 31, 2019**

Continued to March 12, 2019 at 10:30 a.m.; updated status report not required.  
(XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

**Party Information**

**Debtor(s):**

Stuart Moore (USA) Ltd.

Represented By  
William M Burd  
Jeffrey S Shinbrot

**Defendant(s):**

Stuart Moore

Pro Se

Sylvie Moore Masson

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 7, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Stuart Moore (USA) Ltd.**

**Chapter 7**

**Plaintiff(s):**

Thomas H. Casey, Chapter 7 Trustee

Represented By  
Jeffrey S Shinbrot

**Trustee(s):**

Thomas H Casey (TR)

Represented By  
Thomas H Casey  
Jeffrey S Shinbrot  
Jeffrey I Golden

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, May 12, 2020

Hearing Room 5A

10:00 AM

8:18-11942 Maureen T. Todd

Chapter 13

#1.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]  
TOWD POINT MORTGAGE TRUST 2017-2  
VS.  
DEBTOR

Docket 87

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 12, 2020**

Grant with 4001(a)(3) waiver and co-debtor relief.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.*

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 5A**

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10:00 AM

**CONT... Maureen T. Todd**

**Chapter 13**

**Debtor(s):**

Maureen T. Todd

Represented By  
Christine A Kingston

**Movant(s):**

Towd Point Mortgage Trust 2017-2,

Represented By  
Katie M Parker

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, May 12, 2020

Hearing Room 5A

10:00 AM

8:19-11985 Charles A Thomas and Theresa A. Thomas

Chapter 13

#2.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]  
CITIBANK, N.A., AS TRUSTEE  
VS.  
DEBTORS

Docket 35

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/4/2020 AT 10:00 A.M.,  
Per Order Entered 5/11/2020 (XX)

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/4/2020 at 10:00 a.m., Per Order Entered 5/11/2020 (XX) - td (5/11/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 12, 2020 [HEARING CONTINUED -- See Courtroom Deputy notes]**

Grant with 4001(a)(3) waiver.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Charles A Thomas and Theresa A. Thomas**

**Chapter 13**

**Party Information**

**Debtor(s):**

Charles A Thomas

Represented By  
Joseph C Rosenblit

**Joint Debtor(s):**

Theresa A. Thomas

Represented By  
Joseph C Rosenblit

**Movant(s):**

Citibank, N.A., as Trustee, in trust

Represented By  
Robert P Zahradka

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#3.00** CONT' Hearing RE: Related Debtors' Motion for Order Disallowing Claims of Todd C. Kurtin Pursuant to 11 U.S.C. Section 502(d):

Claim No. 29	Kurtin	\$33,892,117.62	[Debtor: Elieff]
Claim No. 9	Kurtin	\$33,892,117.62	[Debtor: Morse]
Claim No. 12	Kurtin	\$33,892,117.62	[Debtor: Camden]

FR: 4-16-20

Docket 323

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#4.00** Hearing RE: Creditor Todd Kurtin's Objection to Claims:

Cl. #12 (**Elieff**) Miller Barondess LLP

Cl. #4 (**Morse**) Miller Barondess LLP

Cl. #5 (**Camden**) Miller Barondess LLP

Docket 360

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#5.00** Hearing RE: Creditor Todd Kurtin's Objection to Claims:

Cl. #21 (**Elieff**) E.O.C. Ord, Inc.

Cl. # 8 (**Morse**) E.O.C. Ord, Inc.

Cl. #10 (**Camden**) E.O.C. Ord, Inc.

Docket 362

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#6.00** Hearing RE: Creditor Todd Kurtin's Objection to Claims:

Cl. # 6 (**Morse**) Bond Safeguard Insurance Company

Cl. #8 (**Camden**) Bond Safeguard Insurance Company

Docket 364

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#7.00** Hearing RE: Creditor Todd Kurtin's Objection to Claim #3 by Bond Safeguard Insurance Company

Docket 37

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#8.00** Hearing RE: Creditor Todd Kurtin's Objection to Claim #2 by E.O.C. Ord, Inc.

Docket 35

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#9.00 Hearing RE: Creditor Todd Kurtin's Objection to Claim # 1 by Miller Barondess LLP**

Docket 36

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, May 12, 2020

Hearing Room 5A

10:30 AM

8:20-10373 Heritage Colorado LLC

Chapter 11

#10.00 Hearing RE: Creditor Todd Kurtin's Objection to Claim #2 by Bond Safeguard Insurance Company

Docket 34

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)

Courtroom Deputy:

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing Held 5/4/2020 (XX) - td (5/5/2020)**

Tentative Ruling:

- NONE LISTED -

**Party Information**

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#11.00** Hearing RE: Creditor Todd Kurtin's Objection to Claim # 3 By E.O.C. Ord, Inc.

Docket 35

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#12.00** Hearing RE: Creditor Todd Kurtin's Objection to Claim #1 by Miller Barondess LLP

Docket 36

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#13.00** Hearing RE: Creditor Todd Kurtin's Objection to Claim #2 by Miller Barondess

Docket 36

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

TDV Development Corporation

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#14.00** Hearing RE: Creditor Todd Kurtin's Objection to Claim #3 by E.O.C. Ord, Inc.

Docket 35

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

TDV Development Corporation

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 12, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#15.00** Hearing RE: Creditor Todd Kurtin's Objection to Claim #4 by Bond Safeguard Insurance Company

Docket 37

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

TDV Development Corporation

Represented By  
Robert P Goe

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, May 12, 2020

Hearing Room 5A

10:30 AM

8:20-10533 American Renewable Power LLC

Chapter 7

#16.00 Hearing RE: Chapter 7 Trustee's Motion for Order Extending Time to Assume or Reject All Executory Contracts, Personal Property Leases and Insurance Policies Pursuant to 11 U.S.C. Section 365(d)(1)

Docket 57

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 12, 2020**

Grant the motion, subject to the reservation of certain rights set forth in the order approving the sale entered 5/7/20 [docket #90]

***Note: If the trustee and the objecting creditors accept the tentative ruling, appearances at this hearing are not required. Non appearance at the hearing will be deemed acceptance of the tentative ruling .***

**Party Information**

**Debtor(s):**

American Renewable Power LLC

Represented By  
David B Golubchik  
Todd M Arnold

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Central District of California  
Santa Ana  
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**CONT... American Renewable Power LLC**

**Chapter 7**

**Trustee(s):**

Thomas H Casey (TR)

Represented By  
Beth Gaschen

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Tuesday, May 12, 2020

Hearing Room 5A

10:30 AM

8:20-10936 Vantage Point Apparel Software, Inc.

Chapter 11

#17.00 STATUS HEARING RE: (1) Status of Subchapter V Case; (2) Requiring Report on Status of Subchapter V Case; (3) Requiring Subchapter V Trustee to Appear at the Status Conference; and (4) Setting Scheduling for Subchapter V Plan Confirmation

Docket 7

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 12, 2020 [This Tentative Ruling has been modified since the original posting]**

Deadline to file plan/disclosure statement:	<b>Aug. 14, 2020*</b>
Claims Bar Date (service of notice by 5/19/20):	July 20, 2020
Continued Status Conference:	July 23, 2020 at 10:30am
Deadline for Debtor <u>and</u> Trustee to file Updated Status Report:	July 9, 2020

***\*Special Note: The court has reviewed the report filed by the trustee on 5/11/20 and, in light of the same, no appearances at this status conference are required and the deadline for filing a plan has been modified to August 14, 2020. Non appearance at the hearing will be deemed acceptance of the tentative ruling. The court will issue its own order.***

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CONT... Vantage Point Apparel Software, Inc.

Chapter 11

***Note: Appearances at this hearing are not required if all parties accept the tentative ruling required.***

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

Vantage Point Apparel Software, Inc.

Represented By  
Michael Jones

**Trustee(s):**

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Tuesday, May 12, 2020

Hearing Room 5A

10:30 AM

8:20-11026 Little John's Antique Arms, Inc.

Chapter 11

#18.00 Hearing RE: Debtor and Debtor-in-Possession's Motion for Order: (1) Authorizing Debtor to Conduct Auctions of Inventory and Items Held on Consignment in the Ordinary Course of Business and at Times and Places Designated by Debtor; (2) Approving Auction Protocols, Including the Segregation and Distribution of Funds Owed to Consignors; (3) Authorizing Appointment of Auction Monitor Pursuant to Agreed-Upon Terms; and (4) Determining that Consignment Contracts are Non-Executory, or Alternatively, Authorizing Assumption of Executory Contracts Under Section 365

Docket 27

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 12, 2020**

Grant motion (including the requested finding that the consignment contracts are not executory contracts within the meaning of 11 U.S.C. 365) and subject to the court-approved stipulation between Debtor and the Raymond P. Tenold Trust [docket #s 37 and 38], except that employment of the auction monitor is required (and approved); such monitor shall file a fee application for any hourly fees in excess of the flat fee in accordance with 11 U.S.C. 330 and 331.



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CONT... Little John's Antique Arms, Inc.

Chapter 11

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Non appearance at the hearing will be deemed acceptance of the tentative ruling. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

Debtor(s):

Little John's Antique Arms, Inc.

Represented By  
Richard A Marshack  
Chad V Haes

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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2:00 PM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01216 Marshack v. Hyundai Steel Company

**#19.00** Hearing RE: Defendant Hyundai Steel Company's Motion to Dismiss for Forum Non Conveniens

Docket 18

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 12, 2020**

Grant the Motion.

Short Answer: Trustee has not satisfied his burden of establishing a strong showing for not applying the forum clause for the non-core contract claims.

Long Answer: See below:

On November 17, 2017, Prime Metals U.S.A., Inc. ("Debtor") filed a voluntary chapter 7 petition. Richard A. Marshack was appointed chapter 7 trustee ("Trustee") of Debtor's estate.

On November 15, 2019, Trustee filed a 10-count complaint (the "Complaint")[AP dkt. #1] against defendant Hyundai Steel Company, a Korean corporation ("Hyundai").

The Complaint alleged the following ten claims for relief:

1. Breach of contract;
2. Breach of implied covenant of good faith and fair dealing;
3. Avoidance and recovery of intentional fraudulent transfers;
4. Avoidance and recovery of constructive fraudulent transfers;

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**CONT...**

**Prime Metals U.S.A., Inc.**

**Chapter 7**

5. Avoidance and recovery of estate property;
6. Temporary restraining order and preliminary injunction;
7. Avoidance of preferential transfers;
8. Recovery of avoided transfers;
9. Substantive consolidation;
10. Declaratory judgment: alter ego.

On January 17, 2020, Hyundai filed its motion to dismiss the Complaint under FRCP 12(b)(6) (the "First Dismissal Motion"), which Trustee opposed.

On April 17, 2020, the order granting the First Dismissal Motion was entered (the "Dismissal Order") which dismissed the 6<sup>th</sup> and 9<sup>th</sup> claims for relief with prejudice, and the remaining claims for relief without prejudice and leave to amend.

Hyundai now moves to dismiss the 1<sup>st</sup> claim for relief (breach of contract), and 2<sup>nd</sup> second claim for relief (breach of the covenant of good faith and fair dealing) alleged in the Complaint (collectively, the "Contract Claims") because the contract at issue, the Supply Contract between Hyundai and Debtor dated October 15, 2007 (the "Supply Contract") contains a forum selection clause requiring contract disputes to be submitted to the exclusive jurisdiction of the Korean courts (the "Motion")[AP dkt. #18]. Trustee opposes the Motion.

**A. The Forum Selection Clause at Issue**

On October 15, 2015, Debtor and Hyundai entered into a four-page Supply Contract wherein Hyundai agreed to purchase and Debtor agreed to sell scrap metal for a year term, that automatically renewed for successive year terms on an annual basis (the "Supply Contract"). Compl., ¶ 35.

According to the Complaint, the contract was negotiated between Debtor's CEO, I.D. Kim, and Hyundai's Group Leader. Kim signed the Supply Contract on behalf of Debtor. *Id.* at Ex. A at p. 3.

The Supply Contract contains a forum selection clause and a choice of law provision in which the parties agreed that any disputes would be litigated

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exclusively in Korea and governed by Korean law as follows:

**"Article 10. Exclusive Jurisdiction**

All disputes, controversies, or differences which may arise between the parties, out of or in relation to or in connection with this Contract, which are not settled

after good faith attempt by the parties to amicably resolve the same, shall be submitted to the exclusive jurisdiction of the Korean courts, and such litigation

shall only be venued in the Seoul Central District Court. Seller shall not suspend the performance of its obligations under this Contract by reason of the reference of the dispute to the Korean courts.

**Article 11. Governing Law**

This Contract shall be governed by, construed and enforced in accordance with the laws of Korea, without regard to any conflict of laws principle thereof."

Compl., Ex. A, Articles 10-11; Mot. Ex. A, Articles 10-11.

B. Hyundai Did Not Waive its Rights to Enforce the Forum Selection Clause Because There is No Binding Authority Requiring Forum Non Conveniens to be Raised by Either a FRCP 12(b)(3) or (b)(6) Motion

As preliminary matter, Trustee argues that Hyundai waived its rights to enforce the forum selection clause because Hyundai failed to raise it under either FRCP 12 (b)(3) or (6) in its First Dismissal Motion. Consequently, Trustee contends that Hyundai is barred from doing so by FRCP 12 (g)(2) or (h)(1)(A), respectively. See, Opp'n, p. 7-12. The court finds the waiver argument unpersuasive in light of *Atl. Marine Constr. Co. v. U.S. Dist. W. Dist. Tex.*, 571 U.S. 49 (2013).

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**Prime Metals U.S.A., Inc.**

**Chapter 7**

1. Trustee Did Not Waive Its Forum Selection Clause Under FRCP 12(b)(3) because *Argueto* Was Effectively Overruled By *Atlantic Marine*

Under FRCP 12(b)(3), made applicable herein by Rule 7012, "a party may assert the following defenses by motion.... improper venue[.]" Under FRCP 12 (h)(1)(A), "A party waives any defense listed in Rule [12\(b\)\(2\)](#)–(5) by... omitting it from a motion in the circumstances described in [Rule 12\(g\)\(2\)](#)[.]" Under FRCP 12(g)(2), "a party that makes a motion under this rule must not make another motion under this rule raising a defense or objection that was available to the party but omitted from its earlier motion."

In *Argueta v. Banco Mexicano, S.A.*, 87 F.3d 320, 323-24 (9<sup>th</sup> Cir. 1996), the Ninth Circuit held that the proper procedural rule governing "a motion to dismiss premised on the enforcement of a forum selection clause" was FRCP 12(b)(3), improper venue. The Court reasoned that FRCP 12(b)(3) was appropriate because to resolve a motion to dismiss based on a forum selection clause, a court must not accept the pleadings as true and may consider facts outside the pleadings, unlike a FRCP 12 (b)(6) motion. *Id.* at 324. In *Atlantic Marine Constr. Co. v. U.S. Dist. W. Dist. Tex.*, 571 U.S. 49, 52 (2013), however, the U.S. Supreme Court rejected the argument that a forum selection clause selecting another federal forum could be enforced by either 28 U.S.C. § 1406(a) or FRCP 12(b)(3). In that case, the other federal forum being the Eastern District of Virginia instead of the Western District of Texas. *Id.* at 52-53. The Supreme Court reasoned that the term "venue" is statutorily defined in 28 U.S.C. § 1391, and a forum selection clause "has no bearing on whether a case" satisfies 28 U.S.C. § 1391 venue analysis. See *id.*, at 55-57. Because a case may be dismissed FRCP 12(b)(3) only if venue is "improper," and the impropriety of venue is determined only by 28 U.S.C. § 1391, FRCP 12(b)(3) was inappropriate to enforce a forum selection clause selecting another federal forum. Such clauses may only be enforced under 28 U.S.C. § 1404(a). *Id.* at 59.

Importantly, the Supreme Court noted held that, "the appropriate way to enforce a forum-selection clause pointing to a state or *foreign forum* is through the doctrine of forum non conveniens." *Id.* at 60 (emphasis added). In addition, the analysis under 28 U.S.C. § 1404(a) and the doctrine of forum non

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conveniens "entail the same balancing-of-interests standard, courts should evaluate a forum-selection clause pointing to a *nonfederal forum* in the same way that they evaluate a forum selection clause pointing to a federal forum." *Id* (emphasis added).

Accordingly, the Supreme Court's *Atlantic Marine* has effectively overruled the Ninth Circuit's *Arguento*. Bankruptcy courts "must adhere to the holdings in published opinions of the Court of Appeals unless those opinions are overturned by the Supreme Court." *In re Deitz*, 469 B.R. 11, 22 (B.A.P. 9th Cir. 2012), *aff'd*, 760 F.3d 1038 (9th Cir. 2014). "Of course, the critical question... is how to determine if a Supreme Court decision does in fact overturn the circuit precedent [because] the Ninth Circuit has also taught us that "overturning a long-standing precedent is never to be done lightly [.]" *Id.* at 22-23 (internal citations omitted). The Ninth Circuit has instructed that "where the reasoning or theory of our prior circuit authority is *clearly irreconcilable* with the reasoning or theory of intervening higher authority," courts "should consider [themselves] bound by the later and controlling authority, and should reject the prior circuit opinion as having been effectively overruled." See *id.* at 23 (emphasis in original)(citing *Miller v. Gammie*, 335 F.3d 889, 893 and 900 (9th Cir.2003) (en banc)). In this case, the reasoning of *Arguento* is clearly irreconcilable with *Atlantic Marine* because, as discussed above, the Supreme Court held that forum selection clauses have "no bearing" on FRCP 12(b)(3) motions. *Atl. Marine*, 571 U.S. at 56.

Trustee's argument that the Supreme Court's ruling in *Atlantic Marine* regarding a nonfederal forum selection clauses is *dicta* because the forum selection clause at issue in *Atlantic Marine* did not point to a nonfederal forum (like the instant case) is unpersuasive for two reasons. See, Opp'n, p. 9:7-16. First, the Supreme Court unequivocally stated its reasoning regarding FRCP 12(b)(3) and venue was applicable to all forum selection clauses. "If venue is proper under federal venue rules, it does not matter for the purpose of Rule 12(b)(3) whether the forum-selection clause points to a federal or a nonfederal forum." *Atl. Marine*, 571 U.S. at 60. Second, in a recent decision of the Ninth Circuit decided March 20, 2020, the Circuit expressly cited *Atlantic Marine*'s holding and enforced forum selection clauses that designated both federal and nonfederal forums under the doctrine of *forum non conveniens*- and not FRCP 12(b)(3). See e.g., *Lewis v. Liberty Mut. Ins. Co.*, 953 F.3d 1160, 1165, 1170 (9th Cir.

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2020)(applying *Atlantic Marine* and enforcing a forum selection clause designating Australia as the nonfederal forum through the doctrine of forum non conveniens); See also, *Yei A. Sun v. Advanced China Healthcare, Inc.*, 901 F.3d 1081, 1087, 1093 (9th Cir. 2018) (applying *Atlantic Marine* and forum selection clause designating California enforcing under the doctrine of *forum non conveniens*); Reply, p. 2: 15-24.

The court does not find Trustee's reliance on the unpublished decision in *Johnson v. Mazza*, 2016 WL 11505457, \*3 (C.D. Cal. Jul. 5, 2016) helpful as the court there seems to have equated the forum selection clause to improper venue in finding that the defendant waived its forum selection defense by failing to raise improper venue in its earlier FRCP 12 motion.

1. Trustee Did Not Waive Its Forum Selection Clause Under FRCP 12 (b)(6) Because FRCP 12 (b)(6) Defenses Cannot Be Waived, And The Ninth Circuit Has Not Determined Whether FRCP 12(b)(6) Is Applicable to Forum Non Conveniens Post-*Atlantic Marine*

Under FRCP 12(b)(6), "Every defense to a claim for relief in any pleading must be asserted in the responsive pleading if one is required. But a party may assert the following defenses by motion...failure to state a claim upon which relief can be granted[.]"

Trustee further argues that Hyundai waived its rights to enforce the forum selection clause because Hyundai failed to raise it under FRCP 12 (b)(6) in its First Dismissal Motion and is now barred from doing so under FRCP 12 (h)(1) (A). See, Opp'n, p. 10-12.

This argument is unpersuasive because a FRCP 12(b)(6) defense cannot be waived and the Ninth Circuit has not determined whether FRCP 12 (b)(6) is applicable to forum non conveniens post-*Atlantic Marine*.

- a. FRCP 12(b)(6) Defenses Cannot Be Waived by Failing to Raise the Defense In a Prior FRCP 12(b)(6) Motion,

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and the Court May Consider a Late-Filed FRCP 12(b)(6)  
Motion In The Interest of Judicial Economy

FRCP 12(b)(6) is not one of the defenses that is subject to waiver under FRCP 12 (h)(1)(A), which states that, "A party waives any defense listed in *Rule 12(b)(2)–(5)* by... omitting it from a motion in the circumstances described in Rule 12(g)(2)[.]" (emphasis added). Under FRCP 12(g)(2), "Except as provided in Rule 12(h)(2)...a party that makes a motion under this rule must not make another motion under this rule raising a defense or objection that was available to the party but omitted from its earlier motion." Thus, under the plain language of FRCP 12 (g)(2), defenses under FRCP 12(b)(1)-(5) must be raised in the first FRCP 12 motion or those defenses will be waived under FRCP 12(h)(1)(A). Again, FRCP 12(b)(6) is not one of the defenses listed under FRCP 12(h)(1)(A) that is subject to waiver. Instead, FRCP 12(b)(6) is listed under FRCP 12(h)(2) which is an exception to FRCP 12 (g)(2). FRCP 12(h)(2) provides that, "Failure to state a claim upon which relief may be granted...may be raised...in any pleading allowed or ordered under Rule 7(a)...by motion under Rule 12(c)...or...a trial." As explained by the Ninth Circuit:

"A defendant who omits a defense under Rule 12(b)(6)—failure to state a claim upon which relief can be...granted—does not waive that defense... If a failure-to-state-a-claim defense under Rule 12(b)(6) was not asserted in the first motion to dismiss under Rule 12, Rule 12(h)(2) tells us that it can be raised, but only in a pleading under Rule 7, in a post-answer motion under Rule 12(c), or at trial." *In re Apple iPhone Antitrust Litig.*, 846 F.3d 313, 317-18 (9th Cir. 2017), *aff'd sub nom. Apple Inc. v. Pepper*, 139 S. Ct. 1514, 203 L. Ed. 2d 802 (2019).

Notwithstanding FRCP 12(h)(2), however, the Ninth Circuit recognized that "[d]enying late-filed Rule 12(b)(6) motions and relegating defendants to the three procedural avenues specified in Rule 12(h)(2) can produce unnecessary and costly delays, contrary to the direction of Rule 1," and, therefore, concluded that it "should generally be forgiving of a district court's ruling on the merits of a late-filed Rule 12(b)(6) motion." *Apple*, 846 F.3d at 318-319.

Thus, the failure to raise a FRCP 12 (b)(6) defense is not waived if not



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raised in a prior FRCP 12 (b)(6) motion and notwithstanding FRCP 12(h)(2), courts have the discretion, in the interest of judicial economy, to consider a later filed FRCP 12(b)(6) motions raising defenses that could have been previously raised. See, *In re Fuentes*, 2018 WL 722704, at \*8 (Bankr. C.D. Cal. Feb. 2, 2018)(relying on the *Apple* case and finding that "even if Rule 12(g)(2) did apply, courts within the Ninth Circuit liberally construe the rule and consider arguments raised in violation thereof if such consideration is in the interests of judicial economy."); *Dongguan Beibei Toys Indus. Co. v. Underground Toys USA, LLC*, 2020 WL 2065034, at \*2 n. 2 (C.D. Cal. Mar. 2, 2020)(relying on the *Apple* case to overrule objections to the court considering a second FRCP 12(b)(6) motion to dismiss breach of contract and implied warranty claims that could have been raised in the first FRCP 12 (b)(6) motion).

a. The Ninth Circuit Has Not Determined Whether FRCP 12(b)(6) Is Applicable to *Forum Non Conveniens*

The Supreme Court in *Atlantic Marine* left open the possibility that FRCP 12(b)(6) may be used to enforce a forum selection clause, in addition to the *forum non conveniens*. *Atl. Marine*, 571 U.S. at 61 (declining to address whether FRCP 12 (b)(6) may be used by a "defendant in a breach-of-contract action" because the petitioner had not filed a FRCP 12(b)(6) motion in the underlying litigation) and n.4 (observing that defendants may be inclined to invoke FRCP 12(b)(6) if it were available to enforce a forum selection clause because a FRCP 12(b)(6) motion "may lead to a jury trial on venue if issues of material fact relating to the validity of the forum-selection clause arise.")

In any event, the Ninth Circuit has not addressed the applicability of FRCP 12(b)(6) to enforcement of forum selection clauses post-*Atlantic Marine*. See, *Consultants Grp. Comm. Funding Corp. v. Inteva Prod.*, 2017 WL 7833776, at \*1 (C.D. Cal. Aug. 28, 2017)(noting the Supreme Court had not addressed the issue of "whether a Rule 12(b)(6) dismissal is an appropriate alternate way" to enforce a forum selection clause and there "generally appears to be no binding authority in the Ninth Circuit that has dealt with it."). This court need not make that determination now because, as discussed above, the applicability of FRCP 12 (b)(6) is irrelevant since FRCP 12(b)(6) defenses cannot be waived and the Court can consider the Motion as filed.

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C. The Contract Claims are Within the Scope Of the Forum Selection Clause

Before determining whether the forum selection clause is enforceable, the Court must first determine whether the Contract Claims fall within the scope of the forum selection clause. See, *Yei A. Sun v. Advanced China Healthcare, Inc.*, 901 F.3d 1081, 1086-87 (2018)(analyzing whether the disputes at issue fell within the scope of the forum selection clause before analyzing whether the forum selection clause was enforceable under *Atlantic Marine*); Mot., p. 4:17-5:6. Courts apply "federal contract law to interpret the scope of a forum-selection clause" and "look for guidance 'to general principles for interpreting contracts.'" *Yei*, 901 F.3d at 1086. In *Yei*, the forum selection clause stated that "any disputes arising out of or related to" the stock purchase contract fell within the scope of the forum selection clause. *Id.* The Ninth Circuit reasoned that the language requiring that "any disputes ... *related to*" the stock purchase agreement applied to "any dispute that has some logical or causal connection to the parties' agreement." *Id.* Thus, the Ninth Circuit found that the securities fraud claims arose within the scope of the forum selection clause in the stock purchase agreement. *Id.* at 1087.

In this case, the forum selection clause states that "*All disputes, controversies, or differences which may arise between the parties, out of or in relation to or in connection with this Contract*, which are not settled after good faith attempt by the parties to amicably resolve the same, shall be submitted to the exclusive jurisdiction of the Korean courts, and such litigation shall only be venued in the Seoul Central District Court." Mot., Ex. A, Article 10 (emphasis added). The language of the forum selection clause in this case is analogous to the language of the forum selection clause in *Yei* because it is similarly broad-covering "all" disputes that arise "in relation" to the Supply Contract. Thus, the Contract Claims fall within the scope of the forum selection clause because they not only arise out of the Supply Contract (alleging breach of contract and implied covenant of good faith and fair dealing), but the forum selection clause is written broadly enough to cover the Contract Claims.

D. The Forum Selection Clause Is Enforceable Because Trustee Has

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Failed To Carry His Burden To Demonstrate Applicable Extraordinary  
Circumstances Under *Bremen*

The Supreme Court has held that "the appropriate way to enforce a forum-selection clause pointing to a state or foreign forum is through the doctrine of forum non conveniens." *Yei*, 901 F.3d at 1087 (quoting *Atl. Marine*, 571 U.S. at 60); *Lewis v. Liberty Mutual Ins. Co.*, 953 F.3d 1160, 1165 (9<sup>th</sup> Cir. 2020) (quoting *Atl. Marine, supra*, at 60). The dismissal of a complaint for "failure to comply with a valid and enforceable forum-selection clause" is reviewed for abuse of discretion. *Yei, supra*, at 1086.

As a preliminary matter, "although *Atlantic Marine* considered the enforceability of a forum-selection clause under 28 U.S.C. § 1404(a)... Because both § 1404(a) and the forum non conveniens doctrine from which it derives entail the same balancing-of-interests standard, courts should evaluate a forum-selection clause pointing to a nonfederal forum in the same way that they evaluate a forum-selection clause pointing to a federal forum." *Yei*, 901 F.3d at 1087 (citing *Atl. Marine*, 571 U.S. at 60); *Liberty Mutual*, 953 F.3d at 1165 ("The same standards should apply to motions to dismiss for *forum non conveniens* in cases involving valid forum selection clauses pointing to state or foreign forums.")(citing *Atl. Marine, supra*, at 66 n. 8).

Under the doctrine of forum non conveniens, when there is no forum selection clause, a district court "must evaluate both the convenience of the parties and various public-interest considerations." *Atl. Marine*, 571 U.S. at 62; *Yei*, 901 F.3d at 1087 n. 3. "Ordinarily, the district court would weigh the relevant factors and decide whether, on balance, a transfer would serve 'the convenience of parties and witnesses' and otherwise promote 'the interest of justice.'" *Atl. Marine, supra*, at 62–63; *Yei, supra*, at 1087 n. 3. "In a case in which there is no forum-selection clause, "a defendant bears the burden of demonstrating an adequate alternative forum, and that the balance of private and public interest factors favors dismissal." *Lewis v. Liberty Mutual Ins. Co.*, 953 F.3d 1160, 1165 (9<sup>th</sup> Cir. 2020)(citation omitted). This entire framework of analysis, however, changes when there is a forum selection clause. *Atl. Marine, supra*, at 62 ("The presence of a valid forum-selection clause requires district courts to adjust their usual § 1404(a) analysis in three ways."); See, Mot., p.

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3:18-4:16.

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First, the burden of proof shifts from the defendant to the plaintiff to demonstrate why the forum selection clause should not be enforced. "Rather, as the party defying the forum-selection clause, the plaintiff bears the burden of establishing that transfer to the forum for which the parties bargained is unwarranted." *Atl. Marine, supra*, at 63. "Unlike the situation where there is no forum-selection clause, the plaintiff 'must bear the burden of showing why the court should not transfer the case to the forum to which the parties agreed.'" *Yei, supra*, at 1087; see, *Liberty Mutual, supra*, at 1165. Second, "When parties agree to a forum-selection clause, they waive the right to challenge the preselected forum as inconvenient or less convenient for themselves or their witnesses, or for their pursuit of the litigation. A court accordingly must deem the private-interest factors to weigh entirely in favor of the preselected forum." *Atl. Marine, supra*, at 64; *Yei, supra*, at 1087-88; *Liberty Mutual, supra*, at 1165. Third, "when a party bound by a forum-selection clause flouts its contractual obligation and files suit in a different forum, a § 1404(a) transfer of venue will not carry with it the original venue's choice-of-law rules—a factor that in some circumstances may affect public-interest considerations." *Atl. Marine, supra*, at 64.

In sum, the practical result of a forum selection clause is that "a forum-selection clause 'should control except in unusual cases'...This result is required, according to *Atlantic Marine*, because a forum-selection clause 'represents the parties' agreement as to the most proper forum.'" *Yei*, 901 F.3d at 1088 (relying on *Atl. Marine*, 571 U.S. at 63-64). Thus, the general rule is "when the parties have agreed to a valid forum selection clause, the district court should uphold that clause" except only under "extraordinary circumstances unrelated to the convenience of the parties" should a motion to enforce a forum-selection clause be denied." *Yei, supra*, at 1087-88 (quoting *Atl. Marine, supra*, at 62).

Unfortunately, "*Atlantic Marine* provides little guidance...regarding what constitutes an 'exceptional reason' or 'extraordinary circumstances' in which courts should not give controlling weight to a valid forum-selection clause." *Yei, supra*, at 1088. Thus, the Ninth Circuit, relying on *M/S Bremen v. Zapata Off-Shore Co.*, 407 U.S. 1, 15 and 18 (1972), identified the following three

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exceptions to the general rule that a forum selection clause is controlling, if the plaintiff can make a strong showing that: "(1) the clause is invalid due to 'fraud or overreaching,' (2) 'enforcement would contravene a strong public policy of the forum in which suit is brought, whether declared by statute or by judicial decision,' or (3) 'trial in the contractual forum will be so gravely difficult and inconvenient that [the litigant] will for all practical purposes be deprived of his day in court.'" *Yei, supra*, at 1088; *Liberty Mutual*, 953 F.3d at 1165. A plaintiff only needs to satisfy one of the Bremen exceptions for the court to deny enforcement of a forum selection clause. See, *Gemini Techs., Inc. v. Smith & Wesson Corp.*, 931 F.3d 911, 916 (9th Cir. 2019). The *Bremen* exceptions are analyzed "through the lens provided by *Atlantic Marine*." *Yei, supra*, at 1088.

1. *Atlantic Marine* is the Proper Test for Enforcement of a Forum Selection Clause

Trustee argues that *Bremen*, not *Atlantic Marine*, is the proper test for enforcement of a forum selection clause, and that "*Atlantic Marine* analysis only applies if a forum selection clause is found to be valid and enforceable." See, Opp'n, p. 13:5-16. This argument is unpersuasive for several reasons. First, the Ninth Circuit has confirmed that *Atlantic Marine* is the applicable starting point to analyze enforcement of a forum selection clause. *Liberty Mutual*, 953 F.3d at 1165 (9th Cir. 2020); See also *Yei*, 901 F.3d at 1087 (quoting *Atl. Marine*, 571 U.S. at 60).

Second, Trustee's citation to *Gemini Techs., Inc. v. Smith & Wesson Corp.*, 931 F.3d 911, 917 (9th Cir. 2019) does not support Trustee's argument. In *Gemini*, the Ninth Circuit clarified that "*Bremen* is readily harmonized with *Atlantic Marine* because *Bremen* provides guidance regarding the 'extraordinary circumstances' in which a forum selection clause will not control." Thus, *Gemini* merely confirmed that *Bremen* continued to proscribe the three exceptions to enforcement of a forum selection clause. See, *Gemini*, 931 F.3d at 915. Trustees' argument that "*Atlantic Marine* analysis only applies if a forum selection clause is found to be valid and enforceable" takes it one step too far by trying to eliminate analysis under *Atlantic Marine* by flipping the analytical framework for forum selection clauses on its head by attempting to turn *Atlantic Marine* into the exception to the general rule, which contradicts Ninth Circuit law.

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Third, while Trustee's citation to *Bavaria Yachts USA, LLLP v. Bavaria Yachtbau GmbH (In re Bavaria Yachts USA, LLLP)*, 575 B.R. 540 (Bankr. N.D. Ga. 2017)(citation omitted) supports Trustee's position, *Bavaria* is not binding and it contradicts Ninth Circuit law. In *Bavaria*, the bankruptcy court stated that, "Before a determination can be made under the *Atlantic Marine* analysis, the Court must first determine whether the forum selection clauses are valid and enforceable. If the forum selection clauses are valid and enforceable, then the *Atlantic Marine* analysis will apply." *Id.* at 556. The *Bavaria* court proceeded to conduct a *Bremen* analysis before an *Atlantic Marine* analysis. *Id.* at 556-60. This order of analysis, however, is not consistent with the law of this Circuit. The Ninth Circuit described the order of analysis for forum selection clauses as beginning with *Atlantic Marine*, and then turning to *Bremen* for the exceptions to the general rule. *Yei*, 901 F.3d at 1087-88; *Liberty Mutual*, 953 F.3d at 1165.

See, *Liberty Mutual, supra*, at 1169-70 (citing *Atlantic Marine* and rejecting argument that high costs and inconvenience of litigating in Australia will deprive plaintiffs of their day in court); *Yei, supra*, at 1091-92 (citing *Atlantic Marine* under the court's analysis of the third *Bremen* exception for the proposition that parties who have agreed to forum selection clauses "waive the right to challenge the preselected forum as inconvenient or less convenient for themselves or their witnesses, or for their pursuit of the litigation.").

1. Trustee Has Failed to Demonstrate Fraud or Overreach

For a court to deny enforcement of a forum selection clause based on fraud or overreaching, a party must show that "the inclusion of that clause in the contract was the product of fraud or coercion." *White Knight Yacht LLC v. Certain Lloyds at Lloyd's London*, 407 F.Supp.3d 931, 945 (S.D. Cal. Sep. 10, 2019)(citing *Richards v. Lloyd's of London*, 135 F.3d 1289, 1297 (9th Cir. 1998) ("For a party to escape a forum selection clause on the grounds of fraud, it must show that "the inclusion of that clause in the contract was the product of fraud or coercion.")(emphasis in original)).

"A party must introduce "specific facts, contained in an admissible affidavit" that are "sufficient, if true, to demonstrate that the forum selection's clause inclusion in the ... agreement was obtained via fraud or overreaching."

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*White Knight*, 407 F.Supp.3d at 945. In determining if this factor applies, a court considers whether plaintiff had the opportunity to become meaningfully informed of the forum selection clause. *Id.*

Here, Trustee argues that "the terms of the Supply Agreement were procured through undue influence and overweening bargaining power" because Debtor's CEO, the signatory for Debtor, was not literate in English, and Debtor had zero leverage in negotiating with Hyundai because Trustee alleges that Hyundai controlled all aspects of Debtor's business. Also, Hyundai "has failed to submit any admissible evidence in support of the Motion regarding the circumstances surrounding the negotiation of the Supply Agreement, assuming there was any." See, Opp'n, p. 13:21-15:10.

Beginning with Trustee's argument that Hyundai has failed to submit any admissible evidence, this argument is unpersuasive because the burden to demonstrate fraud or overreach (or any of *Bremen* exceptions) is on Trustee- not Hyundai. In fact, Trustee is required to make a "strong showing" that the *Bremen* exception applies. *Yei*, 901 F.3d at 1088; *Liberty Mutual*, 953 F.3d at 1165; Reply, p. 4:27-5:2. Indeed, Trustee has not made any showing of alleged undue influence and overweening bargaining power. First, Trustee provides the declaration of Min Ho An, Debtor's former Secretary, to demonstrate that Debtor's CEO, Ik Dong Kim, was illiterate in English, so Mr. Kim did not understand the forum selection clause that he signed. While the court has sustained Hyundai's evidentiary objections to the declaration of An in this regard, even if the statements were considered, they would be insufficient to make a strong showing as to what Kim understood or did not understand regarding the terms of the Supply Agreement. Moreover, as noted by Hyundai, Trustee (who carries the burden) has "presented no evidence that Mr. Kim was rushed, pressured, or forced in any way to sign the Supply Agreement without an opportunity to understand its terms. Plaintiff has not submitted any evidence of how many advisors or interpreters reviewed the Supply Agreement, or how much time Mr. Kim took to consider the Supply Agreement before signing, or how many supply agreements Mr. Kim has handled." Reply, p. 6:2-13.

In addition, even if there was uneven bargaining power, that alone is insufficient to overcome a forum selection clause because, as discussed above,

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the terms of the forum selection clause were reasonably communicated to Debtor through its CEO. "A forum selection clause is not unenforceable merely because parties have unequal bargaining power so long as the clause was reasonably communicated to the party or the party could have learned of its existence." *White Knight, supra*, at 945. (citing *Carnival Cruise Lines v. Schute*, 499 U.S. 585, 595 (1991)(enforcing forum selection clause in a cruise line's form contract with customers)).

Trustee argues that, since "Trustee is new to the dispute between Prime and Hyundai," "Trustee is entitled to take discovery into the facts and circumstances leading to the Supply Contract" because "there are disputed issues of fact regarding the undue influence, overreaching and the validity of the Supply Contract that entitle the Trustee to take discovery, which he intends to do." Opp'n, p. 4:19-20 and p. 15 n.3. However, Trustee was appointed over two years ago and has had sufficient time to conduct his investigation. See, Reply, p. 7:10-15. Trustee offers no explanation as to why Trustee could not have conducted Rule 2004 exams of Debtor's principals during the last two years to inquire into the circumstances surrounding Debtor's negotiation of the Supply Contract, especially because "the majority of [Trustee's] witnesses are located in the United States as [Debtor] was located and did business in the United States." See, Opp'n, p. 17:20-22.

Second, Trustee's case law is unpersuasive. *Murphy v. Schneider Nat'l Inc.*, 362 F.3d 1133, 1139 (9th Cir. 2004) provided, in relevant part, that courts may hold an evidentiary hearing under FRCP 12(d) to resolve genuine issues of disputed facts within the context of a Rule 12(b)(3) motion to enforce a forum selection clause. However, as discussed above, the Supreme Court has clearly in *Atlantic Marine* stated that FRCP 12(b)(3) is not the appropriate procedure for enforcing a forum selection clause. Thus, courts can no longer rely on FRCP 12(d) to allow an evidentiary hearing or discovery. This same analysis is applicable to Trustee's other cited case, *Hayashi v. Red Wing Peat Corp.*, 396 F.2d 13, 14-15 (9th Cir. 1968)(affirming motion to dismiss for improper venue and the district court's decision to not allow discovery finding that the "court was not compelled to subject appellee to the burden of discovery relating to issues on the merits when the possibility that appellants would eventually prevail on the issue of venue was wholly speculative and apparently slim.").



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In sum, Trustee has not carried his burden to demonstrate through a "strong showing" that the forum selection clause is invalid under the first *Bremen* exception due to fraud or overreaching.

1. Trustee has Failed to Demonstrate that the Public Interests Weigh in Favor of Not Enforcing the Forum Selection Clause

The second *Bremen* exception provides that forum selection clause is invalid if plaintiff makes a strong showing that "enforcement would contravene a strong public policy of the forum in which suit is brought, whether declared by statute or by judicial decision[.]" *Yei*, 901 F.3d at 1088 (citation omitted). The party seeking to avoid enforcement of the forum selection clause, "must bear the burden of showing that public-interest factors overwhelmingly disfavor a transfer." *Atl. Marine*, 571 U.S. at 67. "Public-interest factors may include 'the administrative difficulties flowing from court congestion; the local interest in having localized controversies decided at home; and the interest in having the trial of a diversity case in a forum that is at home with the law'" *Id.* at 63 n. 6. Public interest factors "will rarely defeat" a motion to dismiss or transfer, "the practical result is that a forum selection clause should control except in unusual circumstances." *Id.* at 64.

Trustee argues that the public policy weighs in favor of not enforcing the forum selection clause. He maintains that there is a policy favoring centralizing disputes concerning a debtor's obligations and in this case, Trustee's claims against Hyundai are overwhelmingly core claims. See, *Kismet Acquisition, LLC v. Icenhower (In re Icenhower)*, 757 F.3d 1044, 1051 (9th Cir. 2014). Hyundai also consented to the entry of final orders by this Court. Second, there is a policy favoring maintaining venue where the bankruptcy case is pending, especially if the outcome will have a substantial impact on the administration of the estate. See, *In re Hechinger Inv. Co. of Del., Inc.*, 288 B.R. 398, 402 (Bankr. D. Del. 2003); *In re Prithvi Catalytic, Inc.*, 2015 Bankr. LEXIS 1185, at \*43 (Bankr. W.D. Pa. Apr. 8, 2015). M.D. Ga. 2016). Thus, even if Hyundai and Debtor agreed to the forum selection clause, those expectations are necessarily altered by Debtor's subsequent bankruptcy filing because the bankruptcy filing implicates interests far broader than the prepetition forum selection clause and the rights of

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the parties to the Supply Contract. Third, there is policy favoring the protection of creditors by maximizing recoveries for them. *Haigler v. Dozier (In re Dozier Fin. Inc.)*, 587

B.R. 637, 649 (Bankr. D.S.C. 2018)(citing *Bavaria Yachts*, 575 B.R. at 560-63). Due to the high costs of litigation and the inconvenience of litigating in "a forum a continent and time zones away that would effectively deprive Plaintiff of his day in court." See, Opp'n, p. 18:5-23:10.

Trustee's arguments are unpersuasive. First, when foreign law potentially applies to the claims, the public interest factor "strongly favors dismissal" based on forum non conveniens. See, *Loya v. Starwood Hotels & Resorts Worldwide, Inc.*, 583 F.3d 656, 665 (9th Cir. 2009)(affirming district court's dismissal under forum non conveniens and its finding that possible application of Mexican law was a public interest factor that strongly weighs in favor of dismissal based on forum non conveniens); accord *Harp v. Airblue Ltd.*, 879 F. Supp. 2d 1069, 1078 (C.D. Cal. 2012)("The need to apply Pakistani law, and the Court's lack of familiarity with such law, favors dismissal on *forum non conveniens* grounds."); *In re Air Crash at Madrid, Spain, on August 20, 2008*, 893 F. Supp. 2d 1020, 1041-42 (C.D. Cal. 2011)(stating that the "mere likelihood or possibility that foreign law would apply weighs in favor of dismissal" and finding that the likelihood that the court would have to apply Spanish law favored dismissal under forum non conveniens). Mot., p. 11:20-12:11. In this case, the Supply Contract provides that all disputes arising from the Supply Contract will be governed by Korean law. "This Contract shall be governed by, construed and enforced in accordance with the laws of Korea, without regard to any conflict of laws principle thereof." See, Mot., Ex. A, Article 10. Thus, this public interest factor weighs in favor of dismissal.

Second, Trustee's case law *Kismet Acquisition, LLC v. Icenhower (In re Icenhower)*, 757 F.3d 1044, 1051 (9th Cir. 2014)("Thus, courts in which a bankruptcy proceeding is pending have declined to honor contractual selections of other forums where the matters at issue constitute core proceedings and are not inextricably intertwined with non-core proceedings.") is distinguishable because in that case, the court declined to enforce a forum selection clause on the basis that the fraudulent transfer and unauthorized postpetition transfer

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claims were core proceedings and not inextricably intertwined with non-core proceedings," whereas the present Contract Claims are not core proceedings. See, Reply, p. 9:18-27. Trustee admits this distinction "by admitting (1) that the contract claims are completely separate from the rest of the claims as follows: "the Contract Claims are the only claims pled in the Complaint that in any way relate to the Supply Agreement" (Opp. at 3 n.1) and (2) insisting that "the core/non-core distinction is irrelevant in this case" (*id.* at 19:27-28). This only confirms that there is no public interest factor here weighing against enforcing the forum selection clause." Reply, p. 9:22-27. Thus, there is no public policy that noncore claims that are not inextricably intertwined with core claims be adjudicated by the bankruptcy, even if venue is proper, applying foreign (in this case, Korean law). The Contract Claims could be severed from Trustee's core avoidance claim because the potential to have duplicative litigation in the original forum and the designated forum is not sufficient to outweigh the strong public policy in favor of enforcing forum-selection clauses. See, e.g., *Vogt-Nem, Inc. v. M/V Trumper*, 263 F. Supp. 2d 1226, 1233 (N.D. Cal. 2002)(finding that litigation in three potential fora – California, Amsterdam, and Rotterdam — would not fragment the case to the point of depriving plaintiff of its day in court); *Tokio Marine & Fire Ins. Co., Ltd. v. Nippon Express U.S.A. (Illinois), Inc.*, 118 F. Supp. 2d 997, 1000 (C.D. Cal. 2000)("Moreover, while the potential for duplicative litigation is a real one, that fact does not outweigh the strong policy favoring enforcement of forum selection clauses.")(citing *Bremen*, 407 U.S. at 18).

Finally, Trustee's reliance *Haigler v. Dozier (In re Dozier Fin. Inc.)*, 587

B.R. 637, 649 (Bankr. D.S.C. 2018)(citing *Bavaria Yachts*, 575 B.R. at 560-63) is unpersuasive because, although it supports Trustee's arguments that there are specific public policies that are unique to bankruptcy (such as centralizing disputes concerning a debtor's obligations and creditors' interests since the estate is trying to maximize recovery to creditors), as noted by Hyundai, *Dozier* is a non binding decision that has not been adopted with the Ninth Circuit. See, Reply, p. 10:1-10.

Moreover, other courts have distinguished the application of these bankruptcy public policies to core claims and noncore claims (like the Contract

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Claims). "However, this policy is not so strong as to mandate that forum selection clauses be abandoned where the dispute is non-core." *In re N. Parent, Inc.*, 221 B.R. 609, 620 (Bankr. D. Mass. 1998). The bankruptcy went on to find that "nothing in the legislative history of the bankruptcy code has been called to our attention suggesting that Congress intended to make a change in public policy favoring forum selection clauses which is manifested in the Federal Arbitration Act ... or in the common law announced in ... [M/S] *Bremen* and similar state and federal cases." *Id.* at 621. The court concluded by distinguishing between core and noncore claims as follows:

Retaining core proceedings in this court, in spite of a valid forum selection clause, promotes the well-defined policy goals of centralizing all bankruptcy matters in a specialized forum to ensure the expeditious reorganization of debtors... By enforcing the forum selection clause in non-core, related claims, where the public policy concerns are less clear, this Court also upholds the parties' right to contractually decide where to litigate their pre-petition contractual disputes. *Id.* at 622. "Public policy strongly favors centralization of core bankruptcy proceedings." *Diaz-Barba v. Kismet Acquisition, LLC*, 2010 WL 2079738, at \*11 (S.D. Cal. May 20, 2010)(emphasis added)(citing *N. Parent*, 221 B.R. at 621-22).

Finally, the Ninth Circuit has recognized that there is a "strong federal policy in favor of enforcement" of forum selection clauses. *Yei*, 901 F.3d at 1089 (citing *Richards v. Lloyd's of London*, 135 F.3d 1289 (9th Cir. 1998) (en banc)). The Ninth Circuit, in *Richards*, held that, notwithstanding "the antiwaiver provisions of the federal securities laws and the strong public policy of preserving investors' remedies under federal and state securities laws," the "strong federal policy in favor of enforcement of such [forum selection] clauses superseded the statutory antiwaiver provision." *Yei, supra*, at 1089. Similarly, without any binding authority explicitly holding that bankruptcy public policies outweigh the "strong federal policy in favor of" enforcing forum selection clauses, the Court should decline to make such a finding.

Trustee has therefore failed to carry his burden to demonstrate through a "strong showing" that the forum selection clause is invalid under the second *Bremen* exception because enforcement of the forum selection clause will

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contravene a strong public policy of the forum in which suit is brought.

1. Trustee Has Failed To Demonstrate That Trustee Will Be Deprived Of His Day In Court

The third *Bremen* exception "asks whether 'trial in the contractual forum will be so gravely difficult and inconvenient that the litigant will for all practical purposes be deprived of his day in court[.]'" *Yeji*, 901 F.3d at 1091.

Trustee's final argument is that Trustee, and the estate, will effectively be deprived of their day in court because the estate does not have the financial resources to litigate the Contract Claims in Korea. It will also be unlikely Trustee will be able to hire contingency counsel in Korea because said counsel would have to agree to be paid after Trustee's current contingency counsel- from an estate that has no cash. Finally, severing the Contract Claims from the other claims will multiply proceedings increasing costs for the estate. See, Opp'n, p. 15:11-18:4.

Trustee's argument is unpersuasive because Ninth Circuit has instructed, the *Bremen* exception analysis is to be conducted "through the lens provided by *Atlantic Marine*." *Yeji, supra*, at 1088. Under *Atlantic Marine*, "When parties agree to a forum-selection clause, they waive the right to challenge the preselected forum as inconvenient or less convenient for themselves or their witnesses, or for their pursuit of the litigation." *Atl. Marine*, 571 U.S. at 64; *Yeji, supra*, at 1087-88; *Liberty Mutual*, 953 F.3d at 1165.

In *Atlantic Marine*, the Supreme Court explained that:

When parties have contracted in advance to litigate disputes in a particular forum, courts should not unnecessarily disrupt the parties' settled expectations. A forum-selection clause, after all, may have figured centrally in the parties' negotiations and may have affected how they set monetary and other contractual terms; it may, in fact, have been a critical factor in their agreement to do business together in the first place. In all but the most unusual cases, therefore, "the interest of justice" is served by holding parties to their bargain. *Id.* at 66.

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In *Liberty Mutual*, the Ninth Circuit stated that it "must assume" that forum selection clause was incorporated into the overall terms of the contract and may have been a critical factor for the parties to do business. *supra* at 1170. Ultimately, it rejected arguments that the high costs and inconvenience of litigating in Australia will deprive plaintiffs of their day in court. *s.* at 1159 ("While we do not doubt that bringing this claim in Australia will impose burdens on the Lewis family, we are unable to conclude that the district court abused its discretion in failing to refuse dismissal for this reason."); see, *Yei, supra*, at 1091-92 (citing *Atlantic Marine* under the court's analysis of the third *Bremen* exception for the proposition that parties who have agreed to forum selection clauses "waive the right to challenge the preselected forum as inconvenient or less convenient for themselves or their witnesses, or for their pursuit of the litigation.").

The court is not unsympathetic regarding the position of Trustee. However, under the applicable law, granting of the Motion is required.

EVIDENTIARY OBJECTIONS

Hyundai's Evidentiary Objections to the Declaration of Richard Marshack

All three evidentiary objections are overruled.

Hyundai's Evidentiary Objections to the Declaration of Min Ho An

<u>Objection #</u>	<u>Ruling</u>
1 -5	Sustained FRE 602
6	Overruled
7	Sustained as to "Prime sent these . . . financial

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interest in Prime." Overruled as to balance of the objection

8	Sustained FRE 801
9	Sustained FRE 602
10	Sustained FRE 801

Hyundai's Evidentiary Objections to the Declaration of Robert Goe

<u>Objection #</u>	<u>Ruling</u>
1	Sustained FRE 801
2	Sustained FRE 801 901
3	Sustained FRE 801 901
4	Sustained FRE 801
5	Overruled

Trustee's Evidentiary Objections to the Declaration of Cho, Gi Je

<u>Objection #</u>	<u>Ruling</u>
1	Overrule
2	Overrule
3	Overrule
4	Sustain
5	Sustain
6	Sustain

**Party Information**

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Hyundai Steel Company

Represented By

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Philip S Warden

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 14, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#1.00** CONT'D Hearing RE: Motion for Approval of Stipulation Between Bruce Elieff and the Official Committee of Unsecured Creditors of Bruce Elieff Granting the Committee Standing to Pursue Avoidance Actions and Actions Against Insiders on Behalf of Bruce Elieff's Estate; Stipulation

FR: 4-17-20

Docket 217

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Movant(s):**

Official Committee of Unsecured

Represented By  
Richard Lee Wynne

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 14, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#2.00** CONT'D Hearing RE: Creditor Todd Kurtin's Motion for Order Directing Appointment of Chapter 11 Trustee

FR: 1-30-20; 4-17-20

Docket 209

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 14, 2020

Hearing Room 5A

10:00 AM

8:19-13858 Bruce Elieff

Chapter 11

#3.00 CON'TD Hearing RE: First Interim Application for Allowance of Compensation and Reimbursement of Expenses **[Affects Bruce Elieff]**

**[COUCHOT LAW, LLP, GENERAL INSOLVENCY COUNSEL TO BRUCE ELIEFF]**

FR: 4-30-20

Docket 390

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 14, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#4.00 CON'TD Hearing RE: First Interim Fee Application for Allowance and Payment of Fees and Reimbursement of Expenses Incurred as Financial Advisor to the Debtors of Bruce Elieff, Morse Properties, LLC and 4627 Camden, LLC [Affects All Debtors]**

**[FORCE TEN PARTNERS, LLC, FINANCIAL ADVISOR TO THE DEBTORS]**

FR: 4-30-20

Docket 391

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

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

Bruce Elieff

Represented By  
Paul J Couchot

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 14, 2020

Hearing Room 5A

10:00 AM

8:19-13858 Bruce Elieff

Chapter 11

#5.00 CON'TD Hearing RE: First Interim Application for Allowance and Payment of Fees and Reimbursement of Expenses

[HOGAN LOVELLS US LLP AS COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF BRUCE ELIEFF]

FR: 4-30-20

Docket 382

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing Held 5/4/2020 (XX) - td (5/5/2020)**

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 14, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#6.00 CON'TD Hearing RE: First Interim Application for Allowance and Payment of Fees and Reimbursement of Expenses**

**[TRAVERSE, LLC AS FINANCIAL ADVISOR TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF BRUCE ELIEFF]**

FR: 4-30-20

Docket 384

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing Held 5/4/2020 (XX) - td (5/5/2020)**

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 14, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13874 Morse Properties LLC**

**Chapter 11**

**#7.00 CON'TD Hearing RE: First Interim Application for Allowance of Compensation and Reimbursement of Expenses**

**[COUCHOT LAW LLP, GENERAL INSOLVENCY COUNSEL TO MORSE PROPERTIES, LLC]**

FR: 4-30-20

Docket 35

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing Held 5/4/2020 (XX) - td (5/5/2020)**

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

**Debtor(s):**

Morse Properties LLC

Represented By  
Paul J Couchot

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 14, 2020

Hearing Room 5A

10:00 AM

8:19-13875 4627 Camden LLC

Chapter 11

#8.00 CON'TD Hearing RE: First Interim Application for Allowance of Compensation and Reimbursement of Expenses

[COUCHOT LAW, LLP, GENERAL INSOLVENCY COUNSEL TO 4627 CAMDEN, LLC]

FR: 4-30-20

Docket 37

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing Held 5/4/2020 (XX) - td (5/5/2020)**

**Party Information**

**Debtor(s):**

4627 Camden LLC

Represented By  
Paul J Couchot



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 14, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#9.00** CONT'D Hearing RE: Creditor Todd Kurtin's Motion For Order Converting Case to Chapter 7

FR: 4-2-20

Docket 26

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

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

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**Movant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 14, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#10.00 CON'TD STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case**

FR: 4-2-20

Docket 2

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

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

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 14, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#11.00** Hearing RE: Objection of Creditor Todd Kurtin to the Professional Fee Statement of #1 of Goe & Forsythe & Hodges LLP

Docket 60

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

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

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 14, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#12.00** CONT'D Hearing RE: Creditor Todd Kurtin's Motion For Order Converting Case to Chapter 7

FR: 4-2-20

Docket 25

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Party Information**

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**Movant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 14, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#13.00 CON'TD STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case**

FR: 4-2-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

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

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 14, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#14.00** Hearing RE: Objection of Creditor Todd Kurtin to the Professional Fee Statement of #1 of Goe & Forsythe & Hodges LLP

Docket 53

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

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

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 14, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#15.00 CON'TD Hearing RE: Creditor Todd Kurtin's Motion For Order Converting Case to Chapter 7**

FR: 4-2-20

Docket 25

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

**Party Information**

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe

**Movant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 14, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#16.00 CON'TD STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case**

FR: 4-2-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing  
Held 5/4/2020 (XX) - td (5/5/2020)**

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

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 14, 2020

Hearing Room 5A

10:00 AM

8:20-10374 TDV Development Corporation

Chapter 11

#17.00 Hearing RE: Objection of Creditor Todd Kurtin to the Professional Fee Statement of #1 of Goe & Forsythe & Hodges LLP

Docket 54

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/19/2020 AT 11:00 A.M.,  
Per Hearing Held 5/4/2020 (XX)

Courtroom Deputy:

**CONTINUED: Hearing Continued to 5/19/2020 at 11:00 a.m, Per Hearing Held 5/4/2020 (XX) - td (5/5/2020)**

Party Information

Debtor(s):

TDV Development Corporation

Represented By  
Robert P Goe

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, May 19, 2020

Hearing Room 5A

11:00 AM

8:19-13858 Bruce Elieff

Chapter 11

#1.00 CON'TD Hearing RE: First Interim Fee Application for Allowance and Payment of Fees and Reimbursement of Expenses Incurred as Financial Advisor to the Debtors of Bruce Elieff, Morse Properties, LLC and 4627 Camden, LLC **[Affects All Debtors]**

**[FORCE TEN PARTNERS, LLC, FINANCIAL ADVISOR TO THE DEBTORS]**

FR: 4-30-20; 5-14-20

Docket 391

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

8:19-13858 Bruce Elieff

Chapter 11

#2.00 CON'TD Hearing RE: First Interim Application for Allowance and Payment of Fees and Reimbursement of Expenses

**[TRAVERSE, LLC AS FINANCIAL ADVISOR TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF BRUCE ELIEFF]**

FR: 4-30-20 5-14-20

Docket 384

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, May 19, 2020

Hearing Room 5A

11:00 AM

CONT... Bruce Elieff

Chapter 11

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

8:19-13858 Bruce Elieff

Chapter 11

#3.00 CON'TD Hearing RE: First Interim Application for Allowance and Payment of Fees and Reimbursement of Expenses

**[HOGAN LOVELLS US LLP AS COUNSEL TO THE OFFICIAL COMMITTEE  
OF UNSECURED CREDITORS OF BRUCE ELIEFF]**

FR: 4-30-20; 5-14-20

Docket 382

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

8:19-13858 Bruce Elieff

Chapter 11

#4.00 CON'TD Hearing RE: First Interim Application for Allowance of Compensation and Reimbursement of Expenses **[Affects Bruce Elieff]**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, May 19, 2020

Hearing Room 5A

11:00 AM

CONT... Bruce Elieff

Chapter 11

[COUCHOT LAW, LLP, GENERAL INSOLVENCY COUNSEL TO BRUCE ELIEFF]

FR: 4-30-20; 5-14-20

Docket 390

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

8:19-13858 Bruce Elieff

Chapter 11

#5.00 CONT'D Hearing RE: Creditor Todd Kurtin's Motion for Order Directing  
Appointment of Chapter 11 Trustee

FR: 1-30-20; 4-17-20; 5-14-20

Docket 209

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 19, 2020**

**Hearing Room 5A**

11:00 AM

**CONT...**     **Bruce Elieff**     **Chapter 11**  
Paul J Couchot

**8:19-13858**     **Bruce Elieff**     **Chapter 11**

**#6.00**     CONT'D Hearing RE: Motion for Approval of Stipulation Between Bruce Elieff and the Official Committee of Unsecured Creditors of Bruce Elieff Granting the Committee Standing to Pursue Avoidance Actions and Actions Against Insiders on Behalf of Bruce Elieff's Estate; Stipulation

FR: 4-17-20; 5-14-20

Docket     217

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Movant(s):**

Official Committee of Unsecured

Represented By  
Richard Lee Wynne

**8:19-13858**     **Bruce Elieff**     **Chapter 11**

**#7.00**     CONT'D Hearing RE: The Official Committee of Unsecured Creditor's of Bruce Elieff's Motion for Order Substantially Consolidating Chapter 11 Estates of Morse Properties, LLC, 4627 Camden, LLC, TDV Development Corporation, Heritage Colorado LLC, and Broadband Nation LLC into Chapter 11 Estate of Bruce Elieff

FR: 5-7-20

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, May 19, 2020

Hearing Room 5A

11:00 AM

CONT... Bruce Elieff Chapter 11

Docket 421

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/23/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

8:19-13858 Bruce Elieff Chapter 11

**#8.00** CON'TD Hearing RE: Debtors' Motion for an Order Authorizing Extension of  
Exclusivity Period for Soliciting Acceptances to the Plan, Pursuant to 11 U.S.C.  
Section 1121(d) **[Affects All Debtors]**

FR: 5-7-20

Docket 357

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/23/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

8:19-13858 Bruce Elieff Chapter 11

**#9.00** CONT' Hearing RE: Related Debtors' Motion for Order Disallowing Claims of

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 19, 2020**

**Hearing Room 5A**

11:00 AM

**CONT...**

**Bruce Elieff**

**Chapter 11**

Todd C. Kurtin Pursuant to 11 U.S.C. Section 502(d):

Claim No. 29	Kurtin	\$33,892,117.62	[Debtor: Elieff]
Claim No. 9	Kurtin	\$33,892,117.62	[Debtor: Morse]
Claim No. 12	Kurtin	\$33,892,117.62	[Debtor: Camden]

FR: 4-16-20; 5-12-20

Docket 323

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/23/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#10.00** CONT'D Hearing RE: Creditor Todd Kurtin's Objection to Claims:

Cl. #12 ( <b>Elieff</b> )	Miller Barondess LLP
Cl. #4 ( <b>Morse</b> )	Miller Barondess LLP
Cl. #5 ( <b>Camden</b> )	Miller Barondess LLP

FR: 5-12-20

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 19, 2020**

**Hearing Room 5A**

11:00 AM

**CONT... Bruce Elieff Chapter 11**

Docket 360

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/23/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**8:19-13858 Bruce Elieff Chapter 11**

**#11.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claims:**

Cl. #21 (**Elieff**) E.O.C. Ord, Inc.

Cl. # 8 (**Morse**) E.O.C. Ord, Inc.

Cl. #10 (**Camden**) E.O.C. Ord, Inc.

FR: 5-12-20

Docket 362

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/23/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 19, 2020**

**Hearing Room 5A**

11:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#12.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claims:

Cl. # 6 (**Morse**) Bond Safeguard Insurance Company

Cl. #8 (**Camden**) Bond Safeguard Insurance Company

FR: 5-12-20

Docket 364

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/23/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**8:19-13874 Morse Properties LLC**

**Chapter 11**

**#13.00** CON'TD Hearing RE: First Interim Application for Allowance of Compensation and Reimbursement of Expenses

**[COUCHOT LAW LLP, GENERAL INSOLVENCY COUNSEL TO MORSE  
PROPERTIES, LLC]**

FR: 4-30-20; 5-14-20

Docket 35

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 19, 2020**

**Hearing Room 5A**

11:00 AM

**CONT... Morse Properties LLC**

**Chapter 11**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Morse Properties LLC

Represented By  
Paul J Couchot

**8:19-13875 4627 Camden LLC**

**Chapter 11**

**#14.00** CON'TD Hearing RE: First Interim Application for Allowance of Compensation and Reimbursement of Expenses

**[COUCHOT LAW, LLP, GENERAL INSOLVENCY COUNSEL TO 4627  
CAMDEN, LLC]**

FR: 4-30-20; 5-14-20

Docket 37

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

4627 Camden LLC

Represented By  
Paul J Couchot

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#15.00** CONT'D Hearing RE: Creditor Todd Kurtin's Motion For Order Converting Case to Chapter 7

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, May 19, 2020

Hearing Room 5A

11:00 AM

CONT... Broadband Nation LLC

Chapter 11

FR: 4-2-20; 5-14-20

Docket 26

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**Movant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

8:20-10372 Broadband Nation LLC

Chapter 11

#16.00 CONT'D Hearing RE: Objection of Creditor Todd Kurtin to the Professional Fee  
Statement of #1 of Goe & Forsythe & Hodges LLP

FR: 5-14-20

Docket 60

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Broadband Nation LLC

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 19, 2020**

**Hearing Room 5A**

11:00 AM

**CONT...**      **Broadband Nation LLC**      **Chapter 11**  
Robert P Goe

**8:20-10372**      **Broadband Nation LLC**      **Chapter 11**

**#17.00**      CON'TD STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case

FR: 4-2-20; 5-14-20

Docket      2

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**8:20-10372**      **Broadband Nation LLC**      **Chapter 11**

**#18.00**      CON'TD Hearing RE: The Official Committee of Unsecured Creditor's of Bruce  
Elieff's Motion for Order Substantially Consolidating Chapter 11 Estates of  
Morse Properties, LLC, 4627 Camden, LLC, TDV Development Corporation,  
Heritage Colorado LLC, and Broadband Nation LLC into Chapter 11 Estate of  
Bruce Elieff

FR: 5-7-20

Docket      61

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/23/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, May 19, 2020

Hearing Room 5A

11:00 AM

CONT... **Broadband Nation LLC**

**Chapter 11**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#19.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #3 by Bond  
Safeguard Insurance Company

FR: 5-12-20

Docket 37

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/23/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#20.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #2 by E.O.C.  
Ord, Inc.

FR: 5-12-20

Docket 35

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/23/2020 AT 10:00 A.M.,**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 19, 2020**

**Hearing Room 5A**

11:00 AM

**CONT... Broadband Nation LLC  
Per Order Entered 5/6/2020**

**Chapter 11**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#21.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim # 1 by Miller  
Barondess LLP**

FR: 5-12-20

Docket 36

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/23/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#22.00 CONT'D Hearing RE: Creditor Todd Kurtin's Motion For Order Converting Case  
to Chapter 7**

FR: 4-2-20; 5-14-20

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, May 19, 2020

Hearing Room 5A

11:00 AM

CONT... Heritage Colorado LLC Chapter 11

Docket 25

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**Movant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

8:20-10373 Heritage Colorado LLC Chapter 11

#23.00 CONT'D Hearing RE: Objection of Creditor Todd Kurtin to the Professional Fee  
Statement of #1 of Goe & Forsythe & Hodges LLP

FR: 5-14-20

Docket 53

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

8:20-10373 Heritage Colorado LLC Chapter 11

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, May 19, 2020

Hearing Room 5A

11:00 AM

CONT... Heritage Colorado LLC Chapter 11  
#24.00 CON'TD STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case

FR: 4-2-20; 5-14-20

Docket 1

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Heritage Colorado LLC

Represented By  
Robert P Goe

8:20-10373 Heritage Colorado LLC Chapter 11

#25.00 CON'TD Hearing RE: The Official Committee of Unsecured Creditor's of Bruce  
Elieff's Motion for Order Substantially Consolidating Chapter 11 Estates of  
Morse Properties, LLC, 4627 Camden, LLC, TDV Development Corporation,  
Heritage Colorado LLC, and Broadband Nation LLC into Chapter 11 Estate of  
Bruce Elieff

FR: 5-7-20

Docket 54

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/23/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020

Courtroom Deputy:

- NONE LISTED -

Party Information



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, May 19, 2020

Hearing Room 5A

11:00 AM

CONT... Heritage Colorado LLC Chapter 11

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

8:20-10373 Heritage Colorado LLC Chapter 11

#26.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #2 by Bond  
Safeguard Insurance Company

FR: 5-12-20

Docket 34

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/23/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

8:20-10373 Heritage Colorado LLC Chapter 11

#27.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim # 3 By E.O.C.  
Ord, Inc.

FR: 5-12-20

Docket 35

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/23/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

- NONE LISTED -

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, May 19, 2020

Hearing Room 5A

11:00 AM

CONT... Heritage Colorado LLC Chapter 11

**Party Information**

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

8:20-10373 Heritage Colorado LLC Chapter 11

#28.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #1 by Miller Barondess LLP

FR: 5-12-20

Docket 36

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/23/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

8:20-10374 TDV Development Corporation Chapter 11

#29.00 CON'TD Hearing RE: Creditor Todd Kurtin's Motion For Order Converting Case to Chapter 7

FR: 4-2-20; 5-14-20

Docket 25

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 19, 2020**

**Hearing Room 5A**

11:00 AM

**CONT... TDV Development Corporation**  
- NONE LISTED -

**Chapter 11**

**Party Information**

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe

**Movant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#30.00** CONT'D Hearing RE: Objection of Creditor Todd Kurtin to the Professional Fee Statement of #1 of Goe & Forsythe & Hodges LLP

FR: 5-14-20

Docket 54

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#31.00** CON'TD STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and (2) Requiring Report on Status of Chapter 11 Case

FR: 4-2-20; 5-14-20

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, May 19, 2020

Hearing Room 5A

11:00 AM

CONT... TDV Development Corporation Chapter 11

Docket 1

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe

8:20-10374 TDV Development Corporation Chapter 11

#32.00 CON'TD Hearing RE: The Official Committee of Unsecured Creditor's of Bruce Elieff's Motion for Order Substantially Consolidating Chapter 11 Estates of Morse Properties, LLC, 4627 Camden, LLC, TDV Development Corporation, Heritage Colorado LLC, and Broadband Nation LLC into Chapter 11 Estate of Bruce Elieff

FR: 5-7-20

Docket 56

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/23/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe

8:20-10374 TDV Development Corporation Chapter 11

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 19, 2020**

**Hearing Room 5A**

11:00 AM

**CONT...**      **TDV Development Corporation**      **Chapter 11**  
#33.00      CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #2 by Miller  
Barondess

FR: 5-12-20

Docket      36

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/23/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

TDV Development Corporation      Represented By  
Robert P Goe

**8:20-10374 TDV Development Corporation Chapter 11**

#34.00      CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #3 by E.O.C.  
Ord, Inc.

FR: 5-12-20

Docket      35

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/23/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

TDV Development Corporation      Represented By  
Robert P Goe

**8:20-10374 TDV Development Corporation Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 19, 2020**

**Hearing Room 5A**

11:00 AM

**CONT... TDV Development Corporation Chapter 11**

**#35.00 CONT'D Hearing RE: Creditor Todd Kurtin's Objection to Claim #4 by Bond  
Safeguard Insurance Company**

FR: 5-12-20

Docket 37

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/23/2020 AT 10:00 A.M.,  
Per Order Entered 5/6/2020**

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-10706 John Jean Bral**

**Chapter 11**

Adv#: 8:17-01071 Bral v. Beitler

**#1.00** CONT'D STATUS CONFERENCE Hearing RE: Motion for Summary Judgment on Debtor's First Amended Complaint Against Barry Beitler for: (1) Avoidance of Preference Pursuant to 11 U.S.C. Section 547; (2) Avoidance of Unperfected Liens Pursuant to 11 U.S.C. Section 544(A); (3) Recovery of Avoided Transfers Pursuant to 11 U.S.C. Section 550; and (4) Disallowance of Claims Pursuant to 11 U.S.C. Section 502

FR: 9-20-18; 3-21-19; 8-15-19; 1-30-20

Docket 27

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**September 20, 2018**

Continue status conference to March 21, 2019 at 9:30 a.m.; updated status report to be filed by March 7, 2019 (XX)

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**March 21, 2019**

Continue status conference to August 15, 2019 at 9:30 a.m.; updated joint status report to be filed by August 1, 2019. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at the March 21, 2019 hearing are not required.***

-----

**August 15, 2019**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 21, 2020

Hearing Room 5A

9:30 AM

CONT...

John Jean Bral

Chapter 11

Continue status conference to January 30, 2020 at 9:30 a.m.; updated status report must be filed by January 16, 2020. (XX)

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***

-----  
**January 30, 2020**

Continue status conference to May 21, 2020 at 9:30 a.m.; updated joint status report must be filed by May 7, 2020. (XX)

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***

-----  
**May 21, 2020**

Continue hearing to September 17, 2020 at 9:30 a.m.

***Note: Appearance at this hearing is not required; non appearance at today's hearing shall be deemed acceptance of the tentative ruling.***

-----  
**Party Information**

**Debtor(s):**

John Jean Bral

Represented By  
Beth Gaschen



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... John Jean Bral**

**Chapter 11**

Alan J Friedman  
William N Lobel  
Babak Samini  
Dean A Ziehl

**Defendant(s):**

Barry Beitler

Represented By  
Krikor J Meshefejian

**Plaintiff(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel

**8:17-10706 John Jean Bral**

**Chapter 11**

Adv#: 8:17-01071 Bral v. Beitler

**#2.00** CONT'D STATUS CONFERENCE RE: First Amended Complaint Against Barry Beitler for: (1) Avoidance of Preference Pursuant to 11 U.S.C. §547; (2) Avoidance of Unperfected Liens Pursuant to 11 U.S.C. §544(A); (3) Recovery of Avoided Transfers Pursuant to 11 U.S.C. §550; and (4) Disallowance of Claims Pursuant to 11 U.S.C. §502

FR: 9-20-18; 3-21-19; 8-15-19; 1-30-20

Docket 20

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**September 20, 2018**

Continue status conference to March 21, 2019 at 9:30 a.m.; updated status

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

---

9:30 AM

CONT... **John Jean Bral**

Chapter 11

report to be filed by March 7, 2019 (XX)  
-----

**March 21, 2019**

Continue status conference to August 15, 2019 at 9:30 a.m.; updated joint status report to be filed by August 1, 2019. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at the March 21, 2019 hearing are not required.***  
-----

**August 15, 2019**

Continue status conference to January 30, 2020 at 9:30 a.m.; updated status report must be filed by January 16, 2020. (XX)

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***  
-----

**January 30, 2020**

Continue status conference to May 21, 2020 at 9:30 a.m.; updated joint status report must be filed by May 7, 2020. (XX)

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***  
-----

**May 21, 2020**

Continue hearing to September 17, 2020 at 9:30 a.m.; updated joint status report must be filed by September 3, 2020.

***Note: Appearance at this hearing is not required; non appearance at***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

9:30 AM

CONT... John Jean Bral

Chapter 11

*today's hearing shall be deemed acceptance of the tentative ruling.  
Plaintiff to serve notice of the continued hearing date/time.*

**Party Information**

**Debtor(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel  
Babak Samini  
Dean A Ziehl

**Defendant(s):**

Barry Beitler

Represented By  
Krikor J Meshefejian

**Plaintiff(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel

**8:17-10706 John Jean Bral**

**Chapter 11**

Adv#: 8:17-01092 Beitler v. Bral

**#3.00** CONT'D STATUS CONFERENCE RE: First Amended Complaint to Determine  
Non-dischargeability of Debt under Bankruptcy Code Section 523

FR: 9-20-18; 3-21-19; 8-15-19; 1-30-20

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

9:30 AM

CONT...

**John Jean Bral**

Docket 35

**Chapter 11**

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**September 20, 2018**

Continue status conference to March 21, 2019 at 9:30 a.m.; updated status report to be filed by March 7, 2019 (XX)

-----

**March 21, 2019**

Continuue status conference to August 15, 2019 at 9:30 a.m.; updated joint status report to be filed by August 1, 2019. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at the March 21, 2019 hearing are not required.***

-----

**August 15, 2019**

Continue status conference to January 30, 2020 at 9:30 a.m.; updated status report must be filed by January 16, 2020. (XX)

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***

-----

**January 30, 2020**

Continue status conference to May 21, 2020 at 9:30 a.m.; updated joint status report must be filed by May 7, 2020. (XX)

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

9:30 AM

CONT...

John Jean Bral

Chapter 11

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***

-----

**May 21, 2020**

Continue hearing to September 17, 2020 at 9:30 a.m.; updated joint status report must be filed by September 3, 2020.

***Note: Appearance at this hearing is not required; non appearance at today's hearing shall be deemed acceptance of the tentative ruling. Plaintiff to serve notice of the continued hearing date/time.***

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

**Debtor(s):**

John Jean Bral

Represented By

Beth Gaschen  
Alan J Friedman  
William N Lobel  
Babak Samini  
Dean A Ziehl

**Defendant(s):**

John Jean Bral

Represented By

William N Lobel  
Beth Gaschen  
Alan J Friedman

**Plaintiff(s):**

Barry Beitler

Represented By

Krikor J Meshefejian  
Gary E Klausner

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-10706 John Jean Bral**

**Chapter 11**

Adv#: 8:17-01094 Beitler & Associates, Inc. dba Beitler Commercial v. Bral

**#4.00** CONT'D STATUS CONFERENCE RE: First Amended Complaint to Determine Non-dischargeability of Debt Under Bankruptcy Code Section 523

FR: 9-20-18; 3-21-19; 8-15-19; 1-30-20

Docket 35

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**September 20, 2018**

Continue status conference to March 21, 2019 at 9:30 a.m.; updated status report to be filed by March 7, 2019 (XX)

-----

**March 21, 2019**

Continue status conference to August 15, 2019 at 9:30 a.m.; updated joint status report to be filed by August 1, 2019. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at the March 21, 2019 hearing are not required.***

-----

**August 15, 2019**

Continue status conference to January 30, 2020 at 9:30 a.m.; updated status report must be filed by January 16, 2020. (XX)

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 21, 2020

Hearing Room 5A

9:30 AM

CONT... John Jean Bral

Chapter 11

-----  
**January 30, 2020**

Continue status conference to May 21, 2020 at 9:30 a.m.; updated joint status report must be filed by May 7, 2020. (XX)

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***

-----  
**May 21, 2020**

Continue hearing to September 17, 2020 at 9:30 a.m.; updated joint status report must be filed by September 3, 2020.

***Note: Appearance at this hearing is not required; non appearance at today's hearing shall be deemed acceptance of the tentative ruling. Plaintiff to serve notice of the continued hearing date/time.***

**Party Information**

**Debtor(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel  
Babak Samini  
Dean A Ziehl

**Defendant(s):**

John Jean Bral

Represented By  
William N Lobel  
Beth Gaschen  
Alan J Friedman

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... John Jean Bral**

**Chapter 11**

**Plaintiff(s):**

Beitler & Associates, Inc. dba Beitler

Represented By  
Krikor J Meshefejian  
Gary E Klausner

**8:17-10706 John Jean Bral**

**Chapter 11**

Adv#: 8:17-01095 Steward Financial LLC v. Bral

**#5.00** CONT'D STATUS CONFERENCE RE: First Amended Complaint to Determine Non-dischargeability of Debt Under Bankruptcy Code Section 523

FR: 9-20-18; 3-21-19; 8-15-19; 9-19-19; 11-21-19; 2-20-20

Docket 35

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion for Order: (1) Staying Adversary Proceeding Pending Resolution of Appeal of Order Sustaining Objection to Claim No. 19; or, Alternatively (2) Authorizing Steward Financial LLC to Dismiss Adversary Proceeding Without Prejudice Entered 4/27/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Granting Motion for Order: (1) Staying Adversary Proceeding Pending Resolution of Appeal of Order Sustaining Objection to Claim No. 19; or, Alternatively (2) Authorizing Steward Financial LLC to Dismiss Adversary Proceeding Without Prejudice Entered 4/27/2020 - td (5/13/2020)**

**Tentative Ruling:**

**September 20, 2018**

Continue status conference to March 21, 2019 at 9:30 a.m.; updated status report to be filed by March 7, 2019 (XX)

-----

**March 21, 2019**



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

9:30 AM

CONT...

**John Jean Bral**

Chapter 11

Continue status conference to August 15, 2019 at 9:30 a.m.; updated joint status report to be filed by August 1, 2019. **Deadline for Defendant to file responsive pleading to the FAC: June 20, 2019. (XX)**

***Note: If all parties accept the foregoing tentative ruling, appearances at the March 21, 2019 hearing are not required.***

-----

**August 15, 2019**

Continue status conference to September 19, 2019 at 2:00 p.m.; an updated status report is not required. (XX)

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***

-----

**September 19, 2019**

Continue status conference to November 21, 2019 at 2:00 p.m.; an updated status report is not required. (XX)

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***

-----

**February 20, 2020**

Continue status conference to May 21, 2020 at 9:30 a.m.; updated joint status report must be filed by May 7, 2020. (XX)

***Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued date/time.***

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... John Jean Bral**

**Chapter 11**

**Debtor(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel  
Babak Samini  
Dean A Ziehl

**Defendant(s):**

John Jean Bral

Represented By  
William N Lobel  
Beth Gaschen  
Alan J Friedman

**Plaintiff(s):**

Steward Financial LLC

Represented By  
Krikor J Meshefejian  
Gary E Klausner

**8:17-12373 Todd Leroy Hinker**

**Chapter 7**

Adv#: 8:17-01153 Hinker v. Hinker

**#6.00** CONT'D STATUS CONFERENCE RE: Complaint for Determination of Non-Dischargeability of Debt

FR: 12-14-17; 3-22-18; 3-29-18; 6-21-18; 9-20-18; 12-6-18; 4-18-19; 9-19-19;  
12-5-19

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 29, 2018**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room**

**5A**

---

9:30 AM

CONT...      **Todd Leroy Hinker**

**Chapter 7**

Continue status conference to June 21, 2018 at 9:30 a.m.; updated report re status of state court action must be filed by June 7, 2018. (XX)

***Note: Appearances at this hearing are not required; Plaintiff shall serve notice of the continued hearing date/time.***

-----

**June 21, 2018**

Continue status conference to September 20, 2018 at 9:30 a.m.; updated report re status of state court action must be filed by September 7, 2018. (XX)

***Note: Appearances at this hearing are not required; Plaintiff shall serve notice of the continued hearing date/time.***

-----

**September 20, 2018**

Continue status conference to December 6, 2018 at 9:30 a.m.; updated status report must be filed by November 29, 2018. (XX)

*Special Note: The status report for December 6, 2018 should provide a substantive update of the status/procedural posture of the state court action.*

***Note: Appearances at today's hearing are not required; Plaintiff to serve notice of the continued hearing date/time.***

-----

**December 6, 2018**

Continue status conference to April 18, 2019 at 9:30 a.m.; updated joint status report must be filed by April 4, 2019. (XX)

***Note: Appearances at today's hearing are not required; Plaintiff to serve notice of the continued hearing date/time.***

-----

**April 18, 2019**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room

5A

---

9:30 AM

CONT...

Todd Leroy Hinker

Chapter 7

In light of pending state court litigation, continue status conference to September 19, 2019 at 9:30 a.m.; updated status report must be filed by September 5, 2019. (XX)

***Note: Appearances at today's hearing are not required; Plaintiff to serve notice of the continued hearing date/time.***

-----

**September 19, 2019**

In light of the upcoming trial in the state court litigation, continue status conference to December 5, 2019 at 9:30 a.m.; updated status report must be filed by November 21, 2019. (XX)

***Note: Appearances at today's hearing are not required; Plaintiff to serve notice of the continued hearing date/time.***

-----

**December 5, 2019**

In light of the pending state court matter, continue this Status Conference to May 21, 2020 at 9:30 a.m.; updated Joint Status Report must be filed by May 7, 2020. (XX)

***Note: Appearances at today's hearing are not required; Plaintiff to serve notice of the continued hearing date/time.***

-----

**May 21, 2020**

Continue hearing to December 17, 2020 at 9:30 a.m.; updated joint status report must be filed by December 3, 2020.

***Note: Appearance at this hearing is not required; non appearance at today's hearing shall be deemed acceptance of the tentative ruling. Plaintiff to serve notice of the continued hearing date/time.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

9:30 AM

CONT... Todd Leroy Hinker

Chapter 7

**Party Information**

**Debtor(s):**

Todd Leroy Hinker

Represented By  
Diane L Mancinelli

**Defendant(s):**

Todd Leroy Hinker

Pro Se

**Plaintiff(s):**

Christine Hinker

Represented By  
Marc C Forsythe

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**8:17-14535 Prime Metals U.S.A., Inc.**  
Adv#: 8:19-01213 Marshack v. An et al

Chapter 7

**#7.00** CON'TD STATUS CONFERENCE RE: Complaint for: 1. Avoidance and Recover of Constructive Fraudulent Transfers; 2. Avoidance and Recovery of Property of the Bankruptcy Estate; 3. Avoidance of Preferential Transfers; and 4. Recovery of Avoided Transfers

FR: 1-30-20; 3-19-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 7/23/2020 AT 9:30 A.M.,  
Per Order Entered 5/13/2020 (XX)**

**Courtroom Deputy:**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

**SPECIAL NOTE: Status Conference Continued to 7/23/2020 at 9:30 a.m.,  
Per Order Entered 5/13/2020 (XX) - td (5/13/2020)**

**Tentative Ruling:**

**January 30, 2020**

Joint status report not timely filed.\* Parties must appear and advise the court re the status of this matter.

\* The Stipulation and Order [docket #s 5 & 6] only extended the answer date -- did not include an extension of the deadline to file a status report.

***Note: Appearances at the hearing are required.***

-----

**May 21, 2020**

Continue the status conference to July 23, 2020 at 9:30 a.m.; updated status report must be filed by July 16, 2020 if the adversary is still pending by such date.

***Note: Appearances at this hearing are not required.***

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Minho An

Pro Se

Byungwhan Chung

Pro Se

**Plaintiff(s):**

Richard A Marshack

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

Ronald S Goe  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**8:19-10275 Michael J Duff**

**Chapter 7**

Adv#: 8:19-01084 Constantin et al v. Duff

**#8.00 CON'TD PRE-TRIAL CONFERENCE RE: Complaint to Deny Debtor's Discharge**

FR: 8-1-19; 1-30-20; 2-20-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/18/2020 AT 9:30 A.M.  
Per Hearing Held 4/16/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Pre-trial Conference Continued to 6/18/2020 at 9:30 a.m.,  
Per Hearing Held 4/16/2020 (XX) - td (4/20/2020)**

**Tentative Ruling:**

**August 1, 2019**

Discovery Cut-off Date:	Nov. 4, 2019
Deadline to Attend Mediation:	Dec. 20, 2019
Pretrial Conference Date:	Jan. 30, 2020 at 9:30 a.m. (XX)
Deadline to Lodge Joint Pretrial Stipulation:	Jan. 16, 2020

**Note: If all parties agree with the foregoing schedule, appearances at**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

9:30 AM

CONT... Michael J Duff

Chapter 7

*today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.*

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

**Debtor(s):**

Michael J Duff Pro Se

**Defendant(s):**

Michael J. Duff Pro Se

**Plaintiff(s):**

Holly Constantin Represented By  
Alan W Forsley

Michael Constantin Represented By  
Alan W Forsley

**Trustee(s):**

Richard A Marshack (TR) Pro Se

**8:19-11546 Joseph Ra**

**Chapter 7**

Adv#: 8:19-01163 O'Gara Coach Company, LLC v. Ra

**#9.00** PRE-TRIAL CONFERENCE RE: Complaint To Determine NonDischargeability Of Debt [11 U.S.C. Section 523(a)(4) And 523(a)(6)]

FR: 11-7-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 10/22/2020 AT 9:30 A.M.,  
Per Order Entered 5/4/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Pre-trial Conference Continued to 10/22/2020 at 9:30 a.m.,  
Per Order Entered 5/4/2020 (XX) - td (5/4/2020)**



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Joseph Ra**

**Chapter 7**

**Tentative Ruling:**

**November 7, 2019**

Discovery Cut-off Date:	Mar. 13, 2020
Deadline to File Summary Judgment Motion:	Mar. 31, 2020
Pretrial Conference Date:	May 21, 2020 at 9:30 a.m. (XX)
Deadline to File Joint Pretrial Stipulation:	May 7, 2020

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

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

**Debtor(s):**

Joseph Ra

Represented By  
David B Golubchik

**Defendant(s):**

Joseph Ra

Pro Se

**Plaintiff(s):**

O'Gara Coach Company, LLC

Represented By  
Steven T Gubner

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector

**8:19-11551 Richard Allen Rietveld**  
Adv#: 8:19-01162 Becharoff Capital Corporation v. Rietveld

**Chapter 7**

**#10.00 PRE-TRIAL CONFERENCE RE: Complaint Objecting To Debtor's Discharge**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room

5A

9:30 AM

CONT...

**Richard Allen Rietveld**

**Chapter 7**

Under 11 U.S.C. Section 727(a)(2), 727(a)(3), 727 (a)(4) and 727(a)(5)

FR: 11-7-19

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 8/20/2020 AT 9:30 A.M.,  
Per Order Entered 5/19/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Pre-trial Conference Continued to 8/20/2020 at 9:30 a.m., Per  
Order Entered 5/19/2020 (XX) - td (5/19/2020)**

**Tentative Ruling:**

**November 7, 2019**

Discovery Cut-off Date: April 1, 2020  
Pretrial Conference Date: May 21, 2020 at 9:30 a.m. (XX)  
Deadline to File Joint Pretrial Stipulation: May 7, 2020

***Note: If all parties agree with the foregoing schedule, appearances at  
today's hearing are waived and Plaintiff shall serve/lodge a scheduling  
order consistent with the same.***

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

**Debtor(s):**

Richard Allen Rietveld

Represented By  
Alon Darvish

**Defendant(s):**

Richard Allen Rietveld

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

9:30 AM

CONT... Richard Allen Rietveld

Chapter 7

**Plaintiff(s):**

Becharoff Capital Corporation

Represented By  
Fritz J Firman

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

8:19-13845 Walt Dodge

Chapter 13

Adv#: 8:20-01022 Dodge v. Internal Revenue Service

#11.00 STATUS CONFERENCE RE: Adversary Proceeding by Debtor with Respect to Claims for Allowance of Tax Credits and Bonus Depreciation Disallowed by the IRS Pursuant to 11 USC 505

Docket 1

**Courtroom Deputy:**

**SPECIAL NOTE: Order of Dismissal Arising from Debtor's Request for Voluntary Dismissal of Chapter 13 Entered in Main Case 8:19-13845-ES on 3/30/2020 - td (3/31/2020)**

**Tentative Ruling:**

**May 21, 2020**

Take matter off calendar in light of voluntary dismissal of bankruptcy case.

***Note: Appearances at this hearing are not required.***

**Party Information**

**Debtor(s):**

Walt Dodge

Represented By  
Walter David Channels

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

9:30 AM

CONT... Walt Dodge

Chapter 13

**Defendant(s):**

Internal Revenue Service Pro Se

**Plaintiff(s):**

Walt Dodge Represented By  
Walter David Channels

**Trustee(s):**

Amrane (SA) Cohen (TR) Pro Se

8:19-14668 Allen Daniel Navarro

Chapter 7

Adv#: 8:20-01024 United States Of America v. Navarro et al

#12.00 STATUS CONFERENCE RE: Complaint Objecting to Discharge of Certain Debts Pursuant to 11 U.S.C. Sections 523(a)(2)(A) and 523(c)(1)

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: United States of America's Notice of Dismissal of Adversary Proceeding Pursuant to 41(a)(1)(A)(i) of the FRCP and Rule 7041 of the FRBP filed 5/7/2020. No Answer Filed**

**Courtroom Deputy:**

**OFF CALENDAR: United States of America's Notice of Dismissal of Adversary Proceeding Pursuant to 41(a)(1)(A)(i) of the FRCP and Rule 7041 of the FRBP filed 5/7/2020. No Answer Filed - td (5/7/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Allen Daniel Navarro Represented By  
Anthony B Vigil

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Allen Daniel Navarro**

**Chapter 7**

**Defendant(s):**

Allen Daniel Navarro Pro Se

Carrie Ann Navarro Pro Se

**Joint Debtor(s):**

Carrie Ann Navarro Represented By  
Anthony B Vigil

**Plaintiff(s):**

United States Of America Represented By  
Elan S Levey

**Trustee(s):**

Thomas H Casey (TR) Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 21, 2020

Hearing Room 5A

10:00 AM

8:17-14421 Michael Joseph Ruffner

Chapter 7

#13.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]  
SELECT PORTFOLIO SERVICING INC.  
VS.  
DEBTOR

Docket 89

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 21, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

10:00 AM

CONT... Michael Joseph Ruffner

Chapter 7

**Debtor(s):**

Michael Joseph Ruffner

Represented By  
Brian C Andrews

**Movant(s):**

Select Portfolio Servicing Inc., as

Represented By  
Katie M Parker

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

8:17-14768 Edgar Guzman

Chapter 13

#14.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

DEUTSCHE BANK NATIONAL TRUST COMPANY

VS.

DEBTOR

Docket 63

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

10:00 AM

CONT... Edgar Guzman  
attorney.

Chapter 13

**May 21, 2020**

If Debtor is current with all postpetition payments, including May, 2020, grant standard adequate protection order which requires Debtor to stay postpetition current payments with one "strike," i.e., if Debtor falls to make a postpetition payment within the contractual grace period, Debtor shall be entitled to one 10-day cure notice. If Debtor defaults a second time, Movant need not provide a 10-day cure notice and may lodge an order granting immediate relief from stay (with waiver of FRBP 4001(a)(3) along with a declaration re non-payment.

If additional time is needed to finalize the terms of an APO, the parties may request a continuance at the time of the calendar roll call by the court clerk; available continued dates are June 4, 11, and 18, 2020 at 10:00 a.m.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Edgar Guzman

Represented By  
Rebecca Tomilowitz

**Movant(s):**

DEUTSCHE BANK NATIONAL

Represented By  
Sean C Ferry

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

8:19-10917 Alice L. Madonna Zimmerman

Chapter 7



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 21, 2020

Hearing Room 5A

10:00 AM

CONT...

#15.00

Alice L. Madonna Zimmerman

Chapter 7

Hearing RE: Motion for relief from automatic stay  
[ACTION IN NON-BANKRUPTCY FORUM]

LISA WILL, TRUSTEE OF THE ZIMMERMAN LIVING TRUST DATED  
DECEMBER 19, 1991

VS.

DEBTOR

Docket 68

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 21, 2020**

Grant with 4001(a)(3) waiver.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.*

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Alice L. Madonna Zimmerman Chapter 7**

**Party Information**

**Debtor(s):**

Alice L. Madonna Zimmerman

Represented By  
Leslie K Kaufman

**Movant(s):**

Lisa Will

Represented By  
Bert Briones

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Reem J Bello

**8:19-11141 Douglas Robert Redding and Dana Marie Redding**

**Chapter 13**

**#16.00** CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

US BANK TRUST NA

VS.

DEBTORS

FR: 4-9-20; 4-30-20

Docket 45

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 9, 2020**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 21, 2020

Hearing Room 5A

10:00 AM

CONT... Douglas Robert Redding and Dana Marie Redding

Chapter 13

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue hearing to April 30, 2020 at 10:00 a.m.; a payment history was not attached to the Motion as Exhibit 5 as represented in the Motion. The payment history must be filed and served no later than April 9, 2020. (XX)

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance by the parties shall be deemed acceptance of the tentative ruling.***

-----

April 30, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion without 4001(a)(3) waiver unless Movant is willing to negotiate an adequate protection order, in which case Movant may request a further continuance of the hearing to May 21, 2020 at 10:00 a.m. during the courtroom clerk's calendar roll call just prior to the hearing.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Douglas Robert Redding and Dana Marie Redding**

**Chapter 13**

**May 21, 2020**

The parties are to advise the court re the status of this matter. If more time is needed, the hearing may be continued a final time to June 4 or June 11, 2020 at 10:00 a.m. by requesting a further continuance during the calendar roll call by the call.

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

**Debtor(s):**

Douglas Robert Redding

Represented By  
Sunita N Sood

**Joint Debtor(s):**

Dana Marie Redding

Represented By  
Sunita N Sood

**Movant(s):**

US Bank Trust NA

Represented By  
Kristin A Zilberstein  
Lemuel Bryant Jaquez

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**8:19-13242 10827 Studebaker LLC, a California limited liabili**

**Chapter 11**

**#17.00** Hearing RE: Amended Motion for relief from the automatic stay  
[REAL PROPERTY]

BUCHANAN MORTGAGE HOLDINGS, LLC

VS.

DEBTOR

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 21, 2020

Hearing Room 5A

10:00 AM

CONT... 10827 Studebaker LLC, a California limited liabili Chapter 11  
Docket 94  
\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/18/2020 AT 10:30 A.M.,  
Per Order Entered 5/13/2020 (XX)

Courtroom Deputy:

**CONTINUED: Hearing Continued to 6/18/2020 at 10:30 a.m., Per Order Entered 5/13/2020 (XX) - td (5/13/2020)**

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 21, 2020**

Grant with 4001(a)(3) waiver; deny extraordinary relief requested in relief request #10.

No grounds stated for extraordinary relief.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**Debtor(s):**

10827 Studebaker LLC, a California

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... 10827 Studebaker LLC, a California limited liability  
Steven Werth**

**Chapter 11**

**Movant(s):**

Buchanan Mortgage Holdings, LLC

Represented By  
Randy P Orlik

**8:19-13404 Peter Stankovich**

**Chapter 7**

**#18.00** Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

BANK OF THE WEST

VS.

DEBTOR

Docket 54

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 21, 2020**

Grant with 4001(a)(3) waiver.

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 21, 2020

Hearing Room 5A

10:00 AM

CONT... Peter Stankovich

Chapter 7

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.**

Party Information

**Debtor(s):**

Peter Stankovich

Represented By  
Christopher J Langley

**Movant(s):**

BANK OF THE WEST

Represented By  
Mary Ellmann Tang

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

8:19-13468 Eric Anthony Perez

Chapter 13

#19.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

HSBC BANK USA, NA

VS.

DEBTOR

Docket 38

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

10:00 AM

CONT... Eric Anthony Perez Chapter 13

**COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

**May 21, 2020**

Grant with 4001(a)(3) waiver, unless the parties have negotiated the terms of an adequate protection order, in which case a request for a continuance may be made during the calendar roll call prior to the hearing. Available dates are June 4, June 11 and June 18, 2020 at 10:00 a.m.

**Party Information**

**Debtor(s):**

Eric Anthony Perez

Represented By  
Christopher J Langley

**Movant(s):**

HSBC Bank USA, National

Represented By  
Austin P Nagel

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**8:20-10425 Hector del Angel Rodriguez Nieva and Alma Areli**

**Chapter 7**

**#20.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]**

**CREDIT UNION OF SOUTHERN CALIFORNIA**



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 21, 2020

Hearing Room 5A

10:00 AM

CONT... Hector del Angel Rodriguez Nieva and Alma Areli

Chapter 7

VS.

DEBTORS

Docket 14

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 21, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Hector del Angel Rodriguez Nieva

Represented By  
Timothy McFarlin

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

10:00 AM

CONT... Hector del Angel Rodriguez Nieva and Alma Areli

Chapter 7

**Joint Debtor(s):**

Alma Areli Rodriguez

Represented By  
Timothy McFarlin

**Movant(s):**

Credit Union of Southern California

Represented By  
Karel G Rocha

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

8:20-10554 Ivel Lorraine Melton and Glenn Mitchell Melton

Chapter 7

#21.00 Hearing RE: Motion for relief from the automatic stay ]REAL PROPERTY]

THE BANK OF NEW YORK MELLON

VS.

DEBTORS

Docket 17

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

10:00 AM

CONT... Ivel Lorraine Melton and Glenn Mitchell Melton  
attorney.

**Chapter 7**

**May 21, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Ivel Lorraine Melton

Represented By  
Brian C Andrews

**Joint Debtor(s):**

Glenn Mitchell Melton

Represented By  
Brian C Andrews

**Movant(s):**

THE BANK OF NEW YORK

Represented By  
Robert P Zahradka

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

10:30 AM

**8:01-16577 California Power Exchange Corp**

**Chapter 11**

**#22.00** CONT'D Hrg. re: Post Confirmation Status Conference

FR: 08/11/05; 9-8-05; 12-15-06; 4-20-06; 10-12-06; 4-12-07; 10-18-07; 4-17-08;  
10-16-08; 4-16-09; 10-15-09; 4-8-10; 4-7-11 (rescheduled from 4/6/12); 4-5-12;  
4-4-13; 5-8-14; 5-7-15; 5-5-16; 5-4-17; 5-10-18; 5-24-18; 5-31-18; 5-30-19

Docket 0

**Courtroom Deputy:**

**SPECIAL NOTE: Although CIAO reflects case number as 8:01-16577-ES;  
Correct Case Number is 2:01-16577-ES and is assigned to Judge Smith in  
Santa Ana - td (5/13/2020)**

**Tentative Ruling:**

11/20/03

Continue hearing to January 22, 2004 at 10:30am. Counsel for Reorganized Debtor, Marc Cohen, was not served with the status conference notice re this hearing.

Updated status report due January 12, 2004.

-----  
1/22/04

Continue status conference to July 8, 2004 at 10:30 a.m. Updated status report shall be filed by June 28, 2004

If there are no outstanding U. S. Trustee issues, appearances at today's hearing are waived.

-----  
7/8/04

Continue status conference to December 9, 2004 at 10:30 a.m. Updated status report shall be filed by November 29, 2004.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room**

**5A**

10:30 AM

**CONT... California Power Exchange Corp**

**Chapter 11**

If there are no outstanding U. S. Trustee issues, appearances at today's hearing are waived.

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12/9/04

Continue status conference to July 14, 2005 at 10:30 a.m. Updated status report shall be filed by July 5, 2005.

If there are no outstanding U. S. Trustee issues, appearances at today's hearing are waived.

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7/14/05\*

Continue status conference to December 15, 2005 at 10:30am; updated status report shall be filed by December 5, 2005.

**Note: If there are no outstanding U. S. Trustee issues, appearances at today's hearing are waived.**

\*The court appreciates the detailed report submitted on behalf of the Reorganized Debtor.

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12/15/05

If Debtor is in full compliance with the requirements of the U.S. Trustee, including payments of quarterly fees, continue hearing to June 8, 2006, 2006 at 10:30 a.m. **at the Santa Ana Courthouse**; updated status report due April 6, 2006.

-----

**April 20, 2006**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

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10:30 AM

CONT... **California Power Exchange Corp** **Chapter 11**

Continue status conference to October 12, 2006 at 1030 a.m. ; updated status report due October 2, 2006. Debtor to indicate in October status report whether the case is ready for the entry of a final decree.

***Note: If Debtor is in full compliance with the requirements of the U.S. Trustee, including payments of quarterly fees, appearances at today's hearing are waived.***

---

**October 12, 2006**

Per the most recently filed status report, this matter appears to be progressing satisfactorily. Continue status conference to April 12, 2007 at 1030 a.m. ; updated status report due April 2, 2007.

***Note: If Debtor is in full compliance with the requirements of the U.S. Trustee, including payments of quarterly fees, appearances at today's hearing are waived.***

---

**April 12, 2007**

Continue status conference to October 18, 2007 at 1030 a.m. ; updated status report due October 4, 2007. The status report for the October 18 hearing should advise court why a final decree should not be entered and the case closed, as substantially consummated. (XX)

***Note: If Debtor is in full compliance with the requirements of the U.S. Trustee, including payments of quarterly fees, appearances at today's hearing are waived.***

---

**October 18, 2007**

Continue status conference to April 17, 2008 at 1030 a.m. ; updated status report due April 7, 2008. (XX)

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 21, 2020

Hearing Room 5A

10:30 AM

CONT... California Power Exchange Corp

Chapter 11

**Note: If Debtor is in full compliance with the requirements of the U.S. Trustee, including payments of quarterly fees, appearances at today's hearing are waived.**

-----  
**April 17, 2008**

Continue status conference to October 16, 2008 at 1030 a.m. ; updated status report due October 6, 2008.

**Note: If Debtor is in full compliance with the requirements of the U.S. Trustee, including payments of quarterly fees, appearances at today's hearing are waived.**

-----  
**October 16, 2008**

Continue status conference to April 16, 2009 at 10:30 a.m. ; updated status report due April 6, 2009. The April 6, 2009 status report should include only updated information and need not include a repetition of the history of the case.  
(XX)

**Note: If Debtor is in full compliance with the requirements of the U.S. Trustee, including payments of quarterly fees, appearances at today's hearing are waived.**

-----  
**April 16, 2009**

Continue status conference to October 15, 2009 at 10:30 a.m.; updated status report to be filed by October 5, 2009.

**Note: If Debtor is in full compliance with the requirements of the U.S. Trustee, including payments of quarterly fees, appearances at today's hearing are waived.**

-----  
**October 15, 2009**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 21, 2020

Hearing Room

5A

10:30 AM

CONT... California Power Exchange Corp

Chapter 11

Continue status conference to April 8, 2010 at 1030 a.m. ; updated status report due March 25, 2010. (XX)

***Note: If Debtor is in full compliance with the requirements of the U.S. Trustee, including payments of quarterly fees, appearances at today's hearing are waived.***

-----  
**April 8, 2010**

Continue status conference to **April 7, 2011 at 10:30 a.m.** ; updated status report to be filed by **March 28, 2011.** (XX)

***Note: Appearance at this hearing is excused.***

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**April 7, 2011**

Continue status conference to **April 6, 2012 at 10:30 a.m.** ; updated status report to be filed by **March 23, 2012.** (XX)

***Note: Appearance at this hearing is excused.***

-----  
**April 5, 2012**

Continue status conference to **April 4, 2013 at 10:30 a.m.** ; updated status report to be filed by **March 21, 2013.** (XX)

***Note: Appearance at this hearing is excused.***

-----  
**May 2, 2013**

Continue status conference to **May 8, 2014 at 10:30 a.m.** ; updated status report to be filed by **April 24, 2014** (XX)

***Note: Appearance at this hearing is excused.***



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... California Power Exchange Corp  
May 8, 2014**

**Chapter 11**

Continue status conference to May 7, 2015 at 9:30 a.m.; updated report to be filed by April 23, 2015.

Comments re Status Report:

The current status report is essentially a "cut and paste" of the prior May 2, 2013 postconfirmation report. The court has previously requested that the Reorganized Debtor limit its report to updated activity in the case that has occurred since the prior status conference. Instead, the same report is continually filed. The court should not have to comb through repetitive reports line by line to determine the current status.

Sanctions will be imposed against counsel for the Reorganized Debtor in an amount of not less than \$100 if the 2015 report is not limited to new information.

***Note: Appearance at today's hearing is not required***

-----

**May 7, 2015**

Continue status conference to May 5, 2016 at 10:30 a.m.; updated report to be filed by April 21, 2016. (XX)

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**May 5, 2016**

Continue status conference to May 4, 2017 at 10:30 a.m.; updated report to be filed by April 20, 2017. (XX)

***Note: Appearance at today's hearing is not required.***

-----

**May 4, 2017**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room**

**5A**

10:30 AM

**CONT... California Power Exchange Corp**

**Chapter 11**

Continue status conference to May 10, 2018 at 10:30 a.m.; updated report to be filed by April 26, 2018 (XX)

***Note: Appearance at today's hearing is not required.***

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**May 31, 2018**

Continue status conference to May 30, 2019 at 10:30 a.m.; updated report to be filed by May 16, 2019 (XX)

***Note: Appearance at today's hearing is not required.***

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**May 30, 2019**

Continue status conference to May 21, 2020 at 10:30 a.m.; updated report to be filed by May 7, 2020 (XX)

***Note: Appearance at today's hearing is not required.***

-----

**May 21,2020**

Continue status conference to May 20, 2021 at 10:30 a.m.; updated report to be filed by May 6, 2021.

***Note: Appearance at today's hearing is not required.***

<b>Party Information</b>
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... California Power Exchange Corp**

**Chapter 11**

**Debtor(s):**

California Power Exchange Corp

Represented By

Joseph A Eisenberg

Philip S Warden

Ashleigh A Danker

Alan Z Yudkowsky

Marc S Cohen

Julie A Belezzuoli

Alicia Clough

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

**#23.00** CON'TD Post Confirmation Status Conference RE: Trustee's Chapter 11 Plan of Reorganization for SUNCAL EMERALD MEADOWS, LLC (Dated May 1, 2017)

(Set at Ch 11 Plan Conf. hrg. held 6-15-17)

FR: 12-14-17; 5-31-18; 11-15-18; 5-30-19; 11-21-19

Docket 5270

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 14, 2017**

A post-confirmation status report was due November 30, 2017 per the Confirmation Order entered June 28, 2017 [docket #5285]. Impose sanctions of \$100 against Reorganized Debtor's counsel for failure to do so; court to issue OSC why the case should not be dismissed for failure to prosecute.

***Note: Appearance at this hearing is required.***

-----

**May 31, 2018**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Continue status conference to November 15, 2018 at 10:30 a.m.; updated status report to be filed by November 1, 2018. (XX)

***Note: Appearance at this hearing is not required.***  
-----

**November 15, 2018**

Continue status conference to May 30, 2019 at 10:30 a.m.; updated status report must be filed by May 16, 2019 unless a final decree has been entered by such date. (XX)

***Note: Appearance at this hearing is not required.***  
-----

**May 30, 2019**

Continue status conference to November 21, 2019 at 10:30 a.m.; updated status report must be filed by November 7, 2019, 2019 unless a final decree has been entered by such date. (XX)

***Note: Appearance at this hearing is not required.***  
-----

**November 21, 2019**

Continue status conference to May 21, 2020 at 10:30 a.m.; updated status report must be filed by May 7, 2020 unless a final decree has been entered by such date. (XX)

***Note: Appearance at this hearing is not required.***  
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**May 21, 2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Continue status conference to November 19, 2020 at 10:30 a.m.; updated report to be filed by November 5, 2020.

***Note: Appearance at today's hearing is not required.***

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Trustee(s):**

Steven M Speier (TR)

Represented By

Louis R Miller  
Mike D Neue

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

10:30 AM

CONT... Palmdale Hills Property, LLC Chapter 11  
Lei Lei Wang Ekvall

8:10-14723 Susan Doan Chapter 7

#24.00 Hearing RE: Trustee's Motion to Operate Debtor's Rental Property Under 11 U.S.C. Section 721

Docket 149

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Approving Stipulation Resolving Debtor's Objection to Trustee's Motion to Extend Authorized Period to Operate G Street Property and Taking Matter Off Calendar Entered 5/20/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Approving Stipulation Resolving Debtor's Objection to Trustee's Motion to Extend Authorized Period to Operate G Street Property and Taking Matter Off Calendar Entered 5/20/2020 - td (5/20/2020)**

**Tentative Ruling:**

**May 21, 2020**

Off-Calendar; matter resolved by stipulation.

**Party Information**

**Debtor(s):**

Susan Doan

Represented By  
Gregory J Doan  
Bryan L Ngo

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Tinho Mang

8:17-10706 John Jean Bral

Chapter 11

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

10:30 AM

CONT...

John Jean Bral

Chapter 11

#25.00 Hearing RE: Debtor's Motion for Order: (1) Interpreting Settlement Agreement Between the Debtor and Barry Beitler, and/or Chapter 11 Plan; and (2) Approving Modification to the Fourth Amended Chapter 11 Plan Pursuant to 11 U.S.C. Section 1127

Docket 905

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 21, 2020**

Grant the motion with one caveat regarding the possible delegation of the selection of the arbitrator to a bankruptcy judge in the LA or San Fernando Valley divisions. Also the time for submitting proposed arbitrators and for submitting supporting briefs should be extended from 7 days to 14 days.

Basis for Tentative Ruling:

A. Short Answer:

1. Neither the confirmed plan or the settlement agreement as stated on the record before this court (including the handwritten notes of attorney Lallas), requires that the arbitrator be Judge West as to the Westcliff matter or that the

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... John Jean Bral**

**Chapter 11**

LASC Presiding Judge select a retired judge who served on the LASC bench. If this was the unspoken desire of Beitler, the same should have been set forth in the settlement agreement and plan.

2. The parties' apparent assumption that the use of the Presiding Judge ("PJ") to select an arbitrator was a viable method of resolving any dispute as to the selection of the arbitrator was mistaken and ill-advised as is obvious from the evidence presented concerning the LASC publication regarding the duties and responsibilities of the PJ.

3. In light of the foregoing circumstances, the modification of the plan requested by Debtor is the most practical and viable solution to the current stalemate between the parties. The court is not persuaded that Beitler's somewhat complicated proposal employing the assistance of an "all round" LASC judge will resolve the dispute in a timely manner (if at all), particularly in light of the current pandemic environment and the consequent limited operations of the LASC.

4. The proposed modification will not materially or substantively affect or do serious violence to Beitler's rights or treatment under the confirmed plan.

5. If Beitler is concerned about this court (Smith) making the selection, the court is open to inquiring as to whether a bankruptcy judge in the Los Angeles or San Fernando Valley would be willing to make the selection.

**B. Long Answer**

On February 24, 2017, John Jean Bral ("Debtor") filed a voluntary chapter 11 petition. The claims bar date was June 16, 2017. The next post-confirmation status conference is set for August 20, 2020. On June 26, 2019, the Court approved Debtor's fourth amended plan, which was subsequently filed on July 31, 2019 ("Plan")[dkt. 761] and the confirmation order was entered on July 31, 2019 (the "Confirmation Order")[dkt. 762]. The Plan provides for the monetization of Debtor's ownership interests in Westcliff and Mission through their sale to Barry Beitler ("Beitler")(Debtor and Beitler, collectively, the "Parties") for an amount to be determined during arbitration (the "Final Purchase Price"). See, Plan, Section D.1.



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room**

**5A**

10:30 AM

**CONT...**

**John Jean Bral**

**Chapter 11**

No progress has been made on the selection of the arbitrator during the last 8 months since confirmation of the Plan. According to Beitler, retired Judge Carl J. West, who was previously appointed to be the arbitrator in the Westcliff action filed in Los Angeles Superior Court ("LASC"), is still the arbitrator to determine the Final Purchase Price with regards to Westcliff and a second retired judge need only be selected to arbitrate the Mission matter.

Debtor seeks an order interpreting the settlement reached during the April 30, 2019 hearing and put on the record (the "Settlement Agreement"), the Plan, and the Confirmation Order for a finding that Judge West was not selected to continue as arbitrator for Westcliff. Debtor also requests a finding that there is no requirement that the arbitrator selected to determine the Final Purchase Price for both Westcliff and Mission be a prior judge from the LASC ("Motion")[dkt. 905].

Finally, Debtor proposes to modify the Plan pursuant to 11 U.S.C. § 1127 to delete the provision requiring the Parties to request that the Presiding Judge of the LASC select the arbitrator (the "PJ Provision") because this provision is not viable. In place of the PJ Provision, Debtor requests the following provision be added to the Plan (the "Modification"):

Within seven (7) days of the entry of the order approving this Motion, each party will provide a list of three (3) retired judges to the Court and each other. Within seven (7) days of the submission of the arbitrators, each party will provide the Court with a short brief (no more than 5-pages in length) to assist the Court in its selection of the arbitrator. The Court will review the briefs and then determine which retired judge will resolve the Final Purchase Price.

Beitler, Cannae Financial, LLC, Beitler & Associates, Inc. dba Commercial Realty Services, Steward Financial LLC, and Betsy Boyd (collectively, the "Beitler Creditors") oppose the Motion (the "Opposition")[dkt. 908].

- A. The Plan and Settlement Agreement do not Provide for Judge West to Remain as Arbitrator for Westcliff, nor is there any Requirement that

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

10:30 AM

CONT...

**John Jean Bral**

**Chapter 11**

the Selected Arbitrator be a Retired Judge from the LASC.

"[I]t is well recognized that a bankruptcy court has the power to interpret and enforce its own orders." *Wilshire Courtyard v. Cal. Franchise Tax Bd. (In re Wilshire Courtyard)*, 729 F.3d 1279, 1289 (9th Cir. 2013); see also *Travelers Indemnity Co. v. Bailey*, 557 U.S. 137, 151 (2009)(Bankruptcy Court had "jurisdiction to interpret and enforce its own prior orders" and "explicitly retained jurisdiction" to enforce those prior orders). "Numerous Courts of Appeals have held that a bankruptcy court's interpretation of its own confirmation order is entitled to substantial deference." *Travelers*, 557 U.S. at 151 n.4.

Here, the Parties never agreed that Judge West would "remain" as arbitrator or that the selection of the arbitrator would be limited to a retired LASC judge. See, Pemberton Reply Decl. ¶ 4; Friedman Reply Decl., ¶ 3; Bill Lobel Decl., ¶7; Bral Reply Decl., ¶3; Reply RJN, Ex. 1 (Debtor's objection to the selection of Judge West). Neither the Confirmation Order, the Settlement Agreement, or the Plan mention Judge West.

Instead, the plain language of the Plan and the Settlement Agreement that became part of the Plan, in Section D.I.C., stated:

"C. Dispute Resolution: To the extent there are disputes regarding the dollar amount of a buyout to be paid by Mr. Beitler to the estate for the Debtor's interests in Mission and Westcliff (*i.e.*, the Final Purchase Price), those disputes will be resolved by a judicial reference to a mutually agreed retired judge preserving full right of appeal for all parties. The decision regarding the Final Purchase Price (the "FPP Determination") shall be submitted to the Court for confirmation and entry on the Court's docket as a final, appealable order. Each of the Debtor and Beitler may appeal the FPP Determination."

Attached as Annex A to the Plan are portions of the continued hearing transcript of the confirmation hearing concerning Debtor's Second Amended Plan and the continued Case Status Conference held on April 30, 2019 (the "April 30, 2019 Transcript"), whereat the Parties stated the salient terms of the Settlement Agreement on the record. The Parties agreed on the record that any

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CONT...

**John Jean Bral**

**Chapter 11**

dispute regarding the Final Purchase Price would be resolved "by a judicial reference to a mutually agreeable retired judge preserving full right of appeal for all parties." It was also agreed that the Presiding Judge of the LASC ("Presiding Judge") would select the retired judge (the "PJ Provision"). See, RJN, Ex. 1 (the Apr. 30, 2019 Tr.), p. 65-66, 82:23-25, and 83:1-10.

The Beitler Creditors' arguments that Debtor had previously agreed to Judge West as arbitrator for Westcliff, that no order removing Judge West as arbitrator had been entered, and that Debtor's counsel's silence at status conferences in LASC constituted Debtor's consent to Judge West continuing to serve as arbitrator are unpersuasive. Debtor did not consent to Judge West's appointment as arbitrator but rather opposed, unsuccessfully, the appointment. See Reply RJN, Ex. 1. Most importantly, maintaining Judge West as the arbitrator is inconsistent with the settlement agreement presented to this court on the record, Mr. Lallas' own handwritten notes, and the terms of the Plan.

- B. Modification of the Plan Under 11 U.S.C. § 1127 to Delete the PJ Provision and to Add Alternative Language Regarding the Selection of the Arbitrator is Appropriate Because the PJ Provision is not Viable

Under 11 U.S.C. § 1127(b), a reorganized debtor may modify a plan at any time after confirmation, but before substantial consummation of the plan, if the modified plan meets the requirements of §§ 1122 and 1123 and "only if the circumstances warrant such modification and the court, after notice and a hearing confirms such plan as modified under section 1120 of this title." Section 1122 provides for how the plan may place a claim or interest in a particular class. Section 1123 governs the plan's contents. Additionally, the modification requirements provide for: (1) notice of a proposed plan modification; (2) notice of the information necessary for a creditor to assess the nature and impact of the modification; (3) a hearing on the propriety of the proposed modification; (4) an opportunity for an impaired creditor to object to the modification; and (5) an assessment by the bankruptcy court that the modified plan meets the requirements of § 1129. *In re FCX, Inc.*, 853 F.2d 1149, 1156 (4th Cir. 1988).

"Substantial consummation of a plan of reorganization turns on the facts of each case." *In re Jorgensen*, 66 B.R. 104, 106 (9th Cir. BAP 1986).

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Substantial consummation is specifically defined in § 1101(2) to mean: (A) transfer of all or substantially all of the property proposed by the plan to be transferred; (B) assumption by the debtor or by the successor to the debtor under the plan of the business or management of all of substantially all of the property dealt with by the plan; and (C) commencement of distribution under the plan.

In this case, the Plan has not been substantially consummated because the Plan has not become effective since the Plan provides that the Effective Date is the "later of (1) the first (1st) Business Day following the date upon which Beitler either (a) pays into the estate the Minimum Purchase Price or (b) pays into the estate the Final Purchase Price, and (2) the first (1st) Business Day after the date 28 upon which the Confirmation Order shall have become a Final Order." Plan, p. 38:25-28. As neither the Minimum Purchase Price or the Final Purchase Price has been paid to Debtor, the Plan has not become effective.

Debtor has adequately demonstrated that circumstances warrant modification of the Plan because the Presiding Judge's duties do not include the appointment of arbitrators in the context created by the parties. See, Mot., p. 10:3-23.

The Beitler Creditors argue that the proposed Modification does not comply with §§ 1127(b) and 1129. See, *In re Oakhurst Lodge, Inc.*, 582 B.R. 784, 800 (Bankr. E.D. Cal. 2018) (denying request to modify plan based on post-confirmation settlement, and stating that "[p]lan modification requires compliance with §§ 1122, 1123, 1125, 1127 and 1129.)

With regards to § 1127(b), the Beitler Creditors maintain that the circumstances of this case do not warrant modification because it is possible to comply with the PJ Provision. Specifically, the Beitler Creditors posit that Debtor need only file a petition seeking the appointment of a private judge in LASC, and once the petition is filed it will be assigned to an all-purpose judge, Debtor would need to file an ex parte application with the 'all-purpose' LASC judge who would thereafter refer the matter to the Presiding Judge for appointment of a private judge, The Beitler Creditors also argue that the Presiding Judge's duties includes designating judges for appointment within the LASC under Cal. Rule of Court 10.603. See, Opp'n, p. 10:13-11:9; Lallas Decl., ¶¶29-31.

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**CONT...**

**John Jean Bral**

**Chapter 11**

As noted by Debtor, however, the Beitler Creditors' proposed course of action goes beyond the simple "referral" to the Presiding Judge who would make the selection of the arbitrator that the Parties contemplated when the PJ Provision was added to the Plan and Settlement Agreement. See, Reply, p. 13:1-14:18. The Beitler Creditors' proposed course of action hinges on the ability of the Parties to persuade an all-purpose judge in LASC that ex parte relief is warranted because the Parties will suffer "irreparable harm, immediate danger, or any other statutory basis for granting relief ex parte." See, Cal. R. of Ct. 3.1202. This would likely be a difficult task given that the Parties have been disputing this issue for over 8 months, thereby severely undermining any showing of irreparable harm or immediate danger. Moreover, the Beitler Creditors' proposed course of action fails to take into account the impact of the COVID-19 pandemic on the operations of the LASC, which has closed its courtrooms until June 10, 2020 except for time-sensitive matters. See, Reply, p. 14:19-25. The court agrees.

With regards to 11 U.S.C. § 1129, the Beitler Creditors argue that the modified Plan will violate § 1129(a)(8) because the consent of the Beitler Creditors (in Class 7 and 9) is required, which they will not provide to this Modification. And since the modified Plan would no longer be a consensual Plan, Debtor would have to satisfy the absolute priority rule § 1129(b)(2), which Debtor cannot due because Debtor is retaining his interest in his residence while the claims of the Beitler Creditors are not being paid in full. See, Opp'n, p. 11:10-13:1.

However, the court agrees with Debtor that the Beitler Creditors' substantive rights are not being prejudiced by the proposed modification because the PJ Provision was a procedural mechanism for selecting arbitrators if the Parties could not agree on an arbitrator. See, Reply, p. 15:5-18:28. And because the Beitler Creditors' rights are not being adversely affected, the Beitler Creditors cannot withdraw their acceptance of the Plan under Rule 3019. See, *In re Boroff*, 189 B.R. 53, 57 (D. Vt. 1995). Thus, the Plan remains a consensually confirmed plan and the absolute priority rule is not implicated.

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CONT...

**John Jean Bral**

**Chapter 11**

Finally, Cal. Rule of Court 10.603 does not support the Beitler Creditors' position because that rule details the Presiding Judge's authority to appoint active judges of the LASC, not to appoint private judges to serve as arbitrators.

**Party Information**

**Debtor(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel  
Bobby Samini  
Dean A Ziehl  
Gary A Pemberton

**8:18-13638 Friendly Village MHP Associates LP**

**Chapter 7**

**#26.00** Hearing RE: Trustee's Fifth Motion for Order to Continue Business Operations (Manage Real Property) Through and Including August 27, 2020, by Continuing to: (1) Collect Rents; and (2) Pay Operating Expenses

Docket 375

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice.

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CONT... Friendly Village MHP Associates LP

Chapter 7

The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

May 21, 2020

Grant Motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**Debtor(s):**

Friendly Village MHP Associates LP

Represented By  
Howard Camhi

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Kristine A Thagard  
Arthur Grebow  
David Wood  
Tinho Mang

8:19-12337 Jorge David Gonzalez

Chapter 7

#27.00 CON'TD Hearing RE: Chapter 7 Trustee's Motion Objecting to Debtor's Claimed Homestead Exemption as Amended

FR: 4-9-20

**United States Bankruptcy Court  
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CONT... **Jorge David Gonzalez** Chapter 7

Docket 38

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Chapter 7 Trustee's  
Withdrawal of Motion, filed 4/23/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Chapter 7 Trustee's Withdrawal of Motion, filed  
4/23/2020 - td (4/24/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Jorge David Gonzalez

Represented By  
Brian J Soo-Hoo

**Movant(s):**

Richard A Marshack (TR)

Represented By  
Robert P Goe

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Robert P Goe

**8:19-12411 Orange County Bail Bonds, Inc.**

**Chapter 11**

**#28.00** Hearing RE: Debtor's Application to Employ Magaraian & Dimercurio, A  
Professional Law Corporation as State Court and Appeal Litigation Counsel

Docket 110

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/4/2020 AT 10:30 A.M.,  
Per Order Entered 5/19/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/4/2020 at 10:30 a.m., Per Order  
Entered 5/19/2020 (XX) - td (5/19/2020)**



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CONT... Orange County Bail Bonds, Inc.

Chapter 11

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Orange County Bail Bonds, Inc.

Represented By  
Marc C Forsythe  
Ryan S Riddles

Trustee(s):

Mark M Sharf (TR)

Pro Se

8:19-13111 Guadalupe Alejo and Gloria Alejo

Chapter 7

#29.00 Hearing RE: Trustee's Final Report and Application for Final Fees and Expenses

[THOMAS H. CASEY, CHAPTER 7 TRUSTEE]

Docket 44

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

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CONT... Guadalupe Alejo and Gloria Alejo  
May 21, 2020

Chapter 7

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

**Party Information**

**Debtor(s):**

Guadalupe Alejo

Represented By  
Sundee M Teeple

**Joint Debtor(s):**

Gloria Alejo

Represented By  
Sundee M Teeple

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

8:19-13529 Limonite Investments LLC

Chapter 7

#30.00 Hearing RE: Debtor's Motion to Voluntarily Dismiss Chapter 7

Docket 78

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice.

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CONT... Limonite Investments LLC

Chapter 7

**The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

**May 21, 2020**

Grant motion on the conditions requested by the chapter 7 trustee. Debtor must file a declaration confirming satisfaction of all such conditions prior to lodging an order dismissing the case.

***Note: If Debtor accepts the foregoing tentative ruling, appearances at this hearing are not required. Non appearance at the hearing will be deemed acceptance of the tentative ruling.***

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

**Debtor(s):**

Limonite Investments LLC

Represented By  
Stephen F Lopez

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Erin P Moriarty

**8:19-13547 Luis Alberto Rodriguez, Jr.**

**Chapter 11**

**#31.00** CONT'D Hearing RE: Debtor's Disclosure Statement Describing Chapter 11 Plan of Reorganization

FR: 4-9-20

Docket 54

**Courtroom Deputy:**

**United States Bankruptcy Court  
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CONT... Luis Alberto Rodriguez, Jr.  
- NONE LISTED -

Chapter 11

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue hearing to May 21, 2020 at 10:30 a.m. to allow Debtor to correct notice issue and to address issues raised by the court. An amended disclosure statement and plan must be filed no later than April 23, 2020. (XX)

Basis for Tentative Ruling:

A. Notice: Neither the motion or the disclosure statement (DS) advise creditors of the deadline to file opposition or other response to the adequacy of the DS See LBR 9013-1(c)(2), and LBR 3017-1(b)("Objections to the adequacy of a disclosure statement must be filed and served on the proponent not less than 14 days before the hearing, unless otherwise ordered by the court."); FRBP 2002(b) (2).

B. Comments re DS

General Comment: The DS, at times, unnecessarily includes provisions and language that are inapplicable to this Debtor and should, therefore, be deleted altogether.

- DS, p. 15- Delete Class 1 because there are no Class 1 claimants. The deletion will necessarily change the numbering of the other classes.

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**CONT... Luis Alberto Rodriguez, Jr.**

**Chapter 11**

- DS, p. 16:2. Exhibit H should be changed to Exhibit F.
  
- DS, p. 21:2: The word "None" should be deleted as there is a class 3 claimant.
  
- DS, p. 23:1-5. There no student loan debt. Delete Class 5 because it is unnecessary. Also treatment of the plan needs to be disclosed -- will the Claimant be paid monthly, quarterly (if so in what amount) or in a lump sum payment within 6 months?
  
- DS, p. 28 -- re Section F 1: If there are no executory contracts or unexpired leases to assume or reject, delete subsections a and b and simply state there are none. Query re lines 5-6 indicating Debtor might have some business lease? There is no other discussion of Debtor being involved in any business activity. This appears to be boilerplate language that does not apply to this case and should be deleted.
  
- DS, p. 28:12-13: Section F 2 should be deleted.
  
- DS, p. 35:11 and third line of projections on p. 36: Contradictory amounts of the "added value" are provided- \$2,000 vs. \$2,500.

*Special note:* Question for future confirmation hearing: If the underlying unsecured debt to Ditech was discharged in the prior chapter 7, why is the unsecured amount provided for in full if Ditech makes a 1111(b) election?

***Note: If Debtor understands and has no questions regarding the issues mentioned above, appearance at the hearing is not required. Debtor's non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

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**May 21, 2020**

Approve First Amended Disclosure Statement on condition that Debtor disclose the in Section II(E) certain postpetition payments to an insider of Debtor.

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CONT... Luis Alberto Rodriguez, Jr.

Chapter 11

Confirmation Hearing:	July 23, 2020 at 10:30 a.m.
Deadline to file final version of DS:	May 28, 2020
Deadline to serve plan packages:	June 5, 2020
Deadline for creditors to return ballots & object to plan confirmation:	July 3, 2020
Deadline to file confirmation brief:	July 9, 2020

According to Debtor's December MOR, Debtor repaid \$2,000 of prepetition debt owed to his mother. Debtor also apparently paid the balance of the prepetition debt in the amount of \$300 in April, 2020. It also appears that Debtor has been obtaining and repaying loans to his mother during the bankruptcy without court approval. For example, on April 17, 2020, Debtor deposited \$540 from Patricia Ashford into his account, and repaid a total of \$450 to Patricia Ashford on April 24 and 27, 2020. See, April 2020 MOR, p. 3. This is inconsistent with Debtor's representation on page 11 that he is "postpetition cash flow positive."

*Special Note: Feasibility will be a significant issue at the confirmation hearing. The court will require, at a minimum, proof of the \$2500 added value and the source of the same, as well as updated projections that are consistent with Debtor's actual financial performance during the bankruptcy case.*

**Note: If Debtor accepts the foregoing tentative ruling, appearance at this hearing is not required; non appearance will be deemed acceptance of the tentative ruling.**

**Party Information**

**Debtor(s):**

Luis Alberto Rodriguez Jr.

Represented By  
Michael Jones  
Sara Tidd

8:19-13547 Luis Alberto Rodriguez, Jr.

Chapter 11

#32.00 CON'TD STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and

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10:30 AM

CONT... Luis Alberto Rodriguez, Jr.  
(2) Requiring Report on Status of Chapter 11 Case

Chapter 11

FR: 12-5-19; 4-9-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**December 5, 2019**

Deadline to file plan/disclosure statement: Feb. 28, 2020

Continued status conference: Apr. 9, 2020 at 10:30 a.m. (XX)

Deadline to file updated status report: Mar. 26, 2020\*

\*Requirement of an updated status report is waived if the plan and disclosure statement are timely filed.

***Note: If Debtors accept the foregoing tentative ruling and are in substantial compliance with the requirements of the U.S. Trustee, appearance at this hearing is not required. It is the responsibility of Debtors to confirm compliance with the U.S. Trustee prior to the hearing.***

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**CONT... Luis Alberto Rodriguez, Jr.  
April 9, 2020**

**Chapter 11**

Continue the status conference to May 21, 2020 at 10:30 a.m.; updated status report not required. (XX)

***Note: Appearances at this hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

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**May 21, 2020**

Continue status conference to July 23, 2020 at 10:30 a.m., the same date/time as plan confirmation hearing. Updated status report not required.

***Note: Appearance at this hearing is not required; non appearance will be deemed acceptance of the tentative ruling.***

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

Luis Alberto Rodriguez Jr.

Represented By  
Michael Jones

**8:19-13587 Trent Tyrell Berglin and Adrienne Lynn Berglin**

**Chapter 11**

**#33.00 CON'TD Hearing RE: Disclosure Statement Describing Chapter 11 Plan of Reorganization**

FR: 3-19-20; 4-30-20

Docket 32

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**



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CONT... Trent Tyrell Berglin and Adrienne Lynn Berglin

Chapter 11

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**March 19, 2020**

Continue the hearing to April 30, 2020 at 10:30 a.m. to allow Debtors to address service and other issues raised by the court. An amended plan and disclosure statement should be filed no later than April 2, 2020 and creditors should be notified to file any response or opposition to approval of the disclosure statement no later than April 16, 2020. (XX)

Court's Comments re the Disclosure Statement:

A. Service issue: It does not appear that creditors were given notice of the deadline for filing objections to the adequacy of the disclosure statement as provided by LBR 3017-1(b)("Objections to the adequacy of a disclosure statement must be filed and served on the proponent not less than 14 days before the hearing, unless otherwise ordered by the court.").

B. Adequacy of the Disclosure Statement ("DS")

1. Regarding the treatment of the two auto leases (Classes 2A and 2B): Debtors need to disclose the amount of the monthly payments and the number of remaining months under the leases. The court assumes the amounts to be paid on the effective constitute the total arrears.

2. DS, pp.8-9: "Debtor" and "Joint Debtor" should be defined.

3. DS, p.9:18: Change "with provide" to "to provide"

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**CONT... Trent Tyrell Berglin and Adrienne Lynn Berglin**

**Chapter 11**

4. DS, p. 21:9-11: Why is there a Class 5 designation if there are claim in such class? Should be deleted and Class 6 should become Class 5. Need to change plan accordingly.

5. Special Note: Debtors purport to provide "added value" of \$2500. However, the same amount is recouped by Debtors in Year 4 by withholding money from creditors to contribute to their 401k. And this withholding for the 401k contribution quadruples in Year 5. This circumstance could prove fatal to confirmation if cram down becomes necessary.

***Note: If Debtors accept the foregoing tentative ruling, appearances at this hearing are not required.***

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**April 30, 2020**

Continue hearing one final time to May 21, 2020 at 10:30 a.m.; Second Amended Plan and Disclosure Statement must be filed by or before May7, 2020. If the Second Amended Disclosure Statement is not adequate, approval will be denied. (XX)

Outstanding Issues re the Amended Disclosure Statement

1. The document filed on April 2, 2020 should be re-titled Amended Disclosure Statement and the latest version of the Plan should be re-titled Amended Plan. Any subsequent versions should be titled Second Amended Disclosure Statement and Second Amended Plan.

2. Instead of addressing the Court's March 19 comments re the original Section III(C) -- Treatment of Claims, this section has been deleted entirely in the Second Amended Disclosure Statement. The treatment of claims needs to be added back in with revisions that address the court's March 19 comments.

3. Debtors fail to disclose that the added value of \$2500 is completely negated by subsequent contributions to Debtor's 401k account. See the Court's

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CONT... Trent Tyrell Berglin and Adrienne Lynn Berglin

Chapter 11

Comment #5 from the March 19, 2020 tentative ruling above.

4. The Amended Plan at p.11:2, states that unsecured claims total \$95,818.43. However, Exh. E of the Amended Disclosure Statement lists unsecured claims as \$99,421.21. If Exh. E is correct, the calculations in the Amended Plan need to be adjusted.

5. The payout amount in Exh B of the Amended Disclosure Statement (Exh B) shows a total payout of \$7,522.60 but the Amended Plan shows a payout of \$7,728.50. This discrepancy needs to be corrected.

***Note: If Debtors accept the foregoing tentative ruling, appearances at this hearing are not required. Non appearance at the hearing will be deemed acceptance of the tentative ruling.***

-----

**May 21, 2020**

Approve Second Amended Disclosure Statement:

Confirmation Hearing:	July 16, 2020 at 10:30 a.m.
Deadline to serve plan packages:	May 29, 2020
Deadline for creditors to return ballots & object to plan confirmation:	June 26, 2020
Deadline to file confirmation brief:	July 2, 2020

***Note: If Debtors accept the foregoing tentative rulings, appearance at this hearing is not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.***

**Party Information**

**Debtor(s):**

Trent Tyrell Berglin

Represented By  
Michael Jones  
Sara Tidd

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Trent Tyrell Berglin and Adrienne Lynn Berglin Chapter 11**

**Joint Debtor(s):**

Adrienne Lynn Berglin

Represented By  
Michael Jones  
Sara Tidd

**8:19-13587 Trent Tyrell Berglin and Adrienne Lynn Berglin Chapter 11**

**#34.00 CONT'D STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and (2)  
Requiring Report on Status of Chapter 11 Case**

FR: 11-21-19; 2-20-20; 3-19-20; 4-30-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**November 21, 2019**

Claims bar date: Jan. 27, 2020 (notice to creditors by 11/27/19)  
Deadline to file plan/DS : Jan. 31, 2020  
Continued Status Conference: Feb. 20, 2020 at 10:30 a.m. (XX)

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 21, 2020

Hearing Room

5A

10:30 AM

CONT... Trent Tyrell Berglin and Adrienne Lynn Berglin

Chapter 11

Updated Status Report due:Feb. 6, 2020 (waived if plan/DS timely filed)

***Note: If Debtors accept the foregoing tentative ruling and are in substantial compliance with the requirements of the U.S. Trustee, appearance at this hearing is not required. It is the responsibility of Debtors to confirm compliance with the U.S. Trustee prior to the hearing.***

-----  
**February 20, 2020**

Continue hearing to March 19, 2020 at 10:30 a.m.; same date/time as hearing on approval of disclosure statement. (XX)

***Note: Appearance at today's hearing is not required; updated status report not required for 3/19/20 hearing.***

-----  
**March 19, 2020**

Continue status conference to April 30, 2020 at 10:30 a.m.; updated status report not required. (XX)

***Note: Appearance at today's hearing is not required; updated status report not required for 4/30/20 hearing.***

-----  
**April 30, 2020**

Continue status conference to May 21, 2020 at 10:30 a.m.; updated status report not required. (XX)

***Note: Appearance at today's hearing is not required; updated status report not required for 4/30/20 hearing.***

-----  
**May 21, 2020**

Continue status conference to July 16, 2020, same date/time as hearing on plan confirmation. Updated status report not required.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

10:30 AM

CONT... Trent Tyrell Berglin and Adrienne Lynn Berglin

Chapter 11

***Note: Appearances at this hearing are not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.***

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

Trent Tyrell Berglin

Represented By  
Michael Jones

**Joint Debtor(s):**

Adrienne Lynn Berglin

Represented By  
Michael Jones

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#35.00** Hearing RE: Order to Show Cause as to Why Jeffery S. Benice Should Not Be Held in Contempt of Court for Violation of the Court's March 20,, 2020 Order Granting Amended Stipulation (Dkt. Nos. 331; 333)  
(OSC Issued 4/27/2020)

Docket 476

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/20/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m, Per Order Entered 5/20/2020 (XX) - td (5/20/2020)**

**Tentative Ruling:**

**May 21, 2020**

Continue hearing to June 25, 2020 at 10:00 a.m.

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 21, 2020

Hearing Room 5A

10:30 AM

CONT... Bruce Elieff Chapter 11

**Note: Appearances at this hearing are not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.**

Party Information

Debtor(s):

Bruce Elieff

Represented By  
Paul J Couchot

8:19-13858 Bruce Elieff Chapter 11

#36.00 Hearing RE: Motion for Order: (1) Authorizing Sale of Debtor's Real Property Free and Clear of Liens Pursuant to 11 U.S.C. Sections 363(b) and 363(f); (2) Approving Overbid Procedures; (3) Determining Buyer or Successful Bidder to Be a Good Faith Purchaser; (4) Approving Compensation of Real Estate Broker; (5) Authorizing Distribution of Sale Proceeds; and (6) Waiving 14 Day Stay Imposed by Fed. R. Bankr. P. 6004(h) and Local Bk. Rule 6004-1 **[Affects the Rim Crest Lots]**

Docket 499

**Courtroom Deputy:**

**SPECIAL NOTE: Per voicemail received from Debtor's counsel, Mr. Mike Neue [(949) 836-3530], Debtor will be requesting a continuance of this matter. - sb (5/20/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 21, 2020

Hearing Room 5A

10:30 AM

CONT... Bruce Elieff Chapter 11  
registration for parties without an attorney.

**May 21, 2020**

Grant motion subject to overbid -- if there are overbidders, the sale shall take place separate from the telephonic hearing.

***Note: If Debtors accept the foregoing tentative ruling, appearance at this hearing is not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.***

Party Information

Debtor(s):

Bruce Elieff

Represented By  
Paul J Couchot

8:19-13858 Bruce Elieff Chapter 11

#37.00 Hearing RE: Related Debtors' Motion for Order Authorizing Surcharge Under 11 U.S.C. Section 506(c), or, in the Alternative, use of Cash Collateral  
**[Affects Bruce Elieff; Affects 4627 Camden, LLC]**

Docket 516

**Courtroom Deputy:**

**SPECIAL NOTE: Per voicemail received from Debtor's counsel, Mr. Mike Neue [(949) 836-3530], this matter has been resolved by stipulation. - sb (5/20/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked.



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

10:30 AM

CONT... Bruce Elieff

Chapter 11

**Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

**May 21, 2020**

Grant the alternative relief of use of cash collateral on the following conditions: 1) no advances of loans between estates will occur without a properly noticed motion under 11 U.S.C. 364; 2) no amount will be used to pay domestic support obligations, and 3) all weekly statements, invoices, etc. provided to the Committee's financial adviser Traverse must also be provided to Mr. Kurtin's counsel; deny the request for surcharge under 11 U.S.C. 506(c).

Basis for Tentative Ruling:

1. As the cases have not been substantively consolidated, they must, as matter of law, be treated as separate estates. Any "advances" (read loans) must be in accordance with the Code so as to protect the interest of each estate.

2. The court does not believe that Section 506(c) applies to the circumstances presented here. Section 506(c) states in relevant part that the "trustee may recover *from property* securing an allowed secured claim the reasonable, necessary costs and expenses of preserving, or disposing of, *such property . . . .*"

Debtors are not seeking to surcharge the three properties to be sold with the costs of preserving and disposing those properties but rather are seeking to use the proceeds from the disposition of other properties to preserve/dispose of the subject different properties.

3. The use of estate funds to pay Mr. Elieff's domestic support obligations in entirety unrelated to the maintenance, repair or improvement of the subject real properties and is, therefore, beyond the scope of the Motion. To the extent that Mr. Elieff is seeking court approval to use such funds to pay such obligations, notice of the motion should have been served on all creditors and not just Mr. Kurtin and the IRS.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

10:30 AM

CONT... Bruce Elieff Chapter 11

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

8:19-13858 Bruce Elieff Chapter 11

#38.00 Hearing RE: Motion for Order: (1) Authorizing Sale of Debtor's Real Property Free and Clear of Liens Pursuant to 11 U.S.C. Sections 363(b) and 363(f); (2) Determining Buyer or Successful Bidder to Be a Good Faith Purchaser; (3) Approving Form of Sale Agreement; (4) Approving Compensation of Real Estate Broker; and (5) Waiving 14 Day Stay Imposed by Fed. R. Bankr. P. 6004(h) and Local Bk. Rule 6004-1 **[Affects Morse Properties, LLC]**

Docket 339

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Voluntary Dismissal of Debtor's Motion [Docket No. 339] filed 5/18/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Voluntary Dismissal of Debtor's Motion [Docket No. 339] filed 5/18/2020 - td (5/19/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

8:19-13858 Bruce Elieff Chapter 11

#39.00 CON'TD Hearing RE: Creditor Todd Kurtin's Motion for Order Cancelling Alleged Retainer Agreements and Requiring Jeffery S. Benice and Benice Law to Immediately Disgorge \$4,182,244.73

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 21, 2020

Hearing Room 5A

10:30 AM

CONT... Bruce Elieff

Chapter 11

FR: 5-7-20

Docket 381

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 5/20/2020 (XX)

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m, Per Order  
Entered 5/20/2020 (XX) - td (5/20/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:20-01046 Kurtin v. Benice et al

**#40.00** CON'TD Hearing RE: Order to Show Cause RE: Preliminary Injunction  
(OSC Issued 4/13/2020)

FR: 5-7-20

Docket 2

**Courtroom Deputy:**

**SPECIAL NOTE: Stipulation to Continue Hearing to 6/25/2020 at 10:00 a.m.  
to be filed and Order to Be Lodged Per Rick Wynne, Attorney for Official  
Committee of Unsecured Creditors - td (5/18/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 21, 2020

Hearing Room 5A

10:30 AM

CONT... Bruce Elieff Chapter 11

**COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

**May 21, 2020**

Continue this matter to June 25, 2020 at 10:00 a.m.

***Note: If both parties accept the tentative ruling, appearances at this hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Jeffrey S. Benice

Pro Se

Benice Law

Pro Se

**Plaintiff(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**8:19-14834 Hussam Fayiz Darwish**

**Chapter 11**

**#41.00** CON'TD STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case

FR: 2-20-20

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Hussam Fayiz Darwish**

**Chapter 11**

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Absent a noticed motion, the court will not provide any "advisory opinions" regarding Debtor's contemplation of a conversion of this case to one under Sub-Chapter V, including Debtor's eligibility to be a Sub-Chapter V debtor. That said, Debtor's counsel may want to consider the relevant deadlines under Sub-Chapter V (filing of plan, claims bar date, etc) and review legal authorities regarding chapter 13 eligibility in the "chapter 20" scenario. See, e.g., *In re Blackwell*, 514 B.R. 19 (Bankr. ND Cal. 2014).

Absent conversion:

Claims bar date: Apr. 23, 2020 (60 days not)  
Deadline to file plan/DS: Apr. 30, 2020  
Continued Status Conf: May 21, 2020 at 10:30am  
Updated Status Report: May 7, 2020 (waived if DS filed)

***Note: Appearance at this hearing is required.***

-----

**May 21, 2020**

Continue status conference to June 18, 2020 at 10:30 a.m., same date/time as hearing on approval of Debtor's disclosure statement. Updated status report not required.

***Note: Appearances at this hearing are not required.***

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

10:30 AM

CONT... Hussam Fayiz Darwish

Chapter 11

**Debtor(s):**

Hussam Fayiz Darwish

Represented By  
Michael Jones

8:19-14869 Omar Vasquez and Elisabeth Aguilar

Chapter 13

#42.00 Hearing RE: Debtors' Objection to Claim Number 2 filed by Resurgent Capital Services (\$1,116.03)

Docket 23

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 21, 2020**

Continue hearing to July 9, 2020 at 10:30 a.m. to allow Debtors to correct service issue.

Under LBR 3007-1(c)(2), a complete copy of the proof of claim must be attached to the claim objection. Under LBR 3007-1(b)(2), the claim objection (which includes the proof of claim) must be served with the notice of the claim objection. Here, Debtors have failed to attach a copy of the proof of claim. This is important

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

10:30 AM

**CONT...**      **Omar Vasquez and Elisabeth Aguilar**      **Chapter 13**  
in terms of allowing the creditor to properly track and identify the debt referenced  
in the objection.

Tentative ruling for 7/9/20 hearing (if unopposed): Sustain objection

***Note: If Debtors accept the foregoing tentative ruling, appearance at this hearing is not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.***

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

**Debtor(s):**

Omar Vasquez

Represented By  
Sunita N Sood

**Joint Debtor(s):**

Elisabeth Aguilar

Represented By  
Sunita N Sood

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**8:19-14869 Omar Vasquez and Elisabeth Aguilar Chapter 13**

**#43.00** Hearing RE: Debtors' Objection to Claim Number 3 filed by Resurgent Capital Services (\$435.58)

Docket 25

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19,

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

10:30 AM

CONT... Omar Vasquez and Elisabeth Aguilar Chapter 13

**2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

**May 21, 2020**

Continue hearing to July 9, 2020 at 10:30 a.m. to allow Debtors to correct service issue.

Under LBR 3007-1(c)(2), a complete copy of the proof of claim must be attached to the claim objection. Under LBR 3007-1(b)(2), the claim objection (which includes the proof of claim) must be served with the notice of the claim objection. Here, Debtors have failed to attach a copy of the proof of claim. This is important in terms of allowing the creditor to properly track and identify the debt referenced in the objection.

Tentative ruling for 7/9/20 hearing (if unopposed): Sustain objection

***Note: If Debtors accept the foregoing tentative ruling, appearance at this hearing is not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.***

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

**Debtor(s):**

Omar Vasquez

Represented By  
Sunita N Sood

**Joint Debtor(s):**

Elisabeth Aguilar

Represented By  
Sunita N Sood

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

10:30 AM

CONT... Omar Vasquez and Elisabeth Aguilar Chapter 13

8:19-14869 Omar Vasquez and Elisabeth Aguilar Chapter 13

#44.00 Hearing RE: Debtors' Objection to Claim Number 4 filed by Resurgent Capital Services (\$432.83)

Docket 27

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 21, 2020**

Continue hearing to July 9, 2020 at 10:30 a.m. to allow Debtors to correct service issue.

Under LBR 3007-1(c)(2), a complete copy of the proof of claim must be attached to the claim objection. Under LBR 3007-1(b)(2), the claim objection (which includes the proof of claim) must be served with the notice of the claim objection. Here, Debtors have failed to attach a copy of the proof of claim. This is important in terms of allowing the creditor to properly track and identify the debt referenced in the objection.

Tentative ruling for 7/9/20 hearing (if unopposed): Sustain objection

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 21, 2020

Hearing Room 5A

10:30 AM

CONT... Omar Vasquez and Elisabeth Aguilar

Chapter 13

**Note: If Debtors accept the foregoing tentative ruling, appearance at this hearing is not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.**

Party Information

**Debtor(s):**

Omar Vasquez

Represented By  
Sunita N Sood

**Joint Debtor(s):**

Elisabeth Aguilar

Represented By  
Sunita N Sood

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

8:19-14869 Omar Vasquez and Elisabeth Aguilar

Chapter 13

#45.00 Hearing RE: Debtors' Objection to Claim Number 5 filed by Resurgent Capital Services (\$437.47)

Docket 29

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, May 21, 2020

Hearing Room 5A

10:30 AM

CONT... Omar Vasquez and Elisabeth Aguilar Chapter 13

**CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

**May 21, 2020**

Continue hearing to July 9, 2020 at 10:30 a.m. to allow Debtors to correct service issue.

Under LBR 3007-1(c)(2), a complete copy of the proof of claim must be attached to the claim objection. Under LBR 3007-1(b)(2), the claim objection (which includes the proof of claim) must be served with the notice of the claim objection. Here, Debtors have failed to attach a copy of the proof of claim. This is important in terms of allowing the creditor to properly track and identify the debt referenced in the objection.

Tentative ruling for 7/9/20 hearing (if unopposed): Sustain objection

***Note: If Debtors accept the foregoing tentative ruling, appearance at this hearing is not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.***

**Party Information**

**Debtor(s):**

Omar Vasquez

Represented By  
Sunita N Sood

**Joint Debtor(s):**

Elisabeth Aguilar

Represented By  
Sunita N Sood

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**8:20-10109 Lisa Acevedo**

**Chapter 7**

**#46.00 Hearing RE: ORDER to Show Cause RE Dismissal for Failure to Comply with Rule**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 21, 2020

Hearing Room 5A

10:30 AM

CONT... Lisa Acevedo Chapter 7  
1006(B) -installments (\$105.00 Installment Payment Due 4/13/2020)  
(OSC Issued 4/15/2020)

Docket 11

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: \$105.00 Final  
Installment Payment Paid 4/16/2020

Courtroom Deputy:

**OFF CALENDAR: \$105.00 Final Installment Payment Paid 4/16/2020 - td  
(4/16/2020)**

Tentative Ruling:

- NONE LISTED -

**Party Information**

**Debtor(s):**

Lisa Acevedo Pro Se

**Trustee(s):**

Richard A Marshack (TR) Pro Se

8:20-10262 MESCO, Inc. Chapter 11

#47.00 Hearing RE: Motion by United States Trustee to Dismiss or Convert Case Pursuant  
to 11 U.S.C. Section 1112(b)

Docket 40

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/18/2020 AT 10:30 A.M.,  
Per Order Entered 5/14/2020 (XX)

Courtroom Deputy:

**CONTINUED: Hearing Continued to 6/18/2020 at 10:30 a.m., Per Order  
Entered 5/14/2020 (XX) - td (5/14/2020)**

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

10:30 AM

CONT... MESCO, Inc.

Chapter 11

**COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

**May 21, 2020**

Deny motion without prejudice as moot, unless the moving party withdraws the hearing prior to the hearing.

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

MESCO, Inc.

Represented By  
Michael G Spector  
Vicki L Schennum

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-14169 Gary Clesceri**

**Chapter 7**

Adv#: 8:20-01013 Hopwood et al v. Clesceri et al

**#48.00** Hearing RE: Defendants' Motion to Dismiss for Failure to State a Claim Upon Which Relief Can Be Granted

Docket 3

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Gary Clesceri

Represented By  
Michael G Spector

**Defendant(s):**

Gary Clesceri

Represented By  
Michael G Spector

Charlene Clesceri

Represented By  
Michael G Spector

**Joint Debtor(s):**

Charlene Clesceri

Represented By  
Michael G Spector

**Movant(s):**

Gary Clesceri

Represented By  
Michael G Spector

Charlene Clesceri

Represented By  
Michael G Spector

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Gary Clesceri**

**Chapter 7**

**Plaintiff(s):**

Kathleen M Hopwood

Represented By  
Lisa G Salisbury

Andrew J Hopwood

Represented By  
Lisa G Salisbury

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**8:19-14169 Gary Clesceri**

**Chapter 7**

Adv#: 8:20-01013 Hopwood et al v. Clesceri et al

**#49.00** CONT'D Hearing RE: Defendants' Motion for Sanctions Against Andrew Hopwood, Kathleen Hopwood and Lisa Salisbury, Pursuant to Bankruptcy Rule 9011

FR: 4-16-20

Docket 7

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 16, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 21, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Gary Clesceri  
attorney.**

**Chapter 7**

Continue hearing to May 21, 2020 at 2:00 p.m., same date/time as hearing on Defendants' motion to dismiss the adversary proceeding. (XX)

Court's Comments for the 5/21/20 Hearing

As many of the issues raised by the Motion are also relevant to the pending 12(b) (6) motion to dismiss filed by Defendants and scheduled for May 21, 2020, the court would prefer to hear both motions at the same time. For the convenience of the parties, the court has identified below various issues regarding the Motion.

1. It is undisputed that the Complaint was untimely filed. It is also undisputed that the decisions of the 9th Circuit are binding on this court. In *Anwar v. Johnson*, 720 F.3d 1183, plaintiff's counsel missed the deadline for filing a 523(a) nondischargeability action by less than hour due to technical problems with his computer. In affirming the decision of the bankruptcy court to dismiss the action with prejudice on the grounds that it lacked authority to retroactively extend the deadline, the 9th Circuit held:

"Reinforcing the statement that creditors must move for extensions of FRBP 4007(c)'s filing deadline before the time for filing has expired, FRBP 9006(b)(3) states that bankruptcy courts may extend this deadline "only to the extent and under the conditions stated in" FRBP 4007(c) itself. Fed. R. Bankr.P. 9006(b)(3). This requirement distinguishes FRBP 4007(c)'s deadline from most others set by the bankruptcy rules, which bankruptcy courts may extend at any time upon a showing of good cause or excusable neglect. Fed. R. Bankr.P. 9006(b)(1).

Consistent with the plain language of FRBP 4007(c) and 9006(b)(3), we have repeatedly held that the sixty-day time limit for filing nondischargeability complaints under 11 U.S.C. § 523(c) is "strict" and, without qualification, "cannot be extended unless a motion is made before the 60-day limit expires." *In re Kennerley*, 995 F.2d at 146 (citing *Anwiler v. Patchett (In re Anwiler)*, 958 F.2d 925 (9th Cir.1992)); see also, e.g., *Classic Auto Refinishing, Inc. v. Marino (In re Marino)*, 37 F.3d 1354, 1358 (9th Cir.1994); *Jones v. Hill (In re Hill)*, 811 F.2d 484, 486 (9th Cir.1987). Accordingly, Anwar was not entitled to a retroactive extension of the filing deadline based on equitable considerations or a local rule of bankruptcy procedure that purports to grant the bankruptcy court discretion to excuse untimely filings. The bankruptcy court lacked equitable power to grant Anwar relief from her untimely filings. "In bankruptcy cases, a court's equitable power is derived from 11 U.S.C. § 105(a)," *In re Anwiler*, 958 F.2d at 928 n. 5, which authorizes the court to "issue any order,



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**CONT...**

**Gary Clesceri**

**Chapter 7**

process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code],” 11 U.S.C. § 105(a). However, “whatever equitable powers remain in the bankruptcy courts must and can only be exercised within the confines of the Bankruptcy Code.” *Norwest Bank Worthington v. Ahlers*, 485 U.S. 197, 206, 108 S.Ct. 963, 99 L.Ed.2d 169 (1988). These confines include deadlines set by the Federal Rules of Bankruptcy Procedure. See *Zidell, Inc. v. Forsch (In re Coastal Alaska Lines, Inc.)*, 920 F.2d 1428, 1432 (9th Cir.1990) (holding that the bankruptcy court may not invoke its equitable power under § 105(a) to enlarge the time for filing a proof of claim under FRBP 3002(c), where FRBP 9006(b)(3) limits the grounds for extension to those stated in FRBP 3002(c) itself). Because granting Anwar a retroactive extension of the filing deadline would conflict with the plain language of FRBP 4007(c) and 9006(b)(3), the bankruptcy court could not rely on its equitable powers to do so. See *Childress v. Middleton Arms, L.P. (In re Middleton Arms, L.P.)*, 934 F.2d 723, 725 (6th Cir.1991) (“bankruptcy courts cannot use equitable principles to disregard unambiguous statutory language”) (internal quotation marks and citation omitted).

Thus, the fact that Anwar missed the filing deadline by less than an hour is immaterial. See *Kelly v. Gordon (In re Gordon)*, 988 F.2d 1000, 1001 1183 (9th Cir. 2013)."

2. Contrary to the position taken by Plaintiffs, the restriction of FRBP 9006(b)(3) does apply to nondischargeability actions. Importantly, Plaintiffs do not address *Anwar* at all in their Opposition. The court finds this surprising as Plaintiffs were alerted to *Anwar* by Defendant's counsel prior to the filing of the Motion and in the Motion itself.

3. The Circuit does offer tardy plaintiffs a sliver of hope by not entirely ruling out the possibility that there could be a "unique and exceptional circumstances" equitable exception to Rule 4007(c), opining that "absent unique and exceptional circumstances not present here, we do not inquire into the reason a party failed to file on time in assessing whether she is entitled to an equitable exception from FRBP 4007(c)'s filing deadline; under the plain language of the rules and our controlling precedent, there is no such exception."

4. At the May 21, 2020 hearing, the parties should be prepared to argue whether "unique and exceptional" circumstances exist in this case. On the one hand, the Court in *Anwar* noted that the "fact that Anwar's untimely filing stemmed from difficulty with an electronic filing system is immaterial." On the other hand, the filing problem in *Anwar* was caused by technical issues with the attorneys own computer, whereas the assertion here is that the court's ECF system was the

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Santa Ana  
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**CONT...** Gary Clesceri  
cause of the tardiness.

**Chapter 7**

5. The caption of the Complaint states claims under both 523 and "727(a)(2) through 7." However, the body of the Complaint does not allege any facts or raise any issues of law concerning 727(a) and Plaintiffs do not discuss any claims under 727 in their opposition to the Motion. The inclusion of 727 in the caption has caused a delay in the entry of Debtor's discharge order as to debt other than Plaintiff's 523 claim. On the face of it, Plaintiffs' refusal to withdraw the 727 language appears to be unfounded and a basis for 9011 sanctions.

6. The sole claim for relief pled in the Complaint is fraud under 523(a)(2)(A). The elements of fraud include a knowing misrepresentation, false statement omission made by a defendant to a plaintiff with the intent to deceive the plaintiff. In this matter, no such allegations are made as to Charlene Clesceri. If Plaintiffs cannot allege any statements made by defendant Charlene Clesceri, the complaint would appear to be unfounded as to her. The refusal to dismiss her from the complaint may be grounds for 9011 sanctions.

7. The court is not inclined to grant Defendant's request for daily sanctions of \$500 since February 3, 2020 (or \$36,500 as of today's hearing).

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

**Debtor(s):**

Gary Clesceri

Represented By  
Michael G Spector

**Defendant(s):**

Gary Clesceri

Represented By  
Michael G Spector

Charlene Clesceri

Represented By  
Michael G Spector

**Joint Debtor(s):**

Charlene Clesceri

Represented By  
Michael G Spector

**United States Bankruptcy Court  
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**Thursday, May 21, 2020**

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2:00 PM

**CONT... Gary Clesceri**

**Chapter 7**

**Movant(s):**

Gary Clesceri

Represented By  
Michael G Spector

Charlene Clesceri

Represented By  
Michael G Spector

**Plaintiff(s):**

Andrew J Hopwood

Represented By  
Lisa G Salisbury

Kathleen M Hopwood

Represented By  
Lisa G Salisbury

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**8:19-14169 Gary Clesceri**

**Chapter 7**

Adv#: 8:20-01013 Hopwood et al v. Clesceri et al

**#50.00** CON'TD STATUS CONFERENCE RE: Complaint to Determine the Dischargeability and Objecting to Debtor's Discharge of Debt Pursuant to Sections 523 and 727 of The Bankruptcy Code

FR: 4-30-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, May 21, 2020

Hearing Room 5A

2:00 PM

CONT... Gary Clesceri

Chapter 7

**COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

Continue the status conference to May 21, 2020 at 2:00 p.m., same date/time as hearing on Defendants' motion to dismiss; updated status report not required.  
(XX)

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

Party Information

**Debtor(s):**

Gary Clesceri

Represented By  
Michael G Spector

**Defendant(s):**

Gary Clesceri

Pro Se

Charlene Clesceri

Pro Se

**Joint Debtor(s):**

Charlene Clesceri

Represented By  
Michael G Spector

**Plaintiff(s):**

Andrew J Hopwood

Represented By  
Lisa G Salisbury

Kathleen M Hopwood

Represented By  
Lisa G Salisbury

**United States Bankruptcy Court  
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2:00 PM

**CONT... Gary Clesceri**

**Chapter 7**

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10940 Steven D. Kallestad and Sarah B. Kallestad**

**Chapter 13**

**#1.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Steven D. Kallestad

Represented By  
Christine A Kingston

**Joint Debtor(s):**

Sarah B. Kallestad

Represented By  
Christine A Kingston

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10904 Ray Costin Radulescu**

**Chapter 13**

**#2.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Case  
for Failure to File Schedules, Statements, and/or PPlan Entered 4/27/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,  
Statements, and/or PPlan Entered 4/27/2020 - td (5/11/2020)**

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

**Debtor(s):**

Ray Costin Radulescu Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR) Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10903 Jeffrey Murray**

**Chapter 13**

**#3.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 20

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Jeffrey Murray

Represented By  
Jeffrey B Smith

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10855 Scott Bryan Sornbutnark**

**Chapter 13**

**#4.00 Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

Docket 17

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Scott Bryan Sornbutnark

Represented By  
John D Sarai

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10848 Alfredo Sanchez Torres**

**Chapter 13**

**#5.00 Hearing RE: Confirmation of Amended Chapter 13 Plan**

Docket 23

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Alfredo Sanchez Torres

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, May 26, 2020

Hearing Room 5A

1:30 PM

8:20-10846 Robert P Fiorentino

Chapter 13

#6.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 22

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal  
Arising from Debtor's Request for Voluntary Dismissal of Chapter 13  
Entered 4/1/2020

Courtroom Deputy:

**OFF CALENDAR: Order of Dismissal Arising from Debtor's Request for  
Voluntary Dismissal of Chapter 13 Entered 4/1/2020 - td (4/1/2020)**

Party Information

**Debtor(s):**

Robert P Fiorentino

Represented By  
Joseph Arthur Roberts

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10845 Darren Kenney**

**Chapter 13**

**#7.00 Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

Docket 29

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Darren Kenney

Represented By  
Chris T Nguyen

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10829 William Robert Kaiser**

**Chapter 13**

**#8.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

William Robert Kaiser

Represented By  
Nathan Fransen

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10799 Dawn Marie Lane**

**Chapter 13**

**#9.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Dawn Marie Lane

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10778 Angel Munoz Torres**

**Chapter 13**

**#10.00** Hearing RE: Confirmation of 2nd Amended Chapter 13 Plan

Docket 21

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Angel Munoz Torres

Represented By  
Maria C Hehr

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10771 David Cunningham**

**Chapter 13**

**#11.00 Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

Docket 18

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

David Cunningham

Represented By  
Stephen R Wade

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10755 Cary Allen Gold**

**Chapter 13**

**#12.00** Hearing RE: Confirmation of Chapter 13 Plan

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Case  
for Failure to File Schedules, Statements, and/or Plan Entered 3/20/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,  
Statements, and/or Plan Entered 3/20/2020 - td (5/11/2020)**

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

**Debtor(s):**

Cary Allen Gold

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10691 Teresita Lases**

**Chapter 13**

**#13.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 4-28-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Teresita Lases

Represented By  
Rabin J Pournazarian

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10682 Kim-Lan T Nguyen**

**Chapter 13**

**#14.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Kim-Lan T Nguyen

Represented By  
Thinh V Doan

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10648 Jose Guevara**

**Chapter 13**

**#15.00 CONT'D Hearing RE: Confirmation of Chapter 13 Plan**

FR: 4-28-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Jose Guevara

Represented By  
Kevin Tang

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10645 Anthony Bergman**

**Chapter 13**

**#16.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 21

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Anthony Bergman

Represented By  
Stephen L Burton

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10620 Nelson D. Randin**

**Chapter 13**

**#17.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 4-28-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Nelson D. Randin

Represented By  
Joseph A Weber

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10617 Robert James Ruble**

**Chapter 13**

**#18.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Robert James Ruble

Represented By  
Bert Briones

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10553 Heather Jane Andruss**

**Chapter 13**

**#19.00 Hearing RE: Confirmation of Chapter 13 Plan**

(Re-set from 4/28/2020)

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Heather Jane Andruss

Represented By  
Kevin Tang

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, May 26, 2020

Hearing Room 5A

1:30 PM

8:20-10526 Khalil Ullah Asefi

Chapter 13

#20.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal  
Pursuant to 11 U.S.C. Section 521(i)(1) for Failure to File Information  
Required under Section 521(a)(1) Entered 3/23/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order of Dismissal Pursuant to 11 U.S.C. Section  
521(i)(1) for Failure to File Information Required under Section 521(a)(1)  
Entered 3/23/2020 - td (5/11/2020)**

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

**Debtor(s):**

Khalil Ullah Asefi Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR) Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10518 John C Crismon and Rhonda L Crismon**

**Chapter 13**

**#21.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 17

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

John C Crismon

Represented By  
Anerio V Altman

**Joint Debtor(s):**

Rhonda L Crismon

Represented By  
Anerio V Altman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10513 Fernando Serrano**

**Chapter 13**

**#22.00 CON'TD Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

FR: 4-28-20

Docket 20

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Fernando Serrano

Represented By  
Bert Briones

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10465 David Stuart Powell and Christina Juliet Powell**

**Chapter 13**

**#23.00 CONT'D Hearing RE: Confirmation of Chapter 13 Plan**

FR: 4-28-20

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

David Stuart Powell

Represented By  
Andrew Moher

**Joint Debtor(s):**

Christina Juliet Powell

Represented By  
Andrew Moher

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10435 Dale Stanley and Debra A. Stanley**

**Chapter 13**

**#24.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 14

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Dale Stanley

Represented By  
Michael D Franco

**Joint Debtor(s):**

Debra A. Stanley

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10434 Delecia A Holt**

**Chapter 13**

**#25.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 6

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing  
Bankruptcy Case Entered 3/30/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Bankruptcy Case Entered  
3/30/2020 - td (5/11/2020)**

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

**Debtor(s):**

Delecia A Holt

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10328 Juan Carlos Valdez**

**Chapter 13**

**#26.00** CONT'D Hearing RE: Confirmation of Chapter 13 Plan

FR: 4-28-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Juan Carlos Valdez

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10294 German A Gutierrez**

**Chapter 13**

**#27.00 CON'TD Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

FR: 4-28-20

Docket 20

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

German A Gutierrez

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10250 Leticia Rubio**

**Chapter 13**

**#28.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 4-28-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Leticia Rubio

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10208 Scott Allen Campbell**

**Chapter 13**

**#29.00 CON'TD Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

FR: 4-28-20

Docket 21

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Scott Allen Campbell

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10155 Thomas G. Peuser**

**Chapter 13**

**#30.00 CON'TD Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

FR: 4-28-20

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Thomas G. Peuser

Represented By  
Charles W Daff

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10135 Ixzalin Valdez**

**Chapter 13**

**#31.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 4-28-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Ixzalin Valdez

Represented By  
Rebecca Tomilowitz

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10095 Nadine Almanza**

**Chapter 13**

**#32.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 4-28-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Nadine Almanza

Represented By  
Bert Briones

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14869 Omar Vasquez and Elisabeth Aguilar**

**Chapter 13**

**#33.00 CONT'D Hearing RE: Confirmation of Chapter 13 Plan**

FR: 2-25-20; 4-28-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Omar Vasquez

Represented By  
Sunita N Sood

**Joint Debtor(s):**

Elisabeth Aguilar

Represented By  
Sunita N Sood

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14528 Vishundyal Ramotar Mohabir**

**Chapter 13**

**#34.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 2-25-20; 4-28-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Vishundyal Ramotar Mohabir

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

2:30 PM

**8:19-10796 Mario Jonathan Saldivar and Alicia Marie Braddock**

**Chapter 13**

**#35.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding For Failure to Make Plan Payments**

FR: 4-28-20

Docket 74

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Mario Jonathan Saldivar

Represented By  
Joshua L Sternberg

**Joint Debtor(s):**

Alicia Marie Braddock

Represented By  
Joshua L Sternberg

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

2:30 PM

**8:19-10044 Gregory Bettison**

**Chapter 13**

**#36.00** CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

FR: 2-25-20; 4-28-20

Docket 40

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Gregory Bettison

Represented By  
Anthony P Cara

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

2:30 PM

**8:19-10043 Kevin S. Yoneda**

**Chapter 13**

**#37.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments**

FR: 4-28-20

Docket 38

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Kevin S. Yoneda

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

2:30 PM

**8:18-14723 Bertha Zapata**

**Chapter 13**

**#38.00** CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

FR: 2-25-20; 4-28-20

Docket 57

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Bertha Zapata

Represented By  
Gary Polston

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

2:30 PM

**8:18-14641 Richard Thomas McPhee**

**Chapter 13**

**#39.00** CONT'D Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

FR: 4-28-20

Docket 35

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Richard Thomas McPhee

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

2:30 PM

**8:18-13583 Eric Michael Webber and Celena Renee Webber**

**Chapter 13**

**#40.00 CON'TD Hearing RE: Trustee's Motion for Order Dismissing Chapter 13  
Proceeding for Failure to Make Plan Payments**

FR: 2-25-20; 4-28-20

Docket 56

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Eric Michael Webber

Represented By  
Hasmik Jasmine Papian

**Joint Debtor(s):**

Celena Renee Webber

Represented By  
Hasmik Jasmine Papian

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

2:30 PM

**8:16-10710 Christina Platt and Robert L Platt**

**Chapter 13**

**#41.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding**

FR: 12-20-19; 2-25-20; 4-28-20

Docket 71

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Christina Platt

Represented By  
Julie J Villalobos

**Joint Debtor(s):**

Robert L Platt

Represented By  
Julie J Villalobos

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

2:30 PM

**8:15-14589 Frank Torres and Victoria Torres**

**Chapter 13**

**#42.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding

Docket 57

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Frank Torres

Represented By  
Michael G Spector

**Joint Debtor(s):**

Victoria Torres

Represented By  
Michael G Spector

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, May 26, 2020**

**Hearing Room 5A**

2:30 PM

**8:15-10272 Ranulfo Figueroa**

**Chapter 13**

**#43.00** CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Complete the Plan Within its Terms

FR: 2-25-20; 4-28-20

Docket 89

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Ranulfo Figueroa

Represented By  
Sunita N Sood  
Seema N Sood

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 28, 2020

Hearing Room

5A

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01015 Speier v. SunCal Management LLC et al

**#1.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management, LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20; 4-27-20

Docket 417

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M.  
ON COURT'S OWN MOTION (XX)**

**Courtroom Deputy:**

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own Motion (XX) - td (5/28/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 28, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 28, 2020

Hearing Room 5A

2:00 PM

8:08-17206 Palmdale Hills Property, LLC

Chapter 11

Adv#: 8:18-01015 Speier v. SunCal Management LLC et al

#2.00 CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Breach of Contract; (2) Restitution and/or Unjust Enrichment; (3) To Avoid and Recover Fraudulent Transfers; and (4) To Avoid and Recover Preferential Transfers [Debtor: SunCal Oak Knoll, LLC]

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20

Docket 95

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M.  
ON COURT'S OWN MOTION (XX)

Courtroom Deputy:

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own Motion (XX) - td (5/28/2020)**

Party Information

Debtor(s):

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 28, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 28, 2020

Hearing Room 5A

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01021 Speier v. SunCal Management LLC et al

**#3.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management, LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20; 4-27-20

Docket 372

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M.  
ON COURT'S OWN MOTION (XX)**

**Courtroom Deputy:**

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own Motion (XX) - td (5/28/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 28, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 28, 2020

Hearing Room 5A

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01021 Speier v. SunCal Management LLC et al

**#4.00** CONT'D STATUS CONFERENCE RE: Third Amended Complaint (1) To Avoid and Recover Fraudulent Transfers and (2) To Avoid and Recover Preferential Transfers [**Debtor: SunCal Torrance, LLC**]

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20

Docket 327

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M.  
ON COURT'S OWN MOTION (XX)**

**Courtroom Deputy:**

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own Motion (XX) - td (5/28/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 28, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch

Argent Management, LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 28, 2020

Hearing Room 5A

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01022 Speier v. SunCal Management LLC et al

**#5.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management, LLC Was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20; 4-27-20

Docket 374

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M.  
ON COURT'S OWN MOTION (XX)**

**Courtroom Deputy:**

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own Motion (XX) - td (5/28/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 28, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 28, 2020

Hearing Room 5A

2:00 PM

8:08-17206 Palmdale Hills Property, LLC

Chapter 11

Adv#: 8:18-01022 Speier v. SunCal Management LLC et al

#6.00 CONT'D STATUS CONFERENCE RE: Third Amended Complaint to Avoid and Recover Fraudulent Transfers [Debtor: SunCal PSV, LLC]

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20

Docket 329

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M. ON COURT'S OWN MOTION (XX)

Courtroom Deputy:

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own Motion (XX) - td (5/28/2020)**

Party Information

Debtor(s):

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 28, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch

Argent Management, LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 28, 2020

Hearing Room 5A

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01023 SPEIER v. SUNCAL MANAGEMENT, LLC et al

**#7.00** CON'TD STATUS CONFERENCE RE: Third Amended Complaint (1) To Avoid and Recover Fraudulent Transfers and (2) To Avoid and Recover Preferential Transfers **[Debtor: Palmdale Hills Property, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20

Docket 298

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M. ON COURT'S OWN MOTION (XX)**

**Courtroom Deputy:**

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own Motion (XX) - td (5/28/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 28, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SUNCAL MANAGEMENT, LLC

Represented By  
Craig H Averch

Argent Management LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

STEVEN M. SPEIER

Represented By  
Evan C Borges  
Mike D Neue  
William N Lobel  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 28, 2020

Hearing Room 5A

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01024 SPEIER v. SUNCAL MANAGEMENT, LLC et al

**#8.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; and (4) To Avoid and Recover Fraudulent Transfers [Debtor: SunCal Summit Valley, LLC]

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20

Docket 68

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M. ON COURT'S OWN MOTION (XX)**

**Courtroom Deputy:**

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own Motion (XX) - td (5/28/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 28, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SUNCAL MANAGEMENT, LLC

Represented By  
Craig H Averch

Argent Management LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

STEVEN M. SPEIER

Represented By  
Evan C Borges  
Mike D Neue  
William N Lobel  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 28, 2020

Hearing Room 5A

2:00 PM

8:08-17206 Palmdale Hills Property, LLC

Chapter 11

Adv#: 8:18-01025 SPEIER v. SUNCAL MANAGEMENT, LLC et al

#9.00 CONT'D STATUS CONFERENCE RE: Second Amended Complaint: (1) To Avoid and Recover Preferential Transfers; (2) For Declaratory Relief, (3) In the Alternative, Breach of Contract; (4) Restitution and/or Unjust Enrichment; and (5) To Avoid and Recover Fraudulent Transfers  
**[Debtor: SunCal Bickford Ranch, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20

Docket 77

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M.  
ON COURT'S OWN MOTION (XX)

Courtroom Deputy:

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own Motion (XX) - td (5/28/2020)**

Party Information

Debtor(s):

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 28, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SUNCAL MANAGEMENT, LLC

Represented By  
Craig H Averch

Argent Management LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

STEVEN M. SPEIER

Represented By  
Evan C Borges  
Mike D Neue  
William N Lobel  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 28, 2020

Hearing Room 5A

2:00 PM

8:08-17206 Palmdale Hills Property, LLC

Chapter 11

Adv#: 8:18-01026 Speier v. SunCal Management LLC et al

#10.00 CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) To Avoid and Recover Preferential Transfers; (2) For Declaratory Relief, (3) In the Alternative, Breach of Contract; (4) Restitution and/or Unjust Enrichment; and (5) to Avoid and Recover Fraudulent Transfers [Debtor: SunCal Emerald Meadows, LLC]

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20

Docket 69

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M.  
ON COURT'S OWN MOTION (XX)

Courtroom Deputy:

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own Motion (XX) - td (5/28/2020)**

Party Information

Debtor(s):

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 28, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch

Argent Management, LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 28, 2020

Hearing Room 5A

2:00 PM

8:08-17206 Palmdale Hills Property, LLC

Chapter 11

Adv#: 8:18-01125 Speier v. SunCal Management LLC et al

#11.00 CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief; (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers; and (5) To Avoid and Recover Preferential Transfers  
**[Debtor: SunCal Marblehead, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20

Docket 105

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M.  
ON COURT'S OWN MOTION (XX)

Courtroom Deputy:

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own Motion (XX) - td (5/28/2020)**

Party Information

Debtor(s):

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 28, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Doah Kim  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Doah Kim  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 28, 2020

Hearing Room

5A

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01126 Speier v. SunCal Management, LLC et al

**#12.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20; 4-27-20

Docket 530

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M.  
ON COURT'S OWN MOTION (XX)**

**Courtroom Deputy:**

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own Motion (XX) - td (5/28/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 28, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 28, 2020

Hearing Room 5A

2:00 PM

8:08-17206 Palmdale Hills Property, LLC

Chapter 11

Adv#: 8:18-01126 Speier v. SunCal Management, LLC et al

#13.00 CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers; and (5) To Avoid and Recover Preferential Transfers  
**[Debtor: SunCal Heartland, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20

Docket 99

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M.  
ON COURT'S OWN MOTION (XX)

Courtroom Deputy:

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own Motion (XX) - td (5/28/2020)**

Party Information

Debtor(s):

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 28, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 28, 2020

Hearing Room 5A

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01127 Speier v. SunCal Management LLC et al

**#14.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication That SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20; 4-27-20

Docket 518

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M.  
ON COURT'S OWN MOTION (XX)**

**Courtroom Deputy:**

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own Motion (XX) - td (5/28/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 28, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 28, 2020

Hearing Room 5A

2:00 PM

8:08-17206 Palmdale Hills Property, LLC

Chapter 11

Adv#: 8:18-01127 Speier v. SunCal Management LLC et al

#15.00 CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers [Debtor: SunCal Northlake, LLC]

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20

Docket 98

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M.  
ON COURT'S OWN MOTION (XX)

Courtroom Deputy:

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own Motion (XX) - td (5/28/2020)**

Party Information

Debtor(s):

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 28, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 28, 2020**

**Hearing Room 5A**

2:00 PM

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01128      Speier v. SunCal Management LLC et al

**#16.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20; 4-27-20

Docket      518

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M.  
ON COURT'S OWN MOTION (XX)**

**Courtroom Deputy:**

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own  
Motion (XX) - td (5/28/2020)**

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

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 28, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, May 28, 2020

Hearing Room 5A

2:00 PM

8:08-17206 Palmdale Hills Property, LLC

Chapter 11

Adv#: 8:18-01128 Speier v. SunCal Management LLC et al

#17.00 CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; and (4) to Avoid and Recover Fraudulent Transfers [Debtor: LBL-SunCal Oak Valley, LLC]

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20

Docket 98

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M.  
ON COURT'S OWN MOTION (XX)

Courtroom Deputy:

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own Motion (XX) - td (5/28/2020)**

Party Information

Debtor(s):

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, May 28, 2020**

**Hearing Room 5A**

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**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Thursday, May 28, 2020

Hearing Room

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**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01129 Speier v. Argent Management, LLC et al

**#18.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20; 4-27-20

Docket 522

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M.  
ON COURT'S OWN MOTION (XX)**

**Courtroom Deputy:**

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own Motion (XX) - td (5/28/2020)**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez

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**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

United States Bankruptcy Court  
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8:08-17206 Palmdale Hills Property, LLC

Chapter 11

Adv#: 8:18-01129 Speier v. Argent Management, LLC et al

#19.00 CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers; and (5) To Avoid and Recover Preferential Transfers  
**[Debtor: Delta Coves Venture LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20

Docket 100

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/29/2020 AT 2:00 P.M.  
ON COURT'S OWN MOTION (XX)

Courtroom Deputy:

**CONTINUED: Matter Continued to 5/29/2020 at 2:00 p.m. on Court's Own Motion (XX) - td (5/28/2020)**

Party Information

Debtor(s):

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Represented By  
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Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller

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**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
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Aalok Sharma

Argent Management, LLC

Represented By  
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Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
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Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

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**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01015 Speier v. SunCal Management LLC et al

**#1.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management, LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20; 4-27-20; 5-28-20

Docket 417

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

No tentative ruling. Oral Argument only. Plaintiff will have 30 minutes to argue in favor of the Motion; Defendant will have 30 minutes to respond; Plaintiff will have 30 minutes to reply. The matter will then be taken under submission. Oral Ruling: March 26, 2020 at 2:00 p.m.

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**May 28, 2020**

Grant motion for partial summary adjudication on the grounds that Plaintiff has established as a matter of undisputed fact and law that SCM is both a statutory insider under FRBP 101(31)(E) [affiliate within the meaning of 101(30)(D)], and FRBP 101(31)(F) [managing agent] and is also a nonstatutory insider.

The basis for the ruling and relevant evidentiary rulings will be posted in the tentative ruling field in lieu of an oral ruling on the record on May 29, 2020 between 12:00 p.m. and 1:00 p.m. A hearing will be held on **May 29, 2020 at 2:00 p.m.** regarding any questions regarding the ruling, as well as scheduling of future motions/status conferences.

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EVIDENTIARY RULINGS**

**Chapter 11**

1. Plaintiff's Evidentiary Objections to Decl. of Bruce Elieff

<u>Objection #</u>	<u>Ruling</u>
1	Overruled
2	Sustained
3, 4, 5, 6	Overruled
7	Sustained as to "in my experience .... and SCM"; Overruled as to balance
8	Overruled
9	Overruled
10	Overruled
11	Sustained as to "(as set forth . . . Keliher") Overruled as to the balance
12	Sustained as to sentence beginning "The Declarations of" Overruled as to the balance
13	Overruled
16* (no 14or 15)	Sustained reference to Declaration of Bruce Cook; Overruled as to balance
17	Sustained as to "As discussed below . . . this case) Overruled as to balance
18	Sustained as to Declaration of Bruce Cook; Overrule as to the balance.
19	Sustained as to the reference to Declarations of Harrison, Cook and Rollins; Overrule as to the balance



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- |            |  |
|------------|--|
| 20         | Sustained as to reference to Declaration of Harrison;<br>Overrule as to the balance  |
| 21         | Sustained  |
| 22         | Sustained  |
| 23         | Overruled  |
| 24         | Sustained  |
| 25         | Sustained as to the sentence beginning "I also understand that the Trustee . . .) and intent of Lehman; Overruled as to the balance. |
| 26         | Sustained  |
| 27, 28, 29 | Overruled  |

2. Plaintiff's Evidentiary Objection to Declaration of Frank Cappello

<u>Objection #</u>	<u>Ruling</u>
1, 2, 3	Overruled

3. Plaintiff's Evidentiary Objection to Declaration of Patrick Kelihet

<u>Objection #</u>	<u>Ruling</u>
1	Overruled
2	Sustained
3	Overruled
4	Overruled
5	Overruled
6	Sustained
7, 8, 9, 10	Overruled

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4. Plaintiff's Evidentiary Objections to Declaration of Thomas Rollins

<u>Objection #</u>	<u>Ruling</u>
1	Overruled
2	Sustained
3, 4, 5, 6	Overruled

5. Plaintiff's Evidentiary Objections to Declaration of Frank Faye

<u>Objection #</u>	<u>Ruling</u>
1	Sustained as to "I was advised . . . by Lehman" Overruled as to balance
2	Overruled

6. Plaintiff's Evidentiary Objections to Declaration of Bruce Cook

<u>Objection #</u>	<u>Ruling</u>
1	Overruled
2	Overruled
3	Overruled
4	Sustained as to reference to declaration of others; Overruled as to the balance
5	Sustained
6	Overruled
7 content	Sustained as to subpars 7 & & within the objection re

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of documents; Overruled as to the balance

- 8                    Sustained as to the content of the Recitals to the DMA;  
Overruled as to the balance
- 9                    Sustained as to Recital C and 5.1 and 5.2 of the DMA;  
Overruled as to the balance.
- 10                  Sustained
- 11                  Overruled
- 12 -19             Sustained
- 20                  Overruled as to "Operations among the owners of the  
Grandparent regarding the Project were governed by the  
Grandparent's Operating Agreement." Sustained as to  
the balance
- 21-23              Sustained
- 24                  Overruled
- 25                  Overruled
- 26                  Overruled
- 27                  Sustained as to "Pursuant to this settlement, Lehman's  
bankruptcy plans were allowed to proceed unopposed";  
Overruled as to the balance
- 28                  Overruled
- 29                  Overruled

8. Plaintiff's Evidentiary Objections to the Declaration of Danielle Harrison

<u>Objection #</u>	<u>Ruling</u>
1	Overruled
2	Overruled
3	Overruled

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4	Sustained	
5	Sustained as to "(all payments challenged in this case)"	
6-16	Overruled	
17	Sustained as to sub para.1 within the Objection; Overruled as to sub para 2 within the Objection	
18	Sustained as to sub para 2 within the Objection re Project Budgets; Overruled as to the balance	
19	Sustained	
20	Overruled	
21	Sustained as the sub para 2 within the Objection re expectations of Debtor and Lehman; Overruled as to the balance.	
22	Sustained	
23	Overruled	
24	Sustained	

Basis for Ruling:

I. Background

An involuntary petition was filed against debtor SunCal Oak Knoll, LLC on November 19, 2008 ("Debtor"). The order for relief was entered on January 6, 2009 and plaintiff, chapter 11 trustee Steven M. Spier ("Trustee" or "Plaintiff") was appointed on January 22, 2009.

On May 1, 2012, Plaintiff commenced this adversary proceeding against SunCal Management, LLC ("SCM") and Argent Management, LLC ("Argent") (collectively, "Defendants"). Trustee seeks the return of management fees of more than \$900,000 paid by Debtor (and eleven other related debtors) to SCM during the period 2004 to 2008 based on several legal theories. The original complaint was subsequently amended and timely answers were filed by

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Defendants. On September 9, 2016, this adversary proceeding, as well as the eleven other related adversary proceedings (sometimes referred to herein collectively as the "Related Adversaries") were transferred to Judge Geraldine Mund. Judge Mund made several rulings in the Related Adversaries, including the granting of summary adjudication in favor of Defendants on Plaintiff's claims for breach of contract and restitution/unjust enrichment in this adversary proceeding. Importantly, on October 12, Judge Mund also ruled in one of the Related Adversaries involving SunCal Marblehead LLC ("Marblehead") that SCM was both a statutory and non-statutory insider of Marblehead. On January 25, 2018, the Related Adversaries were transferred back to this court.

On May 30, 2019, Plaintiff filed the instant motion for partial summary adjudication [dkt. #417] ("Motion") for findings that SCM was also an insider of Debtor pursuant to §101(31) from the date Debtor and SCM entered into that certain Development Management Agreement ("DMA") until the petition date. Specifically, Plaintiff asserts that SCM is an insider under §101(31)(E) as an insider of an affiliate of Debtor, as the managing agent of Debtor under §101(31)(F), and as a non-statutory insider of Debtor. Defendants vigorously oppose the Motion.

II. Standard for Summary Judgment/Partial Adjudication

A party seeking summary judgment bears the initial responsibility of demonstrating the absence of a genuine issue of material fact and establishing that it is entitled to judgment as a matter of law as to those matters upon which it has the burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). The opposing party must make an affirmative showing on all matters placed in issue by the motion as to which it has the burden of proof at trial. *Id.* at 324. The substantive law will identify which facts are material. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. *Id.* A factual dispute is genuine where the evidence is such that a reasonable jury could return a verdict for the nonmoving party. *Id.* The court must view the evidence presented on the motion in the light most favorable to the opposing party. *Id.*

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As explained by the Ninth Circuit in *Nissan Fire & Marine Ins. Co. v. Fritz Companies, Inc.*, 210 F.3d 1099, 1102–03 (9th Cir. 2000):

"A moving party without the ultimate burden of persuasion at trial—usually, but not always, a defendant—has both the initial burden of production and the ultimate burden of persuasion on a motion for summary judgment... In order to carry its burden of production, the moving party must either produce evidence negating an essential element of the nonmoving party's claim or defense or show that the nonmoving party does not have enough evidence of an essential element to carry its ultimate burden of persuasion at trial... In order to carry its ultimate burden of persuasion on the motion, the moving party must persuade the court that there is no genuine issue of material fact...

If a moving party fails to carry its initial burden of production, the nonmoving party has no obligation to produce anything, even if the nonmoving party would have the ultimate burden of persuasion at trial... In such a case, the nonmoving party may defeat the motion for summary judgment without producing anything... If, however, support its claim or defense... If the nonmoving party fails to produce enough evidence to create a genuine issue of material fact, the moving party wins the motion for summary judgment.

*Id.* at 1102-03 (citations omitted). In ruling on a summary judgment motion, the Court does not weigh the evidence. *Anderson*, 477 U.S. at 255. Rather, the Court's role is to assess whether a genuine dispute exists as to the material facts requiring a trial. *Id.* at 249. In conducting this assessment, "[t]he evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor." *Tolan v. Cotton*, 572 U.S. 650, 651 (2014). Furthermore, where intent is at issue, summary judgment is seldom granted. See, *Provenz v. Miller*, 102 F.3d 1478, 1489 (9th Cir. 1996), *cert. denied*, 118 S. Ct. 48 (1997).

Federal Rules of Bankruptcy Procedure 7056 incorporates by reference most of the procedural requirements of Rule 56 of the Federal Rules of Civil Procedure ("FRCP") governing motions for summary judgment. In this District, Rule 7056-1 of the Local Bankruptcy Rules ("LBR") also applies.

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III. Statement of Uncontroverted Facts and Conclusions of Law/Statement of Genuine Facts

Under FRCP 56(c)(1)(A), the moving party must cite to materials in the record, including "depositions, documents, electronically stored information, affidavits, declarations . . . admissions, interrogatory answers, or other materials." LBR 7056-1(b)(2) requires that the moving party serve and file a proposed statement of uncontroverted facts and conclusions of law. LBR 7056-1(c)(2)(A) and (B) requires that the respondent file a separate statement of genuine issues, "identify each material fact that is disputed and cite the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon to establish the dispute . . . ."

In this matter, Plaintiff timely filed a Statement of Uncontroverted Facts and Conclusions of Law ("UF"). However, Defendants did not timely file a Statement of Genuine Facts ("GI") in *this* adversary. Though Defendants did timely file an opposition to the Motion on July 31, 2019, the GI attached thereto [dkt # 525] is responsive to a similar motion filed by Plaintiff involving a different debtor, SunCal Oak Valley, in a different adversary, adv. no. 18-01128. No correction or errata has ever been filed. Under LBR 7056-1(f), uncontroverted facts are deemed admitted. See also, *In re Barber*, 236 B.R. 655, 664 (Bankr. N.D. Ind. 1998) ("A failure to properly contest the statement of material facts set out in the movant's statement constitutes a binding admission of those facts."). Accordingly, for purposes of this adversary only, the uncontroverted facts set forth in Plaintiff's UF are deemed admitted, subject the admissibility of supporting materials cited therein. FRCP 56(c)(2) ("A party may object that the material cited to support . . . a fact cannot be presented in a form that would be admissible.") Thus, to the extent that Defendants have separately objected to the admissibility of certain cited documents/testimony, a particular fact item in the UF may ultimately be deemed inadmissible (and not deemed admitted) if the court rules in favor of Defendants on evidentiary grounds.

Defendants filed evidentiary objections to the admission of the content of Exhibit 4 of Plaintiff's Request for Judicial Notice, Exhibit 4 being the Third Amended Disclosure Statement ("TAD") filed on August 5, 2011 by counsel for

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SCC Acquisitions [Dkt #424]. The objections are sustained on the basis of hearsay and personal knowledge and affect UF #s 4 and 43 through 50. Among other things, UF #s 43 through 50 identify the TAD as the basis for various fact statements, including the identification of Defendant SCM and SCC Acquisitions, Inc. as "insiders" of Debtor [UF #44], SCM as a "SunCal Affiliate" [UF #46], SCC Acquisitions, Inc. as an "indirect parent company" of Debtor [UF #48], and that Debtor was "an affiliate of SCC Acquisitions" [UF #49].

Defendants also objected to Exhibit G to the Declaration of Gary Pemberton on personal knowledge grounds. Exhibit G is the deposition testimony of Edward Nolan and includes a "Project Detail Report." The document is presented as the supporting evidence for UF 4 and UF 37. UF 4 states that Elieff was the president and owner of SCC Acquisitions. On page 187, lines 18-19, when asked about SCC Acquisitions, Mr. Nolan simply states that it is "the company that Bruce [Elieff] owns." No follow-up questions are asked about the basis for his personal knowledge concerning Elieff's ownership of SCC Acquisitions. Defendants' objection is sustained as to this portion of the deposition testimony. UF 37 states that from "December 29, 2005 through the Petition Date the Debtor paid SCM at least \$5,066,401.00 in management fees." The statement is based on a "Project Detail Report" which is adequately authenticated by Mr. Nolan. Defendants' objection is overruled as to that portion of the deposition testimony.

In sum, for purposes of this Motion, all of the statements in Plaintiff's UF are deemed admitted and uncontroverted, except UF #s 4, 43, 44, 45, 46, 47, 48, 49 and 50. The uncontroverted facts are summarized below.

IV. Uncontroverted Facts

"The SunCal Companies," or "SunCal," is a brand name or dba used by an integrated network of real estate acquisition, holding and development companies owned by Bruce Elieff ("Elieff") and/or his brother, Stephen Elieff. UF 1 Debtor was formed at Elieff's direction as a single-purpose limited liability company to own certain real property located in Oakland, California (the "Oak Knoll Project"). UF 2, 3.



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Debtor did not have any employees and, as such, could not develop the Project itself. UF 6. Accordingly, on December 29, 2005, Debtor entered into a Development Management Agreement ("DMA") with SCM. UF 7. SCM was formed to "provide management and development services to entities who have direct or indirect ownership interests in certain real estate projects, and who are affiliated with the SunCal group of companies." UF 8. As a SunCal entity, SCM shared common management with Debtor. At all relevant times, Bruce owned 100% of SCM and served as its Manager as well as Debtor's Manager. He executed the DMA on behalf of both SCM and Debtor. UF 9, 11. SCM's General Counsel, Bruce Cook, participated in filing the documents used to form Debtor, prepared the Debtor's Operating Agreement and the First Amendment thereto, as well as the DMA, and was one of Debtor's authorized signatories. UF 10. Frank Faye, SCM's Chief Operating Officer, was also an officer of Debtor. UF 12.

Under the DMA, Debtor engaged SCM "to perform the development and management functions set forth below in connection with the development, marketing and sale of the Project, and to assist in all aspects of the Project[.]" UF 13. The DMA also provided SCM "the authority to perform (and incur expenses in connection with the performance of) the Development and Sale Services & Functions . . . and to otherwise act in accordance with the Project Budget" and to "take any action with respect to the Property or Project or incur any expense for which [the Debtor] is or may be responsible" so long as SCM "reasonably deems such action or expense as necessary in furtherance of the proper development, sale and marketing of the Project." UF 14. SCM reviewed and coordinated the work of the various contractors and consultants for Debtor's Project. UF 15. SCM's Project responsibilities were wide-ranging and included:

- "[r]eview bids and prepare bid analyses";
- "[c]oordinate the work of all contractors . . . [and] schedule and conduct development and progress meetings at which contractors, consultants, and [SCM] can discuss jointly such matters as procedures, progress, problems, and scheduling";
  
- "monitor the delivery of, and if necessary, arrange storage, protection and security for, all materials, systems and equipment which are to be used in the development of, or incorporated

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**Palmdale Hills Property, LLC**  
into, the Project";

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- "arrange with contractors to provide adequate security for the Project, including, without limitation, prevention of trespassing and dumping."

"assemble and retain all contracts, agreements and other records and data as may be necessary to carry out [SCM's] functions hereunder, and similar records for functions performed by contractors and other third parties in connection herewith";

- "keep and maintain proper books of contracts and records on behalf of [the Debtor] relating to . . . the development, operations, expenses and proceeds of the Property and the lots and other parcels comprising the Property";

- "[r]ecord the progress of the Project and submit to [the Debtor], from time to time as may be requested by [the Debtor], and as may be required by any Project Lenders, status reports consisting of (i) a payables transaction report listing all payables due for the month; (ii) a job cost report, (iii) a report explaining any budget variances, (iv) a committed cost report updated to include the invoices being paid during the month, and (v) a cash needs projection showing anticipated cash requirements for the ensuing four (4) months."

UF 15, 16

The DMA provided that Debtor would pay SCM a management fee "[a]s compensation for the performance of the Development and Sale Services & Functions and the other duties and services to be performed by [SCM]," the payment of which could be deferred or delayed based on the availability of funds. UF 17. Debtor was also liable for all third party costs incurred by SCM and compensation for SCM's employees. UF 18.

Under the DMA, SCM served as Debtor's "developer/operator" and "management company." UF 19. In this capacity, SCM was the party responsible for managing the development of the Oak Knoll Project from late

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2005 through at least November 2008. UF 20. SCM's owner (and Debtor's Manager), Elieff, was "in charge of overall supervision and monitoring of . . . [SCM's] services" and "was aware of and oversaw what was being done for the [Debtor's] Project[]." UF 21. Specifically, he "personally monitored, participated in and oversaw others who also participated in the day-to-day activities performed by SCM . . . in furtherance of the design, planning, entitlement [and] . . . development of the Project," was responsible for supervising SCM's "extensive" work on the Project, met, typically on a weekly basis, with members of SCM's senior management to discuss material matters relating to the entitlement and development of the Project, and toured the Project site. UF 22, 23, 29. SCM's Chief Operating Officer, Frank Faye (also an officer of Debtor) had "oversight responsibility of [a number of SCM] employees and their work product" and was in charge of supervising SCM's activities with respect to the development of the Oak Knoll Project. UF 12, 24, 25. Under the direction of SCM's Chief Accounting Officer, Tom Rollins, SCM "[m]anag[ed] the process of payments by [the Debtor] to contractors, consultants, vendors and others" and "[p]rovid[ed] accounting and asset management services for the Project[]." UF 26. SCM also prepared Debtor's business plans and project budgets. UF 27.

SCM performed all day-to-day operations related to the Project, including:

- "investigating and evaluating all potential site uses for the Project, including preparing site plans";
- "preparing financial reports and status reports concerning the Project . . . regarding all work performed on the Project by SCM, contractors, consultants, third party vendors, and others";
- "providing contract administration for the numerous contracts relating to the entitlement effort and other activities on the site of the Project";
- "creating bid packages, and negotiating and drafting agreements and all related documents for work performed by consultants, contractors, and third-party vendors for the Project";
- "engaging and consulting with consultants, contractors, and attorneys in

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connection with the preparation of environmental impact reports, the CEQA process, the Subdivision Map Act process, resource agency permits, and other necessary entitlements for the Project";

- "engaging, monitoring, and evaluating consultants, contractors, third party vendors, and others, who performed services related to the construction and development of the Project . . .";
- "engaging and consulting with architects and engineers and overseeing work performed by them";
- "consulting with applicable local and state governmental agencies regarding the Project";
- "causing to be prepared and processing architectural and landscape design guidelines . . .";
- "negotiating on behalf of the Debtor with respect to an owner participation agreement with the City . . . for the development of the Project";
- "conferring with community groups regarding the Project . . .";
- "negotiating and drafting agreements with adjacent land owners for easements and other rights needed in connection with the development of the Project . . .";
- "processing the formation of a Community Facilities District that would provide financing for the development of public infrastructure improvements for the Project"; and
- "performing extensive work to process all necessary approvals and permits for entitlements including preparing the entire entitlement package for the Project . . ."

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Pursuant to the DMA's terms, Debtor was responsible for paying SCM's management fees and expense reimbursements. UF 17, 18. According to SCM's Chief Accounting Officer, Tom Rollins, SCM "invoiced the Debtor directly for services performed" from "the inception of the Project to the Petition Date." UF 30. After SCM generated an invoice, it would go to the Project accountant, an SCM employee. UF 31. The Project accountant would then send the SCM invoices to SCM's asset management group for review and approval. UF 32. Ultimately, an SCM employee would issue a check or wire funds from Debtor's account to SCM. UF 33. Mr. Rollins and Ed Nolan, also an SCM employee, were responsible for approving such transfers. UF 34. Mr. Rollins testified that SCM employees would "try to make sure that billings [were] done properly, the accounting [was] done properly." UF 35. However, Debtor did not have any employees, and thus there was no personnel of Debtor to question whether an invoice was correct or whether a management fee payment should be deferred in accordance with the DMA based on a shortage of funds. UF 6. In total, SCM received at least \$5,506,401.00 in management fees from Debtor between 2005 and 2008. UF 37.

V. Marblehead Decision

During the time that the Related Adversaries were pending before Judge Mund, Plaintiff filed a similar motion for partial adjudication based on facts nearly identical presented here that SCM was a statutory and non-statutory insider of related debtor. SunCal Marblehead, LLC ("Marblehead"), adv. no 18-01125. In a thorough and well-analyzed opinion, Judge Mund held as follows:

- (1) SCM was not an insider as an "affiliate" of Marblehead under § 101(31)(E),
- (2) SCM was not an insider of Marblehead's affiliate, Elieff, under §101(31)(E),
- (3) SCM was an insider of Marblehead as "managing agent" under §101(31)(F), and
- (4) SCM was a non-statutory insider of Marblehead.

See Palmdale Hills Prop. v. Argent Mgmt., LLC (In re Palmdale Hills Prop.), 2017 Bankr. LEXIS 3534, at \*19 (Bankr. C.D. Cal. Oct. 12, 2017). Both sides cite to

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Judge Mund's prior decision and address Judge Mund's analysis in their arguments. With one notable exception, this court agrees with Judge Mund's findings and conclusions. To avoid "re-inventing the wheel," the court will borrow heavily from her reasoned opinion.

VI. Analysis

A. Insider Status Under §101(31)

The SAC alleges a claim for relief under §547 for preferential transfer. Section 547(b)(4)(B) extends the "look back" period for recovery a preferential transfer to an insider from ninety days to one year prior to the petition date. Pursuant to § 547(g), Plaintiff bears the burden of proving that SCM is an insider, in connection with Plaintiff's preference claim against SCM. *Batlan v. Transamerica Commer. Fin. Corp. (In re Smith's Home Furnishings, Inc.)*, 265 F.3d 959, 963 (9th Cir. Or. 2001) ("Section 547(g) places the burden of proof on the trustee to show all of the conditions of §547(b).").

There are "two types of insiders: statutory insiders and non-statutory insiders." *In re The Village at Lakeridge, LLC*, 814 F.3d 993, 999 (9th Cir. 2016), *aff'd sub nom. U.S. Bank Nat. Ass'n ex rel. CWCapital Asset Mgmt. LLC v. Village at Lakeridge, LLC*, 138 S. Ct. 960, 200 L. Ed. 2d 218 (2018). "To be a 'statutory insider,' a creditor *must* fall within one of the categories listed in 11 U.S.C. § 101(31)." *Village at Lakeridge, supra*, at 996 (emphasis in original). "Whether a creditor is an insider is a factual inquiry that must be conducted on a case-by-case basis." *Id.* at 1000. "In conducting a factual inquiry for insider status, courts should begin with the statute. If the [alleged insider] fits within the statutory insider classification on his own, the court's review ends; it need not examine the nature of the statutory insider's relationship to the debtor." *Id.* at 1001.

Under §101(31), the term "insider" includes as to corporations:

- (B) if the debtor is a corporation –
  - (i) director of the debtor;
  - (ii) officer of the debtor;

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(iii) person in control of the debtor;

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(E) affiliate, or insider of an affiliate as if such affiliate were the debtor; and

(F) and managing agent of the debtor.

B. Plaintiff has Satisfied his Burden of Proof that SCM is a  
Statutory Insider Under §101(31)(E) Based on Its Affiliate  
Status Under §101(2)(D)

Section 101(2)(D) defines "affiliate" as an "entity that *operates the business or substantially all of the property of the debtor under a lease or operating agreement.*" (emphasis added)

It is undisputed that SCM and its employees operated all aspects of Debtor's project development business as previously noted in detail herein. Plaintiff contends that under these circumstances, SCM, as the operator of Debtor's business, falls squarely within the definition of affiliate under §101(2)(D). SCE, on the other hand, argues that because it did not operate under a lease or operating agreement it is not an affiliate within the meaning of §101(2)(D). The issue is whether the DMA, a management agreement, is the functional equivalent of an operating agreement as that term is used in §101(2)(D). As pointed out by Judge Mund in the Marblehead decision, there are very few cases interpreting "operating agreement," and none in the Ninth Circuit. Some cases have interpreted the term expansively. See, e.g., *In re Chira*, 353 B.R. 693, 724-25 (Bankr.S.D.Fla.2006) ("the hotel also represented substantially all of [the debtor's] property. Elizabeth and Lounge Corp. are both 'entities' and they both operated the business and property of the Shelton Beach Hotel."); *In re Century Inv. Fund VII Ltd., P'ship*, 96 B.R. 884, 892 (Bankr.E.D.Wis.1989) ("Affiliate" means an "entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement." 11 U.S.C. § 101(2)(D). CMG has certainly been managing all of the property of the debtor under its management agreement.). By contrast, other courts have interpreted the term

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more strictly. See, *In re Washington Mut.*, 462 B.R. 137, 145-46 (rejecting debtors' argument that certain pooling and servicing agreements were de facto operating agreement within the meaning of the statute).

Judge Mund held that principles of statutory construction led her to the conclusion that SCM does not fall within the statutory definition of affiliate under §101(31)(D), relying at least in part on the statutory construction principles referenced in the decision of the Ninth Circuit Bankruptcy Appellate Panel in *Miller Ave. Prof'l & Promotional Servs. v. Brady (In re Entertainment Acquisition Partners, Inc.)*, 319 B.R. 626, 632-33 (9<sup>th</sup> Cir. BAP 2004). In *Miller*, the BAP held the corporation of a statutory insider was not an insider under §101(31)(B) and noted that "there is no justification for expanding the definition of a per se insider beyond what is plainly contained in the statute." Judge Mund observed that because §101(2) states that the term "affiliate" *means*, as opposed to the more flexible *includes* (as with §101(31), Congress intended a precise and restricted meaning. Further, giving meaning to all of the statutory language requires the existence of an actual operating agreement. Finally, and most importantly, Judge Mund opined that operating agreements "have specific meanings in the law of limited liability companies and for oil and gas rights," and that "terming the DMA to be an 'operating agreement' would be expanding the definition of affiliate (and thus insider) beyond what is plainly contained in the statute." 2017 Bankr.Lexis 3534 at 29.

SCM urges the court to employ the restrictive construction of the term, arguing that "leasing or operating agreement implies entitlement to benefits akin to ownership, which is not the case here. SCM also cites several a number of cases which describe an "operating agreement" as a contract used in the oil and gas industry. See Defendants' Opposition at p. 30 and citations therein [Dkt # 424].

Respectfully, the principles of statutory construction lead this court to a contrary conclusion. First, the court is not persuaded that the plain meaning of the term means a literal meaning of the same without regard to substance or context. Certainly, nothing in the legislative history of §101 suggests that Congress intended to limit affiliate status to operating agreements associated with limited liability companies or oil and gas contracts. The legislative history of the 1978 Code defines an insider as a person or entity with "a sufficiently close



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relationship with the Debtor that his conduct is made subject to closer scrutiny that those dealing at arm's length with the Debtor." S.Rep. No. 95-989, 95th Cong., 2d Sess., reprinted in 1978 U.S.Code Cong. & Admin.News 5787, 5810.

Second, as "operating agreement" is not defined in §101, consideration of the context of the surrounding language is in order. It is a "fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme. *Food and Drug Admin. v. Brown & Williamson Tobacco Co.*, 529 U.S. 120, 133 (2000); accord *Gale v. First Franklin Loan Services*, 701 F.3d. 1240, 1244 (9<sup>th</sup> Cir. 2012). See, generally *Badgley v. United States*, 957 F.3d. 969, 977 (9<sup>th</sup> Cir. 2020) ("In applying the statute, we focus on the substance of the retained interest. Labels are not dispositive."). Section 101(2)(D) starts with "entity that *operates the business . . . of the debtor*. The court interprets this to mean the emphasis is on whether someone other than the debtor is operating its business. As the DMA is an agreement governing the SCM's operation of every aspect of Debtor's business and property, it is, the court's view, an "operating agreement" within the meaning of §101(2)(D).

The court concludes as a matter of undisputed fact that SCM is an affiliate under §101(2)(D) and, therefore, a statutory insider pursuant to §101(31)(E).

C. Plaintiff has Satisfied his Burden of Proof that SCM is a Statutory Insider Under §101(31)(F) Based on Its Status as Managing Agent

Under §101(31)(F), the term "insider" includes a managing agent of the debtor. As with "operating agreement," "managing agent" is not a defined term under the Code. In analyzing whether SCM was the managing agent of Marblehead, Judge Mund looked to guidance from the case of *Rush v. Riddle (In re Standard Shoes, Inc.)*, 124 B.R. 318 (Bankr.C.D.Cal.1991). Though neither *Standard Shoes* or Judge Mund's decision regarding the Marblehead matter are binding on this court, the court nevertheless finds them instructive and soundly reasoned.

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In *Standard Shoes*, Judge Zurzolo, in addressing the ambiguity of the term "managing agent," developed the following useful definition:

"In defining 'managing agent,' I therefore conclude that it refers to Those entities that exert or could exert operational control over a debtor, a division or unit of a debtor, or a significant portion of a debtor's property. Such operational control would ordinarily include the ability to make personnel decisions, the authority to incur or pay obligations and access to financial and other information essential to the operation of the debtor.

The definition of 'managing agent' is consistent with the principal design of §101[31] and does not overlap or conflict with the categories of insiders expressly described in the preceding subsections of that statute."

124 B.R. at 323-24.

SCE contends that it did not have operational control over Debtor or over a significant portion of Debtor's property and that its authority was limited to performing services and making recommendations to Lehman which had ultimate approval power and control. Opposition at pp. 17-18. The court finds SCM's arguments wholly unpersuasive. Instead, the court agrees with and adopts Judge Mund's analysis and findings in the Marblehead matter:

"SCM exercised operational control over the Debtor and thus was a managing agent. All three factors indicating such control in *Standard Shoes* exist: although its actions needed to be in accord with Project Budgets, SCM had authority to incur expenses on the Project, ability to make personnel decisions (as the Debtor's operations were all conducted by SCM employees), and access the Debtor's books and records (which it maintained). It is undisputed that SCM conducted the Debtor's operations. While its actions may have been subject to the Lehman-approved Project Budget and Plan and Lehman may have had veto power over all payments, the standard does not demand

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unfettered control over the debtor. *Standard Stores* used a person in charge of a division of a corporate debtor as an example of a managing agent and cited the authority to direct payment of obligations, employ personnel, or order supplies as hallmarks of such control. Such people would still be subject to supervision and veto power by the officers and board of directors of the company."

2017 Bankr. Lexis 3534 at 33-34.

The duties and responsibilities of SCM under the DMA meet and exceed the managing agent factors set forth in *Standard Stores*. The court, therefore, finds as a matter of undisputed fact, that SCM was a managing agent of Debtor within the meaning of §101(31)(F) and a statutory insider of Debtor under § 101(31).

D. Plaintiff has not Met his Burden of Proof that SCC Acquisitions was an Affiliate and Statutory Insider of Debtor

Plaintiff's assertion that SCC Acquisitions was an Affiliate of Debtor is based on representations made in the Third Amended Disclosure Statement. UF 4, 5. However, the court has sustained the evidentiary objections regarding such representations. As a consequence, Plaintiff has not established as a matter of undisputed fact the SCC Acquisitions was an affiliate and, therefore, an insider of Debtor.

E. Plaintiff has not Met his Burden of Proof that SCM was an Affiliate and Insider of SCC Acquisitions

Again, Plaintiff's assertion is based on representations made in the Third Amended Disclosure Statement. UF 46, 47. As the court has sustained the evidentiary objections regarding such representations and, therefore, Plaintiff has not established as matter of undisputed fact that SCM was an affiliate and insider of SCC Acquisitions.

F. Plaintiff has not Met his Burden of Proof that SunCal Marblehead was an Affiliate of Debtor

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Plaintiff relies on conclusory statements made by Elieff in Debtor's involuntary bankruptcy petition that SunCal Marblehead was an affiliate of Debtor. This is insufficient to satisfy Plaintiff's burden of proof regarding SunCal Marblehead's status as an affiliate of Debtor as a matter of undisputed fact.

G. Plaintiff has Met his Burden of Proof that SCM was a Non-statutory Insider

In *The Village at Lakeridge*, the Ninth Circuit held that non-statutory insiders are the "functional equivalent of statutory insiders" if they fall within the ambit of §101(31). 814 F.3d at 1001. An entity is a non-statutory insider if "1) the closeness of its relationship with the debtor is comparable to that of the enumerated insider classifications in §101(31), and 2) the relevant transaction is negotiated at less than arm's length." *Id.* As previously noted herein, the legislative history of the 1978 Code defines an insider as a person or entity with "a sufficiently close relationship with the Debtor that his conduct is made subject to closer scrutiny than those dealing at arm's length with the Debtor." S.Rep. No. 95-989, 95th Cong., 2d Sess., reprinted in 1978 U.S.Code Cong. & Admin.News 5787, 5810.

The court agrees with and adopts by reference below, Judge Mund's two-step analysis concerning the non-statutory insider status of SCM in the SunCal Marblehead matter:

"[I]t is beyond dispute that SCM conducted the Debtor's day-to-day operations, its employees conducted all of the Debtor's business functions, and it maintained the Debtor's books and records. It had 'some degree of control' and access to the Debtor's information and records, both of which are indications of insider status cited by the Ninth Circuit in *Vill.at Lakeridge*. It was also close enough for SCM to gain some advantage due simply to affinity: even if all of the

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Debtor's payments needed Lehman's prior approval, SCM was responsible for the first line of review of its own invoices and had some control over when its invoices were submitted for approval and were paid. This extremely close relationship between SCM and the Debtor was of the type that Congress intended to subject to 'a greater level of scrutiny.'

However much control Lehman may have had over the Project, the Project Budgets, the draw requests, and the vendor payments, it is undisputed that SCM processed, reviewed, and paid its own invoices on the Debtor's behalf. An SCM employee actually issuing the Debtor's payment to SCM was not a transaction conducted 'as if the parties were strangers.' A conflict of interest does not require nefarious behavior by SCM, merely the potential for abuse. These payments to SCM cannot be called 'arms' length transactions.

2017 Bankr. Lexis at 37-38.

SCM disagrees with the foregoing analysis. First, SCM argues that Lehman did not show SCM any preferential treatment in its decisions regarding payment and that there is no evidence that payments made to SCM were for any reason of affinity. SCM attempt to distinguish itself from the familial affinity that existed in *In re Rexford Properties, LLC*, 557 B.R. 788 (Bankr.C.D.Cal 2016). SCM misses the point. The close relationship prong does not require a showing of actual preferential treatment, but rather that the closeness could provide an opportunity for potential abuse. The discussion of *Rexford* is not helpful the facts in that case are not comparable to the circumstances here. For example, SCE states that it has no ownership interest in Debtor. However, ownership interest is not critical factor or requirement for non-statutory insider status.

Next, while acknowledging that control is not a required factor in this Circuit, SCM refers the court to an unpublished, non-precedential Ninth Circuit case, *Farrar v. Warda & Yonano LLP (In re Bella Vista by Paramount LLC)*, 549 Fed.Appx, 648 (2013) for the quote therein that "insider status is a question of control." *Farrar predates* the published (and binding) Ninth Circuit case, *The*

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*Village at Lakeridge* ("Some degree of control is one of many indications that a creditor may be a non-statutory insider, but *actual control is not required to find non-statutory insider status*") (emphasis added) 814 F.3d at 1001. In footnote 12 of *The Village at Lakeridge*, the Court observed that "if actual control were required for non-statutory insider status, all non-statutory insiders would also be statutory insiders under §101)(31). The remainder of the arguments and citations to non-binding decisions, most of which predate *The Village at Lakeridge*, are not persuasive.

VII. Conclusion

Based upon the foregoing, the Motion is granted in part and denied in part.

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue

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Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01015 Speier v. SunCal Management LLC et al

**#2.00 CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Breach of Contract; (2) Restitution and/or Unjust Enrichment; (3) To Avoid and**

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Recover Fraudulent Transfers; and (4) To Avoid and Recover Preferential Transfers  
**[Debtor: SunCal Oak Knoll, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20;  
5-28-20

Docket 95

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 28, 2020**

Continue status conference to May 29, 2020 at 2:00 p.m.

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

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker



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Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**8:08-17206 Palmdale Hills Property, LLC**

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Adv#: 8:18-01021 Speier v. SunCal Management LLC et al

**#3.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management, LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20; 4-27-20; 5-28-20

Docket 372

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**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

No tentative ruling. Oral Argument only. Plaintiff will have 30 minutes to argue in favor of the Motion; Defendant will have 30 minutes to respond; Plaintiff will have 30 minutes to reply. The matter will then be taken under submission. Oral Ruling: March 26, 2020 at 2:00 p.m.

-----

**May 28, 2020**

Grant motion for partial summary adjudication on the grounds that Plaintiff has established as a matter of undisputed fact and law that SCM is both a statutory insider under FRBP 101(31)(E) [affiliate within the meaning of 101(30)(D)], and FRBP 101(31)(F) [managing agent] and is also a nonstatutory insider.

The basis for the ruling and relevant evidentiary rulings will be posted in the tentative ruling field in lieu of an oral ruling on the record on May 29, 2020 between 12:00pm and 1:00pm. A hearing will be held on **May 29, 2020 at 2:00 p.m.** regarding any questions regarding the ruling, as well as scheduling of future motions/status conferences.

**EVIDENTIARY RULINGS**

Plaintiff's Evidentiary Objections to Declaration of Jeffrey Cook

<u>Objection #</u>	<u>Ruling</u>
1-9	Overruled
10	Sustained as to "My understanding is that Michael Delvin would review the work in the field and then write a report on

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the status of construction that was submitted to Lehman via Trimont." Overruled as to the balance

11	Overruled
12	Overruled
13	Sustained
14	Sustained

Basis for Ruling

I. Background

An involuntary petition was filed against SunCal Torrance Properties, LLC ("Debtor") on November 14, 2008, bankruptcy case no. 18-17472. The order for relief was entered on January 6, 2009 and plaintiff, chapter 11 trustee Steven M. Spier ("Plaintiff" or "Trustee") was appointed on January 22, 2009 and subsequently also became the liquidating trustee under Debtor's confirmed plan. The order granting joint administration with the Palmdale lead case was entered March 18, 2009.

On May 1, 2012, Plaintiff commenced this adversary proceeding against SunCal Management, LLC ("SCM") and Argent Management, LLC ("Argent") (collectively, "Defendants"). Trustee seeks the return of management fees of more than \$900,000 paid by Debtor (and eleven other related debtors) to SCM during the period 2004 to 2008 based on several legal theories, including preferential transfer under §547. The original complaint was subsequently amended twice and timely answers were filed by Defendants. On September 9, 2016, this adversary proceeding, as well as the eleven other related adversary proceedings (sometimes referred to herein collectively as the "Related Adversaries") were transferred to Judge Geraldine Mund. Judge Mund made several rulings in the Related Adversaries, including the granting of summary adjudication in favor of Defendants on Plaintiff's claims for breach of contract and restitution/unjust enrichment in this adversary proceeding. Importantly, on

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October 12, Judge Mund also ruled in one of the Related Adversaries involving SunCal Marblehead LLC ("Marblehead") that SCM was both a statutory and non-statutory insider of Marblehead. On January 25, 2018, the Related Adversaries were transferred back to this court.

On May 30, 2019, Plaintiff filed the instant motion for partial summary adjudication [dkt. #417] ("Motion") for findings that SCM was also an insider of Debtor pursuant to §101(31) from the date Debtor and SCM entered into that certain Development Management Agreement ("DMA") until the petition date. Specifically, Plaintiff asserts that SCM is an insider under §101(31)(E) as an insider of an affiliate of Debtor, as the managing agent of Debtor under §101(31)(F), and as a non-statutory insider of Debtor. Defendants vigorously oppose the Motion.

II. Standard for Summary Judgment/Partial Adjudication

A party seeking summary judgment bears the initial responsibility of demonstrating the absence of a genuine issue of material fact and establishing that it is entitled to judgment as a matter of law as to those matters upon which it has the burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). The opposing party must make an affirmative showing on all matters placed in issue by the motion as to which it has the burden of proof at trial. *Id.* at 324. The substantive law will identify which facts are material. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. *Id.* A factual dispute is genuine where the evidence is such that a reasonable jury could return a verdict for the nonmoving party. *Id.* The court must view the evidence presented on the motion in the light most favorable to the opposing party. *Id.*\_

As explained by the Ninth Circuit in *Nissan Fire & Marine Ins. Co. v. Fritz Companies, Inc.*, 210 F.3d 1099, 1102–03 (9th Cir. 2000):

"A moving party without the ultimate burden of persuasion at trial—usually, but not always, a defendant—has both the initial burden of production and the ultimate burden of persuasion on a motion for summary judgment... In

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order to carry its burden of production, the moving party must either produce evidence negating an essential element of the nonmoving party's claim or defense or show that the nonmoving party does not have enough evidence of an essential element to carry its ultimate burden of persuasion at trial... In order to carry its ultimate burden of persuasion on the motion, the moving party must persuade the court that there is no genuine issue of material fact...

If a moving party fails to carry its initial burden of production, the nonmoving party has no obligation to produce anything, even if the nonmoving party would have the ultimate burden of persuasion at trial... In such a case, the nonmoving party may defeat the motion for summary judgment without producing anything... If, however, support its claim or defense... If the nonmoving party fails to produce enough evidence to create a genuine issue of material fact, the moving party wins the motion for summary judgment.

*Id.* at 1102-03 (citations omitted). In ruling on a summary judgment motion, the Court does not weigh the evidence. *Anderson*, 477 U.S. at 255. Rather, the Court's role is to assess whether a genuine dispute exists as to the material facts requiring a trial. *Id.* at 249. In conducting this assessment, "[t]he evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor." *Tolan v. Cotton*, 572 U.S. 650, 651 (2014). Furthermore, where intent is at issue, summary judgment is seldom granted. *See, Provenz v. Miller*, 102 F.3d 1478, 1489 (9th Cir. 1996), *cert. denied*, 118 S. Ct. 48 (1997).

Federal Rules of Bankruptcy Procedure 7056 incorporates by reference most of the procedural requirements of Rule 56 of the Federal Rules of Civil Procedure ("FRCP") governing motions for summary judgment. In this District, Rule 7056-1 of the Local Bankruptcy Rules ("LBR") also applies.

III. Statement of Uncontroverted Facts and Conclusions of Law/Statement of Genuine Facts

Under FRCP 56(c)(1)(A), the moving party must cite to materials in the record, including "depositions, documents, electronically stored information, affidavits, declarations . . . admissions, interrogatory answers, or other materials."

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LBR 7056-1(b)(2) requires that the moving party serve and file a proposed statement of uncontroverted facts and conclusions of law. LBR 7056-1(c)(2)(A) and (B) requires that the respondent file a separate statement of genuine issues, "identify each material fact that is disputed and cite the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon to establish the dispute . . . ."

In this matter, Plaintiff timely filed a Statement of Uncontroverted Facts and Conclusions of Law ("UF") and Defendants timely file a Statement of Genuine Facts ("GI").

Defendants filed evidentiary objections to the admission of the content of Exhibit 4 of Plaintiff's Request for Judicial Notice, Exhibit 4 being the Third Amended Disclosure Statement ("TAD") filed on August 5, 2011 by counsel for SCC Acquisitions [Dkt #424]. The objections are sustained on the basis of hearsay and personal knowledge and affect certain UFs. Among other things, UFs identifying the TAD as the supporting evidence for various fact statements, including the identification of Defendant SCM and SCC Acquisitions, Inc. as "insiders" of Debtor, SCM as a "SunCal Affiliate", SCC Acquisitions, Inc. as an "indirect parent company" of Debtor, and that Debtor was "an affiliate of SCC Acquisitions".

Defendants also objected to Exhibit G to the Declaration of Gary Pemberton on personal knowledge grounds. Exhibit G is the deposition testimony of Edward Nolan and includes a "Project Detail Report." The objection is sustained except as to the Project Detail Report, which the court finds was adequately authenticated.

In sum, for purposes of this Motion, all of the statements in Plaintiff's UF are deemed admitted and uncontroverted, except UFs that are disputed or stricken by evidentiary ruling. Some of the uncontroverted facts are summarized below.

IV. Uncontroverted Facts

"The SunCal Companies," or "SunCal," is a brand name or dba used by

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an integrated network of real estate acquisition, holding and development companies owned by Bruce Elieff ("Elieff") and/or his brother, Stephen Elieff. UF 1 Debtor was formed at Elieff's direction as a single-purpose limited liability company to own certain real property located in Oakland, California (the "Oak Knoll Project"). UF 2, 3.

Debtor did not have any employees and, as such, could not develop the Project itself. UF 6. Accordingly, on December 29, 2005, Debtor entered into a Development Management Agreement ("DMA") with SCM. UF 7. SCM was formed to "provide management and development services to entities who have direct or indirect ownership interests in certain real estate projects, and who are affiliated with the SunCal group of companies." UF 8. As a SunCal entity, SCM shared common management with Debtor. At all relevant times, Bruce owned 100% of SCM and served as its Manager as well as Debtor's Manager. He executed the DMA on behalf of both SCM and Debtor. UF 9, 11. SCM's General Counsel, Bruce Cook, participated in filing the documents used to form Debtor, prepared the Debtor's Operating Agreement and the First Amendment thereto, as well as the DMA, and was one of Debtor's authorized signatories. UF 10. Frank Faye, SCM's Chief Operating Officer, was also an officer of Debtor. UF 12.

Under the DMA, Debtor engaged SCM "to perform the development and management functions set forth below in connection with the development, marketing and sale of the Project, and to assist in all aspects of the Project[.]" UF 13. The DMA also provided SCM "the authority to perform (and incur expenses in connection with the performance of) the Development and Sale Services & Functions . . . and to otherwise act in accordance with the Project Budget" and to "take any action with respect to the Property or Project or incur any expense for which [the Debtor] is or may be responsible" so long as SCM "reasonably deems such action or expense as necessary in furtherance of the proper development, sale and marketing of the Project." UF 14. SCM reviewed and coordinated the work of the various contractors and consultants for Debtor's Project. UF 15. SCM's Project responsibilities were wide-ranging and included:

- "[r]eview bids and prepare bid analyses";
- "[c]oordinate the work of all contractors . . . [and] schedule and conduct

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development and progress meetings at which contractors, consultants, and [SCM] can discuss jointly such matters as procedures, progress, problems, and scheduling";

- "monitor the delivery of, and if necessary, arrange storage, protection and security for, all materials, systems and equipment which are to be used in the development of, or incorporated into, the Project";

- "arrange with contractors to provide adequate security for the Project, including, without limitation, prevention of trespassing and dumping."

"assemble and retain all contracts, agreements and other records and data as may be necessary to carry out [SCM's] functions hereunder, and similar records for functions performed by contractors and other third parties in connection herewith";

- "keep and maintain proper books of contracts and records on behalf of [the Debtor] relating to . . . the development, operations, expenses and proceeds of the Property and the lots and other parcels comprising the Property";

- "[r]ecord the progress of the Project and submit to [the Debtor], from time to time as may be requested by [the Debtor], and as may be required by any Project Lenders, status reports consisting of (i) a payables transaction report listing all payables due for the month; (ii) a job cost report, (iii) a report explaining any budget variances, (iv) a committed cost report updated to include the invoices being paid during the month, and (v) a cash needs projection showing anticipated cash requirements for the ensuing four (4) months."

UF 15, 16

The DMA provided that Debtor would pay SCM a management fee "[a]s compensation for the performance of the Development and Sale Services & Functions and the other duties and services to be performed by [SCM]," the payment of which could be deferred or delayed based on the availability of funds.



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UF 17. Debtor was also liable for all third party costs incurred by SCM and compensation for SCM's employees. UF 18.

Under the DMA, SCM served as Debtor's "developer/operator" and "management company." UF 19. In this capacity, SCM was the party responsible for managing the development of the Oak Knoll Project from late 2005 through at least November 2008. UF 20. SCM's owner (and Debtor's Manager), Elieff, was "in charge of overall supervision and monitoring of . . . [SCM's] services" and "was aware of and oversaw what was being done for the [Debtor's] Project[]." UF 21. Specifically, he "personally monitored, participated in and oversaw others who also participated in the day-to-day activities performed by SCM . . . in furtherance of the design, planning, entitlement [and] . . . development of the Project," was responsible for supervising SCM's "extensive" work on the Project, met, typically on a weekly basis, with members of SCM's senior management to discuss material matters relating to the entitlement and development of the Project, and toured the Project site. UF 22, 23, 29. SCM's Chief Operating Officer, Frank Faye (also an officer of Debtor) had "oversight responsibility of [a number of SCM] employees and their work product" and was in charge of supervising SCM's activities with respect to the development of the Oak Knoll Project. UF 12, 24, 25. Under the direction of SCM's Chief Accounting Officer, Tom Rollins, SCM "[m]anag[ed] the process of payments by [the Debtor] to contractors, consultants, vendors and others" and "[p]rovid[ed] accounting and asset management services for the Project[]." UF 26. SCM also prepared Debtor's business plans and project budgets. UF 27.

SCM performed all day-to-day operations related to the Project, including:

- "investigating and evaluating all potential site uses for the Project, including preparing site plans";
- "preparing financial reports and status reports concerning the Project . . . regarding all work performed on the Project by SCM, contractors, consultants, third party vendors, and others";
- "providing contract administration for the numerous contracts relating to the entitlement effort and other activities on the site of the Project";

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- "creating bid packages, and negotiating and drafting agreements and all related documents for work performed by consultants, contractors, and third-party vendors for the Project";
- "engaging and consulting with consultants, contractors, and attorneys in connection with the preparation of environmental impact reports, the CEQA process, the Subdivision Map Act process, resource agency permits, and other necessary entitlements for the Project";
- "engaging, monitoring, and evaluating consultants, contractors, third party vendors, and others, who performed services related to the construction and development of the Project . . .";
- "engaging and consulting with architects and engineers and overseeing work performed by them";
- "consulting with applicable local and state governmental agencies regarding the Project";
- "causing to be prepared and processing architectural and landscape design guidelines . . .";
- "negotiating on behalf of the Debtor with respect to an owner participation agreement with the City . . . for the development of the Project";
- "conferring with community groups regarding the Project . . .";
- "negotiating and drafting agreements with adjacent land owners for easements and other rights needed in connection with the development of the Project . . .";
- "processing the formation of a Community Facilities District that would provide financing for the development of public infrastructure improvements for the Project"; and
- "performing extensive work to process all necessary approvals and permits for

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entitlements including preparing the entire entitlement package for the Project . . ."

UF 28

Pursuant to the DMA's terms, Debtor was responsible for paying SCM's management fees and expense reimbursements. UF 17, 18. According to SCM's Chief Accounting Officer, Tom Rollins, SCM "invoiced the Debtor directly for services performed" from "the inception of the Project to the Petition Date." UF 30. After SCM generated an invoice, it would go to the Project accountant, an SCM employee. UF 31. The Project accountant would then send the SCM invoices to SCM's asset management group for review and approval. UF 32. Ultimately, an SCM employee would issue a check or wire funds from Debtor's account to SCM. UF 33. Mr. Rollins and Ed Nolan, also an SCM employee, were responsible for approving such transfers. UF 34. Mr. Rollins testified that SCM employees would "try to make sure that billings [were] done properly, the accounting [was] done properly." UF 35. However, Debtor did not have any employees, and thus there was no personnel of Debtor to question whether an invoice was correct or whether a management fee payment should be deferred in accordance with the DMA based on a shortage of funds. UF 6. In total, SCM received at least \$2,293,102 in management fees from Debtor between 2005 and 2008. UF 37.

V. Marblehead Decision

During the time that the Related Adversaries were pending before Judge Mund, Plaintiff filed a similar motion for partial adjudication based on facts nearly identical presented here that SCM was a statutory and non-statutory insider of related debtor. SunCal Marblehead, LLC ("Marblehead"), adv. no 18-01125. In a thorough and well-analyzed opinion, Judge Mund held as follows:

- (1) SCM was not an insider as an "affiliate" of Marblehead under § 101(31)(E),
  - (2) SCM was not an insider of Marblehead's affiliate, Elieff, under §101(31)(E),
  - (3) SCM was an insider of Marblehead as "managing agent" under §101(31)(F),
- and

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(4) SCM was a non-statutory insider of Marblehead.

See Palmdale Hills Prop. v. Argent Mgmt., LLC (In re Palmdale Hills Prop.), 2017 Bankr. LEXIS 3534, at \*19 (Bankr. C.D. Cal. Oct. 12, 2017). Both sides cite to Judge Mund's prior decision and address Judge Mund's analysis in their arguments. With one notable exception, this court agrees with Judge Mund's findings and conclusions. To avoid "re-inventing the wheel," the court will borrow heavily from her reasoned opinion.

VI. Analysis

A. Insider Status Under §101(31)

The SAC alleges a claim for relief under §547 for preferential transfer. Section 547(b)(4)(B) extends the "look back" period for recovery a preferential transfer to an insider from ninety days to one year prior to the petition date. Pursuant to § 547(g), Plaintiff bears the burden of proving that SCM is an insider, in connection with Plaintiff's preference claim against SCM. *Batlan v. Transamerica Commer. Fin. Corp. (In re Smith's Home Furnishings, Inc.)*, 265 F.3d 959, 963 (9th Cir. Or. 2001) ("Section 547(g) places the burden of proof on the trustee to show all of the conditions of §547(b).").

There are "two types of insiders: statutory insiders and non-statutory insiders." In re The Village at Lakeridge, LLC, 814 F.3d 993, 999 (9th Cir. 2016), aff'd sub nom. U.S. Bank Nat. Ass'n ex rel. CWCapital Asset Mgmt. LLC v. Village at Lakeridge, LLC, 138 S. Ct. 960, 200 L. Ed. 2d 218 (2018). "To be a 'statutory insider,' a creditor *must* fall within one of the categories listed in 11 U.S.C. § 101(31)." Village at Lakeridge, supra, at 996 (emphasis in original). "Whether a creditor is an insider is a factual inquiry that must be conducted on a case-by-case basis." *Id.* at 1000. "In conducting a factual inquiry for insider status, courts should begin with the statute. If the [alleged insider] fits within the statutory insider classification on his own, the court's review ends; it need not examine the nature of the statutory insider's relationship to the debtor." *Id.* at 1001.

Under §101(31), the term "insider" includes as to corporations:

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- (B) if the debtor is a corporation –  
(i) director of the debtor;  
(ii) officer of the debtor;  
(iii) person in control of the debtor;

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(E) affiliate, or insider of an affiliate as if such affiliate were the debtor; and

(F) and managing agent of the debtor.

**B. Plaintiff has Satisfied his Burden of Proof that SCM is a  
Statutory Insider Under §101(31)(E) Based on Its Affiliate  
Status Under §101(2)(D)**

Section 101(2)(D) defines "affiliate" as an "entity that *operates the business or substantially all of the property of the debtor under a lease or operating agreement.*" (emphasis added)

It is undisputed that SCM and its employees operated all aspects of Debtor's project development business as previously noted in detail herein. Plaintiff contends that under these circumstances, SCM, as the operator of Debtor's business, falls squarely within the definition of affiliate under §101(2)(D). SCE, on the other hand, argues that because it did not operate under a lease or operating agreement it is not an affiliate within the meaning of §101(2)(D). The issue is whether the DMA, a management agreement, is the functional equivalent of an operating agreement as that term is used in §101(2)(D). As pointed out by Judge Mund in the Marblehead decision, there are very few cases interpreting "operating agreement," and none in the Ninth Circuit. Some cases have interpreted the term expansively. See, e.g., *In re Chira*, 353 B.R. 693, 724-25 (Bankr.S.D.Fla.2006) ("the hotel also represented substantially all of [the debtor's] property. Elizabeth and Lounge Corp. are both 'entities' and they both operated the business and property of the Shelton Beach Hotel."); *In re Century Inv. Fund VII Ltd., P'ship*, 96 B.R. 884, 892 (Bankr.E.D.Wis.1989) ("Affiliate"

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means an "entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement." 11 U.S.C. § 101(2)(D). CMG has certainly been managing all of the property of the debtor under its management agreement.). By contrast, other courts have interpreted the term more strictly. See, *In re Washington Mut.*, 462 B.R. 137, 145-46 (rejecting debtors' argument that certain pooling and servicing agreements were de facto operating agreement within the meaning of the statute).

Judge Mund held that principles of statutory construction led her to the conclusion that SCM does not fall within the statutory definition of affiliate under §101(31)(D), relying at least in part on the statutory construction principles referenced in the decision of the Ninth Circuit Bankruptcy Appellate Panel in *Miller Ave. Prof'l & Promotional Servs. v. Brady (In re Entertainment Acquisition Partners, Inc.)*, 319 B.R. 626, 632-33 (9<sup>th</sup> Cir. BAP 2004). In *Miller*, the BAP held the corporation of a statutory insider was not an insider under §101(31)(B) and noted that "there is no justification for expanding the definition of a per se insider beyond what is plainly contained in the statute." Judge Mund observed that because §101(2) states that the term "affiliate" *means*, as opposed to the more flexible *includes* (as with §101(31), Congress intended a precise and restricted meaning. Further, giving meaning to all of the statutory language requires the existence of an actual operating agreement. Finally, and most importantly, Judge Mund opined that operating agreements "have specific meanings in the law of limited liability companies and for oil and gas rights," and that "terming the DMA to be an 'operating agreement' would be expanding the definition of affiliate (and thus insider) beyond what is plainly contained in the statute." 2017 Bankr.Lexis 3534 at 29.

SCM urges the court to employ the restrictive construction of the term, arguing that "leasing or operating agreement implies entitlement to benefits akin to ownership, which is not the case here. SCM also cites several a number of cases which describe an "operating agreement" as a contract used in the oil and gas industry. See Defendants' Opposition at p. 30 and citations therein [Dkt #424].

Respectfully, the principles of statutory construction lead this court to a contrary conclusion. First, the court is not persuaded that the plain meaning of the term means a literal meaning of the same without regard to substance or context. Certainly, nothing in the legislative history of §101 suggests that Congress

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intended to limit affiliate status to operating agreements associated with limited liability companies or oil and gas contracts. The legislative history of the 1978 Code defines an insider as a person or entity with "a sufficiently close relationship with the Debtor that his conduct is made subject to closer scrutiny that those dealing at arm's length with the Debtor." S.Rep. No. 95-989, 95th Cong., 2d Sess., reprinted in 1978 U.S.Code Cong. & Admin.News 5787, 5810.

Second, as "operating agreement" is not defined in §101, consideration of the context of the surrounding language is in order. It is a "fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme. *Food and Drug Admin. v. Brown & Williamson Tobacco Co.*, 529 U.S. 120, 133 (2000); accord *Gale v. First Franklin Loan Services*, 701 F.3d. 1240, 1244 (9<sup>th</sup> Cir. 2012). See, generally *Badgley v. United States*, 957 F.3d. 969, 977 (9<sup>th</sup> Cir. 2020) ("In applying the statute, we focus on the substance of the retained interest. Labels are not dispositive."). Section 101(2)(D) starts with "entity that *operates the business . . . of the debtor*. The court interprets this to mean the emphasis is on whether someone other than the debtor is operating its business. As the DMA is an agreement governing the SCM's operation of every aspect of Debtor's business and property, it is, the court's view, an "operating agreement" within the meaning of §101(2)(D).

The court concludes as a matter of undisputed fact that SCM is an affiliate under §101(2)(D) and, therefore, a statutory insider pursuant to §101(31)(E).

C. Plaintiff has Satisfied his Burden of Proof that SCM is a Statutory Insider Under §101(31)(F) Based on Its Status as Managing Agent

Under §101(31)(F), the term "insider" includes a managing agent of the debtor. As with "operating agreement," "managing agent" is not a defined term under the Code. In analyzing whether SCM was the managing agent of Marblehead, Judge Mund looked to guidance from the case of *Rush v. Riddle (In re Standard Shoes, Inc.)*, 124 B.R. 318 (Bankr.C.D.Cal.1991). Though neither *Standard Shoes* or Judge Mund's decision regarding the Marblehead matter are binding on this court, the court nevertheless finds them instructive and soundly

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reasoned.

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In *Standard Shoes*, Judge Zurzolo, in addressing the ambiguity of the term "managing agent," developed the following useful definition:

"In defining 'managing agent,' I therefore conclude that it refers to Those entities that exert or could exert operational control over a debtor, a division or unit of a debtor, or a significant portion of a debtor's property. Such operational control would ordinarily include the ability to make personnel decisions, the authority to incur or pay obligations and access to financial and other information essential to the operation of the debtor.

The definition of 'managing agent' is consistent with the principal design of §101[31] and does not overlap or conflict with the categories of insiders expressly described in the preceding subsections of that statute."

124 B.R. at 323-24.

SCE contends that it did not have operational control over Debtor or over a significant portion of Debtor's property and that its authority was limited to performing services and making recommendations to Lehman which had ultimate approval power and control. Opposition at pp. 17-18. The court finds SCM's arguments wholly unpersuasive. Instead, the court agrees with and adopts Judge Mund's analysis and findings in the Marblehead matter:

"SCM exercised operational control over the Debtor and thus was a managing agent. All three factors indicating such control in *Standard Shoes* exist: although its actions needed to be in accord with Project Budgets, SCM had authority to incur expenses on the Project, ability to make personnel decisions (as the Debtor's operations were all conducted by SCM employees), and access the Debtor's books and records (which it maintained). It is undisputed that SCM conducted the Debtor's operations. While its actions may have been subject to the



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Lehman-approved Project Budget and Plan and Lehman may have had veto power over all payments, the standard does not demand unfettered control over the debtor. *Standard Stores* used a person in charge of a division of a corporate debtor as an example of a managing agent and cited the authority to direct payment of obligations, employ personnel, or order supplies as hallmarks of such control. Such people would still be subject to supervision and veto power by the officers and board of directors of the company."

2017 Bankr. Lexis 3534 at 33-34.

The duties and responsibilities of SCM under the DMA meet and exceed the managing agent factors set forth in *Standard Stores*. The court, therefore, finds as a matter of undisputed fact, that SCM was a managing agent of Debtor within the meaning of §101(31)(F) and a statutory insider of Debtor under § 101(31).

D. Plaintiff has not Met his Burden of Proof that SCC Acquisitions was an Affiliate and Statutory Insider of Debtor

Plaintiff's assertion that SCC Acquisitions was an Affiliate of Debtor is based on representations made in the Third Amended Disclosure Statement. UF 4, 5. However, the court has sustained the evidentiary objections regarding such representations. As a consequence, Plaintiff has not established as a matter of undisputed fact the SCC Acquisitions was an affiliate and, therefore, an insider of Debtor.

E. Plaintiff has not Met his Burden of Proof that SCM was an Affiliate and Insider of SCC Acquisitions

Again, Plaintiff's assertion is based on representations made in the Third Amended Disclosure Statement. UF 46, 47. As the court has sustained the evidentiary objections regarding such representations and, therefore, Plaintiff has not established as matter of undisputed fact that SCM was an affiliate and insider of SCC Acquisitions.

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F. Plaintiff has not Met his Burden of Proof that SunCal  
Marblehead was an Affiliate of Debtor

Plaintiff relies on conclusory statements made by Elieff in Debtor's involuntary bankruptcy petition that SunCal Marblehead was an affiliate of Debtor. This is insufficient to satisfy Plaintiff's burden of proof regarding SunCal Marblehead's status as an affiliate of Debtor as a matter of undisputed fact.

G. Plaintiff has Met his Burden of Proof that SCM was a Non-  
statutory Insider

In *The Village at Lakeridge*, the Ninth Circuit held that non-statutory insiders are the "functional equivalent of statutory insiders" if they fall within the ambit of § 101(31). 814 F.3d at 1001. An entity is a non-statutory insider if "1) the closeness of its relationship with the debtor is comparable to that of the enumerated insider classifications in §101(31), and 2) the relevant transaction is negotiated at less than arm's length." *Id.* As previously noted herein, the legislative history of the 1978 Code defines an insider as a person or entity with "a sufficiently close relationship with the Debtor that his conduct is made subject to closer scrutiny than those dealing at arm's length with the Debtor." S.Rep. No. 95-989, 95th Cong., 2d Sess., reprinted in 1978 U.S.Code Cong. & Admin.News 5787, 5810.

The court agrees with and adopts by reference below, Judge Mund's two-step analysis concerning the non-statutory insider status of SCM in the SunCal Marblehead matter:

"[I]t is beyond dispute that SCM conducted the Debtor's day-to-day operations, its employees conducted all of the Debtor's business functions, and it maintained the Debtor's books and records. It had 'some degree of control' and access to the Debtor's information and records, both of which are indications of insider status cited by the Ninth Circuit in *Vill.at Lakeridge*. It was also close enough for SCM to gain some advantage due simply to affinity: even if all of the Debtor's payments needed Lehman's prior approval, SCM was

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responsible for the first line of review of its own invoices and had some control over when its invoices were submitted for approval and were paid. This extremely close relationship between SCM and the Debtor was of the type that Congress intended to subject to 'a greater level of scrutiny.'

However much control Lehman may have had over the Project, the Project Budgets, the draw requests, and the vendor payments, it is undisputed that SCM processed, reviewed, and paid its own invoices on the Debtor's behalf. An SCM employee actually issuing the Debtor's payment to SCM was not a transaction conducted 'as if the parties were strangers.' A conflict of interest does not require nefarious behavior by SCM, merely the potential for abuse. These payments to SCM cannot be called 'arms' length transactions.

2017 Bankr. Lexis at 37-38.

SCM disagrees with the foregoing analysis. First, SCM argues that Lehman did not show SCM any preferential treatment in its decisions regarding payment and that there is no evidence that payments made to SCM were for any reason of affinity. SCM attempt to distinguish itself from the familial affinity that existed in *In re Rexford Properties, LLC*, 557 B.R. 788 (Bankr.C.D.Cal 2016). SCM misses the point. The close relationship prong does not require a showing of actual preferential treatment, but rather that the closeness could provide an opportunity for potential abuse. The discussion of *Rexford* is not helpful the facts in that case are not comparable to the circumstances here. For example, SCE states that it has no ownership interest in Debtor. However, ownership interest is not critical factor or requirement for non-statutory insider status.

Next, while acknowledging that control is not a required factor in this Circuit, SCM refers the court to an unpublished, non-precedential Ninth Circuit case, *Farrar v. Warda & Yonano LLP (In re Bella Vista by Paramount LLC)*, 549 Fed.Appx, 648 (2013) for the quote therein that "insider status is a question of control." *Farrar* predates the published (and binding) Ninth Circuit case, *The Village at Lakeridge* ("Some degree of control is one of many indications that a creditor may be a non-statutory insider, but *actual control is not required to find*

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*non-statutory insider status*") (emphasis added) 814 F.3d at 1001. In footnote 12 of *The Village at Lakeridge*, the Court observed that "if actual control were required for non-statutory insider status, all non-statutory insiders would also be statutory insiders under §101)(31). The remainder of the arguments and citations to non-binding decisions, most of which predate *The Village at Lakeridge*, are not persuasive.

VII. Conclusion

Based upon the foregoing, the Motion is granted in part and denied in part.

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

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

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**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**8:08-17206 Palmdale Hills Property, LLC**

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Adv#: 8:18-01021 Speier v. SunCal Management LLC et al

**#4.00 CONT'D STATUS CONFERENCE RE: Third Amended Complaint (1) To Avoid and Recover Fraudulent Transfers and (2) To Avoid and Recover Preferential Transfers [Debtor: SunCal Torrance, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20; 5-28-20

Docket 327

**Courtroom Deputy:**

- NONE LISTED -

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**May 28, 2020**

Continue status conference to May 29, 2020 at 2:00 p.m.

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

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch

Argent Management, LLC

Represented By  
Craig H Averch

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**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

8:08-17206 Palmdale Hills Property, LLC

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Adv#: 8:18-01022 Speier v. SunCal Management LLC et al

**#5.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management, LLC Was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20; 4-27-20; 5-28-20

Docket 374

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**January 9, 2020**

No tentative ruling. Oral Argument only. Plaintiff will have 30 minutes to argue in favor of the Motion; Defendant will have 30 minutes to respond; Plaintiff will have 30 minutes to reply. The matter will then be taken under submission. Oral Ruling: March 26, 2020 at 2:00 p.m.

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Grant motion for partial summary adjudication on the grounds that Plaintiff has established as a matter of undisputed fact and law that SCM is both a statutory insider under FRBP 101(31)(E) [affiliate within the meaning of 101(30)(D)], and FRBP 101(31)(F) [managing agent] and is also a nonstatutory insider.

The basis for the ruling and relevant evidentiary rulings will be posted in the tentative ruling field in lieu of an oral ruling on the record on May 29, 2020 between 12:00pm and 1:00pm. A hearing will be held on **May 29, 2020 at 2:00 p.m.** regarding any questions regarding the ruling, as well as scheduling of future motions/status conferences.

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**May 29, 2020**

**EVIDENTIARY RULINGS**

Plaintiff's Evidentiary Objections to Declaration of Jeffrey Cook

<u>Objection #</u>	<u>Ruling</u>
1-9	Overruled
10	Sustained as to "My understanding is that Michael Delvin would review the work in the field and then write a report on the status of construction that was submitted to Lehman via Trimont." Overruled as to the balance
11	Overruled
12	Overruled
13	Sustained
14	Sustained

Basis for Ruling



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I. Background

An involuntary petition was filed against debtor SunCal PSV, LLC on November 14, 2008 ("Debtor"). The order for relief was entered on January 6, 2009 and plaintiff, chapter 11 trustee Steven M. Spier ("Trustee" or "Plaintiff") was appointed on January 22, 2009.

On May 1, 2012, Plaintiff commenced this adversary proceeding against SunCal Management, LLC ("SCM") and Argent Management, LLC ("Argent") (collectively, "Defendants"). Trustee seeks the return of management fees of more than \$900,000 paid by Debtor (and eleven other related debtors) to SCM during the period 2004 to 2008 based on several legal theories. The original complaint was subsequently amended and timely answers were filed by Defendants. On September 9, 2016, this adversary proceeding, as well as the eleven other related adversary proceedings (sometimes referred to herein collectively as the "Related Adversaries") were transferred to Judge Geraldine Mund. Judge Mund made several rulings in the Related Adversaries, including the granting of summary adjudication in favor of Defendants on Plaintiff's claims for breach of contract and restitution/unjust enrichment in this adversary proceeding. Importantly, on October 12, Judge Mund also ruled in one of the Related Adversaries involving SunCal Marblehead LLC ("Marblehead") that SCM was both a statutory and non-statutory insider of Marblehead. On January 25, 2018, the Related Adversaries were transferred back to this court.

On May 30, 2019, Plaintiff filed the instant motion for partial summary adjudication [dkt. #417] ("Motion") for findings that SCM was also an insider of Debtor pursuant to §101(31) from the date Debtor and SCM entered into that certain Development Management Agreement ("DMA") until the petition date. Specifically, Plaintiff asserts that SCM is an insider under §101(31)(E) as an insider of an affiliate of Debtor, as the managing agent of Debtor under §101(31)(F), and as a non-statutory insider of Debtor. Defendants vigorously oppose the Motion.

II. Standard for Summary Judgment/Partial Adjudication

A party seeking summary judgment bears the initial responsibility of

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demonstrating the absence of a genuine issue of material fact and establishing that it is entitled to judgment as a matter of law as to those matters upon which it has the burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). The opposing party must make an affirmative showing on all matters placed in issue by the motion as to which it has the burden of proof at trial. *Id.* at 324. The substantive law will identify which facts are material. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. *Id.* A factual dispute is genuine where the evidence is such that a reasonable jury could return a verdict for the nonmoving party. *Id.* The court must view the evidence presented on the motion in the light most favorable to the opposing party. *Id.*\_

As explained by the Ninth Circuit in *Nissan Fire & Marine Ins. Co. v. Fritz Companies, Inc.*, 210 F.3d 1099, 1102–03 (9th Cir. 2000):

"A moving party without the ultimate burden of persuasion at trial—usually, but not always, a defendant—has both the initial burden of production and the ultimate burden of persuasion on a motion for summary judgment... In order to carry its burden of production, the moving party must either produce evidence negating an essential element of the nonmoving party's claim or defense or show that the nonmoving party does not have enough evidence of an essential element to carry its ultimate burden of persuasion at trial... In order to carry its ultimate burden of persuasion on the motion, the moving party must persuade the court that there is no genuine issue of material fact...

If a moving party fails to carry its initial burden of production, the nonmoving party has no obligation to produce anything, even if the nonmoving party would have the ultimate burden of persuasion at trial... In such a case, the nonmoving party may defeat the motion for summary judgment without producing anything... If, however, support its claim or defense... If the nonmoving party fails to produce enough evidence to create a genuine issue of material fact, the moving party wins the motion for summary judgment.

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*Id.* at 1102-03 (citations omitted). In ruling on a summary judgment motion, the Court does not weigh the evidence. *Anderson*, 477 U.S. at 255. Rather, the Court's role is to assess whether a genuine dispute exists as to the material facts requiring a trial. *Id.* at 249. In conducting this assessment, "[t]he evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor." *Tolan v. Cotton*, 572 U.S. 650, 651 (2014). Furthermore, where intent is at issue, summary judgment is seldom granted. See, *Provenz v. Miller*, 102 F.3d 1478, 1489 (9th Cir. 1996), *cert. denied*, 118 S. Ct. 48 (1997).

Federal Rules of Bankruptcy Procedure 7056 incorporates by reference most of the procedural requirements of Rule 56 of the Federal Rules of Civil Procedure ("FRCP") governing motions for summary judgment. In this District, Rule 7056-1 of the Local Bankruptcy Rules ("LBR") also applies.

III. Statement of Uncontroverted Facts and Conclusions of Law/Statement of Genuine Facts

Under FRCP 56(c)(1)(A), the moving party must cite to materials in the record, including "depositions, documents, electronically stored information, affidavits, declarations . . . admissions, interrogatory answers, or other materials." LBR 7056-1(b)(2) requires that the moving party serve and file a proposed statement of uncontroverted facts and conclusions of law. LBR 7056-1(c)(2)(A) and (B) requires that the respondent file a separate statement of genuine issues, "identify each material fact that is disputed and cite the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon to establish the dispute . . . ."

In this matter, Plaintiff timely filed a Statement of Uncontroverted Facts and Conclusions of Law ("UF") and Defendants timely filed a Statement of Genuine Facts ("GI"). rules in favor of Defendants on evidentiary grounds.

Defendants filed evidentiary objections to the admission of the content of Exhibit 4 of Plaintiff's Request for Judicial Notice, Exhibit 4 being the Third Amended Disclosure Statement ("TAD") filed on August 5, 2011 by counsel for SCC Acquisitions [Dkt #424]. The objections are sustained on the basis of hearsay and personal knowledge and affect certain UFs that identify the TAD as

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the supporting evidence for various fact statements, including the identification of Defendant SCM and SCC Acquisitions, Inc. as "insiders" of Debtor, SCM as a "SunCal Affiliate", SCC Acquisitions, Inc. as an "indirect parent company" of Debtor, and that Debtor was "an affiliate of SCC Acquisitions".

Defendants also objected to Exhibit G to the Declaration of Gary Pemberton on personal knowledge grounds. Exhibit G is the deposition testimony of Edward Nolan and includes a "Project Detail Report." The objection is sustained except as to the Project Detail Report exhibit which the court finds is adequately authenticated.

In sum, for purposes of this Motion, all of the statements in Plaintiff's UF are deemed admitted and uncontroverted, except UFs that are disputed or stricken by evidentiary ruling. Some of the uncontroverted facts are summarized below.

IV. Uncontroverted Facts

"The SunCal Companies," or "SunCal," is a brand name or dba used by an integrated network of real estate acquisition, holding and development companies owned by Bruce Elieff ("Elieff") and/or his brother, Stephen Elieff. UF 1 Debtor was formed at Elieff's direction as a single-purpose limited liability company to own certain real property located in Oakland, California (the "Oak Knoll Project"). UF 2, 3.

Debtor did not have any employees and, as such, could not develop the Project itself. UF 6. Accordingly, on December 29, 2005, Debtor entered into a Development Management Agreement ("DMA") with SCM. UF 7. SCM was formed to "provide management and development services to entities who have direct or indirect ownership interests in certain real estate projects, and who are affiliated with the SunCal group of companies." UF 8. As a SunCal entity, SCM shared common management with Debtor. At all relevant times, Bruce owned 100% of SCM and served as its Manager as well as Debtor's Manager. He executed the DMA on behalf of both SCM and Debtor. UF 9, 11. SCM's General Counsel, Bruce Cook, participated in filing the documents used to form Debtor, prepared the Debtor's Operating Agreement and the First Amendment thereto, as

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well as the DMA, and was one of Debtor's authorized signatories. UF 10. Frank Faye, SCM's Chief Operating Officer, was also an officer of Debtor. UF 12.

Under the DMA, Debtor engaged SCM "to perform the development and management functions set forth below in connection with the development, marketing and sale of the Project, and to assist in all aspects of the Project[.]" UF 13. The DMA also provided SCM "the authority to perform (and incur expenses in connection with the performance of) the Development and Sale Services & Functions . . . and to otherwise act in accordance with the Project Budget" and to "take any action with respect to the Property or Project or incur any expense for which [the Debtor] is or may be responsible" so long as SCM "reasonably deems such action or expense as necessary in furtherance of the proper development, sale and marketing of the Project." UF 14. SCM reviewed and coordinated the work of the various contractors and consultants for Debtor's Project. UF 15. SCM's Project responsibilities were wide-ranging and included:

- "[r]eview bids and prepare bid analyses";
- "[c]oordinate the work of all contractors . . . [and] schedule and conduct development and progress meetings at which contractors, consultants, and [SCM] can discuss jointly such matters as procedures, progress, problems, and scheduling";
- "monitor the delivery of, and if necessary, arrange storage, protection and security for, all materials, systems and equipment which are to be used in the development of, or incorporated into, the Project";
- "arrange with contractors to provide adequate security for the Project, including, without limitation, prevention of trespassing and dumping."

"assemble and retain all contracts, agreements and other records and data as may be necessary to carry out [SCM's] functions hereunder, and similar records for functions performed by contractors and other third parties in connection herewith";

- "keep and maintain proper books of contracts and records on behalf of

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[the Debtor] relating to . . . the development, operations, expenses and proceeds of the Property and the lots and other parcels comprising the Property";

- "[r]ecord the progress of the Project and submit to [the Debtor], from time to time as may be requested by [the Debtor], and as may be required by any Project Lenders, status reports consisting of (i) a payables transaction report listing all payables due for the month; (ii) a job cost report, (iii) a report explaining any budget variances, (iv) a committed cost report updated to include the invoices being paid during the month, and (v) a cash needs projection showing anticipated cash requirements for the ensuing four (4) months."

UF 15, 16

The DMA provided that Debtor would pay SCM a management fee "[a]s compensation for the performance of the Development and Sale Services & Functions and the other duties and services to be performed by [SCM]," the payment of which could be deferred or delayed based on the availability of funds. UF 17. Debtor was also liable for all third party costs incurred by SCM and compensation for SCM's employees. UF 18.

Under the DMA, SCM served as Debtor's "developer/operator" and "management company." UF 19. In this capacity, SCM was the party responsible for managing the development of the Oak Knoll Project from late 2005 through at least November 2008. UF 20. SCM's owner (and Debtor's Manager), Elieff, was "in charge of overall supervision and monitoring of . . . [SCM's] services" and "was aware of and oversaw what was being done for the [Debtor's] Project[]." UF 21. Specifically, he "personally monitored, participated in and oversaw others who also participated in the day-to-day activities performed by SCM . . . in furtherance of the design, planning, entitlement [and] . . . development of the Project," was responsible for supervising SCM's "extensive" work on the Project, met, typically on a weekly basis, with members of SCM's senior management to discuss material matters relating to the entitlement and development of the Project, and toured the Project site. UF 22, 23, 29. SCM's Chief Operating Officer, Frank Faye (also an officer of Debtor) had "oversight

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responsibility of [a number of SCM] employees and their work product" and was in charge of supervising SCM's activities with respect to the development of the Oak Knoll Project. UF 12, 24, 25. Under the direction of SCM's Chief Accounting Officer, Tom Rollins, SCM "[m]anag[ed] the process of payments by [the Debtor] to contractors, consultants, vendors and others" and "[p]rovid[ed] accounting and asset management services for the Project[]." UF 26. SCM also prepared Debtor's business plans and project budgets. UF 27.

SCM performed all day-to-day operations related to the Project, including:

- "investigating and evaluating all potential site uses for the Project, including preparing site plans";
- "preparing financial reports and status reports concerning the Project . . . regarding all work performed on the Project by SCM, contractors, consultants, third party vendors, and others";
- "providing contract administration for the numerous contracts relating to the entitlement effort and other activities on the site of the Project";
- "creating bid packages, and negotiating and drafting agreements and all related documents for work performed by consultants, contractors, and third-party vendors for the Project";
- "engaging and consulting with consultants, contractors, and attorneys in connection with the preparation of environmental impact reports, the CEQA process, the Subdivision Map Act process, resource agency permits, and other necessary entitlements for the Project";
- "engaging, monitoring, and evaluating consultants, contractors, third party vendors, and others, who performed services related to the construction and development of the Project . . .";
- "engaging and consulting with architects and engineers and overseeing work performed by them";

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- "consulting with applicable local and state governmental agencies regarding the Project";
  
- "causing to be prepared and processing architectural and landscape design guidelines . . .";
  
- "negotiating on behalf of the Debtor with respect to an owner participation agreement with the City . . . for the development of the Project";
  
- "conferring with community groups regarding the Project . . .";
  
- "negotiating and drafting agreements with adjacent land owners for easements and other rights needed in connection with the development of the Project . . .";
  
- "processing the formation of a Community Facilities District that would provide financing for the development of public infrastructure improvements for the Project"; and
  
- "performing extensive work to process all necessary approvals and permits for entitlements including preparing the entire entitlement package for the Project . . ."

UF 28

Pursuant to the DMA's terms, Debtor was responsible for paying SCM's management fees and expense reimbursements. UF 17, 18. According to SCM's Chief Accounting Officer, Tom Rollins, SCM "invoiced the Debtor directly for services performed" from "the inception of the Project to the Petition Date." UF 30. After SCM generated an invoice, it would go to the Project accountant, an SCM employee. UF 31. The Project accountant would then send the SCM invoices to SCM's asset management group for review and approval. UF 32. Ultimately, an SCM employee would issue a check or wire funds from Debtor's account to SCM. UF 33. Mr. Rollins and Ed Nolan, also an SCM employee,



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were responsible for approving such transfers. UF 34. Mr. Rollins testified that SCM employees would "try to make sure that billings [were] done properly, the accounting [was] done properly." UF 35. However, Debtor did not have any employees, and thus there was no personnel of Debtor to question whether an invoice was correct or whether a management fee payment should be deferred in accordance with the DMA based on a shortage of funds. UF 6. In total, SCM received at least \$5,506,401.00 in management fees from Debtor between 2005 and 2008. UF 37.

V. Marblehead Decision

During the time that the Related Adversaries were pending before Judge Mund, Plaintiff filed a similar motion for partial adjudication based on facts nearly identical presented here that SCM was a statutory and non-statutory insider of related debtor. SunCal Marblehead, LLC ("Marblehead"), adv. no 18-01125. In a thorough and well-analyzed opinion, Judge Mund held as follows:

- (1) SCM was not an insider as an "affiliate" of Marblehead under § 101(31)(E),
- (2) SCM was not an insider of Marblehead's affiliate, Elieff, under §101(31)(E),
- (3) SCM was an insider of Marblehead as "managing agent" under §101(31)(F), and
- (4) SCM was a non-statutory insider of Marblehead.

See Palmdale Hills Prop. v. Argent Mgmt., LLC (In re Palmdale Hills Prop.), 2017 Bankr. LEXIS 3534, at \*19 (Bankr. C.D. Cal. Oct. 12, 2017). Both sides cite to Judge Mund's prior decision and address Judge Mund's analysis in their arguments. With one notable exception, this court agrees with Judge Mund's findings and conclusions. To avoid "re-inventing the wheel," the court will borrow heavily from her reasoned opinion.

VI. Analysis

A. Insider Status Under §101(31)

The SAC alleges a claim for relief under §547 for preferential transfer. Section 547(b)(4)(B) extends the "look back" period for recovery a preferential

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transfer to an insider from ninety days to one year prior to the petition date. Pursuant to § 547(g), Plaintiff bears the burden of proving that SCM is an insider, in connection with Plaintiff's preference claim against SCM. *Batlan v. Transamerica Commer. Fin. Corp. (In re Smith's Home Furnishings, Inc.)*, 265 F.3d 959, 963 (9th Cir. Or. 2001) ("Section 547(g) places the burden of proof on the trustee to show all of the conditions of §547(b).").

There are "two types of insiders: statutory insiders and non-statutory insiders." *In re The Village at Lakeridge, LLC*, 814 F.3d 993, 999 (9th Cir. 2016), *aff'd sub nom. U.S. Bank Nat. Ass'n ex rel. CWC Capital Asset Mgmt. LLC v. Village at Lakeridge, LLC*, 138 S. Ct. 960, 200 L. Ed. 2d 218 (2018). "To be a 'statutory insider,' a creditor *must* fall within one of the categories listed in 11 U.S.C. § 101(31)." *Village at Lakeridge, supra*, at 996 (emphasis in original). "Whether a creditor is an insider is a factual inquiry that must be conducted on a case-by-case basis." *Id.* at 1000. "In conducting a factual inquiry for insider status, courts should begin with the statute. If the [alleged insider] fits within the statutory insider classification on his own, the court's review ends; it need not examine the nature of the statutory insider's relationship to the debtor." *Id.* at 1001.

Under §101(31), the term "insider" includes as to corporations:

- (B) if the debtor is a corporation –
  - (i) director of the debtor;
  - (ii) officer of the debtor;
  - (iii) person in control of the debtor;

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(E) affiliate, or insider of an affiliate as if such affiliate were the debtor; and

(F) and managing agent of the debtor.

B. Plaintiff has Satisfied his Burden of Proof that SCM is a Statutory Insider Under §101(31)(E) Based on Its Affiliate

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Status Under §101(2)(D)

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Section 101(2)(D) defines "affiliate" as an "entity that *operates the business or substantially all of the property of the debtor under a lease or operating agreement.*" (emphasis added)

It is undisputed that SCM and its employees operated all aspects of Debtor's project development business as previously noted in detail herein. Plaintiff contends that under these circumstances, SCM, as the operator of Debtor's business, falls squarely within the definition of affiliate under §101(2)(D). SCE, on the other hand, argues that because it did not operate under a lease or operating agreement it is not an affiliate within the meaning of §101(2)(D). The issue is whether the DMA, a management agreement, is the functional equivalent of an operating agreement as that term is used in §101(2)(D). As pointed out by Judge Mund in the Marblehead decision, there are very few cases interpreting "operating agreement," and none in the Ninth Circuit. Some cases have interpreted the term expansively. See, e.g., *In re Chira*, 353 B.R. 693, 724-25 (Bankr.S.D.Fla.2006) ("the hotel also represented substantially all of [the debtor's] property. Elizabeth and Lounge Corp. are both 'entities' and they both operated the business and property of the Shelton Beach Hotel."); *In re Century Inv. Fund VII Ltd., P'ship*, 96 B.R. 884, 892 (Bankr.E.D.Wis.1989) ("Affiliate" means an "entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement." 11 U.S.C. § 101(2)(D). CMG has certainly been managing all of the property of the debtor under its management agreement.). By contrast, other courts have interpreted the term more strictly. See, *In re Washington Mut.*, 462 B.R. 137, 145-46 (rejecting debtors' argument that certain pooling and servicing agreements were de facto operating agreement within the meaning of the statute).

Judge Mund held that principles of statutory construction led her to the conclusion that SCM does not fall within the statutory definition of affiliate under §101(31)(D), relying at least in part on the statutory construction principles referenced in the decision of the Ninth Circuit Bankruptcy Appellate Panel in *Miller Ave. Prof'l & Promotional Servs. v. Brady (In re Entertainment Acquisition Partners, Inc.)*, 319 B.R. 626, 632-33 (9<sup>th</sup> Cir. BAP 2004). In *Miller*, the BAP held the corporation of a statutory insider was not an insider under §101(31)(B) and

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noted that "there is no justification for expanding the definition of a per se insider beyond what is plainly contained in the statute." Judge Mund observed that because §101(2) states that the term "affiliate" *means*, as opposed to the more flexible *includes* (as with §101(31), Congress intended a precise and restricted meaning. Further, giving meaning to all of the statutory language requires the existence of an actual operating agreement. Finally, and most importantly, Judge Mund opined that operating agreements "have specific meanings in the law of limited liability companies and for oil and gas rights," and that "terming the DMA to be an 'operating agreement' would be expanding the definition of affiliate (and thus insider) beyond what is plainly contained in the statute." 2017 Bankr.Lexis 3534 at 29.

SCM urges the court to employ the restrictive construction of the term, arguing that "leasing or operating agreement implies entitlement to benefits akin to ownership, which is not the case here. SCM also cites several a number of cases which describe an "operating agreement" as a contract used in the oil and gas industry. See Defendants' Opposition at p. 30 and citations therein [Dkt # 424].

Respectfully, the principles of statutory construction lead this court to a contrary conclusion. First, the court is not persuaded that the plain meaning of the term means a literal meaning of the same without regard to substance or context. Certainly, nothing in the legislative history of §101 suggests that Congress intended to limit affiliate status to operating agreements associated with limited liability companies or oil and gas contracts. The legislative history of the 1978 Code defines an insider as a person or entity with "a sufficiently close relationship with the Debtor that his conduct is made subject to closer scrutiny that those dealing at arm's length with the Debtor." S.Rep. No. 95-989, 95th Cong., 2d Sess., reprinted in 1978 U.S.Code Cong. & Admin.News 5787, 5810.

Second, as "operating agreement" is not defined in §101, consideration of the context of the surrounding language is in order. It is a "fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme. *Food and Drug Admin. v. Brown & Williamson Tobacco Co.*, 529 U.S. 120, 133 (2000); accord *Gale v. First Franklin Loan Services*, 701 F.3d. 1240, 1244 (9<sup>th</sup> Cir. 2012). See, generally *Badgley v. United States*, 957 F.3d. 969, 977 (9<sup>th</sup> Cir. 2020) ("In

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applying the statute, we focus on the substance of the retained interest. Labels are not dispositive."). Section 101(2)(D) starts with "entity that *operates the business . . . of the debtor*. The court interprets this to mean the emphasis is on whether someone other than the debtor is operating its business. As the DMA is an agreement governing the SCM's operation of every aspect of Debtor's business and property, it is, the court's view, an "operating agreement" within the meaning of §101(2)(D).

The court concludes as a matter of undisputed fact that SCM is an affiliate under §101(2)(D) and, therefore, a statutory insider pursuant to §101(31)(E).

C. Plaintiff has Satisfied his Burden of Proof that SCM is a Statutory Insider Under §101(31)(F) Based on Its Status as Managing Agent

Under §101(31)(F), the term "insider" includes a managing agent of the debtor. As with "operating agreement," "managing agent" is not a defined term under the Code. In analyzing whether SCM was the managing agent of Marblehead, Judge Mund looked to guidance from the case of *Rush v. Riddle (In re Standard Shoes, Inc.)*, 124 B.R. 318 (Bankr.C.D.Cal.1991). Though neither *Standard Shoes* or Judge Mund's decision regarding the Marblehead matter are binding on this court, the court nevertheless finds them instructive and soundly reasoned.

In *Standard Shoes*, Judge Zurzolo, in addressing the ambiguity of the term "managing agent," developed the following useful definition:

"In defining 'managing agent,' I therefore conclude that it refers to Those entities that exert or could exert operational control over a debtor, a division or unit of a debtor, or a significant portion of a debtor's property. Such operational control would ordinarily include the ability to make personnel decisions, the authority to incur or pay obligations and access to financial and other information essential to the operation of the debtor.

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The definition of 'managing agent' is consistent with the principal design of §101[31] and does not overlap or conflict with the categories of insiders expressly described in the preceding subsections of that statute."

124 B.R. at 323-24.

SCE contends that it did not have operational control over Debtor or over a significant portion of Debtor's property and that its authority was limited to performing services and making recommendations to Lehman which had ultimate approval power and control. Opposition at pp. 17-18. The court finds SCM's arguments wholly unpersuasive. Instead, the court agrees with and adopts Judge Mund's analysis and findings in the Marblehead matter:

"SCM exercised operational control over the Debtor and thus was a managing agent. All three factors indicating such control in *Standard Shoes* exist: although its actions needed to be in accord with Project Budgets, SCM had authority to incur expenses on the Project, ability to make personnel decisions (as the Debtor's operations were all conducted by SCM employees), and access the Debtor's books and records (which it maintained). It is undisputed that SCM conducted the Debtor's operations. While its actions may have been subject to the Lehman-approved Project Budget and Plan and Lehman may have had veto power over all payments, the standard does not demand unfettered control over the debtor. *Standard Stores* used a person in charge of a division of a corporate debtor as an example of a managing agent and cited the authority to direct payment of obligations, employ personnel, or order supplies as hallmarks of such control. Such people would still be subject to supervision and veto power by the officers and board of directors of the company."

2017 Bankr. Lexis 3534 at 33-34.

The duties and responsibilities of SCM under the DMA meet and exceed

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the managing agent factors set forth in *Standard Stores*. The court, therefore, finds as a matter of undisputed fact, that SCM was a managing agent of Debtor within the meaning of §101(31)(F) and a statutory insider of Debtor under § 101(31).

D. Plaintiff has not Met his Burden of Proof that SCC Acquisitions was an Affiliate and Statutory Insider of Debtor

Plaintiff's assertion that SCC Acquisitions was an Affiliate of Debtor is based on representations made in the Third Amended Disclosure Statement. UF 4, 5. However, the court has sustained the evidentiary objections regarding such representations. As a consequence, Plaintiff has not established as a matter of undisputed fact the SCC Acquisitions was an affiliate and, therefore, an insider of Debtor.

E. Plaintiff has not Met his Burden of Proof that SCM was an Affiliate and Insider of SCC Acquisitions

Again, Plaintiff's assertion is based on representations made in the Third Amended Disclosure Statement. UF 46, 47. As the court has sustained the evidentiary objections regarding such representations and, therefore, Plaintiff has not established as matter of undisputed fact that SCM was an affiliate and insider of SCC Acquisitions.

F. Plaintiff has not Met his Burden of Proof that SunCal Marblehead was an Affiliate of Debtor

Plaintiff relies on conclusory statements made by Elieff in Debtor's involuntary bankruptcy petition that SunCal Marblehead was an affiliate of Debtor. This is insufficient to satisfy Plaintiff's burden of proof regarding SunCal Marblehead's status as an affiliate of Debtor as a matter of undisputed fact.

G. Plaintiff has Met his Burden of Proof that SCM was a Non-statutory Insider

In *The Village at Lakeridge*, the Ninth Circuit held that non-statutory

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insiders are the "functional equivalent of statutory insiders" if they fall within the ambit of §101(31). 814 F.3d at 1001. An entity is a non-statutory insider if "1) the closeness of its relationship with the debtor is comparable to that of the enumerated insider classifications in §101(31), and 2) the relevant transaction is negotiated at less than arm's length." *Id.* As previously noted herein, the legislative history of the 1978 Code defines an insider as a person or entity with "a sufficiently close relationship with the Debtor that his conduct is made subject to closer scrutiny than those dealing at arm's length with the Debtor." S.Rep. No. 95-989, 95th Cong., 2d Sess., reprinted in 1978 U.S.Code Cong. & Admin.News 5787, 5810.

The court agrees with and adopts by reference below, Judge Mund's two-step analysis concerning the non-statutory insider status of SCM in the SunCal Marblehead matter:

"[I]t is beyond dispute that SCM conducted the Debtor's day-to-day operations, its employees conducted all of the Debtor's business functions, and it maintained the Debtor's books and records. It had 'some degree of control' and access to the Debtor's information and records, both of which are indications of insider status cited by the Ninth Circuit in *Vill.at Lakeridge*. It was also close enough for SCM to gain some advantage due simply to affinity: even if all of the Debtor's payments needed Lehman's prior approval, SCM was responsible for the first line of review of its own invoices and had some control over when its invoices were submitted for approval and were paid. This extremely close relationship between SCM and the Debtor was of the type that Congress intended to subject to 'a greater level of scrutiny.'

However much control Lehman may have had over the Project, the Project Budgets, the draw requests, and the vendor payments, it is undisputed that SCM processed, reviewed, and paid its own invoices on the Debtor's behalf. An SCM employee actually issuing the Debtor's payment to SCM was not a transaction conducted 'as if the parties were strangers.' A conflict of interest does not



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require nefarious behavior by SCM, merely the potential for abuse. These payments to SCM cannot be called 'arms' length transactions.

2017 Bankr. Lexis at 37-38.

SCM disagrees with the foregoing analysis. First, SCM argues that Lehman did not show SCM any preferential treatment in its decisions regarding payment and that there is no evidence that payments made to SCM were for any reason of affinity. SCM attempt to distinguish itself from the familial affinity that existed in *In re Rexford Properties, LLC*, 557 B.R. 788 (Bankr.C.D.Cal 2016). SCM misses the point. The close relationship prong does not require a showing of actual preferential treatment, but rather that the closeness could provide an opportunity for potential abuse. The discussion of *Rexford* is not helpful the facts in that case are not comparable to the circumstances here. For example, SCE states that it has no ownership interest in Debtor. However, ownership interest is not critical factor or requirement for non-statutory insider status.

Next, while acknowledging that control is not a required factor in this Circuit, SCM refers the court to an unpublished, non-precedential Ninth Circuit case, *Farrar v. Warda & Yonano LLP (In re Bella Vista by Paramount LLC)*, 549 Fed.Appx, 648 (2013) for the quote therein that "insider status is a question of control." *Farrar predates* the published (and binding) Ninth Circuit case, *The Village at Lakeridge* ("Some degree of control is one of many indications that a creditor may be a non-statutory insider, but *actual control is not required to find non-statutory insider status*") (emphasis added) 814 F.3d at 1001. In footnote 12 of *The Village at Lakeridge*, the Court observed that "if actual control were required for non-statutory insider status, all non-statutory insiders would also be statutory insiders under §101)(31). The remainder of the arguments and citations to non-binding decisions, most of which predate *The Village at Lakeridge*, are not persuasive.

VII. Conclusion

Based upon the foregoing, the Motion is granted in part and denied in part.

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Chapter 11

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

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**Chapter 11**

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01022 Speier v. SunCal Management LLC et al

**#6.00 CONT'D STATUS CONFERENCE RE: Third Amended Complaint to Avoid and Recover Fraudulent Transfers [Debtor: SunCal PSV, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20; 5-28-20

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**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 28, 2020**

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**Party Information**

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**Friday, May 29, 2020**

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**Chapter 11**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch

Argent Management, LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**United States Bankruptcy Court  
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Santa Ana  
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**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01023      SPEIER v. SUNCAL MANAGEMENT, LLC et al

**#7.00**      CON'TD STATUS CONFERENCE RE: Third Amended Complaint (1) To Avoid and Recover Fraudulent Transfers and (2) To Avoid and Recover Preferential Transfers **[Debtor: Palmdale Hills Property, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20; 5-28-20

Docket      298

**Courtroom Deputy:**

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**Tentative Ruling:**

**January 9, 2020**

No tentative ruling. Oral Argument only. Plaintiff will have 30 minutes to argue in favor of the Motion; Defendant will have 30 minutes to respond; Plaintiff will have 30 minutes to reply. The matter will then be taken under submission. Oral Ruling: March 26, 2020 at 2:00 p.m.

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**Party Information**

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**Chapter 11**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SUNCAL MANAGEMENT, LLC

Represented By  
Craig H Averch

Argent Management LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

STEVEN M. SPEIER

Represented By  
Evan C Borges  
Mike D Neue  
William N Lobel  
Gary A Pemberton

**United States Bankruptcy Court  
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Santa Ana  
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Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By

Louis R Miller

Mike D Neue

Lei Lei Wang Ekvall

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01024 SPEIER v. SUNCAL MANAGEMENT, LLC et al

**#8.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; and (4) To Avoid and Recover Fraudulent Transfers  
**[Debtor: SunCal Summit Valley, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20; 5-28-20

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**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 28, 2020**

Continue status conference to May 29, 2020 at 2:00 p.m.

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot

Peter W Lianides

Richard W Esterkin

**United States Bankruptcy Court  
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Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SUNCAL MANAGEMENT, LLC

Represented By  
Craig H Averch

Argent Management LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

STEVEN M. SPEIER

Represented By  
Evan C Borges  
Mike D Neue  
William N Lobel  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue



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Lei Lei Wang Ekvall

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**8:08-17206 Palmdale Hills Property, LLC**

Adv#: 8:18-01025 SPEIER v. SUNCAL MANAGEMENT, LLC et al

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**#9.00** CONT'D STATUS CONFERENCE RE: Second Amended Complaint: (1) To Avoid and Recover Preferential Transfers; (2) For Declaratory Relief, (3) In the Alternative, Breach of Contract; (4) Restitution and/or Unjust Enrichment; and (5) To Avoid and Recover Fraudulent Transfers

**[Debtor: SunCal Bickford Ranch, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20; 5-28-20

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**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 28, 2020**

Continue status conference to May 29, 2020 at 2:00 p.m.

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe

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Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SUNCAL MANAGEMENT, LLC

Represented By  
Craig H Averch

Argent Management LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

STEVEN M. SPEIER

Represented By  
Evan C Borges  
Mike D Neue  
William N Lobel  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**8:08-17206 Palmdale Hills Property, LLC**

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Adv#: 8:18-01026 Speier v. SunCal Management LLC et al

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**#10.00**      CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) To Avoid and Recover Preferential Transfers; (2) For Declaratory Relief, (3) In the Alternative, Breach of Contract; (4) Restitution and/or Unjust Enrichment; and (5) to Avoid and Recover Fraudulent Transfers **[Debtor: SunCal Emerald Meadows, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20; 5-28-20

Docket      69

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 28, 2020**

Continue status conference to May 29, 2020 at 2:00 p.m.

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow

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Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Friday, May 29, 2020

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Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch

Argent Management, LLC

Represented By  
Craig H Averch

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01125 Speier v. SunCal Management LLC et al

**#11.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief; (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers; and (5) To Avoid and Recover Preferential Transfers  
**[Debtor: SunCal Marblehead, LLC]**

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FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20;  
5-28-20

Docket      105

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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Continue status conference to May 29, 2020 at 2:00 p.m.

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

**Represented By**

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
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Richard H Golubow  
Louis R Miller  
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Garrick A Hollander  
R Grace Rodriguez

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Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Doah Kim  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Doah Kim  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01126 Speier v. SunCal Management, LLC et al

**#12.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20; 4-27-20; 5-28-20

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**Courtroom Deputy:**

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**Tentative Ruling:**

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Grant motion for partial summary adjudication on the grounds that Plaintiff has established as a matter of undisputed fact and law that SCM is both a statutory insider under FRBP 101(31)(E) [affiliate within the meaning of 101(30)(D)], and FRBP 101(31)(F) [managing agent] and is also a nonstatutory insider.

The basis for the ruling and relevant evidentiary rulings will be posted in the tentative ruling field in lieu of an oral ruling on the record on May 29, 2020 between 12:00pm and 1:00pm. A hearing will be held on **May 29, 2020 at 2:00 p.m.** regarding any questions regarding the ruling, as well as scheduling of future motions/status conferences.

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**May 29, 2020**

**EVIDENTIARY RULINGS**

Plaintiff's Evidentiary Objections to the Declaration of Randy Teteak

<u>Objection #</u>	<u>Ruling</u>
1	Sustained
2	Sustained as to lists referenced therein

Basis for Ruling:

- I. Background

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An involuntary petition was filed against SunCal Heartland, LLC ("Debtor") on November 12, 2008, bankruptcy case no. 18-17472. The order for relief was entered on January 6, 2009 and plaintiff, chapter 11 trustee Steven M. Spier ("Plaintiff" or "Trustee") was appointed on January 22, 2009 and subsequently also became the liquidating trustee under Debtor's confirmed plan. The order granting joint administration with the Palmdale lead case was entered March 18, 2009.

On May 1, 2012, Plaintiff commenced this adversary proceeding against SunCal Management, LLC ("SCM") and Argent Management, LLC ("Argent") (collectively, "Defendants"). Trustee seeks the return of management fees of more than \$900,000 paid by Debtor (and eleven other related debtors) to SCM during the period 2004 to 2008 based on several legal theories, including preferential transfer under §547. The original complaint was subsequently amended twice and timely answers were filed by Defendants. On September 9, 2016, this adversary proceeding, as well as the eleven other related adversary proceedings (sometimes referred to herein collectively as the "Related Adversaries") were transferred to Judge Geraldine Mund. Judge Mund made several rulings in the Related Adversaries, including the granting of summary adjudication in favor of Defendants on Plaintiff's claims for breach of contract and restitution/unjust enrichment in this adversary proceeding. Importantly, on October 12, Judge Mund also ruled in one of the Related Adversaries involving SunCal Marblehead LLC ("Marblehead") that SCM was both a statutory and non-statutory insider of Marblehead. On January 25, 2018, the Related Adversaries were transferred back to this court.

On May 30, 2019, Plaintiff filed the instant motion for partial summary adjudication [dkt. #417] ("Motion") for findings that SCM was also an insider of Debtor pursuant to §101(31) from the date Debtor and SCM entered into that certain Development Management Agreement ("DMA") until the petition date. Specifically, Plaintiff asserts that SCM is an insider under §101(31)(E) as an insider of an affiliate of Debtor, as the managing agent of Debtor under §101(31)(F), and as a non-statutory insider of Debtor. Defendants vigorously oppose the Motion.



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II. Standard for Summary Judgment/Partial Adjudication

A party seeking summary judgment bears the initial responsibility of demonstrating the absence of a genuine issue of material fact and establishing that it is entitled to judgment as a matter of law as to those matters upon which it has the burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). The opposing party must make an affirmative showing on all matters placed in issue by the motion as to which it has the burden of proof at trial. *Id.* at 324. The substantive law will identify which facts are material. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. *Id.* A factual dispute is genuine where the evidence is such that a reasonable jury could return a verdict for the nonmoving party. *Id.* The court must view the evidence presented on the motion in the light most favorable to the opposing party. *Id.*\_

As explained by the Ninth Circuit in *Nissan Fire & Marine Ins. Co. v. Fritz Companies, Inc.*, 210 F.3d 1099, 1102–03 (9th Cir. 2000):

"A moving party without the ultimate burden of persuasion at trial—usually, but not always, a defendant—has both the initial burden of production and the ultimate burden of persuasion on a motion for summary judgment... In order to carry its burden of production, the moving party must either produce evidence negating an essential element of the nonmoving party's claim or defense or show that the nonmoving party does not have enough evidence of an essential element to carry its ultimate burden of persuasion at trial... In order to carry its ultimate burden of persuasion on the motion, the moving party must persuade the court that there is no genuine issue of material fact... If a moving party fails to carry its initial burden of production, the nonmoving party has no obligation to produce anything, even if the nonmoving party would have the ultimate burden of persuasion at trial... In such a case, the nonmoving party may defeat the motion for summary judgment without producing anything... If, however, support its claim or defense... If the nonmoving party fails to produce enough evidence to create a genuine issue of material fact, the moving party wins the motion

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for summary judgment."

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*Id.* at 1102-03 (citations omitted). In ruling on a summary judgment motion, the Court does not weigh the evidence. *Anderson*, 477 U.S. at 255. Rather, the Court's role is to assess whether a genuine dispute exists as to the material facts requiring a trial. *Id.* at 249. In conducting this assessment, "[t]he evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor." *Tolan v. Cotton*, 572 U.S. 650, 651 (2014). Furthermore, where intent is at issue, summary judgment is seldom granted. See, *Provenz v. Miller*, 102 F.3d 1478, 1489 (9th Cir. 1996), *cert. denied*, 118 S. Ct. 48 (1997).

Federal Rules of Bankruptcy Procedure 7056 incorporates by reference most of the procedural requirements of Rule 56 of the Federal Rules of Civil Procedure ("FRCP") governing motions for summary judgment. In this District, Rule 7056-1 of the Local Bankruptcy Rules ("LBR") also applies.

III. Statement of Uncontroverted Facts and Conclusions of Law/Statement of Genuine Facts

Under FRCP 56(c)(1)(A), the moving party must cite to materials in the record, including "depositions, documents, electronically stored information, affidavits, declarations . . . admissions, interrogatory answers, or other materials." LBR 7056-1(b)(2) requires that the moving party serve and file a proposed statement of uncontroverted facts and conclusions of law. LBR 7056-1(c)(2)(A) and (B) requires that the respondent file a separate statement of genuine issues, "identify each material fact that is disputed and cite the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon to establish the dispute . . . ."

In this matter, Plaintiff timely filed a Statement of Uncontroverted Facts and Conclusions of Law ("UF") and Defendants timely filed a Statement of Genuine Facts ("GI").

Defendants filed evidentiary objections to the admission of the content of Exhibit 4 of Plaintiff's Request for Judicial Notice, Exhibit 4 being the Third Amended Disclosure Statement ("TAD") filed on August 5, 2011 by counsel for

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SCC Acquisitions [Dkt #424]. The objections are sustained on the basis of hearsay and personal knowledge and affect UF #59-68. Among other things, UF #s 64, 65, 66, 67 and 68 identify the TAD as the basis for various fact statements concerning the identification of Defendant SCM and SCC Acquisitions, Inc. as "insiders" of Debtor, SCM as a "SunCal Affiliate", SCC Acquisitions, Inc. as an "indirect parent company" of Debtor and that Debtor was "an affiliate of SCC Acquisitions".

Defendants also objected to Exhibit "F" to the Declaration of Gary Pemberton on personal knowledge grounds. The court believes Defendants are actually referring to Exhibit G, which is the deposition testimony of Edward Nolan. On page 187, lines 18-19, when asked about SCC Acquisitions, Mr. Nolan simply states that it is "the company that Bruce [Elieff] owns." The objection is sustained except as to the reference by Mr. Nolan to a "Project Detail Report" which is adequately authenticated by Mr. Nolan.

In sum, for purposes of this Motion, all of the statements in Plaintiff's UF are deemed admitted and uncontroverted, except where disputed by Defendants. Some of the uncontroverted facts are summarized below. The court notes that in their Statement of Genuine Issues, Defendants have added several "Additional Material Facts," which may or may not be reflected in "Uncontroverted Facts" set forth below but may be addressed in the overall analysis of the Motion. If certain such additional facts are not mentioned, it is because the court did not believe them to be germane to the issues presented.

IV. Uncontroverted Facts

Most of the pertinent are undisputed and are not fully set forth herein. The court incorporates by reference herein, the all of the fact set forth in the UF that are not disputed by Defendants in their GI.

"The SunCal Companies," or "SunCal," is a brand name or dba used by an integrated network of real estate acquisition, holding and development companies owned by Bruce Elieff ("Elieff") and/or his brother, Stephen Elieff. UF 1 Debtor was formed at Elieff's direction as a single-purpose limited liability company to

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own certain real property located in Oakland, California (the "Oak Knoll Project"). UF 2, 3.

Debtor did not have any employees and, as such, could not develop the Project itself. UF 6. Accordingly, on December 29, 2005, Debtor entered into a Development Management Agreement ("DMA") with SCM. UF 7. SCM was formed to "provide management and development services to entities who have direct or indirect ownership interests in certain real estate projects, and who are affiliated with the SunCal group of companies." UF 8. As a SunCal entity, SCM shared common management with Debtor. At all relevant times, Bruce owned 100% of SCM and served as its Manager as well as Debtor's Manager. He executed the DMA on behalf of both SCM and Debtor. UF 9, 11. SCM's General Counsel, Bruce Cook, participated in filing the documents used to form Debtor, prepared the Debtor's Operating Agreement and the First Amendment thereto, as well as the DMA, and was one of Debtor's authorized signatories. UF 10. Frank Faye, SCM's Chief Operating Officer, was also an officer of Debtor. UF 12.

Under the DMA, Debtor engaged SCM "to perform the development and management functions set forth below in connection with the development, marketing and sale of the Project, and to assist in all aspects of the Project[.]" UF 13. The DMA also provided SCM "the authority to perform (and incur expenses in connection with the performance of) the Development and Sale Services & Functions . . . and to otherwise act in accordance with the Project Budget" and to "take any action with respect to the Property or Project or incur any expense for which [the Debtor] is or may be responsible" so long as SCM "reasonably deems such action or expense as necessary in furtherance of the proper development, sale and marketing of the Project." UF 14. SCM reviewed and coordinated the work of the various contractors and consultants for Debtor's Project. UF 15. SCM's Project responsibilities were wide-ranging and included:

- "[r]eview bids and prepare bid analyses";
- "[c]oordinate the work of all contractors . . . [and] schedule and conduct development and progress meetings at which contractors, consultants, and [SCM] can discuss jointly such matters as procedures, progress, problems, and scheduling";

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- "monitor the delivery of, and if necessary, arrange storage, protection and security for, all materials, systems and equipment which are to be used in the development of, or incorporated into, the Project";

- "arrange with contractors to provide adequate security for the Project, including, without limitation, prevention of trespassing and dumping."

"assemble and retain all contracts, agreements and other records and data as may be necessary to carry out [SCM's] functions hereunder, and similar records for functions performed by contractors and other third parties in connection herewith";

- "keep and maintain proper books of contracts and records on behalf of [the Debtor] relating to . . . the development, operations, expenses and proceeds of the Property and the lots and other parcels comprising the Property";

- "[r]ecord the progress of the Project and submit to [the Debtor], from time to time as may be requested by [the Debtor], and as may be required by any Project Lenders, status reports consisting of (i) a payables transaction report listing all payables due for the month; (ii) a job cost report, (iii) a report explaining any budget variances, (iv) a committed cost report updated to include the invoices being paid during the month, and (v) a cash needs projection showing anticipated cash requirements for the ensuing four (4) months."

UF 15, 16

The DMA provided that Debtor would pay SCM a management fee "[a]s compensation for the performance of the Development and Sale Services & Functions and the other duties and services to be performed by [SCM]," the payment of which could be deferred or delayed based on the availability of funds. UF 17. Debtor was also liable for all third party costs incurred by SCM and compensation for SCM's employees. UF 18.

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Under the DMA, SCM served as Debtor's "developer/operator" and "management company." UF 19. In this capacity, SCM was the party responsible for managing the development of the Oak Knoll Project from late 2005 through at least November 2008. UF 20. SCM's owner (and Debtor's Manager), Elieff, was "in charge of overall supervision and monitoring of . . . [SCM's] services" and "was aware of and oversaw what was being done for the [Debtor's] Project[]." UF 21. Specifically, he "personally monitored, participated in and oversaw others who also participated in the day-to-day activities performed by SCM . . . in furtherance of the design, planning, entitlement [and] . . . development of the Project," was responsible for supervising SCM's "extensive" work on the Project, met, typically on a weekly basis, with members of SCM's senior management to discuss material matters relating to the entitlement and development of the Project, and toured the Project site. UF 22, 23, 29. SCM's Chief Operating Officer, Frank Faye (also an officer of Debtor) had "oversight responsibility of [a number of SCM] employees and their work product" and was in charge of supervising SCM's activities with respect to the development of the Oak Knoll Project. UF 12, 24, 25. Under the direction of SCM's Chief Accounting Officer, Tom Rollins, SCM "[m]anag[ed] the process of payments by [the Debtor] to contractors, consultants, vendors and others" and "[p]rovid[ed] accounting and asset management services for the Project[]." UF 26. SCM also prepared Debtor's business plans and project budgets. UF 27.

SCM performed all day-to-day operations related to the Project, including:

- "investigating and evaluating all potential site uses for the Project, including preparing site plans";
- "preparing financial reports and status reports concerning the Project . . . regarding all work performed on the Project by SCM, contractors, consultants, third party vendors, and others";
- "providing contract administration for the numerous contracts relating to the entitlement effort and other activities on the site of the Project";
- "creating bid packages, and negotiating and drafting agreements and all related documents for work performed by consultants, contractors, and third-party

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vendors for the Project";

- "engaging and consulting with consultants, contractors, and attorneys in connection with the preparation of environmental impact reports, the CEQA process, the Subdivision Map Act process, resource agency permits, and other necessary entitlements for the Project";
- "engaging, monitoring, and evaluating consultants, contractors, third party vendors, and others, who performed services related to the construction and development of the Project . . .";
- "engaging and consulting with architects and engineers and overseeing work performed by them";
- "consulting with applicable local and state governmental agencies regarding the Project";
- "causing to be prepared and processing architectural and landscape design guidelines . . .";
- "negotiating on behalf of the Debtor with respect to an owner participation agreement with the City . . . for the development of the Project";
- "conferring with community groups regarding the Project . . .";
- "negotiating and drafting agreements with adjacent land owners for easements and other rights needed in connection with the development of the Project . . .";
- "processing the formation of a Community Facilities District that would provide financing for the development of public infrastructure improvements for the Project"; and
- "performing extensive work to process all necessary approvals and permits for entitlements including preparing the entire entitlement package for the Project . . ."

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Pursuant to the DMA's terms, Debtor was responsible for paying SCM's management fees and expense reimbursements. UF 17, 18. According to SCM's Chief Accounting Officer, Tom Rollins, SCM "invoiced the Debtor directly for services performed" from "the inception of the Project to the Petition Date." UF 30. After SCM generated an invoice, it would go to the Project accountant, an SCM employee. UF 31. The Project accountant would then send the SCM invoices to SCM's asset management group for review and approval. UF 32. Ultimately, an SCM employee would issue a check or wire funds from Debtor's account to SCM. UF 33. Mr. Rollins and Ed Nolan, also an SCM employee, were responsible for approving such transfers. UF 34. Mr. Rollins testified that SCM employees would "try to make sure that billings [were] done properly, the accounting [was] done properly." UF 35. However, Debtor did not have any employees, and thus there was no personnel of Debtor to question whether an invoice was correct or whether a management fee payment should be deferred in accordance with the DMA based on a shortage of funds. UF 6. In total, SCM received at least \$ 2,914,232.00 in management fees from Debtor between 2005 and 2008. UF 37.

V. Marblehead Decision

During the time that he Related Adversaries were pending before Judge Mund, Plaintiff filed a similar motion for partial adjudication based on facts nearly identical presented here that SCM was a statutory and non-statutory insider of related debtor. SunCal Marblehead, LLC ("Marblehead"), adv. no 18-01125. In a thorough and well-analyzed opinion, Judge Mund held as follows:

- (1) SCM was not an insider as an "affiliate" of Marblehead under § 101(31)(E),
- (2) SCM was not an insider of Marblehead's affiliate, Elieff, under §101(31)(E),
- (3) SCM was an insider of Marblehead as "managing agent" under §101(31)(F), and
- (4) SCM was a non-statutory insider of Marblehead.

See Palmdale Hills Prop. v. Argent Mgmt., LLC (In re Palmdale Hills Prop.), 2017 Bankr. LEXIS 3534, at \*19 (Bankr. C.D. Cal. Oct. 12, 2017). Both sides cite to



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Judge Mund's prior decision and address Judge Mund's analysis in their arguments. With one notable exception, this court agrees with Judge Mund's findings and conclusions. To avoid "re-inventing the wheel," the court will borrow heavily from her reasoned opinion.

VI. Analysis

A. Insider Status Under §101(31)

The SAC alleges a claim for relief under §547 for preferential transfer. Section 547(b)(4)(B) extends the "look back" period for recovery a preferential transfer to an insider from ninety days to one year prior to the petition date. Pursuant to § 547(g), Plaintiff bears the burden of proving that SCM is an insider, in connection with Plaintiff's preference claim against SCM. *Batlan v. Transamerica Commer. Fin. Corp. (In re Smith's Home Furnishings, Inc.)*, 265 F.3d 959, 963 (9th Cir. Or. 2001) ("Section 547(g) places the burden of proof on the trustee to show all of the conditions of §547(b).").

There are "two types of insiders: statutory insiders and non-statutory insiders." *In re The Village at Lakeridge, LLC*, 814 F.3d 993, 999 (9th Cir. 2016), *aff'd sub nom. U.S. Bank Nat. Ass'n ex rel. CWCapital Asset Mgmt. LLC v. Village at Lakeridge, LLC*, 138 S. Ct. 960, 200 L. Ed. 2d 218 (2018). "To be a 'statutory insider,' a creditor *must* fall within one of the categories listed in 11 U.S.C. § 101(31)." *Village at Lakeridge, supra*, at 996 (emphasis in original). "Whether a creditor is an insider is a factual inquiry that must be conducted on a case-by-case basis." *Id.* at 1000. "In conducting a factual inquiry for insider status, courts should begin with the statute. If the [alleged insider] fits within the statutory insider classification on his own, the court's review ends; it need not examine the nature of the statutory insider's relationship to the debtor." *Id.* at 1001.

Under §101(31), the term "insider" includes as to corporations:

- (B) if the debtor is a corporation –
  - (i) director of the debtor;
  - (ii) officer of the debtor;

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(iii) person in control of the debtor;  
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(E) affiliate, or insider of an affiliate as if such affiliate were the debtor; and

(F) and managing agent of the debtor.

**B. Plaintiff has Satisfied his Burden of Proof that SCM is a  
Statutory Insider Under §101(31)(E) Based on Its Affiliate  
Status Under §101(2)(D)**

Section 101(2)(D) defines "affiliate" as an "entity that *operates the business or substantially all of the property of the debtor under a lease or operating agreement.*" (emphasis added)

It is undisputed that SCM and its employees operated all aspects of Debtor's project development business as previously noted in detail herein. Plaintiff contends that under these circumstances, SCM, as the operator of Debtor's business, falls squarely within the definition of affiliate under §101(2)(D). SCE, on the other hand, argues that because it did not operate under a lease or operating agreement it is not an affiliate within the meaning of §101(2)(D). The issue is whether the DMA, a management agreement, is the functional equivalent of an operating agreement as that term is used in §101(2)(D). As pointed out by Judge Mund in the Marblehead decision, there are very few cases interpreting "operating agreement," and none in the Ninth Circuit. Some cases have interpreted the term expansively. See, e.g., *In re Chira*, 353 B.R. 693, 724-25 (Bankr.S.D.Fla.2006) ("the hotel also represented substantially all of [the debtor's] property. Elizabeth and Lounge Corp. are both 'entities' and they both operated the business and property of the Shelton Beach Hotel."); *In re Century Inv. Fund VII Ltd., P'ship*, 96 B.R. 884, 892 (Bankr.E.D.Wis.1989) ("Affiliate" means an "entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement." 11 U.S.C. § 101(2)(D). CMG has certainly been managing all of the property of the debtor under its management agreement.). By contrast, other courts have interpreted the term

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more strictly. See, *In re Washington Mut.*, 462 B.R. 137, 145-46 (rejecting debtors' argument that certain pooling and servicing agreements were de facto operating agreement within the meaning of the statute).

Judge Mund held that principles of statutory construction led her to the conclusion that SCM does not fall within the statutory definition of affiliate under §101(31)(D), relying at least in part on the statutory construction principles referenced in the decision of the Ninth Circuit Bankruptcy Appellate Panel in *Miller Ave. Prof'l & Promotional Servs. v. Brady (In re Entertainment Acquisition Partners, Inc.)*, 319 B.R. 626, 632-33 (9<sup>th</sup> Cir. BAP 2004). In *Miller*, the BAP held the corporation of a statutory insider was not an insider under §101(31)(B) and noted that "there is no justification for expanding the definition of a per se insider beyond what is plainly contained in the statute." Judge Mund observed that because §101(2) states that the term "affiliate" *means*, as opposed to the more flexible *includes* (as with §101(31), Congress intended a precise and restricted meaning. Further, giving meaning to all of the statutory language requires the existence of an actual operating agreement. Finally, and most importantly, Judge Mund opined that operating agreements "have specific meanings in the law of limited liability companies and for oil and gas rights," and that "terming the DMA to be an 'operating agreement' would be expanding the definition of affiliate (and thus insider) beyond what is plainly contained in the statute." 2017 Bankr.Lexis 3534 at 29.

SCM urges the court to employ the restrictive construction of the term, arguing that "leasing or operating agreement implies entitlement to benefits akin to ownership, which is not the case here. SCM also cites several a number of cases which describe an "operating agreement" as a contract used in the oil and gas industry. See Defendants' Opposition at p. 30 and citations therein [Dkt #424].

Respectfully, the principles of statutory construction lead this court to a contrary conclusion. First, the court is not persuaded that the plain meaning of the term means a literal meaning of the same without regard to substance or context. Certainly, nothing in the legislative history of §101 suggests that Congress intended to limit affiliate status to operating agreements associated with limited liability companies or oil and gas contracts. The legislative history of the 1978 Code defines an insider as a person or entity with "a sufficiently close relationship with the Debtor that his conduct is made subject to closer scrutiny

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that those dealing at arm's length with the Debtor." S.Rep. No. 95-989, 95th Cong., 2d Sess., reprinted in 1978 U.S.Code Cong. & Admin.News 5787, 5810.

Second, as "operating agreement" is not defined in §101, consideration of the context of the surrounding language is in order. It is a "fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme. *Food and Drug Admin. v. Brown & Williamson Tobacco Co.*, 529 U.S. 120, 133 (2000); accord *Gale v. First Franklin Loan Services*, 701 F.3d. 1240, 1244 (9<sup>th</sup> Cir. 2012). See, generally *Badgley v. United States*, 957 F.3d. 969, 977 (9<sup>th</sup> Cir. 2020) ("In applying the statute, we focus on the substance of the retained interest. Labels are not dispositive."). Section 101(2)(D) starts with "entity that *operates the business . . . of the debtor*". The court interprets this to mean the emphasis is on whether someone other than the debtor is operating its business. As the DMA is an agreement governing the SCM's operation of every aspect of Debtor's business and property, it is, the court's view, an "operating agreement" within the meaning of §101(2)(D).

The court concludes as a matter of undisputed fact that SCM is an affiliate under §101(2)(D) and, therefore, a statutory insider pursuant to §101(31)(E).

C. Plaintiff has Satisfied his Burden of Proof that SCM is a Statutory Insider Under §101(31)(F) Based on Its Status as Managing Agent

Under §101(31)(F), the term "insider" includes a managing agent of the debtor. As with "operating agreement," "managing agent" is not a defined term under the Code. In analyzing whether SCM was the managing agent of Marblehead, Judge Mund looked to guidance from the case of *Rush v. Riddle (In re Standard Shoes, Inc.)*, 124 B.R. 318 (Bankr.C.D.Cal.1991). Though neither *Standard Shoes* or Judge Mund's decision regarding the Marblehead matter are binding on this court, the court nevertheless finds them instructive and soundly reasoned.

In *Standard Shoes*, Judge Zurzolo, in addressing the ambiguity of the term "managing agent," developed the following useful definition:

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"In defining 'managing agent,' I therefore conclude that it refers to Those entities that exert or could exert operational control over a debtor, a division or unit of a debtor, or a significant portion of a debtor's property. Such operational control would ordinarily include the ability to make personnel decisions, the authority to incur or pay obligations and access to financial and other information essential to the operation of the debtor.

The definition of 'managing agent' is consistent with the principal design of §101[31] and does not overlap or conflict with the categories of insiders expressly described in the preceding subsections of that statute."

124 B.R. at 323-24.

SCE contends that it did not have operational control over Debtor or over a significant portion of Debtor's property and that its authority was limited to performing services and making recommendations to Lehman which had ultimate approval power and control. Opposition at pp. 17-18. The court finds SCM's arguments wholly unpersuasive. Instead, the court agrees with and adopts Judge Mund's analysis and findings in the Marblehead matter:

"SCM exercised operational control over the Debtor and thus was a managing agent. All three factors indicating such control in *Standard Shoes* exist: although its actions needed to be in accord with Project Budgets, SCM had authority to incur expenses on the Project, ability to make personnel decisions (as the Debtor's operations were all conducted by SCM employees), and access the Debtor's books and records (which it maintained). It is undisputed that SCM conducted the Debtor's operations. While its actions may have been subject to the Lehman-approved Project Budget and Plan and Lehman may have had veto power over all payments, the standard does not demand unfettered control over the debtor. *Standard Stores* used a person in charge of a division of a corporate debtor as an example of a

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managing agent and cited the authority to direct payment of obligations, employ personnel, or order supplies as hallmarks of such control. Such people would still be subject to supervision and veto power by the officers and board of directors of the company."

2017 Bankr. Lexis 3534 at 33-34.

The duties and responsibilities of SCM under the DMA meet and exceed the managing agent factors set forth in *Standard Stores*. The court, therefore, finds as a matter of undisputed fact, that SCM was a managing agent of Debtor within the meaning of §101(31)(F) and a statutory insider of Debtor under § 101(31).

D. Plaintiff has not Met his Burden of Proof that SCC Acquisitions was an Affiliate and Statutory Insider of Debtor

Plaintiff's assertion that SCC Acquisitions was an Affiliate of Debtor is based on representations made in the Third Amended Disclosure Statement. Motion at p. 20. However, the court has sustained the evidentiary objections regarding such representations. As a consequence, Plaintiff has not established as a matter of undisputed fact the SCC Acquisitions was an affiliate and, therefore, an insider of Debtor.

E. Plaintiff has not Met his Burden of Proof that SCM was an Affiliate and Insider of SCC Acquisitions, Rendering SCM an Insider of Debtor

In the Motion, Plaintiff relies principally on representations made in the Third Amended Disclosure Statement. See Motion at p. 20. As the court has sustained the evidentiary objections regarding such representations and, therefore, Plaintiff has not established as matter of undisputed fact that SCM was an affiliate and insider of SCC Acquisitions.

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F. Plaintiff has not Met his Burden of Proof that SunCal  
Marblehead was an Affiliate of Debtor

Plaintiff relies on conclusory statements made by Elieff in Debtor's involuntary bankruptcy petition that SunCal Marblehead was an affiliate of Debtor. This is insufficient to satisfy Plaintiff's burden of proof regarding SunCal Marblehead's status as an affiliate of Debtor as a matter of undisputed fact.

G. Plaintiff has Met his Burden of Proof that SCM was a Non-  
statutory Insider

In *The Village at Lakeridge*, the Ninth Circuit held that non-statutory insiders are the "functional equivalent of statutory insiders" if they fall within the ambit of § 101(31). 814 F.3d at 1001. An entity is a non-statutory insider if "1) the closeness of its relationship with the debtor is comparable to that of the enumerated insider classifications in §101(31), and 2) the relevant transaction is negotiated at less than arm's length." *Id.* As previously noted herein, the legislative history of the 1978 Code defines an insider as a person or entity with "a sufficiently close relationship with the Debtor that his conduct is made subject to closer scrutiny than those dealing at arm's length with the Debtor." S.Rep. No. 95-989, 95th Cong., 2d Sess., reprinted in 1978 U.S.Code Cong. & Admin.News 5787, 5810.

The court agrees with and adopts by reference below, Judge Mund's two-step analysis concerning the non-statutory insider status of SCM in the SunCal Marblehead matter:

"[I]t is beyond dispute that SCM conducted the Debtor's day-to-day operations, its employees conducted all of the Debtor's business functions, and it maintained the Debtor's books and records. It had 'some degree of control' and access to the Debtor's information and records, both of which are indications of insider status cited by the Ninth Circuit in *Vill.at Lakeridge*. It was also close enough for SCM

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to gain some advantage due simply to affinity: even if all of the Debtor's payments needed Lehman's prior approval, SCM was responsible for the first line of review of its own invoices and had some control over when its invoices were submitted for approval and were paid. This extremely close relationship between SCM and the Debtor was of the type that Congress intended to subject to 'a greater level of scrutiny.'

However much control Lehman may have had over the Project, the Project Budgets, the draw requests, and the vendor payments, it is undisputed that SCM processed, reviewed, and paid its own invoices on the Debtor's behalf. An SCM employee actually issuing the Debtor's payment to SCM was not a transaction conducted 'as if the parties were strangers.' A conflict of interest does not require nefarious behavior by SCM, merely the potential for abuse. These payments to SCM cannot be called 'arms' length transactions."

2017 Bankr. Lexis at 37-38.

SCM disagrees with the foregoing analysis. First, SCM argues that Lehman did not show SCM any preferential treatment in its decisions regarding payment and that there is no evidence that payments made to SCM were for any reason of affinity. SCM attempt to distinguish itself from the familial affinity that existed in *In re Rexford Properties, LLC*, 557 B.R. 788 (Bankr.C.D.Cal 2016). SCM misses the point. The close relationship prong does not require a showing of actual preferential treatment, but rather that the closeness could provide an opportunity for potential abuse. The discussion of *Rexford* is not helpful the facts in that case are not comparable to the circumstances here. For example, SCE states that it has no ownership interest in Debtor. However, ownership interest is not critical factor or requirement for non-statutory insider status.

Next, while acknowledging that control is not a required factor in this Circuit, SCM refers the court to an unpublished, non-precedential Ninth Circuit case, *Farrar v. Warda & Yonano LLP (In re Bella Vista by Paramount LLC)*, 549 Fed.Appx, 648 (2013) for the quote therein that "insider status is a question of control." *Farrar* predates the published (and binding) Ninth Circuit case, *The*



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*Village at Lakeridge* ("Some degree of control is one of many indications that a creditor may be a non-statutory insider, but *actual control is not required to find non-statutory insider status*") (emphasis added) 814 F.3d at 1001. In footnote 12 of *The Village at Lakeridge*, the Court observed that "if actual control were required for non-statutory insider status, all non-statutory insiders would also be statutory insiders under §101)(31). The remainder of the arguments and citations to non-binding decisions, most of which predate *The Village at Lakeridge*, are not persuasive.

VII. Conclusion

Based upon the foregoing, the Motion is granted in part; denied in part.

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

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez

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Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01126 Speier v. SunCal Management, LLC et al

**#13.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers; and (5) To Avoid and Recover Preferential Transfers  
**[Debtor: SunCal Heartland, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20; 5-28-20

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Docket 99

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 28, 2020**

Continue status conference to May 29, 2020 at 2:00 p.m.

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

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**Defendant(s):**

SunCal Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01127 Speier v. SunCal Management LLC et al

**#14.00 CONT'D ORAL RULING RE: The Trustee's Motion for Partial Summary Adjudication That SunCal Management LLC was an Insider of the Debtor**

FR: 10-10-19; 1-9-20; 3-26-20; 4-27-20; 5-28-20

Docket 518

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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**May 28, 2020**

Grant motion for partial summary adjudication on the grounds that Plaintiff has established as a matter of undisputed fact and law that SCM is both a statutory insider under FRBP 101(31)(E) [affiliate within the meaning of 101(30)(D)], and FRBP 101(31)(F) [managing agent] and is also a nonstatutory insider.

The basis for the ruling and relevant evidentiary rulings will be posted in the tentative ruling field in lieu of an oral ruling on the record on May 29, 2020 between 12:00pm and 1:00pm. A hearing will be held on **May 29, 2020 at 2:00 p.m.** regarding any questions regarding the ruling, as well as scheduling of future motions/status conferences.

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**May 29, 2020**

Basis for Ruling

I. Background

An involuntary petition was filed against SunCal Northlake, LLC ("Debtor") on November 12, 2008, bankruptcy case no. 18-17472. The order for relief was entered on January 6, 2009 and plaintiff, chapter 11 trustee Steven M. Spier ("Plaintiff" or "Trustee") was appointed on January 22, 2009 and subsequently also became the liquidating trustee under Debtor's confirmed plan. The order granting joint administration with the Palmdale lead case was entered March 18, 2009.

On May 1, 2012, Plaintiff commenced this adversary proceeding against SunCal Management, LLC ("SCM") and Argent Management, LLC ("Argent") (collectively, "Defendants"). Trustee seeks the return of management fees of more than \$900,000 paid by Debtor (and eleven other related debtors) to SCM during the period 2004 to 2008 based on several legal theories, including

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preferential transfer under §547. The original complaint was subsequently amended twice and timely answers were filed by Defendants. On September 9, 2016, this adversary proceeding, as well as the eleven other related adversary proceedings (sometimes referred to herein collectively as the "Related Adversaries") were transferred to Judge Geraldine Mund. Judge Mund made several rulings in the Related Adversaries, including the granting of summary adjudication in favor of Defendants on Plaintiff's claims for breach of contract and restitution/unjust enrichment in this adversary proceeding. Importantly, on October 12, Judge Mund also ruled in one of the Related Adversaries involving SunCal Marblehead LLC ("Marblehead") that SCM was both a statutory and non-statutory insider of Marblehead. On January 25, 2018, the Related Adversaries were transferred back to this court.

On May 30, 2019, Plaintiff filed the instant motion for partial summary adjudication [dkt. #417] ("Motion") for findings that SCM was also an insider of Debtor pursuant to §101(31) from the date Debtor and SCM entered into that certain Development Management Agreement ("DMA") until the petition date. Specifically, Plaintiff asserts that SCM is an insider under §101(31)(E) as an insider of an affiliate of Debtor, as the managing agent of Debtor under §101(31)(F), and as a non-statutory insider of Debtor. Defendants vigorously oppose the Motion.

II. Standard for Summary Judgment/Partial Adjudication

A party seeking summary judgment bears the initial responsibility of demonstrating the absence of a genuine issue of material fact and establishing that it is entitled to judgment as a matter of law as to those matters upon which it has the burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). The opposing party must make an affirmative showing on all matters placed in issue by the motion as to which it has the burden of proof at trial. *Id.* at 324. The substantive law will identify which facts are material. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. *Id.* A factual dispute is genuine where the evidence is such that a reasonable jury could return a verdict for the nonmoving party. *Id.* The court must view the evidence presented on the motion in the light most favorable

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to the opposing party. *Id.*\_

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As explained by the Ninth Circuit in *Nissan Fire & Marine Ins. Co. v. Fritz Companies, Inc.*, 210 F.3d 1099, 1102–03 (9th Cir. 2000):

"A moving party without the ultimate burden of persuasion at trial—usually, but not always, a defendant—has both the initial burden of production and the ultimate burden of persuasion on a motion for summary judgment... In order to carry its burden of production, the moving party must either produce evidence negating an essential element of the nonmoving party's claim or defense or show that the nonmoving party does not have enough evidence of an essential element to carry its ultimate burden of persuasion at trial... In order to carry its ultimate burden of persuasion on the motion, the moving party must persuade the court that there is no genuine issue of material fact... If a moving party fails to carry its initial burden of production, the nonmoving party has no obligation to produce anything, even if the nonmoving party would have the ultimate burden of persuasion at trial... In such a case, the nonmoving party may defeat the motion for summary judgment without producing anything... If, however, support its claim or defense... If the nonmoving party fails to produce enough evidence to create a genuine issue of material fact, the moving party wins the motion for summary judgment."

*Id.* at 1102-03 (citations omitted). In ruling on a summary judgment motion, the Court does not weigh the evidence. *Anderson*, 477 U.S. at 255. Rather, the Court's role is to assess whether a genuine dispute exists as to the material facts requiring a trial. *Id.* at 249. In conducting this assessment, "[t]he evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor." *Tolan v. Cotton*, 572 U.S. 650, 651 (2014). Furthermore, where intent is at issue, summary judgment is seldom granted. See, *Provenz v. Miller*, 102 F.3d 1478, 1489 (9th Cir. 1996), *cert. denied*, 118 S. Ct. 48 (1997).

Federal Rules of Bankruptcy Procedure 7056 incorporates by reference most of the procedural requirements of Rule 56 of the Federal Rules of Civil Procedure ("FRCP") governing motions for summary judgment. In this District, Rule 7056-1 of the Local Bankruptcy Rules ("LBR") also applies.

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III. Statement of Uncontroverted Facts and Conclusions of Law/Statement of Genuine Facts

Under FRCP 56(c)(1)(A), the moving party must cite to materials in the record, including "depositions, documents, electronically stored information, affidavits, declarations . . . admissions, interrogatory answers, or other materials." LBR 7056-1(b)(2) requires that the moving party serve and file a proposed statement of uncontroverted facts and conclusions of law. LBR 7056-1(c)(2)(A) and (B) requires that the respondent file a separate statement of genuine issues, "identify each material fact that is disputed and cite the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon to establish the dispute . . . ."

In this matter, Plaintiff timely filed a Statement of Uncontroverted Facts and Conclusions of Law ("UF") and Defendants timely filed a Statement of Genuine Facts ("GI").

Defendants filed evidentiary objections to the admission of the content of Exhibit 4 of Plaintiff's Request for Judicial Notice, Exhibit 4 being the Third Amended Disclosure Statement ("TAD") filed on August 5, 2011 by counsel for SCC Acquisitions [Dkt #424]. The objections are sustained on the basis of hearsay and personal knowledge and affect UF #59-68. Among other things, UF #s 64, 65, 66, 67 and 68 identify the TAD as the basis for various fact statements concerning the identification of Defendant SCM and SCC Acquisitions, Inc. as "insiders" of Debtor, SCM as a "SunCal Affiliate", SCC Acquisitions, Inc. as an "indirect parent company" of Debtor and that Debtor was "an affiliate of SCC Acquisitions".

Defendants also objected to Exhibit "F" to the Declaration of Gary Pemberton on personal knowledge grounds. The court believes Defendants are actually referring to Exhibit G, which is the deposition testimony of Edward Nolan. On page 187, lines 18-19, when asked about SCC Acquisitions, Mr. Nolan simply states that it is "the company that Bruce [Elieff] owns." The objection is sustained except as to the reference by Mr. Nolan to a "Project Detail Report" which is adequately authenticated by Mr. Nolan.



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In sum, for purposes of this Motion, all of the statements in Plaintiff's UF are deemed admitted and uncontroverted, except where disputed by Defendants. Some of the uncontroverted facts are summarized below. The court notes that in their Statement of Genuine Issues, Defendants have added several "Additional Material Facts," which may or may not be reflected in "Uncontroverted Facts" set forth below but may be addressed in the overall analysis of the Motion. If certain such additional facts are not mentioned, it is because the court did not believe them to be germane to the issues presented.

IV. Uncontroverted Facts

Most of the pertinent are undisputed and are not fully set forth herein. The court incorporates by reference herein, the all of the fact set forth in the UF that are not disputed by Defendants in their GI.

"The SunCal Companies," or "SunCal," is a brand name or dba used by an integrated network of real estate acquisition, holding and development companies owned by Bruce Elieff ("Elieff") and/or his brother, Stephen Elieff. UF 1 Debtor was formed at Elieff's direction as a single-purpose limited liability company to own certain real property located in Oakland, California (the "Oak Knoll Project"). UF 2, 3.

Debtor did not have any employees and, as such, could not develop the Project itself. UF 6. Accordingly, on December 29, 2005, Debtor entered into a Development Management Agreement ("DMA") with SCM. UF 7. SCM was formed to "provide management and development services to entities who have direct or indirect ownership interests in certain real estate projects, and who are affiliated with the SunCal group of companies." UF 8. As a SunCal entity, SCM shared common management with Debtor. At all relevant times, Bruce owned 100% of SCM and served as its Manager as well as Debtor's Manager. He executed the DMA on behalf of both SCM and Debtor. UF 9, 11. SCM's General Counsel, Bruce Cook, participated in filing the documents used to form Debtor, prepared the Debtor's Operating Agreement and the First Amendment thereto, as well as the DMA, and was one of Debtor's authorized signatories. UF 10. Frank

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Faye, SCM's Chief Operating Officer, was also an officer of Debtor. UF 12.

Under the DMA, Debtor engaged SCM "to perform the development and management functions set forth below in connection with the development, marketing and sale of the Project, and to assist in all aspects of the Project[.]" UF 13. The DMA also provided SCM "the authority to perform (and incur expenses in connection with the performance of) the Development and Sale Services & Functions . . . and to otherwise act in accordance with the Project Budget" and to "take any action with respect to the Property or Project or incur any expense for which [the Debtor] is or may be responsible" so long as SCM "reasonably deems such action or expense as necessary in furtherance of the proper development, sale and marketing of the Project." UF 14. SCM reviewed and coordinated the work of the various contractors and consultants for Debtor's Project. UF 15. SCM's Project responsibilities were wide-ranging and included:

- "[r]eview bids and prepare bid analyses";
- "[c]oordinate the work of all contractors . . . [and] schedule and conduct development and progress meetings at which contractors, consultants, and [SCM] can discuss jointly such matters as procedures, progress, problems, and scheduling";
- "monitor the delivery of, and if necessary, arrange storage, protection and security for, all materials, systems and equipment which are to be used in the development of, or incorporated into, the Project";
- "arrange with contractors to provide adequate security for the Project, including, without limitation, prevention of trespassing and dumping."

"assemble and retain all contracts, agreements and other records and data as may be necessary to carry out [SCM's] functions hereunder, and similar records for functions performed by contractors and other third parties in connection herewith";

- "keep and maintain proper books of contracts and records on behalf of [the

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Debtor] relating to . . . the development, operations, expenses and proceeds of the Property and the lots and other parcels comprising the Property";

- "[r]ecord the progress of the Project and submit to [the Debtor], from time to time as may be requested by [the Debtor], and as may be required by any Project Lenders, status reports consisting of (i) a payables transaction report listing all payables due for the month; (ii) a job cost report, (iii) a report explaining any budget variances, (iv) a committed cost report updated to include the invoices being paid during the month, and (v) a cash needs projection showing anticipated cash requirements for the ensuing four (4) months."

UF 15, 16

The DMA provided that Debtor would pay SCM a management fee "[a]s compensation for the performance of the Development and Sale Services & Functions and the other duties and services to be performed by [SCM]," the payment of which could be deferred or delayed based on the availability of funds. UF 17. Debtor was also liable for all third party costs incurred by SCM and compensation for SCM's employees. UF 18.

Under the DMA, SCM served as Debtor's "developer/operator" and "management company." UF 19. In this capacity, SCM was the party responsible for managing the development of the Oak Knoll Project from late 2005 through at least November 2008. UF 20. SCM's owner (and Debtor's Manager), Elieff, was "in charge of overall supervision and monitoring of . . . [SCM's] services" and "was aware of and oversaw what was being done for the [Debtor's] Project[]." UF 21. Specifically, he "personally monitored, participated in and oversaw others who also participated in the day-to-day activities performed by SCM . . . in furtherance of the design, planning, entitlement [and] . . . development of the Project," was responsible for supervising SCM's "extensive" work on the Project, met, typically on a weekly basis, with members of SCM's senior management to discuss material matters relating to the entitlement and development of the Project, and toured the Project site. UF 22, 23, 29. SCM's Chief Operating Officer, Frank Faye (also an officer of Debtor) had "oversight responsibility of [a number of SCM] employees and their work product" and was

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in charge of supervising SCM's activities with respect to the development of the Oak Knoll Project. UF 12, 24, 25. Under the direction of SCM's Chief Accounting Officer, Tom Rollins, SCM "[m]anag[ed] the process of payments by [the Debtor] to contractors, consultants, vendors and others" and "[p]rovid[ed] accounting and asset management services for the Project[]." UF 26. SCM also prepared Debtor's business plans and project budgets. UF 27.

SCM performed all day-to-day operations related to the Project, including:

- "investigating and evaluating all potential site uses for the Project, including preparing site plans";
- "preparing financial reports and status reports concerning the Project . . . regarding all work performed on the Project by SCM, contractors, consultants, third party vendors, and others";
- "providing contract administration for the numerous contracts relating to the entitlement effort and other activities on the site of the Project";
- "creating bid packages, and negotiating and drafting agreements and all related documents for work performed by consultants, contractors, and third-party vendors for the Project";
- "engaging and consulting with consultants, contractors, and attorneys in connection with the preparation of environmental impact reports, the CEQA process, the Subdivision Map Act process, resource agency permits, and other necessary entitlements for the Project";
- "engaging, monitoring, and evaluating consultants, contractors, third party vendors, and others, who performed services related to the construction and development of the Project . . .";
- "engaging and consulting with architects and engineers and overseeing work performed by them";
- "consulting with applicable local and state governmental agencies regarding the

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Project";

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- "causing to be prepared and processing architectural and landscape design guidelines . . .";
- "negotiating on behalf of the Debtor with respect to an owner participation agreement with the City . . . for the development of the Project";
- "conferring with community groups regarding the Project . . .";
- "negotiating and drafting agreements with adjacent land owners for easements and other rights needed in connection with the development of the Project . . .";
- "processing the formation of a Community Facilities District that would provide financing for the development of public infrastructure improvements for the Project"; and
- "performing extensive work to process all necessary approvals and permits for entitlements including preparing the entire entitlement package for the Project . . ."

UF 28

Pursuant to the DMA's terms, Debtor was responsible for paying SCM's management fees and expense reimbursements. UF 17, 18. According to SCM's Chief Accounting Officer, Tom Rollins, SCM "invoiced the Debtor directly for services performed" from "the inception of the Project to the Petition Date." UF 30. After SCM generated an invoice, it would go to the Project accountant, an SCM employee. UF 31. The Project accountant would then send the SCM invoices to SCM's asset management group for review and approval. UF 32. Ultimately, an SCM employee would issue a check or wire funds from Debtor's account to SCM. UF 33. Mr. Rollins and Ed Nolan, also an SCM employee, were responsible for approving such transfers. UF 34. Mr. Rollins testified that SCM employees would "try to make sure that billings [were] done properly, the accounting [was] done properly." UF 35. However, Debtor did not have any employees, and thus there was no personnel of Debtor to question whether an

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invoice was correct or whether a management fee payment should be deferred in accordance with the DMA based on a shortage of funds. UF 6. In total, SCM received at least \$ 2,914,232.00 in management fees from Debtor between 2005 and 2008. UF 37.

V. Marblehead Decision

During the time that he Related Adversaries were pending before Judge Mund, Plaintiff filed a similar motion for partial adjudication based on facts nearly identical presented here that SCM was a statutory and non-statutory insider of related debtor. SunCal Marblehead, LLC ("Marblehead"), adv. no 18-01125. In a thorough and well-analyzed opinion, Judge Mund held as follows:

- (1) SCM was not an insider as an "affiliate" of Marblehead under § 101(31)(E),
- (2) SCM was not an insider of Marblehead's affiliate, Elieff, under §101(31)(E),
- (3) SCM was an insider of Marblehead as "managing agent" under §101(31)(F), and
- (4) SCM was a non-statutory insider of Marblehead.

See Palmdale Hills Prop. v. Argent Mgmt., LLC (In re Palmdale Hills Prop.), 2017 Bankr. LEXIS 3534, at \*19 (Bankr. C.D. Cal. Oct. 12, 2017). Both sides cite to Judge Mund's prior decision and address Judge Mund's analysis in their arguments. With one notable exception, this court agrees with Judge Mund's findings and conclusions. To avoid "re-inventing the wheel," the court will borrow heavily from her reasoned opinion.

VI. Analysis

A. Insider Status Under §101(31)

The SAC alleges a claim for relief under §547 for preferential transfer. Section 547(b)(4)(B) extends the "look back" period for recovery a preferential transfer to an insider from ninety days to one year prior to the petition date. Pursuant to § 547(g), Plaintiff bears the burden of proving that SCM is an insider, in connection with Plaintiff's preference claim against SCM. *Batlan v. Transamerica Commer. Fin. Corp. (In re Smith's Home Furnishings, Inc.)*, 265 F.3d 959, 963 (9th Cir.

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Or. 2001) ("Section 547(g) places the burden of proof on the trustee to show all of the conditions of §547(b).").

There are "two types of insiders: statutory insiders and non-statutory insiders." In re The Village at Lakeridge, LLC, 814 F.3d 993, 999 (9th Cir. 2016), aff'd sub nom. U.S. Bank Nat. Ass'n ex rel. CWC Capital Asset Mgmt. LLC v. Village at Lakeridge, LLC, 138 S. Ct. 960, 200 L. Ed. 2d 218 (2018). "To be a 'statutory insider,' a creditor *must* fall within one of the categories listed in 11 U.S.C. § 101(31)." Village at Lakeridge, supra, at 996 (emphasis in original). "Whether a creditor is an insider is a factual inquiry that must be conducted on a case-by-case basis." *Id.* at 1000. "In conducting a factual inquiry for insider status, courts should begin with the statute. If the [alleged insider] fits within the statutory insider classification on his own, the court's review ends; it need not examine the nature of the statutory insider's relationship to the debtor." *Id.* at 1001.

Under §101(31), the term "insider" includes as to corporations:

- (B) if the debtor is a corporation –
- (i) director of the debtor;
  - (ii) officer of the debtor;
  - (iii) person in control of the debtor;

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(E) affiliate, or insider of an affiliate as if such affiliate were the debtor; and

(F) and managing agent of the debtor.

**B. Plaintiff has Satisfied his Burden of Proof that SCM is a  
Statutory Insider Under §101(31)(E) Based on Its Affiliate  
Status Under §101(2)(D)**

Section 101(2)(D) defines "affiliate" as an "entity that *operates the business or substantially all of the property of the debtor under a lease or operating*

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*agreement.*" (emphasis added)

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It is undisputed that SCM and its employees operated all aspects of Debtor's project development business as previously noted in detail herein. Plaintiff contends that under these circumstances, SCM, as the operator of Debtor's business, falls squarely within the definition of affiliate under §101(2)(D). SCE, on the other hand, argues that because it did not operate under a lease or operating agreement it is not an affiliate within the meaning of §101(2)(D). The issue is whether the DMA, a management agreement, is the functional equivalent of an operating agreement as that term is used in §101(2)(D). As pointed out by Judge Mund in the Marblehead decision, there are very few cases interpreting "operating agreement," and none in the Ninth Circuit. Some cases have interpreted the term expansively. See, e.g., *In re Chira*, 353 B.R. 693, 724-25 (Bankr.S.D.Fla.2006) ("the hotel also represented substantially all of [the debtor's] property. Elizabeth and Lounge Corp. are both 'entities' and they both operated the business and property of the Shelton Beach Hotel."); *In re Century Inv. Fund VII Ltd., P'ship*, 96 B.R. 884, 892 (Bankr.E.D.Wis.1989) ("Affiliate" means an "entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement." 11 U.S.C. § 101(2)(D). CMG has certainly been managing all of the property of the debtor under its management agreement.). By contrast, other courts have interpreted the term more strictly. See, *In re Washington Mut.*, 462 B.R. 137, 145-46 (rejecting debtors' argument that certain pooling and servicing agreements were de facto operating agreement within the meaning of the statute).

Judge Mund held that principles of statutory construction led her to the conclusion that SCM does not fall within the statutory definition of affiliate under §101(31)(D), relying at least in part on the statutory construction principles referenced in the decision of the Ninth Circuit Bankruptcy Appellate Panel in *Miller Ave. Prof'l & Promotional Servs. v. Brady (In re Entertainment Acquisition Partners, Inc.)*, 319 B.R. 626, 632-33 (9<sup>th</sup> Cir. BAP 2004). In *Miller*, the BAP held the corporation of a statutory insider was not an insider under §101(31)(B) and noted that "there is no justification for expanding the definition of a per se insider beyond what is plainly contained in the statute." Judge Mund observed that because §101(2) states that the term "affiliate" *means*, as opposed to the more flexible *includes* (as with §101(31), Congress intended a precise and restricted



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meaning. Further, giving meaning to all of the statutory language requires the existence of an actual operating agreement. Finally, and most importantly, Judge Mund opined that operating agreements "have specific meanings in the law of limited liability companies and for oil and gas rights," and that "termining the DMA to be an 'operating agreement' would be expanding the definition of affiliate (and thus insider) beyond what is plainly contained in the statute." 2017 Bankr.Lexis 3534 at 29.

SCM urges the court to employ the restrictive construction of the term, arguing that "leasing or operating agreement implies entitlement to benefits akin to ownership, which is not the case here. SCM also cites several a number of cases which describe an "operating agreement" as a contract used in the oil and gas industry. See Defendants' Opposition at p. 30 and citations therein [Dkt #424].

Respectfully, the principles of statutory construction lead this court to a contrary conclusion. First, the court is not persuaded that the plain meaning of the term means a literal meaning of the same without regard to substance or context. Certainly, nothing in the legislative history of §101 suggests that Congress intended to limit affiliate status to operating agreements associated with limited liability companies or oil and gas contracts. The legislative history of the 1978 Code defines an insider as a person or entity with "a sufficiently close relationship with the Debtor that his conduct is made subject to closer scrutiny that those dealing at arm's length with the Debtor." S.Rep. No. 95-989, 95th Cong., 2d Sess., reprinted in 1978 U.S.Code Cong. & Admin.News 5787, 5810.

Second, as "operating agreement" is not defined in §101, consideration of the context of the surrounding language is in order. It is a "fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme. *Food and Drug Admin. v. Brown & Williamson Tobacco Co.*, 529 U.S. 120, 133 (2000); accord *Gale v. First Franklin Loan Services*, 701 F.3d. 1240, 1244 (9<sup>th</sup> Cir. 2012). See, generally *Badgley v. United States*, 957 F.3d. 969, 977 (9<sup>th</sup> Cir. 2020) ("In applying the statute, we focus on the substance of the retained interest. Labels are not dispositive."). Section 101(2)(D) starts with "entity that *operates the business . . . of the debtor*. The court interprets this to mean the emphasis is on whether someone other than the debtor is operating its business. As the DMA is an agreement governing the SCM's operation of every aspect of Debtor's

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business and property, it is, the court's view, an "operating agreement" within the meaning of §101(2)(D).

The court concludes as a matter of undisputed fact that SCM is an affiliate under §101(2)(D) and, therefore, a statutory insider pursuant to §101(31)(E).

C. Plaintiff has Satisfied his Burden of Proof that SCM is a  
Statutory Insider Under §101(31)(F) Based on Its Status as  
Managing Agent

Under §101(31)(F), the term "insider" includes a managing agent of the debtor. As with "operating agreement," "managing agent" is not a defined term under the Code. In analyzing whether SCM was the managing agent of Marblehead, Judge Mund looked to guidance from the case of *Rush v. Riddle (In re Standard Shoes, Inc.)*, 124 B.R. 318 (Bankr.C.D.Cal.1991). Though neither *Standard Shoes* or Judge Mund's decision regarding the Marblehead matter are binding on this court, the court nevertheless finds them instructive and soundly reasoned.

In *Standard Shoes*, Judge Zurzolo, in addressing the ambiguity of the term "managing agent," developed the following useful definition:

"In defining 'managing agent,' I therefore conclude that it refers to Those entities that exert or could exert operational control over a debtor, a division or unit of a debtor, or a significant portion of a debtor's property. Such operational control would ordinarily include the ability to make personnel decisions, the authority to incur or pay obligations and access to financial and other information essential to the operation of the debtor.

The definition of 'managing agent' is consistent with the principal design of §101[31] and does not overlap or conflict with the categories of insiders expressly described in the preceding subsections of that statute."

124 B.R. at 323-24.

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SCE contends that it did not have operational control over Debtor or over a significant portion of Debtor's property and that its authority was limited to performing services and making recommendations to Lehman which had ultimate approval power and control. Opposition at pp. 17-18. The court finds SCM's arguments wholly unpersuasive. Instead, the court agrees with and adopts Judge Mund's analysis and findings in the Marblehead matter:

"SCM exercised operational control over the Debtor and thus was a managing agent. All three factors indicating such control in *Standard Shoes* exist: although its actions needed to be in accord with Project Budgets, SCM had authority to incur expenses on the Project, ability to make personnel decisions (as the Debtor's operations were all conducted by SCM employees), and access the Debtor's books and records (which it maintained). It is undisputed that SCM conducted the Debtor's operations. While its actions may have been subject to the Lehman-approved Project Budget and Plan and Lehman may have had veto power over all payments, the standard does not demand unfettered control over the debtor. *Standard Stores* used a person in charge of a division of a corporate debtor as an example of a managing agent and cited the authority to direct payment of obligations, employ personnel, or order supplies as hallmarks of such control. Such people would still be subject to supervision and veto power by the officers and board of directors of the company."

2017 Bankr. Lexis 3534 at 33-34.

The duties and responsibilities of SCM under the DMA meet and exceed the managing agent factors set forth in *Standard Stores*. The court, therefore, finds as a matter of undisputed fact, that SCM was a managing agent of Debtor within the meaning of §101(31)(F) and a statutory insider of Debtor under § 101(31).

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D. Plaintiff has not Met his Burden of Proof that SCC Acquisitions was an Affiliate and Statutory Insider of Debtor

Plaintiff's assertion that SCC Acquisitions was an Affiliate of Debtor is based on representations made in the Third Amended Disclosure Statement. Motion at p. 20. However, the court has sustained the evidentiary objections regarding such representations. As a consequence, Plaintiff has not established as a matter of undisputed fact the SCC Acquisitions was an affiliate and, therefore, an insider of Debtor.

E. Plaintiff has not Met his Burden of Proof that SCM was an Affiliate and Insider of SCC Acquisitions, Rendering SCM an Insider of Debtor

In the Motion, Plaintiff relies principally on representations made in the Third Amended Disclosure Statement. See Motion at p. 20. As the court has sustained the evidentiary objections regarding such representations and, therefore, Plaintiff has not established as matter of undisputed fact that SCM was an affiliate and insider of SCC Acquisitions.

F. Plaintiff has not Met his Burden of Proof that SunCal Marblehead was an Affiliate of Debtor

Plaintiff relies on conclusory statements made by Elieff in Debtor's involuntary bankruptcy petition that Suncal Marblehead was an affiliate of Debtor. This is insufficient to satisfy Plaintiff's burden of proof regarding SunCal Marblehead's status as an affiliate of Debtor as a matter of undisputed fact.

G. Plaintiff has not Satisfied his Burden of Proof that Bruce Elieff was an Affiliate of Debtor

Plaintiff's argues that under § 101(31)(E) SCM should be found to be an "insider" of Debtor because SCM was an insider of Debtor's affiliate, Bruce Elieff. Mot., p. 23:15-24. Judge Mund previously found this argument

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unpersuasive. Palmdale, supra at 29-30. She found that that Plaintiff failed to establish as a matter of undisputed fact that Elieff met the requirements of 101(2)(D), that is, that Elieff has actually operated Marblehead's business. The same issue persists here.

Further, under § 101(31)(E), a statutory insider includes an "insider of an affiliate as if such affiliate were the debtor." Plaintiff's argument is unpersuasive because Plaintiff has failed to demonstrate that Bruce (rather than SCC JV) is an affiliate of Debtor. Under the Grandparent Operating, SCC JV, not Bruce, was the party to the agreement. In addition, Plaintiff has failed to demonstrate SCM itself is an insider of SCC JV. Thus, even if SCM is be an insider of Bruce, Plaintiff has not demonstrated the absence of a material fact that Bruce (rather than SCC JV) is an affiliate of Debtor

H. Plaintiff has Met his Burden of Proof that SCM was a Non-statutory Insider

Plaintiff's argues that under § 101(31)(E) SCM should be found to be an "insider" of Debtor because SCM was an insider of Debtor's affiliate, Bruce Elieff. Mot., p. 23:15-24. Judge Mund previously found this argument unpersuasive. Palmdale, supra at 29-30. She found that that Plaintiff failed to establish as a matter of undisputed fact that Elieff met the requirements of 101(2)(D), that is, that Elieff has actually operated Marblehead's business. The same issue persists here.

Further, under § 101(31)(E), a statutory insider includes an "insider of an affiliate as if such affiliate were the debtor." Plaintiff's argument is unpersuasive because Plaintiff has failed to demonstrate that Bruce (rather than SCC JV) is an affiliate of Debtor. Under the Grandparent Operating, SCC JV, not Bruce, was the party to the agreement. In addition, Plaintiff has failed to demonstrate SCM itself is an insider of SCC JV. Thus, even if SCM is be an insider of Bruce, Plaintiff has not demonstrated the absence of a material fact that Bruce (rather than SCC JV) is an affiliate of Debtor

H. Plaintiff has Met his Burden of Proof that SCM was a Non-statutory Insider

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In *The Village at Lakeridge*, the Ninth Circuit held that non-statutory insiders are the "functional equivalent of statutory insiders" if they fall within the ambit of § 101(31). 814 F.3d at 1001. An entity is a non-statutory insider if "1) the closeness of its relationship with the debtor is comparable to that of the enumerated insider classifications in §101(31), and 2) the relevant transaction is negotiated at less than arm's length." *Id.* As previously noted herein, the legislative history of the 1978 Code defines an insider as a person or entity with "a sufficiently close relationship with the Debtor that his conduct is made subject to closer scrutiny than those dealing at arm's length with the Debtor." S.Rep. No. 95-989, 95th Cong., 2d Sess., reprinted in 1978 U.S.Code Cong. & Admin.News 5787, 5810.

The court agrees with and adopts by reference below, Judge Mund's two-step analysis concerning the non-statutory insider status of SCM in the SunCal Marblehead matter:

"[I]t is beyond dispute that SCM conducted the Debtor's day-to-day operations, its employees conducted all of the Debtor's business functions, and it maintained the Debtor's books and records. It had 'some degree of control' and access to the Debtor's information and records, both of which are indications of insider status cited by the Ninth Circuit in *Vill.at Lakeridge*. It was also close enough for SCM to gain some advantage due simply to affinity: even if all of the Debtor's payments needed Lehman's prior approval, SCM was responsible for the first line of review of its own invoices and had some control over when its invoices were submitted for approval and were paid. This extremely close relationship between SCM and the Debtor was of the type that Congress intended to subject to 'a greater level of scrutiny.'

However much control Lehman may have had over the Project, the Project Budgets, the draw requests, and the vendor payments, it is undisputed that SCM processed, reviewed, and paid its own invoices on the Debtor's behalf. An SCM employee actually issuing the Debtor's payment to SCM was not a transaction conducted

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'as if the parties were strangers.' A conflict of interest does not require nefarious behavior by SCM, merely the potential for abuse. These payments to SCM cannot be called 'arms' length transactions."

2017 Bankr. Lexis at 37-38.

SCM disagrees with the foregoing analysis. First, SCM argues that Lehman did not show SCM any preferential treatment in its decisions regarding payment and that there is no evidence that payments made to SCM were for any reason of affinity. SCM attempt to distinguish itself from the familial affinity that existed in *In re Rexford Properties, LLC*, 557 B.R. 788 (Bankr.C.D.Cal 2016). SCM misses the point. The close relationship prong does not require a showing of actual preferential treatment, but rather that the closeness could provide an opportunity for potential abuse. The discussion of *Rexford* is not helpful the facts in that case are not comparable to the circumstances here. For example, SCE states that it has no ownership interest in Debtor. However, ownership interest is not critical factor or requirement for non-statutory insider status.

Next, while acknowledging that control is not a required factor in this Circuit, SCM refers the court to an unpublished, non-precedential Ninth Circuit case, *Farrar v. Warda & Yonano LLP (In re Bella Vista by Paramount LLC)*, 549 Fed.Appx, 648 (2013) for the quote therein that "insider status is a question of control." *Farrar* predates the published (and binding) Ninth Circuit case, *The Village at Lakeridge* ("Some degree of control is one of many indications that a creditor may be a non-statutory insider, but *actual control is not required to find non-statutory insider status*") (emphasis added) 814 F.3d at 1001. In footnote 12 of *The Village at Lakeridge*, the Court observed that "if actual control were required for non-statutory insider status, all non-statutory insiders would also be statutory insiders under §101)(31). The remainder of the arguments and citations to non-binding decisions, most of which predate *The Village at Lakeridge*, are not persuasive.

VII. Conclusion

Based upon the foregoing, the Motion is granted in part; denied in part.

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**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By

Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By

Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By

Mike D Neue



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Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**8:08-17206 Palmdale Hills Property, LLC**

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Adv#: 8:18-01127 Speier v. SunCal Management LLC et al

**#15.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers  
**[Debtor: SunCal Northlake, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20; 5-28-20

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**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 28, 2020**

Continue status conference to May 29, 2020 at 2:00 p.m.

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

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Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
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Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

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Santa Ana  
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**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**8:08-17206 Palmdale Hills Property, LLC**

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Adv#: 8:18-01128 Speier v. SunCal Management LLC et al

**#16.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20; 4-27-20; 5-28-20

Docket 518

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 28, 2020**

Grant motion for partial summary adjudication on the grounds that Plaintiff has established as a matter of undisputed fact and law that SCM is both a statutory insider under FRBP 101(31)(E) [affiliate within the meaning of 101(30)(D)], and FRBP 101(31)(F) [managing agent] and is also a nonstatutory insider.

The basis for the ruling and relevant evidentiary rulings will be posted in the tentative ruling field in lieu of an oral ruling on the record on May 29, 2020 between 12:00pm and 1:00pm. A hearing will be held on **May 29, 2020 at 2:00 p.m.** regarding any questions regarding the ruling, as well as scheduling of future motions/status conferences.

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Basis for Ruling

I. Background

An involuntary petition was filed against SunCal Oak Valley, LLC ("Debtor") on November 12, 2008, bankruptcy case no. 18-17472. The order for relief was entered on January 6, 2009 and plaintiff, chapter 11 trustee Steven M. Spier ("Plaintiff" or "Trustee") was appointed on January 22, 2009 and subsequently also became the liquidating trustee under Debtor's confirmed plan. The order granting joint administration with the Palmdale lead case was entered March 18, 2009.

On May 1, 2012, Plaintiff commenced this adversary proceeding against SunCal Management, LLC ("SCM") and Argent Management, LLC ("Argent") (collectively, "Defendants"). Trustee seeks the return of management fees of more than \$900,000 paid by Debtor (and eleven other related debtors) to SCM during the period 2004 to 2008 based on several legal theories, including preferential transfer under §547. The original complaint was subsequently amended twice and timely answers were filed by Defendants. On September 9, 2016, this adversary proceeding, as well as the eleven other related adversary proceedings (sometimes referred to herein collectively as the "Related Adversaries") were transferred to Judge Geraldine Mund. Judge Mund made several rulings in the Related Adversaries, including the granting of summary adjudication in favor of Defendants on Plaintiff's claims for breach of contract and restitution/unjust enrichment in this adversary proceeding. Importantly, on October 12, Judge Mund also ruled in one of the Related Adversaries involving SunCal Marblehead LLC ("Marblehead") that SCM was both a statutory and non-statutory insider of Marblehead. On January 25, 2018, the Related Adversaries were transferred back to this court.

On May 30, 2019, Plaintiff filed the instant motion for partial summary adjudication [dkt. #417] ("Motion") for findings that SCM was also an insider of

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Debtor pursuant to §101(31) from the date Debtor and SCM entered into that certain Development Management Agreement ("DMA") until the petition date. Specifically, Plaintiff asserts that SCM is an insider under §101(31)(E) as an insider of an affiliate of Debtor, as the managing agent of Debtor under §101(31)(F), and as a non-statutory insider of Debtor. Defendants vigorously oppose the Motion.

II. Standard for Summary Judgment/Partial Adjudication

A party seeking summary judgment bears the initial responsibility of demonstrating the absence of a genuine issue of material fact and establishing that it is entitled to judgment as a matter of law as to those matters upon which it has the burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). The opposing party must make an affirmative showing on all matters placed in issue by the motion as to which it has the burden of proof at trial. *Id.* at 324. The substantive law will identify which facts are material. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. *Id.* A factual dispute is genuine where the evidence is such that a reasonable jury could return a verdict for the nonmoving party. *Id.* The court must view the evidence presented on the motion in the light most favorable to the opposing party. *Id.*\_

As explained by the Ninth Circuit in *Nissan Fire & Marine Ins. Co. v. Fritz Companies, Inc.*, 210 F.3d 1099, 1102–03 (9th Cir. 2000):

"A moving party without the ultimate burden of persuasion at trial—usually, but not always, a defendant—has both the initial burden of production and the ultimate burden of persuasion on a motion for summary judgment... In order to carry its burden of production, the moving party must either produce evidence negating an essential element of the nonmoving party's claim or defense or show that the nonmoving party does not have enough evidence of an essential element to carry its ultimate burden of persuasion at trial... In order to carry its ultimate burden of persuasion on the motion, the moving party must persuade the court that there is no genuine issue of material fact... If a moving party fails to carry its initial burden of

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production, the nonmoving party has no obligation to produce anything, even if the nonmoving party would have the ultimate burden of persuasion at trial... In such a case, the nonmoving party may defeat the motion for summary judgment without producing anything... If, however, support its claim or defense... If the nonmoving party fails to produce enough evidence to create a genuine issue of material fact, the moving party wins the motion for summary judgment."

*Id.* at 1102-03 (citations omitted). In ruling on a summary judgment motion, the Court does not weigh the evidence. *Anderson*, 477 U.S. at 255. Rather, the Court's role is to assess whether a genuine dispute exists as to the material facts requiring a trial. *Id.* at 249. In conducting this assessment, "[t]he evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor." *Tolan v. Cotton*, 572 U.S. 650, 651 (2014). Furthermore, where intent is at issue, summary judgment is seldom granted. *See, Provenz v. Miller*, 102 F.3d 1478, 1489 (9th Cir. 1996), *cert. denied*, 118 S. Ct. 48 (1997).

Federal Rules of Bankruptcy Procedure 7056 incorporates by reference most of the procedural requirements of Rule 56 of the Federal Rules of Civil Procedure ("FRCP") governing motions for summary judgment. In this District, Rule 7056-1 of the Local Bankruptcy Rules ("LBR") also applies.

III. Statement of Uncontroverted Facts and Conclusions of Law/Statement of Genuine Facts

Under FRCP 56(c)(1)(A), the moving party must cite to materials in the record, including "depositions, documents, electronically stored information, affidavits, declarations . . . admissions, interrogatory answers, or other materials." LBR 7056-1(b)(2) requires that the moving party serve and file a proposed statement of uncontroverted facts and conclusions of law. LBR 7056-1(c)(2)(A) and (B) requires that the respondent file a separate statement of genuine issues, "identify each material fact that is disputed and cite the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon to establish the dispute . . . ."

In this matter, Plaintiff timely filed a Statement of Uncontroverted Facts

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and Conclusions of Law "UF") and Defendants timely filed a Statement of Genuine Facts ("GI").

Defendants filed evidentiary objections to the admission of the content of Exhibit 4 of Plaintiff's Request for Judicial Notice, Exhibit 4 being the Third Amended Disclosure Statement ("TAD") filed on August 5, 2011 by counsel for SCC Acquisitions [Dkt #424]. The objections are sustained on the basis of hearsay and personal knowledge and affect UF #59-68. Among other things, UF #s 64, 65, 66, 67 and 68 identify the TAD as the basis for various fact statements concerning the identification of Defendant SCM and SCC Acquisitions, Inc. as "insiders" of Debtor, SCM as a "SunCal Affiliate", SCC Acquisitions, Inc. as an "indirect parent company" of Debtor and that Debtor was "an affiliate of SCC Acquisitions".

Defendants also objected to Exhibit "F" to the Declaration of Gary Pemberton on personal knowledge grounds. The court believes Defendants are actually referring to Exhibit G, which is the deposition testimony of Edward Nolan. On page 187, lines 18-19, when asked about SCC Acquisitions, Mr. Nolan simply states that it is "the company that Bruce [Elieff] owns." The objection is sustained except as to the reference by Mr. Nolan to a "Project Detail Report" which is adequately authenticated by Mr. Nolan.

In sum, for purposes of this Motion, all of the statements in Plaintiff's UF are deemed admitted and uncontroverted, except where disputed by Defendants. Some of the uncontroverted facts are summarized below. The court notes that in their Statement of Genuine Issues, Defendants have added several "Additional Material Facts," which may or may not be reflected in "Uncontroverted Facts" set forth below but may be addressed in the overall analysis of the Motion. If certain such additional facts are not mentioned, it is because the court did not believe them to be germane to the issues presented.

IV. Uncontroverted Facts

Most of the pertinent are undisputed and are not fully set forth herein. The court incorporates by reference herein, the all of the fact set forth in the UF that are not disputed by

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Defendants in their Gl.

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"The SunCal Companies," or "SunCal," is a brand name or dba used by an integrated network of real estate acquisition, holding and development companies owned by Bruce Elieff ("Elieff") and/or his brother, Stephen Elieff. UF 1 Debtor was formed at Elieff's direction as a single-purpose limited liability company to own certain real property located in Oakland, California (the "Oak Knoll Project"). UF 2, 3.

Debtor did not have any employees and, as such, could not develop the Project itself. UF 6. Accordingly, on December 29, 2005, Debtor entered into a Development Management Agreement ("DMA") with SCM. UF 7. SCM was formed to "provide management and development services to entities who have direct or indirect ownership interests in certain real estate projects, and who are affiliated with the SunCal group of companies." UF 8. As a SunCal entity, SCM shared common management with Debtor. At all relevant times, Bruce owned 100% of SCM and served as its Manager as well as Debtor's Manager. He executed the DMA on behalf of both SCM and Debtor. UF 9, 11. SCM's General Counsel, Bruce Cook, participated in filing the documents used to form Debtor, prepared the Debtor's Operating Agreement and the First Amendment thereto, as well as the DMA, and was one of Debtor's authorized signatories. UF 10. Frank Faye, SCM's Chief Operating Officer, was also an officer of Debtor. UF 12.

Under the DMA, Debtor engaged SCM "to perform the development and management functions set forth below in connection with the development, marketing and sale of the Project, and to assist in all aspects of the Project[.]" UF 13. The DMA also provided SCM "the authority to perform (and incur expenses in connection with the performance of) the Development and Sale Services & Functions . . . and to otherwise act in accordance with the Project Budget" and to "take any action with respect to the Property or Project or incur any expense for which [the Debtor] is or may be responsible" so long as SCM "reasonably deems such action or expense as necessary in furtherance of the proper development, sale and marketing of the Project." UF 14. SCM reviewed and coordinated the work of the various contractors and consultants for Debtor's Project. UF 15. SCM's Project responsibilities were wide-ranging and included:



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- "[r]eview bids and prepare bid analyses";
- "[c]oordinate the work of all contractors . . . [and] schedule and conduct development and progress meetings at which contractors, consultants, and [SCM] can discuss jointly such matters as procedures, progress, problems, and scheduling";
- "monitor the delivery of, and if necessary, arrange storage, protection and security for, all materials, systems and equipment which are to be used in the development of, or incorporated into, the Project";
- "arrange with contractors to provide adequate security for the Project, including, without limitation, prevention of trespassing and dumping."

"assemble and retain all contracts, agreements and other records and data as may be necessary to carry out [SCM's] functions hereunder, and similar records for functions performed by contractors and other third parties in connection herewith";

- "keep and maintain proper books of contracts and records on behalf of [the Debtor] relating to . . . the development, operations, expenses and proceeds of the Property and the lots and other parcels comprising the Property";
- "[r]ecord the progress of the Project and submit to [the Debtor], from time to time as may be requested by [the Debtor], and as may be required by any Project Lenders, status reports consisting of (i) a payables transaction report listing all payables due for the month; (ii) a job cost report, (iii) a report explaining any budget variances, (iv) a committed cost report updated to include the invoices being paid during the month, and (v) a cash needs projection showing anticipated cash requirements for the ensuing four (4) months."

UF 15, 16

The DMA provided that Debtor would pay SCM a management fee "[a]s

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compensation for the performance of the Development and Sale Services & Functions and the other duties and services to be performed by [SCM]," the payment of which could be deferred or delayed based on the availability of funds. UF 17. Debtor was also liable for all third party costs incurred by SCM and compensation for SCM's employees. UF 18.

Under the DMA, SCM served as Debtor's "developer/operator" and "management company." UF 19. In this capacity, SCM was the party responsible for managing the development of the Oak Knoll Project from late 2005 through at least November 2008. UF 20. SCM's owner (and Debtor's Manager), Elieff, was "in charge of overall supervision and monitoring of . . . [SCM's] services" and "was aware of and oversaw what was being done for the [Debtor's] Project[]." UF 21. Specifically, he "personally monitored, participated in and oversaw others who also participated in the day-to-day activities performed by SCM . . . in furtherance of the design, planning, entitlement [and] . . . development of the Project," was responsible for supervising SCM's "extensive" work on the Project, met, typically on a weekly basis, with members of SCM's senior management to discuss material matters relating to the entitlement and development of the Project, and toured the Project site. UF 22, 23, 29. SCM's Chief Operating Officer, Frank Faye (also an officer of Debtor) had "oversight responsibility of [a number of SCM] employees and their work product" and was in charge of supervising SCM's activities with respect to the development of the Oak Knoll Project. UF 12, 24, 25. Under the direction of SCM's Chief Accounting Officer, Tom Rollins, SCM "[m]anag[ed] the process of payments by [the Debtor] to contractors, consultants, vendors and others" and "[p]rovid[ed] accounting and asset management services for the Project[]." UF 26. SCM also prepared Debtor's business plans and project budgets. UF 27.

SCM performed all day-to-day operations related to the Project, including:

- "investigating and evaluating all potential site uses for the Project, including preparing site plans";
- "preparing financial reports and status reports concerning the Project . . . regarding all work performed on the Project by SCM, contractors, consultants, third party vendors, and others";

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- "providing contract administration for the numerous contracts relating to the entitlement effort and other activities on the site of the Project";
- "creating bid packages, and negotiating and drafting agreements and all related documents for work performed by consultants, contractors, and third-party vendors for the Project";
- "engaging and consulting with consultants, contractors, and attorneys in connection with the preparation of environmental impact reports, the CEQA process, the Subdivision Map Act process, resource agency permits, and other necessary entitlements for the Project";
- "engaging, monitoring, and evaluating consultants, contractors, third party vendors, and others, who performed services related to the construction and development of the Project . . .";
- "engaging and consulting with architects and engineers and overseeing work performed by them";
- "consulting with applicable local and state governmental agencies regarding the Project";
- "causing to be prepared and processing architectural and landscape design guidelines . . .";
- "negotiating on behalf of the Debtor with respect to an owner participation agreement with the City . . . for the development of the Project";
- "conferring with community groups regarding the Project . . .";
- "negotiating and drafting agreements with adjacent land owners for easements and other rights needed in connection with the development of the Project . . .";
- "processing the formation of a Community Facilities District that would provide financing for the development of public infrastructure improvements for the

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Project"; and

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- "performing extensive work to process all necessary approvals and permits for entitlements including preparing the entire entitlement package for the Project . . ."

UF 28

Pursuant to the DMA's terms, Debtor was responsible for paying SCM's management fees and expense reimbursements. UF 17, 18. According to SCM's Chief Accounting Officer, Tom Rollins, SCM "invoiced the Debtor directly for services performed" from "the inception of the Project to the Petition Date." UF 30. After SCM generated an invoice, it would go to the Project accountant, an SCM employee. UF 31. The Project accountant would then send the SCM invoices to SCM's asset management group for review and approval. UF 32. Ultimately, an SCM employee would issue a check or wire funds from Debtor's account to SCM. UF 33. Mr. Rollins and Ed Nolan, also an SCM employee, were responsible for approving such transfers. UF 34. Mr. Rollins testified that SCM employees would "try to make sure that billings [were] done properly, the accounting [was] done properly." UF 35. However, Debtor did not have any employees, and thus there was no personnel of Debtor to question whether an invoice was correct or whether a management fee payment should be deferred in accordance with the DMA based on a shortage of funds. UF 6. In total, SCM received at least \$ 2,914,232.00 in management fees from Debtor between 2005 and 2008. UF 37.

V. Marblehead Decision

During the time that the Related Adversaries were pending before Judge Mund, Plaintiff filed a similar motion for partial adjudication based on facts nearly identical presented here that SCM was a statutory and non-statutory insider of related debtor. SunCal Marblehead, LLC ("Marblehead"), adv. no 18-01125. In a thorough and well-analyzed opinion, Judge Mund held as follows:

- (1) SCM was not an insider as an "affiliate" of Marblehead under § 101(31)(E),
- (2) SCM was not an insider of Marblehead's affiliate, Elieff, under §101(31)(E),

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- (3) SCM was an insider of Marblehead as "managing agent" under §101(31)(F), and
- (4) SCM was a non-statutory insider of Marblehead.

See Palmdale Hills Prop. v. Argent Mgmt., LLC (In re Palmdale Hills Prop.), 2017 Bankr. LEXIS 3534, at \*19 (Bankr. C.D. Cal. Oct. 12, 2017). Both sides cite to Judge Mund's prior decision and address Judge Mund's analysis in their arguments. With one notable exception, this court agrees with Judge Mund's findings and conclusions. To avoid "re-inventing the wheel," the court will borrow heavily from her reasoned opinion.

VI. Analysis

A. Insider Status Under §101(31)

The SAC alleges a claim for relief under §547 for preferential transfer. Section 547(b)(4)(B) extends the "look back" period for recovery a preferential transfer to an insider from ninety days to one year prior to the petition date. Pursuant to § 547(g), Plaintiff bears the burden of proving that SCM is an insider, in connection with Plaintiff's preference claim against SCM. *Batlan v. Transamerica Commer. Fin. Corp. (In re Smith's Home Furnishings, Inc.)*, 265 F.3d 959, 963 (9th Cir. Or. 2001) ("Section 547(g) places the burden of proof on the trustee to show all of the conditions of §547(b).").

There are "two types of insiders: statutory insiders and non-statutory insiders." In re The Village at Lakeridge, LLC, 814 F.3d 993, 999 (9th Cir. 2016), aff'd sub nom. U.S. Bank Nat. Ass'n ex rel. CWC Capital Asset Mgmt. LLC v. Village at Lakeridge, LLC, 138 S. Ct. 960, 200 L. Ed. 2d 218 (2018). "To be a 'statutory insider,' a creditor *must* fall within one of the categories listed in 11 U.S.C. § 101(31)." Village at Lakeridge, supra, at 996 (emphasis in original). "Whether a creditor is an insider is a factual inquiry that must be conducted on a case-by-case basis." *Id.* at 1000. "In conducting a factual inquiry for insider status, courts should begin with the statute. If the [alleged insider] fits within the statutory insider classification on his own, the court's review ends; it need not examine the nature of the statutory insider's relationship to the debtor." *Id.* at 1001.

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Under §101(31), the term "insider" includes as to corporations:

- (B) if the debtor is a corporation –
- (i) director of the debtor;
  - (ii) officer of the debtor;
  - (iii) person in control of the debtor;

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(E) affiliate, or insider of an affiliate as if such affiliate were the debtor; and

(F) and managing agent of the debtor.

B. Plaintiff has Satisfied his Burden of Proof that SCM is a  
Statutory Insider Under §101(31)(E) Based on Its Affiliate  
Status Under §101(2)(D)

Section 101(2)(D) defines "affiliate" as an "entity that *operates the business or substantially all of the property of the debtor under a lease or operating agreement.*" (emphasis added)

It is undisputed that SCM and its employees operated all aspects of Debtor's project development business as previously noted in detail herein. Plaintiff contends that under these circumstances, SCM, as the operator of Debtor's business, falls squarely within the definition of affiliate under §101(2)(D). SCE, on the other hand, argues that because it did not operate under a lease or operating agreement it is not an affiliate within the meaning of §101(2)(D). The issue is whether the DMA, a management agreement, is the functional equivalent of an operating agreement as that term is used in §101(2)(D). As pointed out by Judge Mund in the Marblehead decision, there are very few cases interpreting "operating agreement," and none in the Ninth Circuit. Some cases have interpreted the term expansively. See, e.g., *In re Chira*, 353 B.R. 693, 724-25 (Bankr.S.D.Fla.2006) ("the hotel also represented substantially all of [the debtor's] property. Elizabeth and Lounge Corp. are both 'entities' and they both

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operated the business and property of the Shelton Beach Hotel."); *In re Century Inv. Fund VII Ltd., P'ship*, 96 B.R. 884, 892 (Bankr.E.D.Wis.1989) ("Affiliate" means an "entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement." 11 U.S.C. § 101(2)(D). CMG has certainly been managing all of the property of the debtor under its management agreement.). By contrast, other courts have interpreted the term more strictly. See, *In re Washington Mut.*, 462 B.R. 137, 145-46 (rejecting debtors' argument that certain pooling and servicing agreements were de facto operating agreement within the meaning of the statute).

Judge Mund held that principles of statutory construction led her to the conclusion that SCM does not fall within the statutory definition of affiliate under §101(31)(D), relying at least in part on the statutory construction principles referenced in the decision of the Ninth Circuit Bankruptcy Appellate Panel in *Miller Ave. Prof'l & Promotional Servs. v. Brady (In re Entertainment Acquisition Partners, Inc.)*, 319 B.R. 626, 632-33 (9<sup>th</sup> Cir. BAP 2004). In *Miller*, the BAP held the corporation of a statutory insider was not an insider under §101(31)(B) and noted that "there is no justification for expanding the definition of a per se insider beyond what is plainly contained in the statute." Judge Mund observed that because §101(2) states that the term "affiliate" *means*, as opposed to the more flexible *includes* (as with §101(31), Congress intended a precise and restricted meaning. Further, giving meaning to all of the statutory language requires the existence of an actual operating agreement. Finally, and most importantly, Judge Mund opined that operating agreements "have specific meanings in the law of limited liability companies and for oil and gas rights," and that "terming the DMA to be an 'operating agreement' would be expanding the definition of affiliate (and thus insider) beyond what is plainly contained in the statute." 2017 Bankr.Lexis 3534 at 29.

SCM urges the court to employ the restrictive construction of the term, arguing that "leasing or operating agreement implies entitlement to benefits akin to ownership, which is not the case here. SCM also cites several a number of cases which describe an "operating agreement" as a contract used in the oil and gas industry. See Defendants' Opposition at p. 30 and citations therein [Dkt #424].

Respectfully, the principles of statutory construction lead this court to a contrary conclusion. First, the court is not persuaded that the plain meaning of the term

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means a literal meaning of the same without regard to substance or context. Certainly, nothing in the legislative history of §101 suggests that Congress intended to limit affiliate status to operating agreements associated with limited liability companies or oil and gas contracts. The legislative history of the 1978 Code defines an insider as a person or entity with "a sufficiently close relationship with the Debtor that his conduct is made subject to closer scrutiny that those dealing at arm's length with the Debtor." S.Rep. No. 95-989, 95th Cong., 2d Sess., reprinted in 1978 U.S.Code Cong. & Admin.News 5787, 5810.

Second, as "operating agreement" is not defined in §101, consideration of the context of the surrounding language is in order. It is a "fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme. *Food and Drug Admin. v. Brown & Williamson Tobacco Co.*, 529 U.S. 120, 133 (2000); accord *Gale v. First Franklin Loan Services*, 701 F.3d. 1240, 1244 (9<sup>th</sup> Cir. 2012). See, generally *Badgley v. United States*, 957 F.3d. 969, 977 (9<sup>th</sup> Cir. 2020) ("In applying the statute, we focus on the substance of the retained interest. Labels are not dispositive."). Section 101(2)(D) starts with "entity that *operates the business . . . of the debtor*. The court interprets this to mean the emphasis is on whether someone other than the debtor is operating its business. As the DMA is an agreement governing the SCM's operation of every aspect of Debtor's business and property, it is, the court's view, an "operating agreement" within the meaning of §101(2)(D).

The court concludes as a matter of undisputed fact that SCM is an affiliate under §101(2)(D) and, therefore, a statutory insider pursuant to §101(31)(E).

C. Plaintiff has Satisfied his Burden of Proof that SCM is a  
Statutory Insider Under §101(31)(F) Based on Its Status as  
Managing Agent

Under §101(31)(F), the term "insider" includes a managing agent of the debtor. As with "operating agreement," "managing agent" is not a defined term under the Code. In analyzing whether SCM was the managing agent of Marblehead, Judge Mund looked to guidance from the case of *Rush v. Riddle (In re Standard Shoes, Inc.)*, 124 B.R. 318 (Bankr.C.D.Cal.1991). Though neither



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*Standard Shoes* or Judge Mund's decision regarding the Marblehead matter are binding on this court, the court nevertheless finds them instructive and soundly reasoned.

In *Standard Shoes*, Judge Zurzolo, in addressing the ambiguity of the term "managing agent," developed the following useful definition:

"In defining 'managing agent,' I therefore conclude that it refers to Those entities that exert or could exert operational control over a debtor, a division or unit of a debtor, or a significant portion of a debtor's property. Such operational control would ordinarily include the ability to make personnel decisions, the authority to incur or pay obligations and access to financial and other information essential to the operation of the debtor.

The definition of 'managing agent' is consistent with the principal design of §101[31] and does not overlap or conflict with the categories of insiders expressly described in the preceding subsections of that statute."

124 B.R. at 323-24.

SCE contends that it did not have operational control over Debtor or over a significant portion of Debtor's property and that its authority was limited to performing services and making recommendations to Lehman which had ultimate approval power and control. Opposition at pp. 17-18. The court finds SCM's arguments wholly unpersuasive. Instead, the court agrees with and adopts Judge Mund's analysis and findings in the Marblehead matter:

"SCM exercised operational control over the Debtor and thus was a managing agent. All three factors indicating such control in *Standard Shoes* exist: although its actions needed to be in accord with Project Budgets, SCM had authority to incur expenses on the Project, ability to make personnel decisions (as the Debtor's operations were all conducted by SCM employees), and access the Debtor's books and records (which

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it maintained). It is undisputed that SCM conducted the Debtor's operations. While its actions may have been subject to the Lehman-approved Project Budget and Plan and Lehman may have had veto power over all payments, the standard does not demand unfettered control over the debtor. *Standard Stores* used a person in charge of a division of a corporate debtor as an example of a managing agent and cited the authority to direct payment of obligations, employ personnel, or order supplies as hallmarks of such control. Such people would still be subject to supervision and veto power by the officers and board of directors of the company."

2017 Bankr. Lexis 3534 at 33-34.

The duties and responsibilities of SCM under the DMA meet and exceed the managing agent factors set forth in *Standard Stores*. The court, therefore, finds as a matter of undisputed fact, that SCM was a managing agent of Debtor within the meaning of §101(31)(F) and a statutory insider of Debtor under § 101(31).

D. Plaintiff has not Met his Burden of Proof that SCC Acquisitions was an Affiliate and Statutory Insider of Debtor

Plaintiff's assertion that SCC Acquisitions was an Affiliate of Debtor is based on representations made in the Third Amended Disclosure Statement. Motion at p. 20. However, the court has sustained the evidentiary objections regarding such representations. As a consequence, Plaintiff has not established as a matter of undisputed fact the SCC Acquisitions was an affiliate and, therefore, an insider of Debtor.

E. Plaintiff has not Met his Burden of Proof that SCM was an Affiliate and Insider of SCC Acquisitions, Rendering SCM an Insider of Debtor

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In the Motion, Plaintiff relies principally on representations made in the Third Amended Disclosure Statement. See Motion at p. 20. As the court has sustained the evidentiary objections regarding such representations and, therefore, Plaintiff has not established as matter of undisputed fact that SCM was an affiliate and insider of SCC Acquisitions.

F. Plaintiff has not Met his Burden of Proof that SunCal  
Marblehead was an Affiliate of Debtor

Plaintiff relies on conclusory statements made by Elieff in Debtor's involuntary bankruptcy petition that SunCal Marblehead was an affiliate of Debtor. This is insufficient to satisfy Plaintiff's burden of proof regarding SunCal Marblehead's status as an affiliate of Debtor as a matter of undisputed fact.

G. Plaintiff has not Satisfied his Burden of Proof that Bruce Elieff  
was an Affiliate of Debtor

Plaintiff's argues that under § 101(31)(E) SCM should be found to be an "insider" of Debtor because SCM was an insider of Debtor's affiliate, Bruce Elieff. Mot., p. 23:15-24. Judge Mund previously found this argument unpersuasive. Palmdale, supra at 29-30. She found that that Plaintiff failed to establish as a matter of undisputed fact that Elieff met the requirements of 101(2)(D), that is, that Elieff has actually operated Marblehead's business. The same issue persists here.

Further, under § 101(31)(E), a statutory insider includes an "insider of an affiliate as if such affiliate were the debtor." Plaintiff's argument is unpersuasive because Plaintiff has failed to demonstrate that Bruce (rather than SCC JV) is an affiliate of Debtor. Under the Grandparent Operating, SCC JV, not Bruce, was the party to the agreement. In addition, Plaintiff has failed to demonstrate SCM itself is an insider of SCC JV. Thus, even if SCM is be an insider of Bruce, Plaintiff has not demonstrated the absence of a material fact that Bruce (rather than SCC JV) is an affiliate of Debtor

H. Plaintiff has Met his Burden of Proof that SCM was a  
Non-statutory Insider

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In *The Village at Lakeridge*, the Ninth Circuit held that non-statutory insiders are the "functional equivalent of statutory insiders" if they fall within the ambit of §101(31). 814 F.3d at 1001. An entity is a non-statutory insider if "1) the closeness of its relationship with the debtor is comparable to that of the enumerated insider classifications in §101(31), and 2) the relevant transaction is negotiated at less than arm's length." *Id.* As previously noted herein, the legislative history of the 1978 Code defines an insider as a person or entity with "a sufficiently close relationship with the Debtor that his conduct is made subject to closer scrutiny than those dealing at arm's length with the Debtor." S.Rep. No. 95-989, 95th Cong., 2d Sess., reprinted in 1978 U.S.Code Cong. & Admin.News 5787, 5810.

The court agrees with and adopts by reference below, Judge Mund's two-step analysis concerning the non-statutory insider status of SCM in the SunCal Marblehead matter:

"[I]t is beyond dispute that SCM conducted the Debtor's day-to-day operations, its employees conducted all of the Debtor's business functions, and it maintained the Debtor's books and records. It had 'some degree of control' and access to the Debtor's information and records, both of which are indications of insider status cited by the Ninth Circuit in *Vill.at Lakeridge*. It was also close enough for SCM to gain some advantage due simply to affinity: even if all of the Debtor's payments needed Lehman's prior approval, SCM was responsible for the first line of review of its own invoices and had some control over when its invoices were submitted for approval and were paid. This extremely close relationship between SCM and the Debtor was of the type that Congress intended to subject to 'a greater level of scrutiny.'

However much control Lehman may have had over the Project, the Project Budgets, the draw requests, and the vendor payments, it is undisputed that SCM processed, reviewed, and paid its own invoices on the Debtor's behalf. An SCM employee actually issuing the Debtor's payment to SCM was not a transaction conducted

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'as if the parties were strangers.' A conflict of interest does not require nefarious behavior by SCM, merely the potential for abuse. These payments to SCM cannot be called 'arms' length transactions."

2017 Bankr. Lexis at 37-38.

SCM disagrees with the foregoing analysis. First, SCM argues that Lehman did not show SCM any preferential treatment in its decisions regarding payment and that there is no evidence that payments made to SCM were for any reason of affinity. SCM attempt to distinguish itself from the familial affinity that existed in *In re Rexford Properties, LLC*, 557 B.R. 788 (Bankr.C.D.Cal 2016). SCM misses the point. The close relationship prong does not require a showing of actual preferential treatment, but rather that the closeness could provide an opportunity for potential abuse. The discussion of *Rexford* is not helpful the facts in that case are not comparable to the circumstances here. For example, SCE states that it has no ownership interest in Debtor. However, ownership interest is not critical factor or requirement for non-statutory insider status.

Next, while acknowledging that control is not a required factor in this Circuit, SCM refers the court to an unpublished, non-precedential Ninth Circuit case, *Farrar v. Warda & Yonano LLP (In re Bella Vista by Paramount LLC)*, 549 Fed.Appx, 648 (2013) for the quote therein that "insider status is a question of control." *Farrar* predates the published (and binding) Ninth Circuit case, *The Village at Lakeridge* ("Some degree of control is one of many indications that a creditor may be a non-statutory insider, but *actual control is not required to find non-statutory insider status*") (emphasis added) 814 F.3d at 1001. In footnote 12 of *The Village at Lakeridge*, the Court observed that "if actual control were required for non-statutory insider status, all non-statutory insiders would also be statutory insiders under §101)(31). The remainder of the arguments and citations to non-binding decisions, most of which predate *The Village at Lakeridge*, are not persuasive.

VII. Conclusion

Based upon the foregoing, the Motion is granted in part; denied in part.

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**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue

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Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier  
Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**8:08-17206 Palmdale Hills Property, LLC**

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Adv#: 8:18-01128 Speier v. SunCal Management LLC et al

**#17.00 CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; and (4) to Avoid and Recover Fraudulent Transfers [Debtor: LBL-SunCal Oak Valley, LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20; 5-28-20

Docket 98

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 28, 2020**

Continue status conference to May 29, 2020 at 2:00 p.m.

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

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Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier



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**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**8:08-17206 Palmdale Hills Property, LLC**

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Adv#: 8:18-01129 Speier v. Argent Management, LLC et al

**#18.00 CONT'D ORAL RULING RE:** The Trustee's Motion for Partial Summary Adjudication that SunCal Management LLC was an Insider of the Debtor

FR: 10-10-19; 1-9-20; 3-26-20; 4-27-20; 5-28-20

Docket 522

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 28, 2020**

Grant motion for partial summary adjudication on the grounds that Plaintiff has established as a matter of undisputed fact and law that SCM is both a statutory insider under FRBP 101(31)(E) [affiliate within the meaning of 101(30)(D)], and FRBP 101(31)(F) [managing agent] and is also a nonstatutory insider.

The basis for the ruling and relevant evidentiary rulings will be posted in the tentative ruling field in lieu of an oral ruling on the record on May 29, 2020 between 12:00pm and 1:00pm. A hearing will be held on **May 29, 2020 at 2:00 p.m.** regarding any questions regarding the ruling, as well as scheduling of future motions/status conferences.

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Basis for Ruling

I. Background

An involuntary petition was filed against SunCal Coves Venture, LLC ("Debtor") on November 12, 2008, bankruptcy case no. 18-17472. The order for relief was entered on January 6, 2009 and plaintiff, chapter 11 trustee Steven M. Spier ("Plaintiff" or "Trustee") was appointed on January 22, 2009 and subsequently also became the liquidating trustee under Debtor's confirmed plan. The order granting joint administration with the Palmdale lead case was entered March 18, 2009.

On May 1, 2012, Plaintiff commenced this adversary proceeding against SunCal Management, LLC ("SCM") and Argent Management, LLC ("Argent") (collectively, "Defendants"). Trustee seeks the return of management fees of more than \$900,000 paid by Debtor (and eleven other related debtors) to SCM during the period 2004 to 2008 based on several legal theories, including preferential transfer under §547. The original complaint was subsequently amended twice and timely answers were filed by Defendants. On September 9, 2016, this adversary proceeding, as well as the eleven other related adversary proceedings (sometimes referred to herein collectively as the "Related Adversaries") were transferred to Judge Geraldine Mund. Judge Mund made several rulings in the Related Adversaries, including the granting of summary adjudication in favor of Defendants on Plaintiff's claims for breach of contract and restitution/unjust enrichment in this adversary proceeding. Importantly, on October 12, Judge Mund also ruled in one of the Related Adversaries involving SunCal Marblehead LLC ("Marblehead") that SCM was both a statutory and non-statutory insider of Marblehead. On January 25, 2018, the Related Adversaries were transferred back to this court.

On May 30, 2019, Plaintiff filed the instant motion for partial summary adjudication [dkt. #417] ("Motion") for findings that SCM was also an insider of

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Debtor pursuant to §101(31) from the date Debtor and SCM entered into that certain Development Management Agreement ("DMA") until the petition date. Specifically, Plaintiff asserts that SCM is an insider under §101(31)(E) as an insider of an affiliate of Debtor, as the managing agent of Debtor under §101(31)(F), and as a non-statutory insider of Debtor. Defendants vigorously oppose the Motion.

II. Standard for Summary Judgment/Partial Adjudication

A party seeking summary judgment bears the initial responsibility of demonstrating the absence of a genuine issue of material fact and establishing that it is entitled to judgment as a matter of law as to those matters upon which it has the burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). The opposing party must make an affirmative showing on all matters placed in issue by the motion as to which it has the burden of proof at trial. *Id.* at 324. The substantive law will identify which facts are material. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. *Id.* A factual dispute is genuine where the evidence is such that a reasonable jury could return a verdict for the nonmoving party. *Id.* The court must view the evidence presented on the motion in the light most favorable to the opposing party. *Id.*\_

As explained by the Ninth Circuit in *Nissan Fire & Marine Ins. Co. v. Fritz Companies, Inc.*, 210 F.3d 1099, 1102–03 (9th Cir. 2000):

"A moving party without the ultimate burden of persuasion at trial—usually, but not always, a defendant—has both the initial burden of production and the ultimate burden of persuasion on a motion for summary judgment... In order to carry its burden of production, the moving party must either produce evidence negating an essential element of the nonmoving party's claim or defense or show that the nonmoving party does not have enough evidence of an essential element to carry its ultimate burden of persuasion at trial... In order to carry its ultimate burden of persuasion on the motion, the moving party must persuade the court that there is no genuine issue of material fact... If a moving party fails to carry its initial burden of

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production, the nonmoving party has no obligation to produce anything, even if the nonmoving party would have the ultimate burden of persuasion at trial... In such a case, the nonmoving party may defeat the motion for summary judgment without producing anything... If, however, support its claim or defense... If the nonmoving party fails to produce enough evidence to create a genuine issue of material fact, the moving party wins the motion for summary judgment."

*Id.* at 1102-03 (citations omitted). In ruling on a summary judgment motion, the Court does not weigh the evidence. *Anderson*, 477 U.S. at 255. Rather, the Court's role is to assess whether a genuine dispute exists as to the material facts requiring a trial. *Id.* at 249. In conducting this assessment, "[t]he evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor." *Tolan v. Cotton*, 572 U.S. 650, 651 (2014). Furthermore, where intent is at issue, summary judgment is seldom granted. *See, Provenz v. Miller*, 102 F.3d 1478, 1489 (9th Cir. 1996), *cert. denied*, 118 S. Ct. 48 (1997).

Federal Rules of Bankruptcy Procedure 7056 incorporates by reference most of the procedural requirements of Rule 56 of the Federal Rules of Civil Procedure ("FRCP") governing motions for summary judgment. In this District, Rule 7056-1 of the Local Bankruptcy Rules ("LBR") also applies.

III. Statement of Uncontroverted Facts and Conclusions of Law/Statement of Genuine Facts

Under FRCP 56(c)(1)(A), the moving party must cite to materials in the record, including "depositions, documents, electronically stored information, affidavits, declarations . . . admissions, interrogatory answers, or other materials." LBR 7056-1(b)(2) requires that the moving party serve and file a proposed statement of uncontroverted facts and conclusions of law. LBR 7056-1(c)(2)(A) and (B) requires that the respondent file a separate statement of genuine issues, "identify each material fact that is disputed and cite the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon to establish the dispute . . . ."

In this matter, Plaintiff timely filed a Statement of Uncontroverted Facts

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and Conclusions of Law "UF") and Defendants timely filed a Statement of Genuine Facts ("GI").

Defendants filed evidentiary objections to the admission of the content of Exhibit 4 of Plaintiff's Request for Judicial Notice, Exhibit 4 being the Third Amended Disclosure Statement ("TAD") filed on August 5, 2011 by counsel for SCC Acquisitions [Dkt #424]. The objections are sustained on the basis of hearsay and personal knowledge and affect UF #59-68. Among other things, UF #s 64, 65, 66, 67 and 68 identify the TAD as the basis for various fact statements concerning the identification of Defendant SCM and SCC Acquisitions, Inc. as "insiders" of Debtor, SCM as a "SunCal Affiliate", SCC Acquisitions, Inc. as an "indirect parent company" of Debtor and that Debtor was "an affiliate of SCC Acquisitions".

Defendants also objected to Exhibit "F" to the Declaration of Gary Pemberton on personal knowledge grounds. The court believes Defendants are actually referring to Exhibit G, which is the deposition testimony of Edward Nolan. On page 187, lines 18-19, when asked about SCC Acquisitions, Mr. Nolan simply states that it is "the company that Bruce [Elieff] owns." The objection is sustained except as to the reference by Mr. Nolan to a "Project Detail Report" which is adequately authenticated by Mr. Nolan.

In sum, for purposes of this Motion, all of the statements in Plaintiff's UF are deemed admitted and uncontroverted, except where disputed by Defendants. Some of the uncontroverted facts are summarized below. The court notes that in their Statement of Genuine Issues, Defendants have added several "Additional Material Facts," which may or may not be reflected in "Uncontroverted Facts" set forth below but may be addressed in the overall analysis of the Motion. If certain such additional facts are not mentioned, it is because the court did not believe them to be germane to the issues presented.

IV. Uncontroverted Facts

Most of the pertinent are undisputed and are not fully set forth herein. The court incorporates by reference herein, the all of the fact set forth in the UF that are not disputed by

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"The SunCal Companies," or "SunCal," is a brand name or dba used by an integrated network of real estate acquisition, holding and development companies owned by Bruce Elieff ("Elieff") and/or his brother, Stephen Elieff. UF 1 Debtor was formed at Elieff's direction as a single-purpose limited liability company to own certain real property located in Oakland, California (the "Oak Knoll Project"). UF 2, 3.

Debtor did not have any employees and, as such, could not develop the Project itself. UF 6. Accordingly, on December 29, 2005, Debtor entered into a Development Management Agreement ("DMA") with SCM. UF 7. SCM was formed to "provide management and development services to entities who have direct or indirect ownership interests in certain real estate projects, and who are affiliated with the SunCal group of companies." UF 8. As a SunCal entity, SCM shared common management with Debtor. At all relevant times, Bruce owned 100% of SCM and served as its Manager as well as Debtor's Manager. He executed the DMA on behalf of both SCM and Debtor. UF 9, 11. SCM's General Counsel, Bruce Cook, participated in filing the documents used to form Debtor, prepared the Debtor's Operating Agreement and the First Amendment thereto, as well as the DMA, and was one of Debtor's authorized signatories. UF 10. Frank Faye, SCM's Chief Operating Officer, was also an officer of Debtor. UF 12.

Under the DMA, Debtor engaged SCM "to perform the development and management functions set forth below in connection with the development, marketing and sale of the Project, and to assist in all aspects of the Project[.]" UF 13. The DMA also provided SCM "the authority to perform (and incur expenses in connection with the performance of) the Development and Sale Services & Functions . . . and to otherwise act in accordance with the Project Budget" and to "take any action with respect to the Property or Project or incur any expense for which [the Debtor] is or may be responsible" so long as SCM "reasonably deems such action or expense as necessary in furtherance of the proper development, sale and marketing of the Project." UF 14. SCM reviewed and coordinated the work of the various contractors and consultants for Debtor's Project. UF 15. SCM's Project responsibilities were wide-ranging and included:

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- "[r]eview bids and prepare bid analyses";
  
  - "[c]oordinate the work of all contractors . . . [and] schedule and conduct development and progress meetings at which contractors, consultants, and [SCM] can discuss jointly such matters as procedures, progress, problems, and scheduling";
  
  - "monitor the delivery of, and if necessary, arrange storage, protection and security for, all materials, systems and equipment which are to be used in the development of, or incorporated into, the Project";
  
  - "arrange with contractors to provide adequate security for the Project, including, without limitation, prevention of trespassing and dumping."
- "assemble and retain all contracts, agreements and other records and data as may be necessary to carry out [SCM's] functions hereunder, and similar records for functions performed by contractors and other third parties in connection herewith";
- "keep and maintain proper books of contracts and records on behalf of [the Debtor] relating to . . . the development, operations, expenses and proceeds of the Property and the lots and other parcels comprising the Property";
  
  - "[r]ecord the progress of the Project and submit to [the Debtor], from time to time as may be requested by [the Debtor], and as may be required by any Project Lenders, status reports consisting of (i) a payables transaction report listing all payables due for the month; (ii) a job cost report, (iii) a report explaining any budget variances, (iv) a committed cost report updated to include the invoices being paid during the month, and (v) a cash needs projection showing anticipated cash requirements for the ensuing four (4) months."

UF 15, 16

The DMA provided that Debtor would pay SCM a management fee "[a]s

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compensation for the performance of the Development and Sale Services & Functions and the other duties and services to be performed by [SCM]," the payment of which could be deferred or delayed based on the availability of funds. UF 17. Debtor was also liable for all third party costs incurred by SCM and compensation for SCM's employees. UF 18.

Under the DMA, SCM served as Debtor's "developer/operator" and "management company." UF 19. In this capacity, SCM was the party responsible for managing the development of the Oak Knoll Project from late 2005 through at least November 2008. UF 20. SCM's owner (and Debtor's Manager), Elieff, was "in charge of overall supervision and monitoring of . . . [SCM's] services" and "was aware of and oversaw what was being done for the [Debtor's] Project[]." UF 21. Specifically, he "personally monitored, participated in and oversaw others who also participated in the day-to-day activities performed by SCM . . . in furtherance of the design, planning, entitlement [and] . . . development of the Project," was responsible for supervising SCM's "extensive" work on the Project, met, typically on a weekly basis, with members of SCM's senior management to discuss material matters relating to the entitlement and development of the Project, and toured the Project site. UF 22, 23, 29. SCM's Chief Operating Officer, Frank Faye (also an officer of Debtor) had "oversight responsibility of [a number of SCM] employees and their work product" and was in charge of supervising SCM's activities with respect to the development of the Oak Knoll Project. UF 12, 24, 25. Under the direction of SCM's Chief Accounting Officer, Tom Rollins, SCM "[m]anag[ed] the process of payments by [the Debtor] to contractors, consultants, vendors and others" and "[p]rovid[ed] accounting and asset management services for the Project[]." UF 26. SCM also prepared Debtor's business plans and project budgets. UF 27.

SCM performed all day-to-day operations related to the Project, including:

- "investigating and evaluating all potential site uses for the Project, including preparing site plans";
- "preparing financial reports and status reports concerning the Project . . . regarding all work performed on the Project by SCM, contractors, consultants, third party vendors, and others";



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- "providing contract administration for the numerous contracts relating to the entitlement effort and other activities on the site of the Project";
- "creating bid packages, and negotiating and drafting agreements and all related documents for work performed by consultants, contractors, and third-party vendors for the Project";
- "engaging and consulting with consultants, contractors, and attorneys in connection with the preparation of environmental impact reports, the CEQA process, the Subdivision Map Act process, resource agency permits, and other necessary entitlements for the Project";
- "engaging, monitoring, and evaluating consultants, contractors, third party vendors, and others, who performed services related to the construction and development of the Project . . .";
- "engaging and consulting with architects and engineers and overseeing work performed by them";
- "consulting with applicable local and state governmental agencies regarding the Project";
- "causing to be prepared and processing architectural and landscape design guidelines . . .";
- "negotiating on behalf of the Debtor with respect to an owner participation agreement with the City . . . for the development of the Project";
- "conferring with community groups regarding the Project . . .";
- "negotiating and drafting agreements with adjacent land owners for easements and other rights needed in connection with the development of the Project . . .";
- "processing the formation of a Community Facilities District that would provide financing for the development of public infrastructure improvements for the

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Project"; and

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- "performing extensive work to process all necessary approvals and permits for entitlements including preparing the entire entitlement package for the Project . . ."

UF 28

Pursuant to the DMA's terms, Debtor was responsible for paying SCM's management fees and expense reimbursements. UF 17, 18. According to SCM's Chief Accounting Officer, Tom Rollins, SCM "invoiced the Debtor directly for services performed" from "the inception of the Project to the Petition Date." UF 30. After SCM generated an invoice, it would go to the Project accountant, an SCM employee. UF 31. The Project accountant would then send the SCM invoices to SCM's asset management group for review and approval. UF 32. Ultimately, an SCM employee would issue a check or wire funds from Debtor's account to SCM. UF 33. Mr. Rollins and Ed Nolan, also an SCM employee, were responsible for approving such transfers. UF 34. Mr. Rollins testified that SCM employees would "try to make sure that billings [were] done properly, the accounting [was] done properly." UF 35. However, Debtor did not have any employees, and thus there was no personnel of Debtor to question whether an invoice was correct or whether a management fee payment should be deferred in accordance with the DMA based on a shortage of funds. UF 6. In total, SCM received at least \$ 2,914,232.00 in management fees from Debtor between 2005 and 2008. UF 37.

V. Marblehead Decision

During the time that the Related Adversaries were pending before Judge Mund, Plaintiff filed a similar motion for partial adjudication based on facts nearly identical presented here that SCM was a statutory and non-statutory insider of related debtor. SunCal Marblehead, LLC ("Marblehead"), adv. no 18-01125. In a thorough and well-analyzed opinion, Judge Mund held as follows:

- (1) SCM was not an insider as an "affiliate" of Marblehead under § 101(31)(E),
- (2) SCM was not an insider of Marblehead's affiliate, Elieff, under §101(31)(E),

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- (3) SCM was an insider of Marblehead as "managing agent" under §101(31)(F), and
- (4) SCM was a non-statutory insider of Marblehead.

See Palmdale Hills Prop. v. Argent Mgmt., LLC (In re Palmdale Hills Prop.), 2017 Bankr. LEXIS 3534, at \*19 (Bankr. C.D. Cal. Oct. 12, 2017). Both sides cite to Judge Mund's prior decision and address Judge Mund's analysis in their arguments. With one notable exception, this court agrees with Judge Mund's findings and conclusions. To avoid "re-inventing the wheel," the court will borrow heavily from her reasoned opinion.

VI. Analysis

A. Insider Status Under §101(31)

The SAC alleges a claim for relief under §547 for preferential transfer. Section 547(b)(4)(B) extends the "look back" period for recovery a preferential transfer to an insider from ninety days to one year prior to the petition date. Pursuant to § 547(g), Plaintiff bears the burden of proving that SCM is an insider, in connection with Plaintiff's preference claim against SCM. *Batlan v. Transamerica Commer. Fin. Corp. (In re Smith's Home Furnishings, Inc.)*, 265 F.3d 959, 963 (9th Cir. Or. 2001) ("Section 547(g) places the burden of proof on the trustee to show all of the conditions of §547(b).").

There are "two types of insiders: statutory insiders and non-statutory insiders." In re The Village at Lakeridge, LLC, 814 F.3d 993, 999 (9th Cir. 2016), aff'd sub nom. U.S. Bank Nat. Ass'n ex rel. CWC Capital Asset Mgmt. LLC v. Village at Lakeridge, LLC, 138 S. Ct. 960, 200 L. Ed. 2d 218 (2018). "To be a 'statutory insider,' a creditor *must* fall within one of the categories listed in 11 U.S.C. § 101(31)." Village at Lakeridge, supra, at 996 (emphasis in original). "Whether a creditor is an insider is a factual inquiry that must be conducted on a case-by-case basis." *Id.* at 1000. "In conducting a factual inquiry for insider status, courts should begin with the statute. If the [alleged insider] fits within the statutory insider classification on his own, the court's review ends; it need not examine the nature of the statutory insider's relationship to the debtor." *Id.* at 1001.

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Under §101(31), the term "insider" includes as to corporations:

- (B) if the debtor is a corporation –
- (i) director of the debtor;
  - (ii) officer of the debtor;
  - (iii) person in control of the debtor;
- -----  
-----

(E) affiliate, or insider of an affiliate as if such affiliate were the debtor; and

(F) and managing agent of the debtor.

**B. Plaintiff has Satisfied his Burden of Proof that SCM is a  
Statutory Insider Under §101(31)(E) Based on Its Affiliate  
Status Under §101(2)(D)**

Section 101(2)(D) defines "affiliate" as an "entity that *operates the business or substantially all of the property of the debtor under a lease or operating agreement.*" (emphasis added)

It is undisputed that SCM and its employees operated all aspects of Debtor's project development business as previously noted in detail herein. Plaintiff contends that under these circumstances, SCM, as the operator of Debtor's business, falls squarely within the definition of affiliate under §101(2)(D). SCE, on the other hand, argues that because it did not operate under a lease or operating agreement it is not an affiliate within the meaning of §101(2)(D). The issue is whether the DMA, a management agreement, is the functional equivalent of an operating agreement as that term is used in §101(2)(D). As pointed out by Judge Mund in the Marblehead decision, there are very few cases interpreting "operating agreement," and none in the Ninth Circuit. Some cases have interpreted the term expansively. See, e.g., *In re Chira*, 353 B.R. 693, 724-25 (Bankr.S.D.Fla.2006) ("the hotel also represented substantially all of [the debtor's] property. Elizabeth and Lounge Corp. are both 'entities' and they both

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operated the business and property of the Shelton Beach Hotel."); *In re Century Inv. Fund VII Ltd., P'ship*, 96 B.R. 884, 892 (Bankr.E.D.Wis.1989) ("Affiliate" means an "entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement." 11 U.S.C. § 101(2)(D). CMG has certainly been managing all of the property of the debtor under its management agreement.). By contrast, other courts have interpreted the term more strictly. See, *In re Washington Mut.*, 462 B.R. 137, 145-46 (rejecting debtors' argument that certain pooling and servicing agreements were de facto operating agreement within the meaning of the statute).

Judge Mund held that principles of statutory construction led her to the conclusion that SCM does not fall within the statutory definition of affiliate under §101(31)(D), relying at least in part on the statutory construction principles referenced in the decision of the Ninth Circuit Bankruptcy Appellate Panel in *Miller Ave. Prof'l & Promotional Servs. v. Brady (In re Entertainment Acquisition Partners, Inc.)*, 319 B.R. 626, 632-33 (9<sup>th</sup> Cir. BAP 2004). In *Miller*, the BAP held the corporation of a statutory insider was not an insider under §101(31)(B) and noted that "there is no justification for expanding the definition of a per se insider beyond what is plainly contained in the statute." Judge Mund observed that because §101(2) states that the term "affiliate" *means*, as opposed to the more flexible *includes* (as with §101(31), Congress intended a precise and restricted meaning. Further, giving meaning to all of the statutory language requires the existence of an actual operating agreement. Finally, and most importantly, Judge Mund opined that operating agreements "have specific meanings in the law of limited liability companies and for oil and gas rights," and that "terming the DMA to be an 'operating agreement' would be expanding the definition of affiliate (and thus insider) beyond what is plainly contained in the statute." 2017 Bankr.Lexis 3534 at 29.

SCM urges the court to employ the restrictive construction of the term, arguing that "leasing or operating agreement implies entitlement to benefits akin to ownership, which is not the case here. SCM also cites several a number of cases which describe an "operating agreement" as a contract used in the oil and gas industry. See Defendants' Opposition at p. 30 and citations therein [Dkt #424].

Respectfully, the principles of statutory construction lead this court to a contrary conclusion. First, the court is not persuaded that the plain meaning of the term

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means a literal meaning of the same without regard to substance or context. Certainly, nothing in the legislative history of §101 suggests that Congress intended to limit affiliate status to operating agreements associated with limited liability companies or oil and gas contracts. The legislative history of the 1978 Code defines an insider as a person or entity with "a sufficiently close relationship with the Debtor that his conduct is made subject to closer scrutiny that those dealing at arm's length with the Debtor." S.Rep. No. 95-989, 95th Cong., 2d Sess., reprinted in 1978 U.S.Code Cong. & Admin.News 5787, 5810.

Second, as "operating agreement" is not defined in §101, consideration of the context of the surrounding language is in order. It is a "fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme. *Food and Drug Admin. v. Brown & Williamson Tobacco Co.*, 529 U.S. 120, 133 (2000); accord *Gale v. First Franklin Loan Services*, 701 F.3d. 1240, 1244 (9<sup>th</sup> Cir. 2012). See, generally *Badgley v. United States*, 957 F.3d. 969, 977 (9<sup>th</sup> Cir. 2020) ("In applying the statute, we focus on the substance of the retained interest. Labels are not dispositive."). Section 101(2)(D) starts with "entity that *operates the business . . . of the debtor*. The court interprets this to mean the emphasis is on whether someone other than the debtor is operating its business. As the DMA is an agreement governing the SCM's operation of every aspect of Debtor's business and property, it is, the court's view, an "operating agreement" within the meaning of §101(2)(D).

The court concludes as a matter of undisputed fact that SCM is an affiliate under §101(2)(D) and, therefore, a statutory insider pursuant to §101(31)(E).

C. Plaintiff has Satisfied his Burden of Proof that SCM is a Statutory Insider Under §101(31)(F) Based on Its Status as Managing Agent

Under §101(31)(F), the term "insider" includes a managing agent of the debtor. As with "operating agreement," "managing agent" is not a defined term under the Code. In analyzing whether SCM was the managing agent of Marblehead, Judge Mund looked to guidance from the case of *Rush v. Riddle (In re Standard Shoes, Inc.)*, 124 B.R. 318 (Bankr.C.D.Cal.1991). Though neither

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*Standard Shoes* or Judge Mund's decision regarding the Marblehead matter are binding on this court, the court nevertheless finds them instructive and soundly reasoned.

In *Standard Shoes*, Judge Zurzolo, in addressing the ambiguity of the term "managing agent," developed the following useful definition:

"In defining 'managing agent,' I therefore conclude that it refers to Those entities that exert or could exert operational control over a debtor, a division or unit of a debtor, or a significant portion of a debtor's property. Such operational control would ordinarily include the ability to make personnel decisions, the authority to incur or pay obligations and access to financial and other information essential to the operation of the debtor.

The definition of 'managing agent' is consistent with the principal design of §101[31] and does not overlap or conflict with the categories of insiders expressly described in the preceding subsections of that statute."

124 B.R. at 323-24.

SCE contends that it did not have operational control over Debtor or over a significant portion of Debtor's property and that its authority was limited to performing services and making recommendations to Lehman which had ultimate approval power and control. Opposition at pp. 17-18. The court finds SCM's arguments wholly unpersuasive. Instead, the court agrees with and adopts Judge Mund's analysis and findings in the Marblehead matter:

"SCM exercised operational control over the Debtor and thus was a managing agent. All three factors indicating such control in *Standard Shoes* exist: although its actions needed to be in accord with Project Budgets, SCM had authority to incur expenses on the Project, ability to make personnel decisions (as the Debtor's operations were all conducted by SCM employees), and access the Debtor's books and records (which

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it maintained). It is undisputed that SCM conducted the Debtor's operations. While its actions may have been subject to the Lehman-approved Project Budget and Plan and Lehman may have had veto power over all payments, the standard does not demand unfettered control over the debtor. *Standard Stores* used a person in charge of a division of a corporate debtor as an example of a managing agent and cited the authority to direct payment of obligations, employ personnel, or order supplies as hallmarks of such control. Such people would still be subject to supervision and veto power by the officers and board of directors of the company."

2017 Bankr. Lexis 3534 at 33-34.

The duties and responsibilities of SCM under the DMA meet and exceed the managing agent factors set forth in *Standard Stores*. The court, therefore, finds as a matter of undisputed fact, that SCM was a managing agent of Debtor within the meaning of §101(31)(F) and a statutory insider of Debtor under § 101(31).

D. Plaintiff has not Met his Burden of Proof that SCC Acquisitions was an Affiliate and Statutory Insider of Debtor

Plaintiff's assertion that SCC Acquisitions was an Affiliate of Debtor is based on representations made in the Third Amended Disclosure Statement. Motion at p. 20. However, the court has sustained the evidentiary objections regarding such representations. As a consequence, Plaintiff has not established as a matter of undisputed fact the SCC Acquisitions was an affiliate and, therefore, an insider of Debtor.

E. Plaintiff has not Met his Burden of Proof that SCM was an Affiliate and Insider of SCC Acquisitions, Rendering SCM an Insider of Debtor



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In the Motion, Plaintiff relies principally on representations made in the Third Amended Disclosure Statement. See Motion at p. 20. As the court has sustained the evidentiary objections regarding such representations and, therefore, Plaintiff has not established as matter of undisputed fact that SCM was an affiliate and insider of SCC Acquisitions.

F. Plaintiff has not Met his Burden of Proof that SunCal  
Marblehead was an Affiliate of Debtor

Plaintiff relies on conclusory statements made by Elieff in Debtor's involuntary bankruptcy petition that SunCal Marblehead was an affiliate of Debtor. This is insufficient to satisfy Plaintiff's burden of proof regarding SunCal Marblehead's status as an affiliate of Debtor as a matter of undisputed fact.

G. Plaintiff has not Satisfied his Burden of Proof that Bruce  
Elieff was an Affiliate of Debtor

Plaintiff's argues that under § 101(31)(E) SCM should be found to be an "insider" of Debtor because SCM was an insider of Debtor's affiliate, Bruce Elieff. Mot., p. 23:15-24. Judge Mund previously found this argument unpersuasive. Palmdale, supra at 29-30. She found that that Plaintiff failed to establish as a matter of undisputed fact that Elieff met the requirements of 101(2)(D), that is, that Elieff has actually operated Marblehead's business. The same issue persists here.

Further, under § 101(31)(E), a statutory insider includes an "insider of an affiliate as if such affiliate were the debtor." Plaintiff's argument is unpersuasive because Plaintiff has failed to demonstrate that Bruce (rather than SCC JV) is an affiliate of Debtor. Under the Grandparent Operating, SCC JV, not Bruce, was the party to the agreement. In addition, Plaintiff has failed to demonstrate SCM itself is an insider of SCC JV. Thus, even if SCM is be an insider of Bruce, Plaintiff has not demonstrated the absence of a material fact that Bruce (rather than SCC JV) is an affiliate of Debtor.

H. Plaintiff has Met his Burden of Proof that SCM was a  
Non-statutory Insider

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In *The Village at Lakeridge*, the Ninth Circuit held that non-statutory insiders are the "functional equivalent of statutory insiders" if they fall within the ambit of §101(31). 814 F.3d at 1001. An entity is a non-statutory insider if "1) the closeness of its relationship with the debtor is comparable to that of the enumerated insider classifications in §101(31), and 2) the relevant transaction is negotiated at less than arm's length." *Id.* As previously noted herein, the legislative history of the 1978 Code defines an insider as a person or entity with "a sufficiently close relationship with the Debtor that his conduct is made subject to closer scrutiny than those dealing at arm's length with the Debtor." S.Rep. No. 95-989, 95th Cong., 2d Sess., reprinted in 1978 U.S.Code Cong. & Admin.News 5787, 5810.

The court agrees with and adopts by reference below, Judge Mund's two-step analysis concerning the non-statutory insider status of SCM in the SunCal Marblehead matter:

"[I]t is beyond dispute that SCM conducted the Debtor's day-to-day operations, its employees conducted all of the Debtor's business functions, and it maintained the Debtor's books and records. It had 'some degree of control' and access to the Debtor's information and records, both of which are indications of insider status cited by the Ninth Circuit in *Vill.at Lakeridge*. It was also close enough for SCM to gain some advantage due simply to affinity: even if all of the Debtor's payments needed Lehman's prior approval, SCM was responsible for the first line of review of its own invoices and had some control over when its invoices were submitted for approval and were paid. This extremely close relationship between SCM and the Debtor was of the type that Congress intended to subject to 'a greater level of scrutiny.'

However much control Lehman may have had over the Project, the Project Budgets, the draw requests, and the vendor payments, it is undisputed that SCM processed, reviewed, and paid its own invoices on the Debtor's behalf. An SCM employee actually issuing the Debtor's payment to SCM was not a transaction conducted

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'as if the parties were strangers.' A conflict of interest does not require nefarious behavior by SCM, merely the potential for abuse. These payments to SCM cannot be called 'arms' length transactions."

2017 Bankr. Lexis at 37-38.

SCM disagrees with the foregoing analysis. First, SCM argues that Lehman did not show SCM any preferential treatment in its decisions regarding payment and that there is no evidence that payments made to SCM were for any reason of affinity. SCM attempt to distinguish itself from the familial affinity that existed in *In re Rexford Properties, LLC*, 557 B.R. 788 (Bankr.C.D.Cal 2016). SCM misses the point. The close relationship prong does not require a showing of actual preferential treatment, but rather that the closeness could provide an opportunity for potential abuse. The discussion of *Rexford* is not helpful the facts in that case are not comparable to the circumstances here. For example, SCE states that it has no ownership interest in Debtor. However, ownership interest is not critical factor or requirement for non-statutory insider status.

Next, while acknowledging that control is not a required factor in this Circuit, SCM refers the court to an unpublished, non-precedential Ninth Circuit case, *Farrar v. Warda & Yonano LLP (In re Bella Vista by Paramount LLC)*, 549 Fed.Appx, 648 (2013) for the quote therein that "insider status is a question of control." *Farrar* predates the published (and binding) Ninth Circuit case, *The Village at Lakeridge* ("Some degree of control is one of many indications that a creditor may be a non-statutory insider, but *actual control is not required to find non-statutory insider status*") (emphasis added) 814 F.3d at 1001. In footnote 12 of *The Village at Lakeridge*, the Court observed that "if actual control were required for non-statutory insider status, all non-statutory insiders would also be statutory insiders under §101)(31). The remainder of the arguments and citations to non-binding decisions, most of which predate *The Village at Lakeridge*, are not persuasive.

VII. Conclusion

Based upon the foregoing, the Motion is granted in part; denied in part.

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**CONT... Palmdale Hills Property, LLC**

**Chapter 11**

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By

Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By

Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By

Craig H Averch

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Aalok Sharma

**Plaintiff(s):**

Steven M Speier

Represented By

Mike D Neue

Gary A Pemberton

Heather B Dillion

Brianna L Frazier

Shane M Biornstad

**Trustee(s):**

Steven M Speier (TR)

Represented By

Louis R Miller

Mike D Neue

Lei Lei Wang Ekvall

**8:08-17206 Palmdale Hills Property, LLC**

**Chapter 11**

Adv#: 8:18-01129 Speier v. Argent Management, LLC et al

**#19.00** CON'TD STATUS CONFERENCE RE: Second Amended Complaint: (1) For Declaratory Relief, (2) In the Alternative, Breach of Contract; (3) Restitution and/or Unjust Enrichment; (4) To Avoid and Recover Fraudulent Transfers; and (5) To Avoid and Recover Preferential Transfers  
**[Debtor: Delta Coves Venture LLC]**

FR: 8-1-18; 9-11-18; 5-2-18; 5-7-19; 9-26-19; 12-17-19; 1-9-20; 3-26-20; 4-27-20; 5-28-20

Docket 100

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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**CONT... Palmdale Hills Property, LLC  
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Continue status conference to May 29, 2020 at 2:00 p.m.

**Party Information**

**Debtor(s):**

Palmdale Hills Property, LLC

Represented By  
Paul J Couchot  
Peter W Lianides  
Richard W Esterkin  
Asa S Hami  
Charles Liu  
James M Miller  
Raymond H. Aver  
Sean A OKeefe  
Marc J Winthrop  
Martin Pritikin  
Selia M Acevedo  
Francis T Donohue  
Richard H Golubow  
Louis R Miller  
Jeffrey W Broker  
Kavita Gupta  
Garrick A Hollander  
R Grace Rodriguez  
Lei Lei Wang Ekvall  
Mike D Neue

**Defendant(s):**

SunCal Management LLC

Represented By  
Craig H Averch  
Aalok Sharma

Argent Management, LLC

Represented By  
Craig H Averch  
Aalok Sharma

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**Chapter 11**

**Plaintiff(s):**

Steven M Speier

Represented By  
Mike D Neue  
Gary A Pemberton  
Heather B Dillion  
Brianna L Frazier

**Trustee(s):**

Steven M Speier (TR)

Represented By  
Louis R Miller  
Mike D Neue  
Lei Lei Wang Ekvall

**United States Bankruptcy Court  
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Santa Ana  
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**Tuesday, June 2, 2020**

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**8:20-11507 Hytera Communications America (West) Inc**

**Chapter 11**

**#1.00** Hearing RE: Motion of Debtors for an Order Authorizing the Debtors to (I) Pay and/or Honor Prepetition Wages, Salaries, Employee Benefits, and Other Compensation; (II) Remit Withholding Obligations; and (III) Maintain Employee Compensation and Benefits Programs and Pay Related Administrative Obligations

Docket 6

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 2, 2020**

Court's Comments re the Motion:

1. Approval of the Motion will be conditioned on Debtors providing a list with the names of each employee to be paid and the amount for each.
2. On page 4, line 20 of the Motion, it is stated that "Debtors do not have any independent contractors." However, on page 5 at lines 16-18, reference is made to debtor Hytera East's Dominican Republic's independent contractors. This contradiction needs to be explained.
3. Re the Norsat Employees, is Hytera East seeking authority to pay the wages of a *non-debtor* affiliate out of estate funds? What is the legal authority for paying such wages? The court is inclined not to approve such payments under 105(a)
4. Is Hytera East also seeking to pay the health benefits costs of the Norsat Employees from estate funds as well? What is the legal authority for that? The court is not inclined to approve such payments under 105(a).

**Party Information**



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**CONT... Hytera Communications America (West) Inc**

**Chapter 11**

**Debtor(s):**

Hytera Communications America

Represented By  
John W Lucas  
Jason H Rosell

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**Tuesday, June 2, 2020**

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**8:20-11507 Hytera Communications America (West) Inc**

**Chapter 11**

**#2.00** Hearing RE: Motion of Debtors for an Order Authorizing (A) Maintenance of Existing Bank Accounts, (B) Continuance of Existing Cash Management System, Bank Accounts, Checks, and (C) Related Relief

Docket 7

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 2, 2020**

Subject to the comments of the US Trustee and others, the court is inclined to grant the Motion, except as to Hytera West acct x0581 that has no balance because the credit limits are no longer triggered, and Hytera East account x6867 which is a dormant account.

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

**Debtor(s):**

Hytera Communications America

Represented By  
John W Lucas  
Jason H Rosell  
Victoria Newmark

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**Hearing Room 5A**

2:00 PM

**8:20-11507 Hytera Communications America (West) Inc**

**Chapter 11**

**#3.00** Hearing RE: Motion Pursuant to Sections 105, 363, 1107, and 1108 of the Bankruptcy Code for an Order Authorizing Debtors to Maintain and Administer Dealer Incentive Programs, Honor Prepetition Obligations to their Dealers, and Related Relief

Docket 8

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 2, 2020**

The court is inclined to grant the motion, except to the extent that it includes dealer incentives for any non-debtor entities.

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

Hytera Communications America

Represented By  
John W Lucas  
Jason H Rosell  
Victoria Newmark

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 2, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-11507 Hytera Communications America (West) Inc**

**Chapter 11**

**#4.00** Hearing RE: Motion of Debtors for an Order Pursuant to 11 U.S.C. Sections 105(a) and 366: (I) Prohibiting Utility Companies from Altering, Refusing, or Discontinuing Service, (II) Determining Adequate Assurance of Payment for Future Utility Services, and (III) Establishing Procedures for Determining Adequate Assurance of Payment

Docket 9

**Courtroom Deputy:**

**June 2, 2020**

*Appearances:*

NOTES:

**RULING: TENTATIVE RULING STANDS**

SPECIAL NOTE TO COURTROOM DEPUTY/LAW CLERK:

**Tentative Ruling:**

**June 2, 2020**

The court is inclined to grant the Motion except as to the request that any motion filed by a Utility following a Debtor's default shall be heard on an expedited basis, The court is not inclined to grant such relief as no grounds have been stated therefor.

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

Hytera Communications America

Represented By  
John W Lucas  
Jason H Rosell

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 2, 2020**

**Hearing Room 5A**

2:00 PM

**CONT...**

**Hytera Communications America (West) Inc**

Victoria Newmark

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 2, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-11507 Hytera Communications America (West) Inc**

**Chapter 11**

**#5.00** Hearing RE: Motion for Authority to Pay in the Ordinary Course of Business  
Prepetition Claims Related to Shipping and Warehousing Charges and Related  
Relief

Docket 10

**Courtroom Deputy:**

**June 2, 2020**

*Appearances:*

NOTES:

**RULING: TENTATIVE RULING STANDS**

SPECIAL NOTE TO COURTROOM DEPUTY/LAW CLERK:

**Tentative Ruling:**

**June 2, 2020**

The court is inclined to deny this motion on the basis of lack of evidence to justify the extraordinary relief requested. Debtors have provided no information regarding the amount of outstanding prepetition shipping charges owed to each shipper by a particular debtor. Debtors are essentially seeking a blank order to pay shippers as "critical vendors" without out substantiation.

**Party Information**

**Debtor(s):**

Hytera Communications America

Represented By

John W Lucas

Jason H Rosell

Victoria Newmark

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 2, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-11507 Hytera Communications America (West) Inc**

**Chapter 11**

**#6.00** Hearing RE: Emergency Motion for the Entry of an Order Authorizing Hytera America Incorporated to Assume the Amended and Restated Independent Director Service Agreement

Docket 11

**Courtroom Deputy:**

**June 2, 2020**

*Appearances:*

NOTES:

**RULING: TENTATIVE RULING STANDS**

SPECIAL NOTE TO COURTROOM DEPUTY/LAW CLERK:

**Tentative Ruling:**

**June 2, 2020**

The court is inclined to deny this Motion on an expedited basis. The IDSA is essentially the equivalent to the employment and/or appointment of a restructuring officer, the terms of which involve a substantial use of estate funds without court oversight, to wit, a monthly fee of \$25,000 per month, the employment of attorneys, advisors and other professionals at the Independent Director's discretion, etc.

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

Hytera Communications America

Represented By  
John W Lucas  
Jason H Rosell

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 2, 2020**

**Hearing Room 5A**

2:00 PM

**CONT...**

**Hytera Communications America (West) Inc**

Victoria Newmark

**Chapter 11**



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 2, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-11507 Hytera Communications America (West) Inc**

**Chapter 11**

**#7.00** Hearing RE: First Omnibus Motion of Debtors for Entry of an Order (I) Authorizing the Debtors to (A) Reject Executory Contracts, (B) Reject Non-residential Real Property Leases, and (C) Abandon any Personal Property Located at Such Premises, and (II) Fixing a Bar Date for Claims of Counterparties

Docket 12

**Courtroom Deputy:**

**June 2, 2020**

*Appearances:*

NOTES:

**RULING: TENTATIVE RULING STANDS**

SPECIAL NOTE TO COURTROOM DEPUTY/LAW CLERK:

**Tentative Ruling:**

**June 2, 2020**

The court is inclined to grant this Motion.

**Party Information**

**Debtor(s):**

Hytera Communications America

Represented By  
John W Lucas  
Jason H Rosell  
Victoria Newmark

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 6D Calendar**

**Tuesday, June 2, 2020**

**Hearing Room 6D**

2:00 PM

**8:20-11507 Hytera Communications America (West) Inc**

**Chapter 11**

**#8.00** Hearing RE: Motion of Debtors for an Order Extending Time to File Schedules of Assets and Liabilities and Statement of Financial Affairs

Docket 16

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 2, 2020**

The court is inclined to grant this Motion.

**Party Information**

**Debtor(s):**

Hytera Communications America

Represented By  
John W Lucas  
Jason H Rosell  
Victoria Newmark

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

9:30 AM

**8:16-12110 Stuart Moore (USA) Ltd.**

**Chapter 7**

Adv#: 8:18-01085 Thomas H. Casey, Chapter 7 Trustee v. Moore et al

**#1.00** CONT'D STATUS CONFERENCE RE: First Amended Complaint for Avoidance of Recovery of Fraudulent and Preferential Transfers (Another Summons Issued 9/13/18)

FR: 12-6-18; 1-31-19; 3-12-19; 4/18/19; 7-11-19, 7-16-19; 9-12-19; 11-21-19; 2-20-20; 5-7-20

Docket 3

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 7/9/2020 AT 10:30 A.M.,  
Per Order Entered 6/1/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 7/9/2020 at 10:30 a.m., Per Order Entered 6/1/2020 (XX) - td (6/1/2020)**

**Tentative Ruling:**

**January 31, 2019**

Continued to March 12, 2019 at 10:30 a.m.; updated status report not required. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

**Party Information**

**Debtor(s):**

Stuart Moore (USA) Ltd.

Represented By  
William M Burd  
Jeffrey S Shinbrot

**Defendant(s):**

Stuart Moore

Pro Se

Sylvie Moore Masson

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Stuart Moore (USA) Ltd.**

**Chapter 7**

**Plaintiff(s):**

Thomas H. Casey, Chapter 7 Trustee

Represented By  
Jeffrey S Shinbrot

**Trustee(s):**

Thomas H Casey (TR)

Represented By  
Thomas H Casey  
Jeffrey S Shinbrot  
Jeffrey I Golden

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14077 Team Business Solutions, Inc.**

**Chapter 7**

Adv#: 8:18-01141 Richard A Marshack v. SNCR California, Inc., et al

**#2.00** CONT'D STATUS CONFERENCE RE: First Amended Complaint for: 1. Declaratory Relief (Successor Liability); 2. Intentional Fraudulent Transfer; 3. Constructive Fraudulent Transfer; 4. Preservation of Avoided Transfer; 5. Turnover of Assets; 6. Breach of Fiduciary Duty; 7. Misappropriation of Trade Secrets; 8. Unjust Enrichment (Another Summons Issued 12/6/10)

FR: 2-12-19; 3-12-19; 4-4-19; 4-16-19; 6-20-19; 8-22-19; 11-7-19; 1-9-20; 4-2-20

Docket 55

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 8/6/2020 AT 9:30 A.M.,  
Per Order Entered 5/21/2020 (XX)**

**Courtroom Deputy:**

**SPECIAL NOTE: Notice of Voluntary Dismissal of Adversary Proceeding  
Against Kirk Nelson Only filed 1/7/2019, Document # 72 - td (1/9/2019)**

**CONTINUED: Status Conference Continued to 8/6/2020 at 9:30 a.m., Per  
Order Entered 5/21/2020 (XX) - td (5/21/2020)**

**Tentative Ruling:**

**June 20, 2019**

Joint status report not filed by June 13, 2019 pursuant to this court's order entered 4/25/19. Impose sanctions in the amount of \$100 against each party for the failure to do so.

***Note: Appearances at this hearing are required.***  
-----

**August 22, 2019**

Joint status report not filed by August 8, 2019 pursuant to this court's order entered June 17, 2019. Impose sanctions in the amount of \$100 against each

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

9:30 AM

**CONT...** Team Business Solutions, Inc.  
party's attorney for the failure to do so.

**Chapter 7**

***Note: Appearances at this hearing are required.***  
-----

**January 9, 2020**

Updated joint status report not filed as required by this court's order entered October 17, 2019 [docket #117]. Impose sanctions of \$200 against counsel for plaintiff and defendants.

***Note: Appearances at this hearing are required.***

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

Team Business Solutions, Inc.	Represented By J Scott Williams
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**Defendant(s):**

SNCR California, Inc.,	Represented By Michael G Spector
John Creamer	Pro Se
Kirk Nelson	Pro Se

**Plaintiff(s):**

Richard A Marshack	Represented By Thomas J Eastmond Robert P Goe
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**Trustee(s):**

Richard A Marshack (TR)	Represented By Thomas J Eastmond Robert P Goe
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room**

**5A**

9:30 AM

**8:17-14406 Kirk M. Nelson**

**Chapter 7**

Adv#: 8:19-01016 Marshack v. Nelson

**#3.00** CON'TD STATUS CONFERENCE RE: Complaint: 1. To Determine Non-Dischargeability Of Debt Pursuant to 11 U.S.C. Section 523(a)(3)(B)

FR: 4-11-19; 5-30-19; 9-12-19; 11-7-19; 1-9-20; 4-2-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 8/6/2020 AT 9:30 A.M.,  
Per Order Entered 5/21/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 8/6/2020 at 9:30 a.m., Per  
Order Entered 5/21/2020 (XX) - td (5/21/2020)**

**Tentative Ruling:**

**April 11, 2019**

Continue Status Conference to May 30, 2019 at 10:30 a.m., same date/time as hearing on Defendants' motion to dismiss. Joint status report not required. (XX)

***Note: Appearances at this hearing are not required.***

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**May 30, 2019**

No tentative ruling -- trail matter to the 2:00pm calendar

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**January 9, 2020**

Updated joint status report not filed as required by this court's order entered October 17, 2019 [docket #22]. Impose sanctions of \$100 against counsel for plaintiff and defendants.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

9:30 AM

CONT... **Kirk M. Nelson**

**Chapter 7**

***Note: Appearances at this hearing are required.***

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

**Debtor(s):**

Kirk M. Nelson

Represented By  
J Scott Williams

**Defendant(s):**

Kirk M Nelson

Pro Se

**Plaintiff(s):**

Richard A Marshack

Represented By  
Robert P Goe  
Thomas J Eastmond

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01215 Marshack v. R-Techo, Co., Ltd.

**#4.00** CONT'D STATUS CONFERENCE RE: Complaint for: 1. Avoidance and Recovery of Intentional Fraudulent Transfers; 2. Avoidance and Recovery of Constructive Fraudulent Transfers; 3. Avoidance and Recovery of Preferential Transfers; 4. Recovery of Avoided Transfers; 5. Declaratory Judgment: Alber Ego; 6. Recovery of Unauthorized, Improper Distributions to Shareholders; 7. Substantive Consolidation; 8. Breach of Fiduciary Duty; 9. Turnover of Property of the Estate; 10. Preservations of Avoided Transfers; 11. Disallowance of Claims; and 12. Temporary Restraining Order and Preliminary Injunction

FR: 2-6-20; 4-2-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 8/6/2020 AT 9:30 A.M.,  
Per Order Entered 6/1/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 8/6/2020 at 9:30 a.m., Per  
Order Entered 6/1/2020 (XX) - td (6/1/2020)**

**Tentative Ruling:**

**February 6, 2020**

No timely filed updated status report or motion for default judgment has been filed in this case. Accordingly, the court may impose sanctions in the amount of \$100 and/or issue an order to show cause why this adversary proceeding should not be dismissed for failure to prosecute.

***Note: Appearance at this hearing is required.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

**Party Information**

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

R-Techo, Co., Ltd.

Pro Se

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01217 Marshack v. Mr. C's Towing at Southgate, Inc.

**#5.00** CONT'D STATUS CONFERENCE RE: Complaint for: 1. Avoidance and Recovery of Constructive Fraudulent Transfers pursuant to 11 U.S.C. Sections 544, 548, 550, 551; California Civil Code Sections 3439.04, 3439.05, 3439.07, 3439.08, 3439.09; 2. Recovery of Avoided Transfers; 3. Turnover of Property of the Estate; 4. Preservation of Avoided Transfers; 5. Temporary Restraining Order and Preliminary Injunction against Mr. C's Towing at Southgate, Inc.

FR: 2-6-20; 4-2-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 8/6/2020 AT 9:30 A.M.,  
Per Order Entered 6/1/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 8/6/2020 at 9:30 a.m., Per  
Order Entered 6/1/2020 (XX) - td (6/1/2020)**

**Tentative Ruling:**

**February 6, 2020**

A proof of service showing proper service of the summons and complaint has not been filed. Further, no timely filed updated status report or motion for default judgment has been filed in this case. Accordingly, the court may impose sanctions in the amount of \$100 and/or issue an order to show cause why this adversary proceeding should not be dismissed for failure to prosecute.

***Note: Appearance at this hearing is required.***

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**April 2, 2020**

Continue status conference to May 21, 2020 at 9:30 a.m.; Joint status report must be filed by May 7, 2020.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 4, 2020

Hearing Room 5A

9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

The tentative ruling is based on the fact that it is not clear that the service issue has been resolved.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall lodge an order consistent with the same.***

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

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Mr. C's Towing at Southgate, Inc.

Represented By  
Ryan S Riddles

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01218 Marshack v. Kim et al

**#6.00** CON'TD STATUS CONFERENCE RE: RE: Complaint for: 1. Breach of Fiduciary Duty; 2. Accounting; and 3. Defalcation of Trust

(Another Summons Issued 2/11/2020)  
FR: 4-30-10

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 8/6/2020 AT 9:30 AM.,  
Per Order Entered 6/2/2020 (XX)**

**Courtroom Deputy:**

**SPECIAL NOTE: Pre-trial Conference Scheduled for 10/8/2020 at 9:30 a.m. - td (3/10/2020)**

**CONTINUED: Status Conference Continued to 8/6/2020 at 9:30 a.m., Per Order Entered 6/2/2020 (XX) - td (6/2/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Ik Dong Kim

Pro Se

Gill Su Sun

Pro Se

Minho An

Represented By  
Michael H Yi

**Plaintiff(s):**

Richard A Marshack

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

---

9:30 AM

**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

9:30 AM

**8:18-12967 Lillian Sikanovski Dulac**

**Chapter 7**

Adv#: 8:19-01078 Bertrand H Dulac and Georgette C Dulac, Trustees o v. Dulac et al

**#7.00** CON'TD STATUS CONFERENCE RE: Complaint to Determine Validity of Certain Notes and Deeds of Trust and to Perfect Secured Liens

FR: 7-18-19; 9-19-19; 12-5-19; 2-6-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9/3/2020 AT 2:00 P.M.,  
Per Order Entered 5/26/2020 (XX)**

**Courtroom Deputy:**

**SPECIAL NOTE: Status conference set for 6/4/2020 at 9:30 a.m. re:  
Complaint in intervention - td (5/26/2020)**

**CONTINUED: Status Conference Continued to 9/3/2020 at 2:00 p.m., Per  
Order Entered 5/26/2020 (XX) - td (5/26/2020)**

**Tentative Ruling:**

**July 18, 2019**

Continue status conference to September 19, 2019 at 9:30 a.m. to allow the chapter 7 trustee the opportunity to intervene. (XX)

*Special Note: It appears the complaint is seeking relief against property of the bankruptcy estate and, therefore, the chapter 7 trustee would be an indispensable party.*

**Note: If all parties accept the foregoing tentative ruling, appearances at today's hearing are not required and Plaintiff shall serve notice of the continued hearing date/time (including service to the chapter 7 trustee).**  
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**September 19, 2019**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 4, 2020

Hearing Room

5A

9:30 AM

CONT...

Lillian Sikanovski Dulac

Chapter 7

Continue status conference to December 5, 2019 at 9:30 a.m.; updated status report must be filed by November 21, 2019. (XX)

*Special comment: The court notes that though the Trustee signed the Joint Status Report on 9/17/19, the Trustee dismissed her Complaint in Intervention on 9/16/19.*

***Note: Appearances at today's hearing are not required; Plaintiff to serve notice of the continued hearing date/time.***

-----

**December 5, 2019**

Continue the Status Conference to February 6, 2020 at 9:30 a.m., same date/time as Status Conference now set for Third Party Complaint. Joint Status Report must be filed by January 23, 2020. (XX)

***Note: Appearances at today's hearing are not required; Plaintiff to serve notice of the continued hearing date/time.***

-----

**February 6, 2020**

Continue status conference to June 4, 2020 at 9:30 a.m.; updated joint status report must be filed by May 21, 2020. Any motion for relief from stay and/or abstention must be filed no later than April 16, 2020 and set for hearing no later than May 7, 2020. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiffs shall lodge a scheduling order consistent with the same.***

Party Information
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**Debtor(s):**

Lillian Sikanovski Dulac

Represented By  
Michael Jones  
Sara Tidd



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Lillian Sikanovski Dulac**

**Chapter 7**

**Defendant(s):**

Ronald H. Dulac Pro Se

Lillian Sikanovski Pro Se

**Plaintiff(s):**

Bertrand H Dulac and Georgette C  
Represented By  
Ronald Appel

**Trustee(s):**

Weneta M Kosmala (TR)  
Represented By  
Erin P Moriarty

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 4, 2020

Hearing Room 5A

9:30 AM

**8:18-12967 Lillian Sikanovski Dulac**

**Chapter 7**

Adv#: 8:19-01078 Bertrand H Dulac and Georgette C Dulac, Trustees o v. Dulac et al

**#8.00** CON'TD STATUS CONFERENCE RE: Complaint in Intervention to Determine Estate's Interest in Real Property and Validity and Extent of Liens, and Ancillary Relief

FR: 2-6-20

Docket 16

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9/3/2020 AT 2:00 P.M.,  
Per Order Entered 5/26/2020 (XX)**

**Courtroom Deputy:**

**SPECIAL NOTE: Status conference set for 6/4/2020 at 9:30 a.m. re:  
Original Complaint - td (5/26/2020)**

**CONTINUED: Status Conference Continued to 9/3/2020 at 2:00 p.m., Per  
Order Entered 5/26/2020 (XX) - td (5/26/2020)**

**Tentative Ruling:**

**February 6, 2020**

Continue status conference to June 4, 2020 at 9:30 a.m.; updated joint status report must be filed by May 21, 2020. Any motion for relief from stay and/or abstention must be filed no later than April 16, 2020 and set for hearing no later than May 7, 2020. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiffs shall lodge a scheduling order consistent with the same.***

**Party Information**

**Debtor(s):**

Lillian Sikanovski Dulac

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Lillian Sikanovski Dulac**

**Chapter 7**

Michael Jones  
Sara Tidd

**Defendant(s):**

Ronald H. Dulac

Pro Se

Lillian Sikanovcki Dulac

Pro Se

**Plaintiff(s):**

Bertrand H Dulac and Georgette C

Represented By  
Ronald Appel  
Michael Jones

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Erin P Moriarty

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-11414 Peter Woo Sik Kim**

**Chapter 7**

Adv#: 8:19-01155 Kang Family 2007 Revocable Trust v. Kim et al

**#9.00** CONT'D PRE-TRIAL CONFERENCE RE: Complaint Objecting to Discharge of Debt Under 11 U.S.C. §523(a)(3)(a) and 11 U.S.C. §523(a)(2)(B)

FR: 10-17-19; 1-16-20; 5-7-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**October 17, 2019**

Discovery Cut-off Date:	Mar. 6, 2020
Deadline to Attend Mediation:	Jan. 31, 2020
Pretrial Conference Date:	Apr. 30, 2020 at 9:30 a.m.
Deadline to Lodge Joint Pretrial Stipulation:	Apr. 16, 2020

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

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**January 16, 2020**

Discovery Cut-off Date:	Mar. 16, 2020
Pretrial Conference Date:	May 7, 2020 at 9:30 a.m. (XX)
Deadline to Lodge Joint Pretrial Stipulation:	Apr. 23, 2020

***Note: If all parties accept the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 4, 2020

Hearing Room 5A

9:30 AM

CONT... Peter Woo Sik Kim

Chapter 7

---

**June 4, 2020**

Continue the Pretrial Conference to July 9, 2020 at 9:30 a.m. to allow the parties to file an amended pretrial stipulation by June 25, 2020. The amended pretrial stipulation should address the comments of the court in its tentative ruling and also whether each party wishes to submit direct testimony by declaration in advance of the trial in accordance with this court's Trial Procedures or if they prefer live direct testimony.

Comments re the Pretrial Stipulation:

1. The court commends the parties for timely filing a thorough and thoughtful pretrial stipulation ("PS"), including a complete list of exhibits and witnesses. That said, the PS will need to be amended per the comments below.
2. Page 3, line 7: There appear to be action words missing, e.g., should "submitted a signed Letter of Intent to lease the property" be inserted?
3. Chronologically, paragraph 4 should probably replace paragraph 7.
4. Curiously, the Issues of Fact to be Litigated, starting on page 6, do not include all of the factual issues relating to 523(a)(2)(A) and (B). Instead, those issues have been relegated to section IV called Claims for Relief which includes mixed issues of fact and law re 523(a)(2). Also added are sections V (Remedies) and VI (Affirmative Defenses). Sections IV, V and VI (collectively the "Added Sections") are confusing and are not consistent with the structure of a pretrial stipulation as plainly set forth in LBR 7016-1(b)(2)(B) and (C). The section on Issues of Fact to be Litigated should include all issues of fact, including those that appear in the Added Sections. Similarly, the section on Issues of Law to be Litigated (Remaining Legal Issues) should include all legal issues, including those in the Added Sections. The court does not mind subheadings within the Issues of Fact and/or Issues of Law, but there should be one section on disputed facts and one section on issues of law.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 4, 2020

Hearing Room 5A

9:30 AM

CONT...

**Peter Woo Sik Kim**

**Chapter 7**

4. Page 15, lines 1 and 3: "A list of" should be inserted after "Exhibits:" since the exhibits themselves are not attached.

5. It is the court's usual procedure to conduct direct testimony by declaration (the plaintiff submits written direct testimony 30 days before; the defendant does so 21 days before trial and both parties submit any evidentiary objections 7 days prior to trial). See, the court's Trial Procedures at [cacb.uscourts.gov](http://cacb.uscourts.gov). However, direct testimony by declaration is not mandatory if the parties prefer live direct testimony. By listing the direct examination time estimates in the PS, are the communicating a preference for live direct testimony as opposed to direct testimony by declaration (exclusive of adverse or rebuttal testimony)? Live direct vs. written direct will affect the trial time estimate.

6. The trial will likely take place the week of September 21, 2020. While in-person appearances may be possible by that time, the court is amenable to a video conference option for any parties who cannot appear in person.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required; nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

**Party Information**

**Debtor(s):**

Peter Woo Sik Kim

Represented By  
Andrew S Bisom

**Defendant(s):**

Peter Kim

Pro Se

Sharon Kim

Pro Se

**Joint Debtor(s):**

Sharon Soyun Kim

Represented By  
Andrew S Bisom

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Peter Woo Sik Kim**

**Chapter 7**

**Plaintiff(s):**

Kang Family 2007 Revocable Trust

Represented By  
Edmond Richard McGuire

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Lynda T Bui  
Rika Kido

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:00 AM

**8:15-15096 Darshan Upadhyaya**

**Chapter 7**

Adv#: 8:16-01024 Floorit Financial, Inc. v. Upadhyaya

**#10.00** CONT'D Examination of Third Person Amanda Upadhyaya aka Amanda C. Ramos  
Upadhyaya Re: Enforcement of Judgment

FR: 4-9-20

Docket 20

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

Continue the examination to September 10, 2020 at 10:00 a.m.

Basis for Tentative Ruling

The courthouse remains closed to in-person court appearances and on-site in-person judgment debtor examinations. Judgment creditor is free to schedule an examination outside the courthouse, including by video conference, prior to September 10, 2020. Depending on the status of pandemic-related rules and policies in place on September 1, 2020, the September 10, 2020 hearing may be further continued.



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 4, 2020

Hearing Room 5A

10:00 AM

CONT... Darshan Upadhyaya

Chapter 7

***Note: If the Judgment Creditor accepts the foregoing tentative ruling, appearance at this hearing is not required and Judgment Creditor shall serve notice of the continued hearing date/time. Non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

**Party Information**

**Debtor(s):**

Darshan Upadhyaya

Represented By  
Amid Bahadori

**Defendant(s):**

Darshan Upadhyaya

Represented By  
Amid Bahadori

**Plaintiff(s):**

Floorit Financial, Inc.

Represented By  
Tom Roddy Normandin  
James T Jackson

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By  
Jeremy Faith  
Nina Z Javan  
Meghann A Triplett

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 4, 2020

Hearing Room 5A

10:00 AM

**8:15-15096 Darshan Upadhyaya**

**Chapter 7**

Adv#: 8:16-01024 Floorit Financial, Inc. v. Upadhyaya

**#11.00** CONT'D Examination of Judgment Debtor Darshan Upadhyaya Re: Enforcement of Judgment

FR: 4-2-20

Docket 23

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 2, 2020**

In order to comply with social distancing guidelines, continue the examination to June 4, 2020 at 10:00 a.m., except that the parties are free to stipulate to a remote videoconference examination at a mutually agreeable time prior to June 4, 2020.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall lodge an order consistent with the same.***

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 4, 2020

Hearing Room 5A

10:00 AM

CONT... Darshan Upadhyaya

Chapter 7

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

Continue the examination to September 10, 2020 at 10:00 a.m.

Basis for Tentative Ruling

The courthouse remains closed to in-person court appearances and on-site in-person judgment debtor examinations. Judgment creditor is free to schedule an examination outside the courthouse in accordance with applicable rules, including by video conference, prior to September 10, 2020. Depending on the status of pandemic-related rules and policies in place on September 1, 2020, the September 10, 2020 hearing may be further continued.

***Note: If the Judgment Creditor accepts the foregoing tentative ruling, appearance at this hearing is not required and Judgment Creditor shall serve notice of the continued hearing date/time. Non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

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

**Debtor(s):**

Darshan Upadhyaya

Represented By  
Amid Bahadori

**Defendant(s):**

Darshan Upadhyaya

Represented By  
Amid Bahadori

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Darshan Upadhyaya**

**Chapter 7**

**Plaintiff(s):**

Floorit Financial, Inc.

Represented By  
Tom Roddy Normandin  
James T Jackson

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By  
Jeremy Faith  
Nina Z Javan  
Meghann A Triplett

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 4, 2020

Hearing Room 5A

10:00 AM

8:18-12797 Johnny Phan

Chapter 13

#12.00 CONT'D Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

SELENE AS ATTORNEY IN FACT U.S. BANK NATIONAL ASSOCIATION

VS.

DEBTOR

FR: 4-2-20

Docket 56

\*\*\* VACATED \*\*\* REASON: Order Approving Adequate Protection  
Agreement Entered 6/3/20

Courtroom Deputy:

**OFF CALENDAR: Order Approving Adequate Protection Agreement  
Entered 6/3/20- mp/td(6/3/20)**

Tentative Ruling:

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant relief from stay co-debtor stay relief and without FRBP 4001(a)(3) waiver unless the parties agree to an alternative resolution. If more time is needed, and

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Johnny Phan**

**Chapter 13**

Movant agrees to such additional time, continue the hearing to June 4, 2020 at 10:00 a.m. upon request of Movant during the pre-hearing calendar roll call by the court clerk.

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

**Debtor(s):**

Johnny Phan

Represented By  
Christopher J Langley

**Movant(s):**

U.S. BANK NATIONAL

Represented By  
Dane W Exnowski  
Sean C Ferry

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:00 AM

**8:18-13257 Scott Samuel Wilson and Stacy Anne Wilson**

**Chapter 13**

**#13.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

U.S. BANK N.A.

VS.

DEBTORS

Docket 35

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

If Debtors are now postpetition current with payments, grant an adequate protection order. If more time is needed to negotiate the terms of an adequate protection order, the parties may request a continuance during the calendar roll call just prior to the hearing. Available continued hearing dates are June 11, 2020, June 18, 2020, July 9, 2020 and July 16, 2020 at 10:00 a.m.

*Special note: Debtor has provided a copy of a bank statement showing a payment on May 20, 2020; however, the court cannot confirm the tender of a payment on May 7, 2020 based on the evidence presented.*

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Scott Samuel Wilson and Stacy Anne Wilson**

**Chapter 13**

**Party Information**

**Debtor(s):**

Scott Samuel Wilson

Represented By  
Kristin R Lamar

**Joint Debtor(s):**

Stacy Anne Wilson

Represented By  
Kristin R Lamar

**Movant(s):**

U.S. Bank National Association

Represented By  
Kristin A Schuler-Hintz  
Nancy L Lee

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room**

**5A**

10:00 AM

**8:18-13337 Manuel Trejo and Maria I Trejo**

**Chapter 13**

**#14.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]  
DEUTSCHE BANK NATIONAL TRUST COMPANY  
VS.  
DEBTORS

Docket 46

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

Grant motion with co-debtor relief and without waiver of 4001(a)(3) unless Movant is amenable to an adequate protection order. If Movant would like additional time to explore the terms of an adequate protection ord, it may request a continuance at the time of the calendar roll call just prior to the hearing. Available hearing dates are June 11, 2020, June 18, 2020, July 9, 2020 and July 16, 2020 at 10:00 a.m.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 4, 2020

Hearing Room 5A

10:00 AM

CONT... **Manuel Trejo and Maria I Trejo** **Chapter 13**

*Special note: Debtor has not provided evidence of additional payments having been made that are not reflected in the Motion.*

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

**Debtor(s):**

Manuel Trejo

Represented By  
Lionel E Giron

**Joint Debtor(s):**

Maria I Trejo

Represented By  
Lionel E Giron

**Movant(s):**

DEUTSCHE BANK NATIONAL

Represented By  
Sean C Ferry

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 4, 2020

Hearing Room 5A

10:00 AM

8:18-14136 David Maurice Denman

Chapter 13

#15.00 CONT'D Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

DEUTSCHE BANK, TRUST COMPANY AMERICAS

VS.

DEBTOR

FR: 4-30-20

Docket 53

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

The parties previously stipulated to a continuance of the prior hearing in order to negotiate an adequate protection order and to obtain the necessary approvals by Movant's management. If more time is needed, the parties may request a continuance of this hearing by requesting the same at the time of the calendar roll call just prior to the hearing. Available continued dates are June 11, 2020, June 18, 2020, July 9, 2020 and July 16, 2020 at 10:00 a.m.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... David Maurice Denman**

**Chapter 13**

**Party Information**

**Debtor(s):**

David Maurice Denman

Represented By  
Nicholas W Gebelt

**Movant(s):**

Deutsche Bank National Trust

Represented By  
Eric P Enciso  
Sean C Ferry  
Erin Elam

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 4, 2020

Hearing Room 5A

10:00 AM

8:19-11870 Darlene Futrel

Chapter 13

#16.00 CONT'D Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

BANK OF AMERICA, N.A.

VS.

DEBTOR

FR: 4-2-20; 4-30-20

Docket 44

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion  
for Relief from the Automatic Stay (Settled by Stipulation) Entered 6/2/2020

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic  
Stay (Settled by Stipulation) Entered 6/2/2020 - td (6/2/2020)**

Tentative Ruling:

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the  
COVID-19 virus, notice is hereby given that ALL hearings before Judge  
Smith will be by TELEPHONE APPEARANCE ONLY until further notice.  
The courtroom will be locked. Any party who wishes to appear must  
register in advance by contacting CourtCall at (866) 582-6878. It is  
suggested that parties register with CourtCall at least 30 minutes prior to  
the hearing. Through June 30, 2020, CourtCall is offering discounted  
registration for attorneys and free registration for parties without an  
attorney.

Continue hearing to June 4, 2020 at 10:00 a.m. to allow the parties to complete  
resolution discussions. (XX)

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:00 AM

CONT... Darlene Futrel

**Chapter 13**

*Special note:* If the parties have been unable to reach resolution and Movant wishes to proceed with this hearing, Movant so indicate to the clerk during the calendar roll call.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance by the parties shall be deemed acceptance of the tentative ruling.***

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

**Debtor(s):**

Darlene Futrel

Represented By  
Christopher J Langley

**Movant(s):**

Bank of America, N.A

Represented By  
Nancy L Lee

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 4, 2020

Hearing Room 5A

10:00 AM

8:19-11985 Charles A Thomas and Theresa A. Thomas

Chapter 13

#17.00 CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

CITIBANK, N.A., AS TRUSTEE

VS.

DEBTORS

FR: 5-12-20

Docket 35

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion  
for Relief rom the Automatic Stay (Settled by Stipulation) Entered 6/2/2020

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief rom the Automatic  
Stay (Settled by Stipulation) Entered 6/2/2020 - td (6/2/2020)**

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the  
COVID-19 virus, notice is hereby given that ALL hearings before Judge  
Smith will be by TELEPHONE APPEARANCE ONLY until further notice.  
The courtroom will be locked. Any party who wishes to appear must  
register in advance by contacting CourtCall at (866) 582-6878. It is  
suggested that parties register with CourtCall at least 30 minutes prior to  
the hearing. Through June 30, 2020, CourtCall is offering discounted  
registration for attorneys and free registration for parties without an  
attorney.

**May 12, 2020**

Grant with 4001(a)(3) waiver.

**Note: This matter appears to be uncontested. Accordingly, no court**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 4, 2020

Hearing Room 5A

10:00 AM

CONT... Charles A Thomas and Theresa A. Thomas Chapter 13  
***appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Charles A Thomas

Represented By  
Joseph C Rosenblit

**Joint Debtor(s):**

Theresa A. Thomas

Represented By  
Joseph C Rosenblit

**Movant(s):**

Citibank, N.A., as Trustee, in trust

Represented By  
Robert P Zahradka

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 4, 2020

Hearing Room 5A

10:00 AM

8:19-12337 Jorge David Gonzalez

Chapter 7

#18.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

THE BANK OF NEW YORK MELLON

VS.

DEBTOR

Docket 55

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

Deny motion under 362(d)(1) and 362(d)(2).

Basis for Tentative Ruling:

1. 362(d)(1): Movant admits there is an \$80,000, or 15%, equity cushion protecting its interest. The 9th Circuit in *In re Mellor*, 734 F.2d 1396, 1401 (9th Cir. 1984), in finding that the 20% equity cushion in the case before it was sufficient protection, cited with approval other cases which found that a 10% or

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 4, 2020

Hearing Room

5A

10:00 AM

CONT...

**Jorge David Gonzalez**

**Chapter 7**

15% equity was sufficient. "A 20% cushion has been held to be an adequate protection for a secured creditor. See *In re McGowan*, 6 B.R. 241, 243 (B.Ct.E.D.Pa.1980) [holding a 10% cushion is sufficient to be adequate protection]; *In re Rogers Development Corp.*, 2 B.R. 679, 685 (B.Ct.E.D.Virg.1980) [court decided that an equity cushion of approximately 15% to 20% was sufficient adequate protection to the creditor, even though the debtors had no equity in the property.]"

2. 362(d)(2): Movant admits there is equity of \$80,000 and, therefore, has failed to establish lack of equity, for which it has the initial burden of proof.

***Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required; non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

**Party Information**

**Debtor(s):**

Jorge David Gonzalez

Represented By  
Robert G Uriarte

**Movant(s):**

The Bank of NewYork Mellon FKA

Represented By  
Austin P Nagel

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Robert P Goe

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 4, 2020

Hearing Room 5A

10:00 AM

8:19-12933 Lisa Nguyen

Chapter 13

#19.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]  
THE BANK OF NEW YORK MELLON  
VS.  
DEBTOR

Docket 82

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion  
for Relief from the Automatic Stay (Settled by Stipulation) Entered 5/13/2020

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic  
Stay (Settled by Stipulation) Entered 5/13/2020 - td (5/13/2020)**

Tentative Ruling:

- NONE LISTED -

**Party Information**

**Debtor(s):**

Lisa Nguyen

Represented By  
Christine A Kingston

**Movant(s):**

The Bank of New York Mellon f/k/a

Represented By  
Austin P Nagel

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13239 John Fouse**

**Chapter 13**

**#20.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

HSBC BANK USA, NA

VS.

DEBTOR

Docket 40

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of  
Motion, filed 5/5/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal of Motion, filed 5/5/2020 - td  
(5/5/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

John Fouse

Represented By  
Sundee M Teeple

**Movant(s):**

HSBC Bank USA, National

Represented By  
Katie M Parker

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13600 Ellie Elape Lam**

**Chapter 13**

**#21.00** CONT'D Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

U.S. BANK NATIONAL ASSOCIATION, NOT INDIVIDUALLY BUT SOLELY AS  
TRUSTEE FOR BLUEWATER INVESTMENT TRUST 2018-1, ITS  
SUCCESSOR AND ASSIGNS

VS.

DEBTOR

FR: 3-19-20; 4-30-20

Docket 30

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**March 19, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant motion with 4001(a)(3) waiver unless Debtor is postpetition current by the time of the hearing (in which case a standard "3 Strikes" adequate protection

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, June 4, 2020

Hearing Room 5A

10:00 AM

CONT...

**Ellie Elape Lam**

**Chapter 13**

order will be granted) or if the parties have reached an alternate resolution. If more time is needed to reach resolution, Movant may request a continuance of the hearing at the time of the calendar roll call by the court clerk on the day of the hearing. Available continued dates are: 4/2, 4/9, 4/16, 4/30 and 5/2 at 10:00 a.m.

-----

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue hearing to June 4, 2020 at 10:00 a.m. to allow the parties to complete resolution discussions. (XX)

*Special note:* If the parties have been unable to reach resolution and Movant wishes to proceed with this hearing, Movant so indicate to the clerk during the calendar roll call.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance by the parties shall be deemed acceptance of the tentative ruling.***

-----

**June 4, 2020**

The parties have previously requested a continuance of the hearing in order to discuss the terms of an adequate protection order. If more time is needed, continue the hearing one final time to July 16, 200 at 10:00 a.m.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, June 4, 2020

Hearing Room 5A

10:00 AM

CONT... Ellie Elape Lam

Chapter 13

***Note: If the parties accept the tentative ruling to continue the matter one final time to July 16, 2020, appearances at this hearing are not required; non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

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

**Debtor(s):**

Ellie Elape Lam

Represented By  
Christopher J Langley

**Movant(s):**

U.S. Bank National Association, not

Represented By  
Dane W Exnowski  
Sean C Ferry  
Lemuel Bryant Jaquez

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10294 German A Gutierrez**

**Chapter 13**

**#22.00** Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

GESA CREDIT UNION

VS.

DEBTOR

Docket 25

**\*\*\* VACATED \*\*\* REASON: Order Approving Stipulation to Withdraw  
Motion Entered 6/3/20**

**Courtroom Deputy:**

**OFF CALENDAR: Order Approving Stipulation to Withdraw Motion  
Entered 6/3/2020 - td (6/3/2020 )**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

German A Gutierrez

Represented By  
Christopher J Langley

**Movant(s):**

Gesa Credit Union

Represented By  
Nina Z Javan

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 4, 2020

Hearing Room 5A

10:00 AM

8:20-10436 Chandra Marie Adam

Chapter 7

#23.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

WELLS FARGO BANK, N.A.

VS.

DEBTOR

Docket 14

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

Grant Motion under 362(d)(1) and 362(d)(2) with waiver of FRBP 4001(a)(3).

Basis for Tentative Ruling:

1. The moving party has established that it has colorable beneficial interest, which is all that is required for a hearing on relief from the automatic stay. Whether the moving party has the right under applicable non-bankruptcy law to foreclose on the property is not an issue decided in a summary relief from stay

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, June 4, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Chandra Marie Adam**  
hearing.

**Chapter 7**

2. According to the value of the real property as set forth in Debtor's own schedules, \$950,000, there is less than a 3% equity cushion to protect the interest of the moving party and there is no equity cushion if the ordinary costs of sale are taken into account. 11 U.S.C. 362(d)(1) (lack of adequate protection)

3. The arrearages (unpaid payments) total nearly \$500,000 with no mortgage payments having been made in approximately 11 years.

4. There is no equity in the property, i.e., the liens against the property exceed the value of the property by at least \$200,000. And, there is no reorganization in chapter 7 cases. 11 U.S.C. 362(d)(2) (lack of equity in property and property not necessary for reorganization).

5. Debtor asserts certain claims against the moving party and has attached a draft of a complaint that includes various cause of action under non-bankruptcy law. However, such claims, if they exist, arose prior to the bankruptcy filing and are, therefore, property of the bankruptcy estate under 11 U.S.C. 541. As this is a chapter 7 case, the trustee has control over all property of the bankruptcy estate and is the only person who may prosecute claims on behalf of the estate. Stated otherwise, unless the claims have been abandoned either by the trustee or by operation of law, Debtor has no standing or authority to prosecute the claims. The court notes that there has been no motion by the chapter 7 trustee to abandon the claims. Further, Debtor did not list the claims in her bankruptcy schedules. As a consequence, even once the case closes, the claims will not be deemed abandoned by operation of law and will remain property of the estate, over which Debtor will have no standing to prosecute. 11 U.S.C. 554. If, at some point, the claims are abandoned to Debtor and therefore no longer property of the estate, this court will have no jurisdiction to adjudicate such non-core, non-bankruptcy claims which would have no impact on the administration of the bankruptcy case.

6. In the event that the claims referenced in the draft complaint are abandoned to Debtor at some point, her recourse would be in state or other non-bankruptcy court.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Chandra Marie Adam**

**Chapter 7**

**Debtor(s):**

Chandra Marie Adam

Pro Se

**Movant(s):**

Wells Fargo Bank, N.A.

Represented By  
Dane W Exnowski

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 4, 2020

Hearing Room 5A

10:00 AM

8:20-10533 American Renewable Power LLC

Chapter 7

#24.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
CALIFORNIA PHYSICIANS' SERVICE dba BLUE SHIELD OF CALIFORNIA  
VS.  
DEBTOR

Docket 96

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

June 4, 2020

Grant motion.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.*

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... American Renewable Power LLC**

**Chapter 7**

**Debtor(s):**

American Renewable Power LLC

Represented By  
David B Golubchik  
Todd M Arnold

**Movant(s):**

California Physicians' Service dba

Represented By  
Andrew Still  
Michael B Reynolds

**Trustee(s):**

Thomas H Casey (TR)

Represented By  
Beth Gaschen  
Steven T Gubner

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 4, 2020

Hearing Room 5A

10:30 AM

8:16-14450 Cameron Malin Davis

Chapter 13

#25.00 Hearing RE: Chapter 13 Trustee's Motion for Entry of Order Deeming Claim Satisfied

Docket 50

**Courtroom Deputy:**

**SPECIAL NOTE: Stipulation Between BFW West, and Chapter 13 Trustee Regarding Order and Distribution of Funds Being Held by Chapter 13 Trustee filed 6/1/2020 - td (6/1/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

Take matter off calendar in light of the stipulation filed by the chapter 13 trustee and claimant on June 1, 2020 [docket #54]; the trustee shall lodge an order consistent with the same.

***Note: Appearances at this hearing are not required.***

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

Cameron Malin Davis

Represented By  
Joseph A Weber

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Cameron Malin Davis**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01214 Marshack v. Chang Ding Metal Co., Ltd. et al

**#26.00** CON'TD Hearing RE: Defendant Chang Ding Metal Co., Ltd.'s Motion to Dismiss Adversary Proceeding Pursuant to Federal Rule of Civil Procedure 12(B)

FR: 4-30-20

Docket 10

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 8/20/2020 AT 2:00 P.M.,  
Per Order Entered 5/29/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 8/20/2020 at 2:00 p.m., Per Order  
Entered 5/29/2020 (XX) - td (5/29/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Chang Ding Metal Co., Ltd.

Represented By  
Mohammad Tehrani  
Jeff D Kahane

Hoa Phat Steel Co., Ltd.

Pro Se

Pomina 2 Steel Corporation

Pro Se

**Movant(s):**

Chang Ding Metal Co., Ltd.

Represented By  
Mohammad Tehrani  
Jeff D Kahane



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, June 4, 2020**

**Hearing Room 5A**

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10:30 AM

**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 4, 2020

Hearing Room 5A

10:30 AM

8:18-12875 Michael D O'Donnell

Chapter 7

#27.00 Hearing RE: Chapter 7 Trustee's Final Report and Application for Final Fees and Expenses

[KAREN SUE NAYLOR, CHAPTER 7 TRUSTEE]

Docket 99

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

Approve fees and expenses as requested.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.**

**Party Information**

**Debtor(s):**

Michael D O'Donnell

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Michael D O'Donnell**

David P Farrell

**Chapter 7**

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Thomas H Casey

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 4, 2020

Hearing Room 5A

10:30 AM

8:18-12875 Michael D O'Donnell

Chapter 7

#28.00 Hearing RE: Second and Final Application for Fees and Reimbursement of Expenses [June 20, 2019 through January 31, 2020]

[THE LAW OFFICE OF THOMAS H. CASEY, INC., ATTORNEY FOR CHAPTER 7 TRUSTEE KAREN SUE NAYLOR]

Docket 97

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

Approve fees and expenses as requested.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Michael D O'Donnell**

**Chapter 7**

**Debtor(s):**

Michael D O'Donnell

Represented By  
David P Farrell

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Thomas H Casey

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 4, 2020

Hearing Room 5A

10:30 AM

8:18-12875 Michael D O'Donnell

Chapter 7

#29.00 Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses  
From October 28, 2018 through January 21, 2020

[HAHN FIFE & COMPANY LLP, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]

Docket 95

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

Approve fees and expenses as requested.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.*

**Party Information**

**Debtor(s):**

Michael D O'Donnell

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Michael D O'Donnell**

David P Farrell

**Chapter 7**

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Thomas H Casey

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:30 AM

**8:18-13296 Roman Gabriel Machutt**

**Chapter 7**

**#30.00** Hearing RE: Chapter 7 Trustee's Motion for Order Finding Debtor in Contempt for Violation of the Court's Order, Sanctions Based Upon the Debtor's Contempt, and Request for Authority for Trustee to Move to Compel Debtor to Appear at Section 341(a) Meeting Pursuant to Federal Rule of Bankruptcy Procedure 2005

Docket 60

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

Grant in part; deny in part. Grant the request for a finding of contempt; deny the request for a \$500/day fine; deny request for attorneys fee due to lack of evidence; grant request for FRBP 2005 relief, subject to any applicable international laws, rules, policies and/or treaties.

Basis for Tentative Ruling

Trustee moves for an order finding Debtor in civil contempt for violating the Compelling Order (defined below) by failing to appear at fourteen 341(a) meeting of creditors and failing to produce documents (the "Motion")[dkt. 60].



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Thursday, June 4, 2020

Hearing Room 5A

10:30 AM

CONT...

**Roman Gabriel Machutt**

**Chapter 7**

Trustee also seeks civil sanctions in the form of attorneys' fees and costs, imposition of a \$500 daily fine for each day that Debtor fails to produce documents, imposing a fine for each subsequent 341(a) meeting missed by Debtor, and authorizing the U.S. Marshall Service to arrest Debtor to compel attendance.

A. Relief Under §105(a) is Warranted

Pursuant to 11 U.S.C. § 105(a), a bankruptcy court has the authority to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." Contempt proceedings are governed by Rule 9020, which states that Rule 9014 governs a motion for an order of contempt. The bankruptcy court has the authority to impose civil contempt sanctions under § 105(a). *Knupfer v. Lindblade (In re Dyer)*, 322 F.3d 1178, 1189–90 (9th Cir.2003); *Walls v. Wells Fargo Bank*, 276 F.3d 502, 507 (9th Cir.2002).

To find a party in civil contempt, the court must find that the offending party knowingly violated a definite and specific court order, and the moving party has the burden of showing the violation by clear and convincing evidence. *In re Dyer*, 322 F.3d at 1190–91; *In re Wallace*, 490 B.R. 898, 905 (B.A.P. 9th Cir. 2013). But "civil contempt should not be resorted to where there is a fair ground of doubt as to the wrongfulness of the defendant's conduct." *Taggart v. Lorenzen*, 139 S.Ct. 1795, 1801-02 (2019)(citation omitted)(establishing the objective fair ground of doubt standard in the context of a discharge order).

The burden then shifts to the contemnors to demonstrate why they were unable to comply. *FTC 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. *Shuffler v. Heritage Bank*, 720 F.2d 1141, 1146–47 (9th Cir.1983).

1. The Order was Definite and Specific

On August 6, 2019, the Court entered an order requiring Debtor to cooperate with Trustee, produce documents to Trustee, appear at the October 3, 2019 meeting of creditors, and appear at any subsequent meeting of creditors

**United States Bankruptcy Court  
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Santa Ana  
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Thursday, June 4, 2020

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10:30 AM

CONT... **Roman Gabriel Machutt** Chapter 7

(the "Order"). The Order was definite and specific in that it identified the date of the October 3, 2019 meeting of creditors and stated that Debtor had to appear at any subsequent 341(a) meetings and produce documents to Trustee. See, Mot., Ex. 1.

2. Debtor was Properly Served with the Order

The Order properly was served on Debtor by first class mail at the mailing address listed in the petition, i.e., his residence in Aliso Viejo, California. The Order was also served on Debtor's Counsel, Brian Soo-Hoo. See, BNC Notice [dkt. 42]. Mr. Soo-Hoo's declaration in support of the opposition to the Motion that he filed on behalf of Debtor indicates that Debtor had actual notice of the Order in that Debtor returned to California in October 2019 to attend the meeting of creditors. See, Soo-Hoo Decl., p. 1-2, ¶4.

3. Debtor Violated the Order

When determining whether an alleged contemnor has violated a court order, "the focus is not on the subjective beliefs or intent of the contemnors in complying with the order, but whether in fact their conduct complied with the order at issue." *Dyer*, 322 F.3d at 1191 (internal quotes omitted). This general objective standard was reaffirmed by the Supreme Court in *Taggart v. Lorenzen*, 139 S. Ct. 1795, 1804 (2019)(analyzing civil contempt in the context of a discharge violation) in which the Court explained that "a party's subjective belief that she was complying with an order ordinarily will not insulate her from civil contempt if that belief was objectively unreasonable." *In re Freeman*, 608 B.R. 228, 234 (B.A.P. 9th Cir. 2019)(quoting *Taggart*, 139 S.Ct. at 1802). Thus, a party may be held in civil contempt if there is not a "fair ground of doubt" as to whether the alleged conduct might be lawful. See, *Taggart, supra*, at 1804.

Subjective good faith belief is not always irrelevant, however, because "a party's good faith, even if it does not prevent a finding of civil contempt, might help determine the appropriate sanction." *Freeman*, 608 B.R. at 234 (citing *Taggart*, 139 S.Ct. at 1802). As such, "advice of counsel and good faith conduct do not relieve from liability for a civil contempt, although they may affect the extent of the penalty." *TWM Mfg. Co. v. Dura Corp.*, 722 F.2d 1261, 1273 (6th Cir.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Roman Gabriel Machutt**  
1983).

**Chapter 7**

In this case, Trustee demonstrated that Debtor failed to comply with the Order. The Order required Debtor's attendance at the October 3, 2019 meeting of creditors as well as all subsequently scheduled meetings. Though no meeting was held on October 3, 2019, a subsequent meeting was scheduled for October 17, 2019. See, Notice of Continued Meeting of Creditors ("October 2019 Notice")[dkt. 44]. The October 2019 Notice was served on Debtor and Debtor's counsel. See, October 2019 Notice. And per Debtor's Counsel's testimony, Debtor returned to California to attend the October 17, 2019 meeting of creditors, i.e., had actual knowledge, but Debtor did not attend the October 17, 2019. See, Debtor's Counsel Decl., p. 1-2, ¶4. No reason is provided why Debtor did not appear at the October 17, 2019 meeting. Mr. Soo-Hoo states only that Debtor had to return to Europe before the continued November 2019 meeting of creditors. See *id.* Thus, Debtor knowingly failed to comply with the Order by failing to attend the properly noticed October 17, 2019 meeting of creditors. In addition, the October 2019 Notice listed specific documents that Debtor was required to produce, but didn't. See, Mot., p. 4:16-18 and p. 9, ¶5 (Kosmala Decl.); October 2019 Notice.

**4. Debtor's Defense to Civil Contempt**

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. *Shuffler v. Heritage Bank*, 720 F.2d 1141, 1146-47 (9th Cir.1983). The burden is on the contemnors to demonstrate why they were unable to comply. *FTC v. Affordable Media*, 179 F.3d 1228, 1239 (9th Cir.1999). However, "the party asserting the impossibility defense must show "categorically and in detail" why he is unable to comply." *Id.* at 1241.

The sole defense offered by Mr. Soo-Hoo is that Debtor may not have received this Motion or notice of the same and, therefore, entering a civil contempt order may violate his due process rights. This argument is unpersuasive because, as explained in the Reply, the Motion was served in accordance with the FRBP and LBR on Debtor and Debtor's Counsel. See, Reply, p. 2:15-3:8. It is Debtor's responsibility to keep the court updated with his

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**CONT... Roman Gabriel Machutt**

**Chapter 7**

current mailing address. If, in fact, Debtor has relocated out of the country, he was aware when he left that his 341a meeting had not been concluded. As noted by Trustee, Debtor cannot simply avoid his statutory duties as a chapter 7 debtor by knowingly disappearing from the case. Debtor filed a voluntary chapter 7 petition and subsequently received a discharge (although that is now subject to revocation).

5. Civil Sanctions are Awardable but Trustee Failed to Request Attorneys Fees and Costs in any Amount

Civil sanctions must either be compensatory or designed to coerce compliance." *Id.* at 1059 (quoting *Knupfer v. Lindblade (In re Dyer)*, 322 F.3d 1178, 1192 (9th Cir. 2003)); *Brace v. Speier (In re Brace)*, 2019 Bankr. LEXIS 80 at \*21 (B.A.P. 9th Cir. 2019). Civil contempt sanctions may include compensatory damages which include reimbursement of reasonable attorneys' fees, the imposition of a daily coercive (but not punitive) fine, and in extreme cases, incarceration, *See, e.g., Gharib v. Casey (In re Kenny G. Enterprises, LLC)*, 692 Fed.Appx. 950, 953 (9th Cir. 2017).

Here, Trustee seeks compensatory sanctions for attorneys' fees and costs incurred by Trustee to bring this Motion because Trustee should not have been required to bring the Motion. Under § 521(a)(3), Debtor's statutory duties include cooperation with the Trustee "as necessary to enable the trustee to perform the trustee's duties[.]" Certainly, Debtor has a duty to cooperate with Trustee and attend his 341(a) examination. However, Trustee has provided no evidence of the fees and costs incurred by Trustee in connection with Debtor's contempt, including bringing the instant Motion.

6. Daily Sanction Awards Would be Punitive

The request for additional daily \$500 sanctions for each day that documents are not produced, and the request for additional sanctions each time Debtor fails to appear for meeting of creditors, is denied because such sanctions would be punitive rather than coercive. Debtor's counsel has moved to withdraw as his attorney of record due to lack of communication, and Debtor may be residing outside the country. Thus, it is unclear how Debtor would receive notice

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**CONT... Roman Gabriel Machutt**

**Chapter 7**

of these additional sanctions in order to coerce his behavior.

**7. Relief under FRBP 2005 is Appropriate**

Trustee's request for an order authorizing the U.S. Marshall to apprehend Debtor should be granted. Under Rule 2005, "On motion of any party in interest supported by an affidavit alleging (1) that the examination of the debtor is necessary for the proper administration of the estate and that there is reasonable cause to believe that the debtor is about to leave or has left the debtor's residence or principal place of business to avoid examination, *or* (2) that the debtor has evaded service of a subpoena or of an order to attend for examination, *or* (3) that the debtor has willfully disobeyed a subpoena or order to attend for examination, duly served, the court may issue to the marshal, or some other officer authorized by law, an order directing the officer to bring the debtor before the court without unnecessary delay." (emphasis added).

In this case, there is substantial evidence that Debtor willfully violated the Order by failing to attend the October 17, 2019 meeting of creditors, as well as all subsequent meetings of creditors. See, Mot. p. 8-9. Thus, the third prong of Rule 2005 is satisfied. Moreover, it appears that Debtor is willfully attempting to evade attending a meeting of creditors because Debtor was in California in October 2019 but failed to attend the October 17, 2019 meeting without explanation. See, Debtor's Counsel Decl., p. 1-2, ¶4. Finally, as it appears that Debtor resides outside the country, Trustee will require assistance from the United States Marshal to secure Debtor's appearance at future meetings of creditors. It shall be the responsibility of Trustee to determine the specific information needed by the United States Marshal to execute a 2005 order (or writ). The court understands that apprehension of Debtor could be complicated by applicable international laws, rules, policies and/or treaties.

**Party Information**

**Debtor(s):**

Roman Gabriel Machutt

Represented By  
Brian J Soo-Hoo

**United States Bankruptcy Court  
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**Thursday, June 4, 2020**

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**CONT... Roman Gabriel Machutt**

**Chapter 7**

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Reem J Bello

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 4, 2020

Hearing Room 5A

10:30 AM

8:18-13296 Roman Gabriel Machutt

Chapter 7

#31.00 Hearing RE: Motion for Leave to Withdraw as Counsel for Debtor (Brian J. Soo-Hoo dba Bankruptcy Law Professionals)

Docket 62

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 6, 2020**

Grant the Motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Roman Gabriel Machutt

Represented By  
Brian J Soo-Hoo

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Roman Gabriel Machutt**

**Chapter 7**

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Reem J Bello



**United States Bankruptcy Court  
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Santa Ana  
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Thursday, June 4, 2020

Hearing Room 5A

10:30 AM

8:19-12411 Orange County Bail Bonds, Inc.

Chapter 11

#32.00 CONT'D Hearing RE: Debtor's Application to Employ Magaraian & Dimercurio, A Professional Law Corporation as State Court and Appeal Litigation Counsel

FR: 5-21-20

Docket 110

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 6, 2020**

Continue this hearing to July 16, 2020 at 10:30 a.m., the same date/time set for hearing on approval of Debtor's amended disclosure statement and the Subchapter V status conference.

Re this application, the court believes it would be premature to rule on the application until a determination is made regarding the pending motion to dismiss or convert the case.

***Note: If the parties accept the foregoing tentative ruling, appearances at today's hearing are excused; non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

Party Information

**United States Bankruptcy Court  
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Santa Ana  
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**Thursday, June 4, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Orange County Bail Bonds, Inc.**

**Chapter 11**

**Debtor(s):**

Orange County Bail Bonds, Inc.

Represented By  
Marc C Forsythe  
Ryan S Riddles

**Trustee(s):**

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-12411 Orange County Bail Bonds, Inc.**

**Chapter 11**

**#33.00** CONT'D Hearing RE: Motion to (1) Dismiss Debtor's Chapter 11 Bankruptcy or, in the Alternative, to Convert Case to Chapter 7; and (2) Objecting to Amended Petition Electing Subchapter V

FR: 5-7-20

Docket 123

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 6, 2020**

Continue this hearing to July 16, 2020 at 10:30 a.m., the same date/time set for hearing on approval of Debtor's amended disclosure statement and the Subchapter V status conference.

Basis for Tentative Ruling

The court would like to review this motion along with the disclosure statement in order to put the entire matter in context. The court would also appreciate input from the Subchapter V Trustee has provided the most objective view of the viability and prospects for reorganization than either of the warring parties.

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**CONT... Orange County Bail Bonds, Inc.**

**Chapter 11**

The court encourages the Movant and Debtor to work with the Trustee regarding the possible terms of a consensual plan that will end this costly litigation once and for all.

The court encourages Debtor to re-review the Trustee's status report filed on April 29, 2020, in particular re the alleged \$7M contingent ACIC claim filed Debtor on its behalf, for which Debtor is not contractually liable, the status of the Civic Center lease as statutorily rejected, and the fair market rental value of the premises.

***Note: If the parties accept the foregoing tentative ruling, appearances at today's hearing are excused; non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

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

Orange County Bail Bonds, Inc.

Represented By  
Marc C Forsythe  
Ryan S Riddles

**Trustee(s):**

Mark M Sharf (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
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Thursday, June 4, 2020

Hearing Room 5A

10:30 AM

8:19-13242 10827 Studebaker LLC, a California limited liabili

Chapter 11

#34.00 Hearing RE: Debtor's Motion for Order Authorizing Use of Cash Collateral

Docket 97

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

June 6, 2020

Grant the Motion.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required.**

Party Information

**Debtor(s):**

10827 Studebaker LLC, a California

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 4, 2020

Hearing Room 5A

10:30 AM

8:20-10307 David Patterson

Chapter 13

#35.00 Hearing RE: Debtor's Objection to Claim of Alley Bank (Claim No. 6) and Motion for Order Disallowing Claim

Docket 16

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

Continue hearing to July 9, 2020 at 10:30 a.m. to allow Debtor to correct service issue.

Basis for Tentative Ruling:

Service: Debtor did not serve claimant, a federally insured depository, in accordance with FRBP 7004(h). Rule 7004(h) requires service by certified mail to an officer of claimant, unless unless the claimant has appeared by its attorney. The court is aware that subsequent to the filing of the claim objection, Debtor entered into a stipulation with claimant for relief from stay re claimant's collateral and that claimant's attorney signed off on the stipulation. However, that attorney, Adam Barasch, was not served with the claim objection, so service is defective.

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**CONT... David Patterson**

**Chapter 13**

Merits: The court is inclined to sustain the objection on the merits, except the request for attorneys fees and costs as no legal authority for such has been presented.

Tentative ruling for 7/9/20 (if unopposed): Sustain objection; deny request for attorneys fees and costs.

***Note: If Debtor accepts the foregoing tentative ruling, appearance at this hearing is not required. Non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

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

David Patterson

Represented By  
Amanda G Billyard

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 4, 2020

Hearing Room 5A

10:30 AM

8:20-11026 Little John's Antique Arms, Inc.

Chapter 11

#36.00 STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and (2)  
Requiring Report on Status of Chapter 11 Case

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

Claims bar date:	Aug. 7, 2020 (notice by 6/6/20)
Deadline to file plan/DS:	Aug. 28, 2020
Continued Status Conference:	Sept. 17, 2020 at 10:30 a.m.
Deadline to file Status Report:	Sept. 3, 2020*

\*Status report not required if 1) Debtor has filed a plan and DS, or 2) Debtor has filed a motion to dismiss the case by such date.

**Note: If Debtor accepts the foregoing tentative ruling and is in substantial compliance with the requirements of the U.S. Trustee, appearance at this hearing is not required; the court shall enter it's own order.**

Party Information



**United States Bankruptcy Court  
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**Thursday, June 4, 2020**

**Hearing Room 5A**

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10:30 AM

**CONT... Little John's Antique Arms, Inc.**

**Chapter 11**

**Debtor(s):**

Little John's Antique Arms, Inc.

Represented By  
Richard A Marshack  
Chad V Haes

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-11102 Eugene S. Tamburelli and Shirley A. Tamburelli**

**Chapter 13**

**#37.00 Hearing RE: Debtors' Objection to Merrick Bank's Claim, Claim Number 2-1**

Docket 16

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of  
Objection to Claim filed 5/21/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal of Objection to Claim filed  
5/21/2020 - td (5/21/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Eugene S. Tamburelli

Represented By  
Joseph A Weber  
Fritz J Firman

**Joint Debtor(s):**

Shirley A. Tamburelli

Represented By  
Joseph A Weber  
Fritz J Firman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, June 4, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-11102 Eugene S. Tamburelli and Shirley A. Tamburelli**

**Chapter 13**

**#38.00** Hearing RE: Debtors' Objection to Merrick Bank's Claim, Claim Number 3-1 (\$2,438.73)

Docket 19

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of Objection to Claim filed 5/21/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal of Objection to Claim filed 5/21/2020 - td (5/21/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Eugene S. Tamburelli

Represented By  
Joseph A Weber  
Fritz J Firman

**Joint Debtor(s):**

Shirley A. Tamburelli

Represented By  
Joseph A Weber  
Fritz J Firman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, June 4, 2020

Hearing Room 5A

2:00 PM

8:19-14441 Aimen Elbusifi

Chapter 7

Adv#: 8:20-01020 Angar v. Aimen

#39.00 Hearing RE: Defendant's Motion to Dismiss Adversary Complaint with Prejudice on All Causes of Action

Docket 3

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

Grant the Motion in its entirety based upon the argument and legal analysis set forth in the Motion. The court retains jurisdiction to decide any motion for attorneys fees/costs under 11 U.S.C. 523(d).

*Special note: This adversary was commenced by an unrepresented plaintiff. Under such circumstance, the court would ordinarily allow leave to amend if the pro se litigant shows any interest in prosecuting his claims. Here, however, the plaintiff has not filed an opposition to the Motion, the facts described in the complaint states a claim for breach of contract, which is dischargeable, and does not allege a single fact that addresses any of the elements of Sections 523(a)(2) or 523(a)(4). For the reasons, stated in the Motion, relief under Section 542 is only available to trustees. In sum, under the circumstances here,*

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, June 4, 2020

Hearing Room 5A

2:00 PM

CONT...

Aimen Elbusifi

Chapter 7

*granting leave to amend would be an exercise in futility.*

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

On November 13, 2019, Aimen Elbusifi ("Debtor" or "Defendant") filed a voluntary chapter 7 petition. Thomas H. Casey was appointed chapter 7 trustee ("Trustee"). On December 24, 2019, Trustee filed a "no-asset" report. On March 2, 2020, Debtor received a discharge. The case was closed on March 3, 2020.

On September 7, 2018, plaintiff Mohammed Angar ("Plaintiff"), pro se, filed a nondischargeability complaint (the "Complaint") against Defendant. The Complaint alleges one cause of action for "Fraudulent Agreement."

The adversary cover sheet (the "Coversheet") had three causes of action checked §§ 542, 523(a)(2), and §523(a)(4). These causes of action do not appear in the Complaint.

In sum, the Complaint alleges that Defendant borrowed monies, paid most back, Plaintiff sued for the maximum allowed in small claims court, got a judgment, Defendant

**Party Information**

**Debtor(s):**

Aimen Elbusifi

Represented By  
Brian J Soo-Hoo

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Aimen Elbusifi**

**Chapter 7**

**Defendant(s):**

Elbusifi Aimen

Represented By  
Michael D Franco

**Plaintiff(s):**

Mohammed Angar

Pro Se

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 4, 2020

Hearing Room 5A

2:00 PM

8:19-14441 Aimen Elbusifi

Chapter 7

Adv#: 8:20-01020 Angar v. Aimen

#40.00 CON'TD STATUS CONFERENCE RE: Adversary Complaint Against Debtor,  
Elbusifi, Aimen, For Fraudulent Agreement

FR: 5-7-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 7, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Contine the status conference to June 4, 2020 at 2:00 p.m., same date/time as hearing on Defendant's motion to dismiss. An updated status report is not required. (XX)

***Note: Appearances at this hearing are not required; non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

**Party Information**

**Debtor(s):**

Aimen Elbusifi

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 4, 2020**

**Hearing Room      5A**

2:00 PM

**CONT...      Aimen Elbusifi**

Brian J Soo-Hoo

**Chapter 7**

**Defendant(s):**

Elbusifi Aimen

Pro Se

**Plaintiff(s):**

Mohammed Angar

Pro Se

**Trustee(s):**

Thomas H Casey (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, June 11, 2020

Hearing Room 5A

9:30 AM

**8:18-10566 Eugene Martin Huapaya**

**Chapter 7**

Adv#: 8:20-01019 Kosmala v. Journey Investments Inc et al

**#1.00** CON'TD STATUS CONFERENCE RE: Complaint for Declaratory Relief; Breach of Contract; and Turnover Earnest Money Deposit (11 U.S. C. Section 542, 543)

FR: 4-30-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In light of the pending resolution of the matter, continue the status conference to June 11, 2020 at 9:30 a.m.; updated status report must be filed by May 28, 2020

if the adversary proceeding has not been dismissed by such date. (XX)

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, June 11, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Eugene Martin Huapaya  
June 11, 2020**

**Chapter 7**

Continue status conference to July 16, 2020 at 9:30 a.m. as a holding date.  
Updated status report must be filed by July 9, 2020 unless the adversary has  
been dismissed by such date. (XX)

***Note: Appearances at this hearing are not required; non-appearance at  
the hearing shall be deemed acceptance of the tentative ruling.***

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

**Debtor(s):**

Eugene Martin Huapaya

Represented By  
Joseph A Weber  
Fritz J Firman

**Defendant(s):**

Journey Investments Inc

Pro Se

Lawyers Title of Los Angeles

Pro Se

**Plaintiff(s):**

Weneta M.A. Kosmala

Represented By  
Erin P Moriarty

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Erin P Moriarty

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-10913 Cassandra Dean Duerscheidt**

**Chapter 7**

Adv#: 8:19-01122 M.G.B. Construction, Inc. v. Duerscheidt

**#2.00** PRE-TRIAL CONFERENCE RE:Complaint for: 1. Objection to Discharge [11 U.S.C. §727(a)(2)]; 2. Objection to Discharge [11 U.S.C. §727(a)(4)]

FR: 9-12-19; 11-7-19; 12-12-19

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**September 12, 2019**

Continue Status Conference to November 7, 2019 at 9:30 a.m. (XX)

A motion for default judgment may self-calendared for the same date/time as the continued Status Conference date. Alternatively, the motion may be filed without a hearing pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).

The motion for default judgment, supported by evidence, must be served on defendant and defendant's counsel in accordance with Local Rule 9013-1(d).

If the motion for default judgment is not heard by the continued date of the Status Conference, **THE ADVERSARY MAY BE DISMISSED** at the Status Conference for failure to prosecute.

***Note: Appearance at today's Status Conference is not required; Plaintiff to serve notice of the continued hearing date/time.***

-----

**November 7, 2019**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 11, 2020

Hearing Room 5A

9:30 AM

CONT... **Cassandra Dean Duerscheidt** Chapter 7

Answer timely filed. Continue status conference to December 12, 2019 at 9:30 a.m.; joint status report must be filed by December 3, 2019. (XX)

***Note: If both parties accept the foregoing tentative ruling, appearances at today's hearing are not required.***

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**December 12, 2019**

Discovery Cut-off Date: May 1, 2020  
Pretrial Conference Date: Jun. 11, 2020 at 9:30 a.m. (XX)  
Deadline to File Pretrial Stipulation: May 28, 2020

*Special Note:* A 727 denial of discharge adversary cannot be settled for the benefit of a single creditor but, rather, settlement proceeds must be turned over to the chapter 7 trustee for distribution to all creditors. *In re de Armond*, 240 B.R. 51 (Bankr.C.D.Cal.1999).

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

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**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 11, 2020 [UPDATED TO REFLECT LATE FILED PLEADING]**

Continue the Pretrial Conference to September 17, 2020 at 9:30 a.m.; amended pretrial stipulation must be filed by September 3, 2020 or

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 11, 2020

Hearing Room 5A

9:30 AM

CONT... **Cassandra Dean Duerscheidt**

**Chapter 7**

sanctions will be imposed on counsel for both parties. Any pretrial motions must be filed by or before July 10, 2020 so that they can be heard no later than August 20, 2020 at 10:30 a.m.. The amended pretrial stipulation should address the comments of the court in its tentative ruling and also whether each party wishes to submit direct testimony by declaration in advance of the trial in accordance with this court's Trial Procedures (see court's website) or if they prefer all live direct testimony. (XX)

Court's Comments

1. The Contested Issues of Law do not cite to a single statute applicable to the denial of discharge, e.g., 727(a)(2) or 727(a)(4).
2. The Contested Issues of Law do not state with specificity the how/when of the alleged false oaths, concealment of property interests, income, etc. See Pretrial Stipulation at pp. 8-10 and compare with Complaint at pp. 2-6.
3. Contrary to the representations in the Pretrial Stipulation, the parties are not ready for trial: Plaintiff indicates it intends to seek leave to amend the Complaint and to re-open discovery, whereas Defendant indicates she intends to seek to suspend the adversary proceeding pending her criminal trial. Such pretrial motions are not consistent with readiness for trial. Pretrial motions must be filed by the deadline noted above, i.e., no later than July 10, 2020.

***Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall lodge an order consistent with the same.***

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

**Debtor(s):**

Cassandra Dean Duerscheidt

Represented By  
Brian J Soo-Hoo

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

---

9:30 AM

**CONT... Cassandra Dean Duerscheidt**

**Chapter 7**

**Defendant(s):**

Cassandra Dean Duerscheidt Pro Se

**Plaintiff(s):**

M.G.B. Construction, Inc. Represented By  
Scott A Kron

**Trustee(s):**

Weneta M Kosmala (TR) Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 11, 2020

Hearing Room 5A

9:30 AM

**8:19-13752 Catherine Melissa-Ann Guinto**

**Chapter 7**

Adv#: 8:20-01004 Upstream Capital Investments LLC v. Guinto

**#3.00** CONT'D STATUS CONFERENCE RE: Complaint Seeking Non-Dischargeability of Debt in Core Adversary Proceeding.

FR: 4-2-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

No proof of service or joint status report have been filed. Plaintiff must appear and advise the court as to why the same were not timely filed.

***Note: Telephonic appearance by Plaintiff's counsel is required.***  
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**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 11, 2020

Hearing Room 5A

9:30 AM

CONT... Catherine Melissa-Ann Guinto

Chapter 7

**register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

**June 11, 2020 [TENTATIVE MODIFIED SINCE ORIGINAL POSTING]**

Joint status report was not timely filed by May 28, 2020. Impose sanctions in the amount of \$100 against Plaintiff's counsel for failure to do so.

Discovery Deadline:	Aug. 14, 2020
Deadline to attend mandatory mediation:	Sept. 30, 2020
Pretrial Conference:	Nov. 5, 2020 at 9:30
a.m.	(XX)
Joint Pretrial Stipulation due:	Oct. 22, 2020

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required; Plaintiff's counsel shall lodge a scheduling order consistent with the same. Sanctions payable within 30 days of the hearing, payable to the Clerk of the Bankruptcy Court - Central Dist. CA***

**Party Information**

**Debtor(s):**

Catherine Melissa-Ann Guinto	Represented By Lawrence B Yang
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**Defendant(s):**

Catherine Melissa-Ann Guinto	Pro Se
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**Plaintiff(s):**

Upstream Capital Investments LLC	Represented By Lynda E Jacobs
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Catherine Melissa-Ann Guinto**

**Chapter 7**

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14596 Jason M. Barrette**

**Chapter 7**

Adv#: 8:20-01008 Barrette v. United States of America, Treasury Department, Int

**#4.00** CONT'D STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt [11 U.S.C. Section 523]

FR: 4-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 7/16/2020 AT 9:30 A.M.,  
per Order Entered 4/20/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 7/16/2020 at 9:30 a.m., Per  
Order Entered 4/20/2020 (XX) - td (4/20/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Jason M. Barrette

Represented By  
James D. Hornbuckle

**Defendant(s):**

United States of America, Treasury

Pro Se

**Plaintiff(s):**

Jason M. Barrette

Represented By  
James D. Hornbuckle

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 11, 2020

Hearing Room 5A

10:00 AM

8:18-11407 John M. MacDonald

Chapter 13

#5.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

DAIMLER TRUST

VS.

DEBTOR

Docket 85

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

June 11, 2020

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... John M. MacDonald**

**Chapter 13**

**Debtor(s):**

John M. MacDonald

Represented By  
Joseph A Weber  
Fritz J Firman

**Movant(s):**

Daimler Trust

Represented By  
Sheryl K Ith

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 11, 2020

Hearing Room 5A

10:00 AM

8:18-11942 Maureen T. Todd

Chapter 13

#6.00 CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

TOWD POINT MORTGAGE TRUST 2017-2

VS.

DEBTOR

FR: 5-12-20

Docket 87

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion  
for Relief from the Automatic Stay (Settled by Stipulation) Entered 6/9/2020

Courtroom Deputy:

OFF CALENDAR: Order Granting Motion for Relief from the Automatic  
Stay (Settled by Stipulation) Entered 6/9/2020 - td (6/9/2020)

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the  
COVID-19 virus, notice is hereby given that ALL hearings before Judge  
Smith will be by TELEPHONE APPEARANCE ONLY until further notice.  
The courtroom will be locked. Any party who wishes to appear must  
register in advance by contacting CourtCall at (866) 582-6878. It is  
suggested that parties register with CourtCall at least 30 minutes prior  
to the hearing. Through June 30, 2020, CourtCall is offering discounted  
registration for attorneys and free registration for parties without an  
attorney.

May 12, 2020

Grant with 4001(a)(3) waiver and co-debtor relief.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 11, 2020

Hearing Room 5A

10:00 AM

CONT... Maureen T. Todd

Chapter 13

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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**June 11, 2020**

Grant motion with 4001(a)(3) waiver and co-debtor relief unless the parties are negotiating the terms of an APO. If more time is needed, the hearing may be continued by making a request during the calendar roll call just prior to the commencement of the hearing. Available continued dates are June 18, 2020, July 9, 2020 and July 16, 2020 at 10:00 a.m.

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

**Debtor(s):**

Maureen T. Todd

Represented By  
Christine A Kingston

**Movant(s):**

Towd Point Mortgage Trust 2017-2,

Represented By  
Katie M Parker

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 11, 2020

Hearing Room 5A

10:00 AM

8:18-13521 Jose F. Lopez

Chapter 13

#7.00 Hearing RE: Motion for Relief from the automatic stay .  
[PERSONAL PROPERTY]

NEW REZ LLC

VS.

DEBTOR

Docket 45

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 11, 2020 [UPDATED TENTATIVE TO REFLECT LATE OPPOSITION]**

Grant motion with 4001(a)(3) waiver unless the parties are negotiating the terms of an APO. If more time is needed, the hearing may be continued by making a request during the calendar roll call just prior to the commencement of the hearing. Available continued dates are June 18, 2020, July 9, 2020 and July 16, 2020 at 10:00 a.m.

**Note: This matter appears to be uncontested. Accordingly, no court**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 11, 2020

Hearing Room 5A

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10:00 AM

CONT... Jose F. Lopez

Chapter 13

***appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Jose F. Lopez

Represented By  
Michael D Franco

**Movant(s):**

NewRez LLC d/b/a Shellpoint

Represented By  
Eric P Enciso  
Kristin A Zilberstein

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-10044 Gregory Bettison**

**Chapter 13**

**#8.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

U.S. BANK NA

VS.

DEBTOR

Docket 56

**\*\*\* VACATED \*\*\* REASON: Order Approving Adequate Protection Agreement Entered 6/5/20**

**Courtroom Deputy:**

**OFF CALENDAR: Order Approving Adequate Protection Agreement  
Entered 6/5/20- mp/td 6/5/20**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Gregory Bettison

Represented By  
Anthony P Cara

**Movant(s):**

U.S. Bank Trust National

Represented By  
Angie M Marth

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 11, 2020

Hearing Room 5A

10:00 AM

8:20-10994 Erik F. Kaiser

Chapter 7

#9.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

CAB WEST, LLC

VS.

DEBTOR

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

June 11, 2020

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room      5A**

10:00 AM

**CONT...      Erik F. Kaiser**

**Chapter 7**

**Debtor(s):**

Erik F. Kaiser

Represented By  
Christine A Kingston

**Movant(s):**

Cab West, LLC

Represented By  
Sheryl K Ith

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 11, 2020

Hearing Room 5A

10:00 AM

8:20-11139 James Michael Vaccarella

Chapter 7

#10.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
AMERICAN HONDA FINANCE CORPORATION  
VS.  
DEBTOR AND RICHARD A. MARSHACK, CHAPTER 7 TRUSTEE

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

June 11, 2020

Grant with 4001(a)(3) waiver.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... James Michael Vaccarella**

**Chapter 7**

**Debtor(s):**

James Michael Vaccarella

Represented By  
Gary Polston

**Movant(s):**

American Honda Finance

Represented By  
Vincent V Frounjian

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 11, 2020

Hearing Room 5A

10:30 AM

**8:08-11747 John W Norling**

**Chapter 7**

Adv#: 8:08-01263 Werth et al v. Norling et al

**#11.00** Hearing RE: Plaintiffs' Motion to Reopen Adversary Proceeding

Docket 59

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 11, 2020**

Continue hearing to July 9, 2020 at 10:30 a.m. to allow Movant to correct defective notice issue. (XX)

Basis for Tentative Ruling:

Notice of the 14-day opposition filing deadline was not provided as required by LBR 9013-1(c)(2), which states that "the notice of motion must advise the opposing party that LBR 9013-1(f) requires a written response to be filed and served at least 14 days before the hearing."

**Party Information**

**Debtor(s):**

John W Norling

Represented By  
Stephen D Brittain

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... John W Norling**

**Chapter 7**

**Defendant(s):**

John W Norling

Represented By  
Leighton Anderson

Sakura D Norling

Represented By  
Leighton Anderson

**Joint Debtor(s):**

Sakura D Norling

Represented By  
Stephen D Brittain

**Plaintiff(s):**

Elvyn Dona Werth

Represented By  
David T Ward  
Paul J Kurtzhall  
J Scott Williams

Alice Dona Werth

Represented By  
David T Ward  
Paul J Kurtzhall  
J Scott Williams

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 11, 2020

Hearing Room

5A

10:30 AM

**8:16-11882 Stephen J Haythorne**

**Chapter 7**

Adv#: 8:16-01247 Damon v. Haythorne

**#12.00** CON'TD Examination of Judgment Debtor Stephen J. Haythorne RE:  
Enforcement of Judgment

FR: 7-16-19; 8-15-19; 10-17-19; 11-21-19; 1-30-20; 4-2-20

Docket 128

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9/10/2020 AT 10:30 A.M.,  
Per Order Entered 6/9/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Examination Continued to 9/10/2020 at 10:30 a.m. Per  
Order Entered 6/9/2020 (XX) - td (6/9/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2019**

Stephen Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.

-----

**August 8, 2019**

Stephen Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Stephen J Haythorne**

**Chapter 7**

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**August 15, 2019**

Stephen Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.

-----  
**October 17, 2019**

Judgment creditor has not sought the issuance of an OSC re contempt. Continue hearing to November 21, 2019 at 10:30 a.m. Any motion for OSC re contempt may be heard on the same date.

-----  
**November 21, 2019**

Judgment creditor to advise the court re the status of this matter. The court notes that judgment creditor has not sought the issuance of an OSC re contempt.

-----  
**January 30, 2020**

Judgment creditor to advise the court re the status of this matter, e.g., production of documents. Stephen Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.

-----  
**June 11, 2020**

Continue the examination to September 10, 2020 at 10:30 a.m.

Basis for Tentative Ruling

The courthouse remains closed to in-person court appearances and on-site in-person judgment debtor examinations. Judgment creditor is free to

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 11, 2020

Hearing Room 5A

10:30 AM

CONT... Stephen J Haythorne

Chapter 7

schedule an examination outside the courthouse, including by video conference, prior to September 10, 2020. Depending on the status of pandemic-related rules and policies in place on September 1, 2020, the September 10, 2020 hearing may be further continued.

***Note: If the Judgment Creditor accepts the foregoing tentative ruling, appearance at this hearing is not required and Judgment Creditor shall serve notice of the continued hearing date/time. Non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

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

**Debtor(s):**

Stephen J Haythorne

Represented By  
David S Henshaw

**Defendant(s):**

Stephen J Haythorne

Pro Se

**Plaintiff(s):**

Hugh C Damon

Represented By  
Robert P Goe  
Charity J Manee

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

10:30 AM

**8:16-11882 Stephen J Haythorne**

**Chapter 7**

Adv#: 8:16-01247      Damon v. Haythorne

**#13.00**      CON'TD Examination of Judgment Debtor/Third Person Kelli R. Haythorne RE:  
Enforcement of Judgment

FR: 7-16-19; 8-15-19; 10-17-19; 11-21-19; 1-30-20; 4-2-20

Docket      130

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9/10/2020 AT 10:30 A.M.,  
Per Order Entered 6/9/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Examination Continued to 9/10/2020 at 10:30 a.m. Per  
Order Entered 6/9/2020 (XX) - td (6/9/2020)**

**Tentative Ruling:**

**July 16, 2019**

Kelli Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.  
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**August 8, 2019**

Kelli Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.  
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**August 15, 2019**

Kelli Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom.  
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**October 17, 2019**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Stephen J Haythorne**

**Chapter 7**

Judgment creditor has not sought the issuance of an OSC re contempt. Continue hearing to November 21, 2019 at 10:30 a.m. Any motion for OSC re contempt may be heard on the same date.  
-----

**November 21, 2019**

Judgment creditor to advise the court re the status of this matter. The court notes that judgment creditor has not sought the issuance of an OSC re contempt.  
-----

**January 30, 2020**

Judgment creditor to advise the court re the status of this matter, e.g., production of documents. Kelli Haythorne to appear in court to be sworn in by the court clerk; the examination will take place outside the courtroom (no doctor's note was filed by January 16, 2020 excusing her appearance).  
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**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 11, 2020**

Continue the examination to September 10, 2020 at 10:30 a.m.

Basis for Tentative Ruling

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 11, 2020

Hearing Room 5A

10:30 AM

CONT... **Stephen J Haythorne**

**Chapter 7**

The courthouse remains closed to in-person court appearances and on-site in-person judgment debtor examinations. Judgment creditor is free to schedule an examination outside the courthouse, including by video conference, prior to September 10, 2020. Depending on the status of pandemic-related rules and policies in place on September 1, 2020, the September 10, 2020 hearing may be further continued.

***Note: If the Judgment Creditor accepts the foregoing tentative ruling, appearance at this hearing is not required and Judgment Creditor shall serve notice of the continued hearing date/time. Non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

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

Stephen J Haythorne

Represented By  
David S Henshaw

**Defendant(s):**

Stephen J Haythorne

Pro Se

**Plaintiff(s):**

Hugh C Damon

Represented By  
Robert P Goe  
Charity J Manee

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 11, 2020

Hearing Room 5A

10:30 AM

8:17-13342 David C. Park

Chapter 7

#14.00 Hearing RE: Trustee's Final Report and Application for Final Fees and Reimbursement of Expenses

[RICHARD A. MARSHACK, CHAPTER 7 TRUSTEE]

Docket 68

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 11, 2020**

Approve fees and expenses as requested.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.*

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... David C. Park**

**Chapter 7**

**Debtor(s):**

David C. Park

Represented By  
Raymond J Seo

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Neil Anapol

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 11, 2020

Hearing Room 5A

10:30 AM

**8:19-13770 Dove Real Estate & Association Management LLC**

**Chapter 11**

**#15.00** Hearing RE: Confirmation of Debtor and Debtor in Possession's Amended Chapter 11 Plan of Reorganization Dated March 24, 2020

(Set at DS Hrg. Held 4/9/20)

Docket 83

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 11, 2020 [GOLD STAR PLEADING]\***

Confirm plan as all of the applicable requirements of 11 U.S.C. 1129(a) have been satisfied. Post-confirmation Status Conference is set for Dec. 10, 2020 at 10:30 a.m.; post-confirmation Status Report must be filed by Dec. 1, 2020. All other post-confirmation reports required under the Local Bankruptcy Rules are waived. (XX)

*\*Special Note: The rare "Gold Star" designation above signifies an exceptionally well-prepared pleading. The Gold Star pleading here is the Motion to Confirm Chapter 11 Plan (confirmation brief) and attachments thereto. Well done.*

**Note: This matter appears to be uncontested. Accordingly, no court appearance at this hearing is required.**



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Dove Real Estate & Association Management LLC**

**Chapter 11**

**Party Information**

**Debtor(s):**

Dove Real Estate & Association

Represented By  
Daniel J Weintraub  
Crystle Jane Lindsey

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13770 Dove Real Estate & Association Management LLC**

**Chapter 11**

**#16.00 CON'TD STATUS CONFERENCE RE: Status of Chapter 11 Case; and (2)  
Requiring Report on Status of Chapter 11 Case**

FR: 12-5-19; 4-9-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**December 5, 2019**

Claims bar date:	Feb. 14, 2020
Deadline to serve notice of claims bar date:	Dec. 13, 2019
Deadline to file plan/disclosure statement:	Feb. 21, 2020
Continued status conference: a.m. (XX)	Apr. 9, 2020 at 10:30
Deadline to file updated status report:	Mar.26, 2020*

\*Requirement of an updated status report is waived if the plan and disclosure statement are timely filed.

***Note: If Debtors accept the foregoing tentative ruling and are in substantial compliance with the requirements of the U.S. Trustee, appearance at this hearing is not required. It is the responsibility of Debtors to confirm compliance with the U.S. Trustee prior to the hearing.***

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**April 9, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Thursday, June 11, 2020

Hearing Room 5A

10:30 AM

CONT... Dove Real Estate & Association Management LLC Chapter 11

**Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

Continue the status conference to June 11, 2020 at 10:30 a.m.; updated status report not required. (XX)

***Note: Appearances at this status conference are not required.***

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**June 11, 2020**

Take chapter 11 status conference off calendar in light of confirmation of plan.

***Note: Appearances at this status conference are not required.***

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

Dove Real Estate & Association

Represented By  
Daniel J Weintraub

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 11, 2020

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 11

#17.00 Hearing RE: Debtor Bruce Elieff's Objection to Claim No. 15 of Highland Springs Conference and Training Center

Docket 574

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 11, 2020 [THIS TENTATIVE RULING ALSO APPLIES TO #18 ON TODAY'S CALENDAR]**

Continue the hearing to September 10, 2020 at 2:00 p.m. to allow parties to seek discovery on the issue of alter ego liability of debtor Bruce Elieff for the debts owed by SCC/Black Bench LLC and SCC Acquisitions, Inc. to the holders of Claim #s 15 (Highland) and 19 (Banning). Any supplemental pleadings in support of the opposition to the objections to Claim #s 15 and 19 must be filed no later than August 27 2020 and any reply by September 3, 2020. (XX)

Basis for Tentative Ruling:

Bruce Elieff ("Elieff") filed two claim objections [dkt. 574 and 575] seeking to disallow the following claims under 11 U.S.C. § 502(b)(1) in their

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Bruce Elieff**  
entirety:

**Chapter 11**

1. Proof of claim no. 15 filed by Highland Springs Conference Center and Training Center ("Highland") in the general unsecured amount of \$881,398.89 based on a judgment for attorneys' fees (the "Highland Claim"), and
2. Proof of claim no. 19 filed by Banning Bench Community of Interest Association, Inc. ("Banning") in the general unsecured amount of \$747,360.09 based on a judgment awarding statutory attorneys' fees (the "Banning Claim").

The Claims are based on the same judgments for attorneys' fees and costs entered in a 2006 lawsuit brought under the California Environmental Quality Act. Claimants successfully challenged the certification by the City of Banning of an environmental impact report for a 1,500-acre real estate development project known as the Black Bench project. *Highland Springs Conference & Training Ctr. v. City of Banning* 244 Cal. App. 4th 267, 272 (2016).

The state court entered judgment awarding attorney's fees against SCC/Black Bench, LLC ("SCCBB") in 2008, and a subsequent judgment, after appeal, entered on February 8, 2017 adding SCC Acquisitions, Inc. ("SCCA") to the judgment as the alter ego of SCCBB (the "Judgment"). See, Obj. to Banning Claim, Ex. 1 (Ex. A-B and E of the Banning Claim).

A proof of claim executed and filed in accordance with the Federal Rules of Bankruptcy Procedure 3001(f) constitutes *prima facie* evidence of the validity and amount of the claim. See Rule 3001(f); *In re Lundell*, 223 F.3d 1035, 1039 (9th Cir. 2000). Therefore, a proof of claim will be deemed allowed unless a party in interest objects. *Lundell*, 223 F.3d at 1039. Once a party in interest objects, the proof of claim will still provide some evidence as to its validity and amount, and will be strong enough to carry over a mere formal objection without more. *Id.* Thus, a party objecting to a claim must present affirmative evidence to overcome the presumption of its validity by showing "facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claims." *Id.* (citing *In re Holm*, 931 F.2d 620,

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 11, 2020

Hearing Room 5A

10:30 AM

CONT...

**Bruce Elieff**

**Chapter 11**

623 (9th Cir. 1991); *In re King Street Inv., Inc.*, 219 B.R. 848, 858 (BAP 9th Cir. 1998). If the objector produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, then the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *Lundell*, 233 F.3d at 1039. The ultimate burden of persuasion remains at all times upon the claimant. *Id.*; *Holm*, 931 F.2d 620 (9th Cir. 1991).

Under 11 U.S.C. § 502(b)(1), a claim shall be disallowed if "such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured[.]"

In this case, Claimants filed the Claims in accordance with Rule 3001. The Claim was filed with Official Form 410 and included supporting documentation. See, Ex. A to the Objections (the Claims). Thus, Claimants have complied with Rule 3001 and the Claims are entitled to prima facie validity under Rule 3001(f).

Elieff has successfully rebutted the prima facie validity of the Claims. First, Elieff is not a named judgment debtor in the Judgment underlying the Claims. See, Banning Obj., Ex. 1 (Ex. A-B and E of the Banning Claim). Elieff did not have a prior contractual relationship with Claimants. See, Highland Obj., p. 4, ¶¶5-6; Banning Obj., p. 5, ¶¶5-6. Second, the order requiring Elieff to appear for examination does not support Claimants assertion that Claimants were asserting that Elieff was personally liable for the Judgment because on its face the order to appear for examination is directed to "Bruce Elieff *for* SCC Acquisitions, Inc." and "Bruce Elieff *for and on behalf of* SCC Acquisition, Inc." See, Opp'n, p. 4:14-25 and Ex. E (setting aside the admission of a violation of the automatic stay by Claimants by enforcing a prepetition debt against Elieff if Claimants argument is accurate).

Claimants respond by arguing that the Claims should be allowed because Elieff is the alter ego of SCCA and Claimants hold the Judgment against SCCA. Alter ego liability can form the basis for a proof of claim. *In re PW Commercial Const. Co., Inc.*, 2012 WL 4755165, at \*18-20; see also, *In re*

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 11, 2020

Hearing Room

5A

10:30 AM

CONT...

**Bruce Elieff**

**Chapter 11**

*Lombard Flats, LLC*, 2016 WL 1161593, at \*9 (N.D. Cal. Mar. 23, 2016) (finding alter ego claim against a chapter 11 debtor that is based on pre-petition facts and claims is included in the bankruptcy discharge by operation of § 1141(d) and § 524(a)). Individual creditors has standing to assert a claim against a corporation's sole shareholders on an alter ego theory. See, *Ahcom, Ltd. v. Smeding*, 623 F.3d 1248, 1249 (9th Cir. 2010). Elieff does not contest that alter ego can for the basis of a claim against Elieff but instead argues that alter ego is inapplicable in this case. See generally, Reply, p. 2:9-7:26.

"State law controls whether the bankruptcy court finds alter ego" and "[t]his finding is a question of fact." *In re Pajaro Dunes Rental Agency, Inc.*, 174 B.R. 557, 582 (Bankr. N.D. Cal. 1994)(citing *Matter of Christian & Porter Aluminum Co.*, 584 F.2d 326, 337 (9th Cir. 1978); *In re Schwarzkopf*, 626 F.3d 1032 1037 (9th Cir. 2010). "It is well-settled that a bankruptcy judge's alter ego findings can only be set aside if "clearly erroneous." *Christian, supra* at 337.

"California law provides that the party seeking to have the corporate entity disregarded has the burden of proving that the alter ego theory should be applied." *Id.* at 338; *21 Century Fin. Serv., LLC v. Manchester*, 255 F.Supp.3d 1012, 1022 (S.D. Cal. June 8, 2017)(stating that party requesting alter ego determination bears the burden of proof by a preponderance of the evidence)(citations omitted).

In general, California law has a "presumption of the separate existence of the corporate entity." *Mid-Century Ins. Co. v. Gardner*, 9 Cal. App. 4th 12015, 1212-13 (1992). "Since society recognizes the benefits of allowing persons and organizations to limit their business risks through incorporation, sound public policy dictates that disregard of those separate corporate entities be approached with caution." *Pac. Landmark Hotel, Ltd. v. Marriott Hotels, Inc.*, 19 Cal. App. 4th 615, 628 (1993). It "is well recognized that the law permits the incorporation of businesses for the very purpose of isolating liabilities among separate entities." *Id.* Under California law, the requirements for alter ego are "(1) that there be such a unity of interest and ownership that the separate personalities of the corporation and the individual or corporation no longer exist, and (2) that, if the acts are treated as those of the corporation alone, an inequitable result will follow." *Assoc. Vendors, Inc. v. Oakland Meat*

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Thursday, June 11, 2020

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10:30 AM

CONT...

**Bruce Elieff**

**Chapter 11**

Co., 210 Cal. App. 2d. 825, 837 (1962). Both elements are essential. *Cambridge Elecs. Corp. v. MGA Elecs.*, 227 F.R.D. 313, 326 (C.D. Cal. 2004); *S.E.C. v. Hickey*, 322 F.3d 1123, 1128 (9th Cir 2003). To determine whether there a unity of interest and ownership exists, courts frequently consider the twenty factors listed in *Associated Vendors*.

By rebutting the presumed validity of the Claims, the burden shifted to the Claimants to meet their ultimate burdens of proof. Both Claimants have made allegations but have provided little evidence to support their claims re alter ego. Nevertheless, the court is persuaded, after having reviewed and considered certain unpublished, but instructive, appellate decisions, that Claimants should be afforded an opportunity to conduct discovery. Once such discovery is completed, the court will determine if an evidentiary hearing is warranted. See, *In re Lombard Flats, LLC*, 2016 WL 1161593 (Dist.Ct.ND.Cal 2016), *In re Locklin*, 2015 WL 8267995 (9th Cir.BAP 2015), *In re Desert Springs Financial LLC*, 2017 WL 1434403 (9th Cir.BAP 2017).

Discovery will be limited to alter ego liability of Elieff as to the judgment debtors SCCA and SCCBB only. Stated otherwise, Claimants will not be permitted to attempt to establish alter ego liability for their claims by pointing to Elieff's relationship with *other* entities unrelated to SCCA, SCCBB or Claimants.

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 11, 2020

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 11

#18.00 Hearing RE: Debtor Bruce Elieff's Objection to Claim No. 19 of Banning Bench Community of Interest Association, Inc.

Docket 575

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 11, 2020**

See tentative ruling for #17 on today's calendar.

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#19.00** Hearing RE: Debtor Bruce Elieff's Objection to Claim Nos. 30, 31, 32, 33 and 34 of Robert Nolan

Docket 576

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 7/9/2020 AT 10:30 A.M.,  
Per Order Entered 6/9/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 7/9/2020 at 10:30 am, Per Order  
Entered 6/9/2020 (XX) - td (6/9/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 11, 2020

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 11

#20.00 CON'TD Hearing RE: Motion for Order: (1) Authorizing Sale of Debtor's Real Property Free and Clear of Liens Pursuant to 11 U.S.C. Sections 363(b) and 363(f); (2) Approving Overbid Procedures; (3) Determining Buyer or Successful Bidder to Be a Good Faith Purchaser; (4) Approving Compensation of Real Estate Broker; (5) Authorizing Distribution of Sale Proceeds; and (6) Waiving 14 Day Stay Imposed by Fed. R. Bankr. P. 6004(h) and Local Bk. Rule 6004-1  
**[Affects the Rim Crest Lots]**

FR: 5-21-20

Docket 499

**Courtroom Deputy:**

**SPECIAL NOTE: Per voicemail received from Debtor's counsel, Mr. Mike Neue [(949) 836-3530], Debtor will be requesting a continuance of this matter. - sb (5/20/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 21, 2020**

Grant motion subject to overbid -- if there are overbidders, the sale shall take place separate from the telephonic hearing.

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 11, 2020

Hearing Room 5A

10:30 AM

CONT... Bruce Elieff

Chapter 11

***Note: If Debtors accept the foregoing tentative ruling, appearance at this hearing is not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.***

-----  
June 11, 2020

Grant motion subject to overbid -- if there are overbidders, the sale shall take place separate from the telephonic hearing.

***Note: If Debtors accept the foregoing tentative ruling, appearance at this hearing is not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.***

Party Information
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Debtor(s):

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

2:00 PM

**8:17-10706 John Jean Bral**

**Chapter 11**

Adv#: 8:17-01095 Steward Financial LLC v. Bral

**#21.00** Hearing RE: Defendant John Bral's Fed. R. Bankr. P. 9011 Motion for Non-Monetary Terminating Sanctions Dismissing Plaintiff's Second Amended Complaint and Monetary Sanctions Against Steward Financial, LLC; Levene, Neale, Bender, Yoo & Brill, L.L.P; and Levy, Small & Lallas, Jointly and Severally, in the Amount of \$36,890.00

Docket 132

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Defendant John Bral's  
Notice of Taking Motion Off Calendar, filed 5/18/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Defendant John Bral's Notice of Taking Motion Off  
Calendar, filed 5/18/2020 - td (5/18/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel  
Bobby Samini  
Dean A Ziehl  
Gary A Pemberton

**Defendant(s):**

John Jean Bral

Represented By  
William N Lobel  
Beth Gaschen  
Alan J Friedman  
Gary A Pemberton

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... John Jean Bral**

**Chapter 11**

**Plaintiff(s):**

Steward Financial LLC

Represented By  
Krikor J Meshefejian  
Gary E Klausner

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 11, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-14169 Gary Clesceri**

**Chapter 7**

Adv#: 8:20-01013 Hopwood et al v. Clesceri et al

**#22.00** CON'T'D Hearing RE: Defendants' Motion to Dismiss for Failure to State a Claim Upon Which Relief Can Be Granted

FR: 5-21-20

Docket 3

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 11, 2020**

Grant the motion to dismiss with prejudice on the ground that the Complaint was untimely filed.

Basis for Tentative Ruling:

On October 24, 2019, Gary Clesceri ("Defendant Gary") and Charlene Clesceri ("Defendant Charlene")(collectively, "Defendants") filed a voluntary chapter 7 petition. The deadline for objecting to discharge was February 3, 2020 (the "523/727 Deadline"). On February 4, 2020, Andrew J. Hopwood ("Plaintiff Andrew") and Kathleen M. Hopwood ("Plaintiff Kathleen") (collectively "Plaintiffs") filed a nondischargeability complaint against Defendants pursuant to 11. U.S.C §§ 523 and 727(a)(2)-(7) (the "Complaint"),.

Defendants now move to dismiss the Complaint under FRCP 12(b)(6) (the "Motion")[AP dkt. 3]. Plaintiffs oppose the Motion.

1. Legal Standard

FRCP 12(b)(6) is made applicable to adversary proceedings under

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 11, 2020

Hearing Room 5A

2:00 PM

CONT... Gary Clesceri

Chapter 7

FRBP 7012. 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. *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009). 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. The plausibility standard is not akin to a "probability requirement," but it asks more than a sheer possibility that a defendant has acted unlawfully. Where a complaint pleads facts that are merely consistent with a defendant's liability, it stops short of the line between possibility and probability of entitlement to relief. In keeping with these principles a court considering a motion to dismiss can choose to begin by identifying pleadings that, because they are no more than conclusions, are not entitled to the assumption of truth. *Id.* at 1950. While legal conclusions can provide the framework of a complaint, they must be supported by factual allegations. When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief. *Id.* The court must construe the complaint in the light most favorable to the plaintiff, and accept all well-pleaded factual allegations as true. *Johnson v. Riverside Healthcare Sys., LP.*, 534 F.3d 1116, 1122 (9<sup>th</sup> Cir. 1990).

In *Atlantic Corp. v. Twombly*, 550 U.S. 544, 561 (2007), the Supreme Court established more stringent notice-pleading standard for motions to dismiss for failure to state a claim upon which relief may be granted. A plaintiff is required to provide more than "labels and conclusions, and a formulaic recitation of the elements of a cause of action ...." *Id.* The plaintiff must provide "enough facts to state a claim to relief that is plausible on its face." *Twombly* overruled the more liberal *Conley v. Gibson* standard, which held that 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 which would entitle him to relief. With the new standard in *Twombly*, the Supreme Court has said that the facts asserted in support of the claim need to cross the line "from conceivable to plausible."

The Court may consider: 1) the complaint and answer; 2) any documents attached or mentioned in the pleadings; 3) documents not attached but "integral" to the claims; and 4) matters subject to judicial notice.



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 11, 2020

Hearing Room 5A

2:00 PM

CONT...

Gary Clesceri

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*Coto Settlement v. Eisenberg*, 593 F.3d 1031, 1038 (9th Cir. 2010); *Lee v. City of Los Angeles*, 250 F.3d 668, 688 (9th Cir. 2001)("If the documents are not physically attached to the complaint, they may be considered if the documents' 'authenticity ... is not contested' and 'the plaintiff's complaint necessarily relies' on them."); *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 1988)("The court need not, however, accept as true allegations that contradict matters properly subject to judicial notice or by exhibit."); *Gerritsen v. Warner Bros. Ent. Inc.*, 116 F. Supp. 3d 1104, 1118 (C.D. Cal. 2015)("The incorporation by reference doctrine "permits a district court to consider documents whose contents are alleged in a complaint and whose authenticity no party questions, but which are not physically attached to the [plaintiff's] pleadings."). If the court considers evidence that is outside the four categories listed above, the court must convert the FRCP 12(b)(6) motion to a motion for summary judgment under FRCP 56. See, FRCP 12(d); *Gerritson*, *supra*, at 1118.a

2. Timeliness of the Complaint

Plaintiff filed the Complaint on February 4, 2020, one day after the deadline expired on February 3, 2020. FRBP 4004(a) and FRBP 4007(c) both provide in relevant part that a complaint challenging a debtor's dischargeability must be filed no later than 60 days after the first date set for the meeting of creditors. A motion to extend time to file such complaint must be made before the time has expired. See FRBP 4004(a) and 4007(c).

As pointed out by Defendants, creditors must move for extensions of the time to file a complaint under FRBP 4007(c) before the time for filing has expired. *Anwar v. Johnson*, 720 F.3d 1183, 1186 (9th Cir. 2013). The excusable neglect standard for missing a deadline under FRCP 9006(b)(1) does not apply to §523 actions because FRBP 9006(b)(3) expressly provides that bankruptcy courts may extend the filing deadline "only to the extent and under conditions stated in" FRBP 4007(c). The prior approval of an extension requirement of FRBP 4007(c) distinguishes this deadline from most others set by FRBP, which may be extended at any time upon a showing of good cause or excusable neglect. Indeed, the Ninth Circuit has consistently held that the 60-day limit for filing nondischargeability complaints under § 523(c) is "strict" and "cannot be extended unless a motion is made before the 60-day limit expires."

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Gary Clesceri

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See, *Anwar*, 720 F.3d at 1186 (citing *Anwiler v. Patchett (In re Anwiler)*, 958 F.2d 925 (9th Cir. 1992)); *Classic Auto Refinishing Inc. v. Marino (In re Marino)*, 37 F.3d 1354, 1358 (9th Cir. 1994); *Jones v. Hill (In re Hill)*, 811 F.2d 484, 486 (9th Cir. 1987).

Bankruptcy courts do not have the discretion to retroactively extend the deadline set in FRBP 4007(c), except in "unique and exceptional circumstances." *Anwar v. Johnson*, 720 F.3d 1183, 1188 (9th Cir. 2013) (affirming dismissal of the plaintiff's nondischargeability complaint because it was untimely filed due to technical problems with the computer of the plaintiff's counsel). The *Anwar* court held:

[T]he fact that Anwar missed the filing deadline by less than an hour is immaterial. See *Kelly v. Gordon (In re Gordon)*, 988 F.2d 1000, 1001 (9th Cir.1993) (denying equitable relief from FRBP 4007(c) deadline where complaint filed two days late); *Moody v. Bucknum (In re Bucknum)*, 951 F.2d 204, 205–06 (9th Cir.1991) (same). Nor is the lack of prejudice to the debtors significant. See *Baldwin Cnty. Welcome Ctr. v. Brown*, 466 U.S. 147, 152, 104 S.Ct. 1723, 80 L.Ed.2d 196 (1984) (holding that lack of prejudice to opposing party "is not an independent basis for invoking [equitable exceptions] and sanctioning deviations from established procedures"). That Anwar seeks to file a fraud claim is similarly irrelevant to the analysis. See *In re Kennerley*, 995 F.2d at 146. Finally, the advent of mandatory electronic filing systems does not upend this body of precedent, and the fact that Anwar's untimely filing stemmed from difficulty with an electronic filing system is immaterial. Paper filing systems present their own unique opportunities for parties to miss their deadlines... In short, absent unique and exceptional circumstances not present here, we do not inquire into the reason a party failed to file on time in assessing whether she is entitled to an equitable exception from FRBP 4007(c)'s filing deadline; under the plain language of the rules and our controlling precedent, there is no such exception.

*Id.* at 1188

The "unique and exceptional circumstances" permitting the filing of an

**United States Bankruptcy Court  
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Gary Clesceri

Chapter 7

untimely complaint are limited to situations where it is necessary to remedy an explicitly misleading statement by the court. *In re Kennerly*, 995 F.2d 145, 147-48 (9th Cir. 1993); accord *Williams v. Sanderson*, 723 F.3d 1094, 1103 (9th Cir. 2013); See also, *Radakovich v. Wilson (In re Radovich)*, 2014 Bankr.LEXIS 2017 (BAP 9<sup>th</sup> Cir. 2014); *Shull v. Wells (In re Wells)*, 2010 WL 6259961,\*3-4 (BAP 9<sup>th</sup> Cir. 2010).

Here, Plaintiffs have not provided evidence sufficient to meet the "unique and exceptional circumstances" exception to the strict filing deadline rule, if such an exception even exists. *Kennerly* at 147 (calling into doubt the existence of the exception but noting that such exception would appear to be limited to situations where the court has explicitly misled a party). Plaintiffs have presented no evidence that the court in any way misled them regarding either the deadline or the requirements for electronic filing. In the Declaration of Lisa Salisbury, Ms. Salisbury states in paragraph 13 therein:

"On February 3, 2020, after many attempts to efile and use the CM/ECF website, I learned *the credentials were not set up for efilng*. However, I had previously electronically filed documents in the bankruptcy cases entitled, In re: Lauritzen (Case No. 8:16-bk-13273-ES) and In Re: Paul Edalat (Case No. 8:14-bk-14529-TA) using the same credentials." (emphasis added).

In the Declaration of Lisa Salisbury attached to the Opposition to the Motion for Sanctions, Ms. Salisbury attaches as Exhibit A, a document she represents as proof that her options in creating a new CM/ECF account was limited to another court. However, Exhibit A is actually a screenshot relating to PACER. PACER and CM/ECF are two entirely different systems with different log-ins.

In neither declaration does Ms. Salisbury indicate that she actually read the instructions and requirements for electronic registration and filing set forth in Section 3.2 of the Court Manual which is available on the court's website. As to the representation that she was previously able to electronically file documents in the case of *In re Lauritzen*, the court did review that docket and determined that though she filed the complaint[Docket #1] over the counter, two additional pleadings were filed

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Gary Clesceri

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electronically under her name [Docket #s 4 and 11]. However, subsequent to those filings, the last two documents filed by Ms. Salisbury were filed over the counter. Why? No explanation is provided. As to *In re Edalat*, there are over 200 docket entries. Ms. Salisbury did not identify which documents she filed electronically in that case. A quick scan of the dockets in the main case and in a related adversary proceeding did not reveal any documents electronically filed by her in that case.

In sum, Plaintiffs have failed to present evidence sufficient to persuade this court that "unique and exceptional circumstances" prevented a timely filing of the Complaint. Because the Complaint was untimely, the court need not address the merits of the complaint itself or entertain any request for leave to file an amended complaint. The court does note parenthetically that even if Plaintiffs had established unique and exceptional circumstances, there would have been no basis for the allowance of any 727 claims as no 727 allegations were pled in the Complaint and, therefore, an amendment would have been futile because the facts alleged in any amendment could have have legally related back to the Complaint.

**Party Information**

**Debtor(s):**

Gary Clesceri

Represented By  
Michael G Spector

**Defendant(s):**

Gary Clesceri

Represented By  
Michael G Spector

Charlene Clesceri

Represented By  
Michael G Spector

**Joint Debtor(s):**

Charlene Clesceri

Represented By  
Michael G Spector

**United States Bankruptcy Court  
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Santa Ana  
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**CONT... Gary Clesceri**

**Chapter 7**

**Movant(s):**

Gary Clesceri

Represented By  
Michael G Spector

Charlene Clesceri

Represented By  
Michael G Spector

**Plaintiff(s):**

Andrew J Hopwood

Represented By  
Lisa G Salisbury

Kathleen M Hopwood

Represented By  
Lisa G Salisbury

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**8:19-14169 Gary Clesceri**

**Chapter 7**

Adv#: 8:20-01013 Hopwood et al v. Clesceri et al

**#23.00** CONT'D Hearing RE: Defendants' Motion for Sanctions Against Andrew Hopwood, Kathleen Hopwood and Lisa Salisbury, Pursuant to Bankruptcy Rule 9011

FR: 4-16-20; 5-21-20

Docket 7

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 16, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue hearing to May 21, 2020 at 2:00 p.m., same date/time as hearing on Defendants' motion to dismiss the adversary proceeding. (XX)

Court's Comments for the 5/21/20 Hearing

As many of the issues raised by the Motion are also relevant to the pending 12(b)(6) motion to dismiss filed by Defendants and scheduled for May 21, 2020, the court would prefer to hear both motions at the same time. For the convenience of the parties, the court has identified below various issues

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**CONT...**      **Gary Clesceri**  
regarding the Motion.

**Chapter 7**

1. It is undisputed that the Complaint was untimely filed. It is also undisputed that the decisions of the 9th Circuit are binding on this court. In *Anwar v. Johnson*, 720 F.3d 1183, plaintiff's counsel missed the deadline for filing a 523(a) nondischargeability action by less than hour due to technical problems with his computer. In affirming the decision of the bankruptcy court to dismiss the action with prejudice on the grounds that it lacked authority to retroactively extend the deadline, the 9th Circuit held:

"Reinforcing the statement that creditors must move for extensions of FRBP 4007(c)'s filing deadline before the time for filing has expired, FRBP 9006(b)(3) states that bankruptcy courts may extend this deadline "only to the extent and under the conditions stated in" FRBP 4007(c) itself. Fed. R. Bankr.P. 9006(b)(3). This requirement distinguishes FRBP 4007(c)'s deadline from most others set by the bankruptcy rules, which bankruptcy courts may extend at any time upon a showing of good cause or excusable neglect. Fed. R. Bankr.P. 9006(b)(1).

Consistent with the plain language of FRBP 4007(c) and 9006(b)(3), we have repeatedly held that the sixty-day time limit for filing nondischargeability complaints under 11 U.S.C. § 523(c) is "strict" and, without qualification, "cannot be extended unless a motion is made before the 60-day limit expires." *In re Kennerley*, 995 F.2d at 146 (citing *Anwiler v. Patchett (In re Anwiler)*, 958 F.2d 925 (9th Cir.1992)); see also, e.g., *Classic Auto Refinishing, Inc. v. Marino (In re Marino)*, 37 F.3d 1354, 1358 (9th Cir.1994); *Jones v. Hill (In re Hill)*, 811 F.2d 484, 486 (9th Cir.1987). Accordingly, Anwar was not entitled to a retroactive extension of the filing deadline based on equitable considerations or a local rule of bankruptcy procedure that purports to grant the bankruptcy court discretion to excuse untimely filings. The bankruptcy court lacked equitable power to grant Anwar relief from her untimely filings. "In bankruptcy cases, a court's equitable power is derived from 11 U.S.C. § 105(a)," *In re Anwiler*, 958 F.2d at 928 n. 5, which authorizes the court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]," 11 U.S.C. § 105(a). However, "whatever equitable powers remain in the bankruptcy courts must and can only be exercised within the confines of the Bankruptcy Code." *Norwest Bank Worthington v. Ahlers*, 485 U.S. 197, 206, 108 S.Ct. 963, 99 L.Ed.2d 169 (1988). These confines include deadlines set by the Federal Rules of Bankruptcy Procedure. See *Zidell, Inc. v. Forsch (In re Coastal Alaska Lines, Inc.)*, 920 F.2d 1428, 1432 (9th Cir.1990) (holding that the bankruptcy court may not invoke its equitable power under § 105(a) to enlarge the time for filing a proof of claim under FRBP 3002(c), where FRBP 9006(b)(3) limits the grounds for extension to those stated in FRBP 3002(c) itself). Because granting Anwar a retroactive extension of the filing deadline would conflict with the plain language of FRBP 4007(c) and 9006(b)(3), the bankruptcy court could not rely on its equitable powers to do so. See *Childress v. Middleton Arms, L.P. (In re Middleton Arms, L.P.)*, 934 F.2d 723, 725 (6th Cir.1991) ("bankruptcy courts cannot use equitable principles to

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**CONT...**

**Gary Clesceri**

**Chapter 7**

disregard unambiguous statutory language”) (internal quotation marks and citation omitted).

Thus, the fact that Anwar missed the filing deadline by less than an hour is immaterial. See *Kelly v. Gordon (In re Gordon)*, 988 F.2d 1000, 1001 1183 (9th Cir. 2013)."

2. Contrary to the position taken by Plaintiffs, the restriction of FRBP 9006(b) (3) does apply to nondischargeability actions. Importantly, Plaintiffs do not address *Anwar* at all in their Opposition. The court finds this surprising as Plaintiffs were alerted to *Anwar* by Defendant's counsel prior to the filing of the Motion and in the Motion itself.

3. The Circuit does offer tardy plaintiffs a sliver of hope by not entirely ruling out the possibility that there could be a "unique and exceptional circumstances" equitable exception to Rule 4007(c), opining that "absent unique and exceptional circumstances not present here, we do not inquire into the reason a party failed to file on time in assessing whether she is entitled to an equitable exception from FRBP 4007(c)'s filing deadline; under the plain language of the rules and our controlling precedent, there is no such exception."

4. At the May 21, 2020 hearing, the parties should be prepared to argue whether "unique and exceptional" circumstances exist in this case. On the one hand, the Court in *Anwar* noted that the "fact that Anwar's untimely filing stemmed from difficulty with an electronic filing system is immaterial." On the other hand, the filing problem in *Anwar* was caused by technical issues with the attorneys own computer, whereas the assertion here is that the court's ECF system was the cause of the tardiness.

5. The caption of the Complaint states claims under both 523 and "727(a)(2) through 7." However, the body of the Complaint does not allege any facts or raise any issues of law concerning 727(a) and Plaintiffs do not discuss any claims under 727 in their opposition to the Motion. The inclusion of 727 in the caption has caused a delay in the entry of Debtor's discharge order as to debt other than Plaintiff's 523 claim. On the face of it, Plaintiffs' refusal to withdraw the 727 language appears to be unfounded and a basis for 9011 sanctions.

6. The sole claim for relief pled in the Complaint is fraud under 523(a)(2)(A). The elements of fraud include a knowing misrepresentation, false statement



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**CONT...**

**Gary Clesceri**

**Chapter 7**

omission made by a defendant to a plaintiff with the intent to deceive the plaintiff. In this matter, no such allegations are made as to Charlene Clesceri. If Plaintiffs cannot allege any statements made by defendant Charlene Clesceri, the complaint would appear to be unfounded as to her. The refusal to dismiss her from the complaint may be grounds for 9011 sanctions.

7. The court is not inclined to grant Defendant's request for daily sanctions of \$500 since February 3, 2020 (or \$36,500 as of today's hearing).

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**June 11, 2020**

Grant the Motion for sanctions in the amount of \$5,000.00 on the basis that filing a complaint with a caption that included denial of discharge under Section 727 was frivolous in light of the fact that not a single allegation relating to such statute was set forth in the Complaint. Sanctions are payable by counsel for Plaintiffs within 45 days of the entry of the order granting the Motion.

Basis for Tentative Ruling

A party may be sanctioned: (1) if the party fails to conduct an inquiry reasonable under the circumstances; (2) if the party presents a motion or complaint for an improper purpose such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; (3) if the claims, defenses, and other legal contentions therein are not founded upon existing law or upon a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; or (4) if the allegations and other factual contentions have no evidentiary support and are not likely to have evidentiary support after a reasonable opportunity for further investigation or discovery. See FRBP 9011(b) and (c).

In this case, the § 727 allegations against Defendants were frivolous because there were no § 727 factual allegations or claim for relief alleged under § 727 in the Complaint. The only reference to § 727 is on the title page of the Complaint. See, Compl., p. 1. Moreover, the failure to include any cause of action under § 727 was not reasonable, or made in error, because

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Gary Clesceri

Chapter 7

the Complaint also fails to allege any facts that would give rise to a claim for relief under § 727(a)(2)-(7), such as concealment of assets, false oaths, destruction of business records, failure to obey a lawful order. See, Compl., p. 4-7, ¶¶11 -21. Indeed, the Opposition fails to provide any argument on why the § 727 causes of action are not frivolous. See generally, Opp'n; Reply, p. 3-4, ¶6. Notice of this deficiency was provided to Plaintiffs by Defendants' counsel's email to Plaintiffs' counsel in which Defendants' counsel pointed out that no allegations relating to § 727 were made, but Plaintiffs' counsel did not address this point in her emails or amend the Complaint. See Mot., p. 21-23 of 27 (top of page); see also Opp'n, Ex. C, p. 1-6. Accordingly, because the Complaint does not even include a claim for relief under §727 and alleges no facts whatsoever that could conceivably relate to a claim for relief under §727 (not even a conclusory recitation of any subsection of §727(a)), the reference to §727 in the title section was completely unfounded and had the effect of delaying Defendants' entire discharge. Moreover, the failure to allege any facts relative to §727 also necessarily precluded any future amendment of the Complaint as a matter of law.

Having reviewed the Motion, Opposition, Complaint and other documents filed in connection therewith, the court cannot make a similar finding of frivolousness as to the §523(a) claim for relief. Leave to amend complaints are liberally granted as a matter of 9th Circuit policy. Even if Defendants could have established grounds for dismissal of the Complaint on its merits as to the §523(a) claim, the court would likely have allowed leave to amend the Complaint, even as to Charlene Clesceri.

**Party Information**

**Debtor(s):**

Gary Clesceri

Represented By  
Michael G Spector

**Defendant(s):**

Gary Clesceri

Represented By  
Michael G Spector

Charlene Clesceri

Represented By  
Michael G Spector

**United States Bankruptcy Court  
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**CONT... Gary Clesceri**

**Chapter 7**

**Joint Debtor(s):**

Charlene Clesceri

Represented By  
Michael G Spector

**Movant(s):**

Gary Clesceri

Represented By  
Michael G Spector

Charlene Clesceri

Represented By  
Michael G Spector

**Plaintiff(s):**

Andrew J Hopwood

Represented By  
Lisa G Salisbury

Kathleen M Hopwood

Represented By  
Lisa G Salisbury

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

United States Bankruptcy Court  
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8:19-14169 Gary Clesceri

Chapter 7

Adv#: 8:20-01013 Hopwood et al v. Clesceri et al

#24.00 CON'TD STATUS CONFERENCE RE: Complaint to Determine the Dischargeability and Objecting to Debtor's Discharge of Debt Pursuant to Sections 523 and 727 of The Bankruptcy Code

FR: 4-30-20; 5-21-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue the status conference to May 21, 2020 at 2:00 p.m., same date/time as hearing on Defendants' motion to dismiss; updated status report not required. (XX)

**Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.**

Party Information

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**Thursday, June 11, 2020**

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**CONT... Gary Clesceri**

**Chapter 7**

**Debtor(s):**

Gary Clesceri

Represented By  
Michael G Spector

**Defendant(s):**

Gary Clesceri

Pro Se

Charlene Clesceri

Pro Se

**Joint Debtor(s):**

Charlene Clesceri

Represented By  
Michael G Spector

**Plaintiff(s):**

Andrew J Hopwood

Represented By  
Lisa G Salisbury

Kathleen M Hopwood

Represented By  
Lisa G Salisbury

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, June 17, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14326 Marc Steven Ward and Candace Lynn Ward**

**Chapter 7**

**#1.00 Hearing RE: Reaffirmation Agreement Between Debtor and Ally Bank  
(Re: 2017 Jeep Wrangler UNL - \$31,650.21)**

Docket 13

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Rescission of  
Reaffirmation Agreement filed 6/1/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Rescission of Reaffirmation Agreement filed  
6/1/2020 - td (6/1/2020)**

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

**Debtor(s):**

Marc Steven Ward

Represented By  
Kevin J Kunde

**Joint Debtor(s):**

Candace Lynn Ward

Represented By  
Kevin J Kunde

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Wednesday, June 17, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14630 Kelli Dawn Newton**

**Chapter 7**

**#2.00** Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Americredit Financial Services, Inc. Dba GM Financial (RE: 2014 Chevrolet Cruze - \$6,756.80)  
**(CB CASE)**

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Kelli Dawn Newton

Pro Se

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Wednesday, June 17, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14984 Christine Jane Healey**

**Chapter 7**

**#3.00** Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Ally Bank  
(RE: 2014 RAM 3500 - Amount: \$23,231.53)  
**[SC CASE]**

Docket 18

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Christine Jane Healey

Represented By  
John A Harbin

**Trustee(s):**

Richard A Marshack (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Wednesday, June 17, 2020**

**Hearing Room 5A**

9:30 AM

**8:20-10259 Veronica A Cueva**

**Chapter 7**

**#4.00** Hearing RE: Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (RE: 2015 Nissan Sentra - \$5,287.54)  
**(TA CASE)**

Docket 8

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Veronica A Cueva

Represented By  
Marc Weinberg

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Wednesday, June 17, 2020**

**Hearing Room 5A**

9:30 AM

**8:20-10923 Salvador Ojeda Salas**

**Chapter 7**

**#5.00 Hearing RE: Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (RE: 2016 Toyota RAV 4 - \$9,560.85)**

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Salvador Ojeda Salas

Represented By  
Marlin Branstetter

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 18, 2020

Hearing Room 5A

9:30 AM

**8:18-10053 William S. Stewart**

**Chapter 7**

Adv#: 8:19-01038 Naylor v. Advanced Innovative Recovery Technologies, Inc.

**#1.00** CON'TD STATUS CONFERENCE RE: Complaint for: (1) Breach of Contract; (2) For Money; and (3) Common Count (Quantum Meruit - Services Rendered)

FR: 5-30-19; 10-10-19; 12-19-19

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 30, 2019**

In light of pending settlement, continue status conference to October 10, 2019 at 9:30 a.m.; updated status report must be filed by October 3, 2019 if the settlement has not been approved by the Court by such date. (XX)

***Note: Appearances at this status conference are not required; Plaintiff to serve notice of the continued hearing date/time.***

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**October 10, 2019**

In light of pending settlement, continue status conference one final time to

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

9:30 AM

CONT...

**William S. Stewart**

**Chapter 7**

December 19, 2019 at 9:30 a.m.; updated status report must be filed by December 5, 2019 if the adversary proceeding is still pending as of such date.  
(XX)

***Note: Appearances at this hearing are not required.***  
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**June 18, 2020**

Continue status conference to September 17, 2020 at 9:30 a.m.; updated status report must be filed by September 3, 2020.

***Note: Appearances at this hearing are not required. Plaintiff shall serve notice of the continued hearing date/time.***

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

William S. Stewart	Pro Se
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**Defendant(s):**

Advanced Innovative Recovery	Pro Se
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**Joint Debtor(s):**

Barbara E. Stewart	Pro Se
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**Plaintiff(s):**

Karen Sue Naylor	Represented By Christopher Minier
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**Trustee(s):**

Karen S Naylor (TR)	Represented By Nanette D Sanders Brian R Nelson
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United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 18, 2020

Hearing Room 5A

9:30 AM

8:19-10275 Michael J Duff

Chapter 7

Adv#: 8:19-01084 Constantin et al v. Duff

#2.00 CON'TD PRE-TRIAL CONFERENCE RE: Complaint to Deny Debtor's Discharge

FR: 8-1-19; 1-30-20; 2-20-20; 5-21-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 1, 2019**

Discovery Cut-off Date: Nov. 4, 2019  
Deadline to Attend Mediation: Dec. 20, 2019  
Pretrial Conference Date: Jan. 30, 2020 at 9:30 a.m.  
(XX)  
Deadline to Lodge Joint Pretrial Stipulation: Jan. 16, 2020

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 18, 2020

Hearing Room 5A

9:30 AM

CONT... Michael J Duff  
June 18, 2020

Chapter 7

Approve pretrial stipulation. Set trial for January 27, 2021 and January 28, 2021 commencing at 9:00 a.m. each day. The court's Trial Procedures will apply, including re the submission of declarations and evidentiary objections to the same.

*Special Note:* The trial has been set for the first available date in 2021 due to the uncertainty created by the COVID-19 pandemic, the volume of exhibits and the need for special audio accommodations. If the parties would like to request a trial date in 2020, the court might be amenable to setting the trial on the only available dates of November 24, 2020 and November 25, 2020 at 9:00 a.m.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiffs shall lodge an order consistent with the same.***

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

Michael J Duff	Pro Se
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**Defendant(s):**

Michael J. Duff	Pro Se
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**Plaintiff(s):**

Holly Constantin	Represented By Alan W Forsley
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Michael Constantin	Represented By Alan W Forsley
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**Trustee(s):**

Richard A Marshack (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 18, 2020

Hearing Room 5A

9:30 AM

**8:19-12337 Jorge David Gonzalez**

**Chapter 7**

Adv#: 8:19-01184 Richard A. Marshack v. Carrillo

**#3.00** CONT'D PRE-TRIAL CONFERENCE RE: Complaint for: 1. Avoidance and Recovery of Constructive Fraudulent Transfer; 2. Avoidance and Recovery of Intentional Fraudulent Transfer; 3. Avoidance and Recovery of Preferential Transfer; and 4. Avoidance and Recovery of Property of the Bankruptcy Estate

FR: 12-5-19; 4-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Approving Stipulation Between Richard A. Marshack, Chapter 7 Trustee for the Bankruptcy Estate of Jorge David Gonzalez, and Defendant Claudia M. Carrillo to Dismiss Adversary Entered 4/23/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Approving Stipulation Between Richard A. Marshack, Chapter 7 Trustee for the Bankruptcy Estate of Jorge David Gonzalez, and Defendant Claudia M. Carrillo to Dismiss Adversary Entered 4/23/2020 - td (4/23/2020)**

**Tentative Ruling:**

**December 5, 2019**

Discovery Cut-off Date:	Mar. 6, 2020
Pretrial Conference Date:	Apr. 16, 2020 at 9:30 a.m.
(XX)	
Deadline to file Joint Pretrial Stipulation:	Apr. 2, 2020

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Jorge David Gonzalez**

**Chapter 7**

**Debtor(s):**

Jorge David Gonzalez

Represented By  
Brian J Soo-Hoo

**Defendant(s):**

Claudia M. Carrillo

Pro Se

**Plaintiff(s):**

Richard A. Marshack

Represented By  
Robert P Goe

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Robert P Goe



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 18, 2020

Hearing Room 5A

9:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01234 Miller v. Elieff et al

**#4.00** Hearing RE: Order to Show Cause Why Adversary Proceeding Should Not Be Dismissed for Lack of Prosecution (OSC Issued 4/3/2020)

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 18, 2020**

Vacate Order to Show Cause.

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Bruce Elieff

Represented By  
Jeffrey S Benice

4627 Camden, LLC

Represented By  
Jeffrey S Benice

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Bruce Elieff**

**Chapter 11**

**Plaintiff(s):**

Jacqueline Miller

Represented By  
James Denison

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01234 Miller v. Elieff et al

**#5.00** CONT'D STATUS CONFERENCE RE: Amended Complaint to Determine Dischargeability Pursuant to 11 U.S.C. Section 523(a)(2) and (6)

FR: 4-2-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 2, 2020**

No joint status report has been timely filed. The parties must appear and advise the court as to why the JSR was not timely filed..

***Note: Telephonic appearances by the parties' counsel are required.***  
-----

**June 18, 2020**

Continue status conference to December 17, 2020 at 9:30 a.m.; updated joint

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 18, 2020

Hearing Room 5A

9:30 AM

CONT... Bruce Elieff

Chapter 11

status report must be filed by December 3, 2020.

***Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall serve notice of the continued hearing date/time.***

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Bruce Elieff

Pro Se

4627 Camden, LLC

Pro Se

**Plaintiff(s):**

Jacqueline Miller

Represented By  
James Denison

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 18, 2020

Hearing Room 5A

10:00 AM

8:19-13468 Eric Anthony Perez

Chapter 13

#6.00 CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

HSBC BANK USA, NA

VS.

DEBTOR

FR: 5-21-20

Docket 38

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 21, 2020**

Grant with 4001(a)(3) waiver, unless the parties have negotiated the terms of an adequate protection order, in which case a request for a continuance may be made during the calendar roll call prior to the hearing. Available dates are June 4, June 11 and June 18, 2020 at 10:00 a.m.

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Eric Anthony Perez  
June 18, 2020**

**Chapter 13**

Grant with 4001(a)(3) waiver, unless there are on going discussions regarding the terms of an adequate protection order, in which case a request for a final continuance may be made during the calendar roll call prior to the hearing. Available dates are July 9, 2020 and July 16, 2020 at 10:00 a.m.

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

**Debtor(s):**

Eric Anthony Perez

Represented By  
Christopher J Langley

**Movant(s):**

HSBC Bank USA, National

Represented By  
Austin P Nagel

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#7.00** Hearing RE: Motion for relief from automatic stay  
[ACTION IN NON-BANKRUPTCY FORUM]

CITI INVESTMENT CAPITAL, INC.

VS.

DEBTOR

Docket 611

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 18, 2020**

Deny the motion without prejudice.

Basis for Tentative Ruling:

1. Movant has stated insufficient cause for granting relief from stay at this time to seek title to the subject property.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff**

**Chapter 11**

2. Debtor has, at a minimum an equitable interest in the property, which interest is property of the estate.
  
3. Debtor has provided evidence via an offer to purchase that the property has a value of nearly \$1M more than the amount for which Movant seeks to obtain title.
  
4. Movant, in its reply, did not adequately explain its disavowance as of March 27, 2020 of its interest in pursuing title to the property.
  
5. Denial of the Motion is without prejudice to Movant seeking relief from stay at a later time and/or an interest in the proceeds of any sale of the property.
  
6. There is a pending motion seeking the appointment of a chapter 11 trustee. In the event that a trustee is appointed, such trustee should be permitted an opportunity to review the matter.

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Movant(s):**

Citi Investment Capital Inc

Represented By  
David L Prince



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-14528 Vishundyal Ramotar Mohabir**

**Chapter 13**

**#8.00 CON'TD Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY] RE: 5091 Sharon Drive, La Palma, California 90623**

U.S. BANK, N.A.

VS.

DEBTOR

FR: 5-7-20

Docket 34

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 7, 2020**

Grant motion with 4001(a)(3) waiver unless Debtor is postpetition current by the time of the hearing (in which case a standard "3 Strikes" adequate protection order will be granted) or if the parties have reached an alternate resolution. If more time is needed to reach resolution, Movant may request a continuance of the hearing at the time of the calendar roll call by the court

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Vishundyal Ramotar Mohabir Chapter 13**

clerk on the day of the hearing. Available continued dates are: 5/21, 6/4, 6/11 and 6/18/2020 at 10:00 a.m.

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**June 18, 2020**

Grant with 4001(a)(3) waiver, unless there are on going discussions regarding the terms of an adequate protection order, in which case a request for a final continuance may be made during the calendar roll call prior to the hearing. Available dates are July 9, 2020 and July 16, 2020 at 10:00 a.m.

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

**Debtor(s):**

Vishundyal Ramotar Mohabir

Represented By  
Christopher J Langley

**Movant(s):**

U.S. Bank National Association

Represented By  
Sean C Ferry

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10208 Scott Allen Campbell**

**Chapter 13**

**#9.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

NATIONSTAR MORTGAGE LLC

VS.

DEBTOR

Docket 32

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal  
Arising from Chapter 13 Confirmation Hearing Entered 5/28/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order of Dismissal Arising from Chapter 13  
Confirmation Hearing Entered 5/28/2020 - td (5/28/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Scott Allen Campbell

Represented By  
Christopher J Langley

**Movant(s):**

Deutsche Bank Trust Company

Represented By  
Nancy L Lee

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

8:13-17920 Donald Woo Lee and Linda Bae Lee

Chapter 7

#10.00 Hearing RE: Chapter 7 Trustee's Final Report and Application for Final Fees and Reimbursement of Expenses

[RICHARD A. MARSHACK, CHAPTER 7 TRUSTEE]

Docket 934

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

June 18, 2020

Approve final fees and expenses as requested.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.*

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Donald Woo Lee and Linda Bae Lee**

**Chapter 7**

**Debtor(s):**

Donald Woo Lee

Represented By  
Robert B Rosenstein

**Joint Debtor(s):**

Linda Bae Lee

Represented By  
Robert B Rosenstein

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Kyra E Andrassy  
David Wood  
Matthew Grimshaw  
Nathan F Smith  
Arturo M Cisneros  
Norma Ann Dawson  
Robert S Lawrence  
Caroline Djang  
Brett Ramsaur

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

8:13-17920 Donald Woo Lee and Linda Bae Lee

Chapter 7

#11.00 Hearing RE: Seventh and Final Application for Allowance of Fees and Costs

**[MARSHACK HAYS LLP AS GENERAL COUNSEL TO THE CHAPTER 7 TRUSTEE]**

Docket 920

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

June 18, 2020

Approve final fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Donald Woo Lee and Linda Bae Lee**

**Chapter 7**

**Debtor(s):**

Donald Woo Lee

Represented By  
Robert B Rosenstein

**Joint Debtor(s):**

Linda Bae Lee

Represented By  
Robert B Rosenstein

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Kyra E Andrassy  
David Wood  
Matthew Grimshaw  
Nathan F Smith  
Arturo M Cisneros  
Norma Ann Dawson  
Robert S Lawrence  
Caroline Djang  
Brett Ramsaur

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

8:13-17920 Donald Woo Lee and Linda Bae Lee

Chapter 7

#12.00 Hearing RE: Third and Final Application for Allowance and Payment of Fees and Reimbursement of Expenses

**[SMILEY WANG-EKVALL, LLP, SPECIAL COUNSEL TO THE CHAPTER 7 TRUSTEE]**

Docket 922

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 18, 2020**

Approve final fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

Party Information



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Donald Woo Lee and Linda Bae Lee**

**Chapter 7**

**Debtor(s):**

Donald Woo Lee

Represented By  
Robert B Rosenstein

**Joint Debtor(s):**

Linda Bae Lee

Represented By  
Robert B Rosenstein

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Kyra E Andrassy  
David Wood  
Matthew Grimshaw  
Nathan F Smith  
Arturo M Cisneros  
Norma Ann Dawson  
Robert S Lawrence  
Caroline Djang  
Brett Ramsaur

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

8:13-17920 Donald Woo Lee and Linda Bae Lee

Chapter 7

#13.00 Hearing RE: Third and Final Fee Application for Allowance of Compensation and Reimbursement of Expenses for the Period From April 15, 2015 Through and Including January 31, 2020

[ARENT FOX LLP, SPECIAL HEALTHCARE COUNSEL TO THE CHAPTER 7 TRUSTEE]

Docket 923

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

June 18, 2020

Approve final fees and expenses as requested.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.*

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Donald Woo Lee and Linda Bae Lee**

**Chapter 7**

**Debtor(s):**

Donald Woo Lee

Represented By  
Robert B Rosenstein

**Joint Debtor(s):**

Linda Bae Lee

Represented By  
Robert B Rosenstein

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Kyra E Andrassy  
David Wood  
Matthew Grimshaw  
Nathan F Smith  
Arturo M Cisneros  
Norma Ann Dawson  
Robert S Lawrence  
Caroline Djang  
Brett Ramsaur

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

8:13-17920 Donald Woo Lee and Linda Bae Lee

Chapter 7

#14.00 Hearing RE: Second and Final Fee Application of Hahn Fife & Company LLP for Allowance of Fees and Expenses From October 28, 2019 Through February 19, 2020

[HAHN FIFE & COMPANY LLP, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]

Docket 927

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

June 18, 2020

Approve final fees and expenses as requested.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.*

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Donald Woo Lee and Linda Bae Lee**

**Chapter 7**

**Debtor(s):**

Donald Woo Lee

Represented By  
Robert B Rosenstein

**Joint Debtor(s):**

Linda Bae Lee

Represented By  
Robert B Rosenstein

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Kyra E Andrassy  
David Wood  
Matthew Grimshaw  
Nathan F Smith  
Arturo M Cisneros  
Norma Ann Dawson  
Robert S Lawrence  
Caroline Djang  
Brett Ramsaur

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

8:13-17920 Donald Woo Lee and Linda Bae Lee

Chapter 7

#15.00 Hearing RE: Application for Payment of Final Fees and/or Expenses

[ROBERT F. BICHER & ASSOCIATES, AGENT FOR CHAPTER 7 TRUSTEE]

Docket 928

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 18, 2020**

Approve final fees and expenses as requested.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.**

**Party Information**

**Debtor(s):**

Donald Woo Lee

Represented By  
Robert B Rosenstein

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Donald Woo Lee and Linda Bae Lee**

**Chapter 7**

**Joint Debtor(s):**

Linda Bae Lee

Represented By  
Robert B Rosenstein

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Kyra E Andrassy  
David Wood  
Matthew Grimshaw  
Nathan F Smith  
Arturo M Cisneros  
Norma Ann Dawson  
Robert S Lawrence  
Caroline Djang  
Brett Ramsaur

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-11546 Joseph Ra**

**Chapter 7**

**#16.00** CONT'D STATUS CONFERENCE RE: Compliance RE: Motion For Order to Show Cause Why Alleged Contemnors: Joseph RA, Jong Hea Ra, Christopher Lee, Viken Chelebrian; and David Spreen should not be held in Contempt of Court for failing to comply with Court Orders (ECF Nos. 70, 83, 102, 108 and 109)

FR: 2-20-10; 4-2-20

Docket 127

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Grant the Motion. Order should provide that the respondents can purge contempt by agreeing to comply with the court's orders within 30 days of the entry of the OSC.

-----

**April 2, 2020**

Continue the hearing to June 4, 2020 at 10:30 a.m. The examinees must provide a declaration to the trustee's counsel no later than May 21, 2020 confirming that all documents under their custody and control have been produced.

The court is hesitant to order any party to appear face to face for an examination in light of the uncertainty of the current COVID-19 circumstance, even two months out. The court would suggest that the trustee consider conducting the examinations via a video conference platform on a date and at a time agreeable to the parties prior to June 4, 2020. The court will determine



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

CONT... Joseph Ra

Chapter 7

the appropriate remedy re Mr. Ra at the continued hearing.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

-----

**June 18, 2020**

Trustee's request for attorneys fees and further findings of contempt is denied without prejudice.

Basis for Tentative Ruling

Based upon the Status Report filed by Trustee's counsel and the declarations submitted by the examinees, this court has insufficient evidence upon which to find that the examinees have "flagrantly" refused to comply with the most recent order of this court, particularly since Trustee elected not to examine the examinees about the lack of documents and though Trustee describes certain documents as being overly and unnecessarily redacted, no documentary evidence of the same was attached to the Status Report. Further, Trustee has not indicated whether Mr. Ra's bank records have ever been subpoenaed directly from the relevant financial institutions.

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

**Debtor(s):**

Joseph Ra

Represented By  
David B Golubchik  
Jaenam J Coe

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector  
Thomas J Polis

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

8:19-12642 Brett J McNamara and Magda C McNamara

Chapter 7

#17.00 Hearing RE: Chapter 7 Trustee's Motion for Order Disallowing Claim No. 3-1  
Filed by John Decindis (\$1,000.00)

Docket 42

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

June 18, 2020

Grant motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**Debtor(s):**

Brett J McNamara

Represented By  
Parisa Fishback

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... Brett J McNamara and Magda C McNamara**

**Chapter 7**

**Joint Debtor(s):**

Magda C McNamara

Represented By  
Parisa Fishback

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

8:19-13242 10827 Studebaker LLC, a California limited liabili

Chapter 11

#18.00 CON'TD Hearing RE: Disclosure Statement Describing Debtor's Chapter 11  
Plan of Reorganization

FR: 4-30-20

Docket 68

**Courtroom Deputy:**

**SPECIAL NOTE: Motion for Order Approving Debtor's Disclosure Statement, fld. 3/19/20, dkt #80; Notice of Motion, fld. 3/19/20, dkt #81 - td (3/19/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 30, 2020**

Continue hearing one final time to June 18, 2020 at 10:30 a.m. to allow Debtor to file an amended disclosure statement/plan. The amended disclosure statement must be filed no later than May 28, 2020. Any opposition/comments to the same must be filed by June 4, 2020 and any reply by June 11, 2020. (XX)

Comments re the Disclosure Statement (DS):

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... 10827 Studebaker LLC, a California limited liability Chapter 11**

1. Buchanan has filed a relief from stay motion which is set for May 21, 2020. The court's tentative ruling for that hearing will be to continue the RFS hearing to June 18, 2020 at 10:30 a.m. so that it can be heard on the same date and at the same time as the continued disclosure statement hearing.

2. Debtor has agreed to amend the DS to provide an update on Debtor's financing opportunities and, specifically, to delete reference to Banc of California and to disclose negotiations with Eyzenberg & Company. No further comment of the Court is necessary, except to say that financials of Eyzenberg & Co. need not be attached to the amended DS. Debtor's ability to fund the plan is a confirmation issue.

3. Re the amount of Buchanan's claim, the DS adequately discloses the amount Buchanan asserts and the amount Debtor believes is owed. The DS also adequately identifies the dispute re the amount and that ultimately adjudication by the Court through the claim objection process may be necessary. However, Debtor needs to disclose the impact on reorganization if it does not prevail on its objection to Buchanan's claim or if it is not able reach an amicable resolution with Buchanan. This should probably be discussed under Risk Factors.

4. Re the anticipated loan from Ivy Glen Partners, Debtor has agreed to clarify the terms of the financing (e.g., unsecured). As to the ability of IGP to fund the loan, such a feasibility issue that will addressed at confirmation.

5. Debtor has agreed to amend the DS to discuss the impact of the COVID-19 pandemic on rent collections. No further comment from the Court is necessary.

6. The DS should be modified to state Buchanan's position regarding the basis for the notice of default. See Opposition at p. 4:7-11.

7. The DS should disclose the identity of the interest holder(s).

8. Debtor has agreed to provide more information regarding the status of property taxes. No further comment by the Court is necessary.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

CONT... 10827 Studebaker LLC, a California limited liability Chapter 11

9. Debtor should disclose the identity of the leases to be assumed (e.g., in a list attached as an exhibit).

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required. Non appearance by the parties shall be deemed acceptance of the tentative ruling.***

-----

**June 18, 2020**

Approve First Amended Disclosure Statement on condition that Debtor makes modifications noted by the court in its tentative ruling dated June 18, 2020. The final version of the disclosure statement (and plan if necessary) must be filed no later than July 9, 2020; Plan, Disclosure Statement and ballots must be served by July 17, 2020; Deadline for creditors to return ballots and object to plan confirmation is August 17, 2020. Ballot tally analysis and confirmation brief (addressing all applicable provisions of Section 1129, with particular focus on evidence of feasibility), must be filed by September 28, 2020; confirmation hearing is September 10, 2020 at 10:30 a.m.

Conditions for Approval of First Amended Disclosure Statement:

1. Pg. 4:21-22: Debtor needs to disclose the identity(ies) of its interest holder(s)
2. Pg. 9:20-26: The discussion of the cash collateral motion set for hearing on June 4, 2020 needs to be updated.
3. Pg. 11:25-26: The last sentence of this paragraph needs to be updated regarding responses, if any, to the loan package.
4. Pg. 14:18-23: This section needs to be updated to reflect the court's ruling on Buchanan's motion for relief from stay.
5. Pg. 16:10-12: Debtor needs to disclose that under the plan, Exhibit B, within 14 days of the failure to obtain a refinance, Debtor must begin marketing the property for sale. *Special note re the auction procedures*

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

CONT... 10827 Studebaker LLC, a California limited liability Chapter 11

*mentioned in Exhibit 2: the auction will not take place in the courtroom. Such sale will need to be conducted outside the courtroom.*

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing is not required.***

6. Pg. 24: Risk factors section needs to be modified to add as a risk the possibility that a sale might not be accomplished before relief from stay is granted to Buchanan.

Party Information

**Debtor(s):**

10827 Studebaker LLC, a California

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13242 10827 Studebaker LLC, a California limited liabili**

**Chapter 11**

**#19.00 CON'TD STATUS CONFERENCE RE: (1) Status of Chapter 11 Case; and (2) Requiring Report on Status of Chapter 11 Case**

FR: 10-17-19; 4-9-20; 4-30-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**October 17, 2019**

Claims bar date: 11/15/19	Jan. 17, 2020 (notice to be served by
Deadline to file plan/DS	Feb. 20, 2020
Continued Status Conf.:	Apr. 9, 2020 at 10:30 a.m. (XX)
Updated Status Report Due: been	Mar. 19, 2019 (unless the plan/DS has been filed by such date, in which case the report requirement will be waived)



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

CONT... 10827 Studebaker LLC, a California limited liabili Chapter 11

**Note: If Debtor is in substantial compliance with the requirements of the United States Trustee, appearance at this hearing is not required. It is Debtor's responsibility to confirm compliance with the UST prior to the hearing.**

-----  
**April 9, 2020**

Continue Status Conference to April 30, 2020 at 10:30 a.m., the same date/time as hearing on approval of Debtor's Disclosure Statement; an updated status report is not required. (XX)

**Note: Appearance at this hearing is not required. Non appearance at the hearing will be deemed acceptance of the tentative ruling.**

-----  
**April 30, 2020**

Continue status conference to June 18, 2020 at 10:30 a.m., same date/time set for the continued hearing on approval of Debtor's disclosure statement. (XX)

**Note: Appearances at this hearing are not required. Non-appearance at the hearing will be deemed acceptance of the tentative ruling.**

-----  
**June 18, 2020**

Continue status conference to September 10, 2020 at 10:30 a.m.; updated status report not required.

**Note: Appearances at this hearing are not required. Non-appearance at the hearing will be deemed acceptance of the tentative ruling.**

**Party Information**

**Debtor(s):**

10827 Studebaker LLC, a California

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... 10827 Studebaker LLC, a California limited liabili**

**Chapter 11**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

8:19-13242 10827 Studebaker LLC, a California limited liabili

Chapter 11

#20.00 CON'TD Hearing RE: Amended Motion for relief from the automatic stay  
[REAL PROPERTY]

BUCHANAN MORTGAGE HOLDINGS, LLC

VS.

DEBTOR

FR: 5-21-20

Docket 94

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 21, 2020**

Grant with 4001(a)(3) waiver; deny extraordinary relief requested in relief request #10.

No grounds stated for extraordinary relief.divider

**Note: This matter appears to be uncontested. Accordingly, no court**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

CONT... 10827 Studebaker LLC, a California limited liability Chapter 11  
***appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

-----

**June 18, 2020**

Grant motion with 4001(a)(3) waiver, effective February 12, 2021, meaning no foreclosure sale can be take prior to February 12, 2021, subject to one request by Debtor for an extension of the effective date of relief from stay on a regularly noticed motion -- the only issue being whether Debtor has an escrow pending as of the date of such motion (the fully executed excrow documents must be attached to the motion). If Debtor has not confirmed a plan by November 5, 2020, the effective date of relief from stay shall be advanced to November 12, 2020. Deny request for extraordinary relief.

Court's Comments

The effective date of February 12, 2021 takes into account a confirmation hearing date of September 17, 2020; the effective date of the plan (30 days following entry of the confirmation order) and the initial 90-day marketing period if a refinance has not been obtained.

***Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required. Non-appearance at the hearing will be deemed to be acceptance of the tentative ruling.***

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

**Debtor(s):**

10827 Studebaker LLC, a California

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... 10827 Studebaker LLC, a California limited liabili**

**Chapter 11**

**Movant(s):**

Buchanan Mortgage Holdings, LLC

Represented By  
Randy P Orlik

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

8:19-14834 Hussam Fayiz Darwish

Chapter 11

#21.00 Hearing RE: Debtor's Disclosure Statement Describing Chapter 11 Plan of Reorganization

Docket 53

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 18, 2020**

Deny approval of Disclosure Statement

Basis for Tentative Ruling:

The issues raised by the objecting parties are well-taken. Among other things, the plan improperly modifies the terms of a loan secured by Debtor's residence, does not provide arrearages, and most importantly, even the most recent MOR filed June 15, 2020 (after Debtor's reply was filed) shows monthly income of less than \$6,000 with an ending balance of approximately \$33.00. Accordingly, the plan appears to be infeasible on its face. Lack of sufficient income to fund a viable plan cannot be corrected by an amended disclosure statement.

The court intends to issue an order to show cause why this case should not

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Hussam Fayiz Darwish Chapter 11**  
be dismissed or converted due to inability to propose a viable plan. See #22  
on today's calendar.

***Note: If all parties accept the tentative ruling, appearances at this hearing are not required.***

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

**Debtor(s):**

Hussam Fayiz Darwish

Represented By  
Michael Jones

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-14834 Hussam Fayiz Darwish**

**Chapter 11**

**#22.00** CON'TD STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case

FR: 2-20-20; 5-21-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**February 20, 2020**

Absent a noticed motion, the court will not provide any "advisory opinions" regarding Debtor's contemplation of a conversion of this case to one under Sub-Chapter V, including Debtor's eligibility to be a Sub-Chapter V debtor. That said, Debtor's counsel may want to consider the relevant deadlines under Sub-Chapter V (filing of plan, claims bar date, etc) and review legal authorities regarding chapter 13 eligibility in the "chapter 20" scenario. See, e.g., *In re Blackwell*, 514 B.R. 19 (Bankr. ND Cal. 2014).

Absent conversion:

Claims bar date: Apr. 23, 2020 (60 days not)

Deadline to file plan/DS: Apr. 30, 2020

Continued Status Conf: May 21, 2020 at 10:30am

Updated Status Report: May 7, 2020 (waived if DS filed)

***Note: Appearance at this hearing is required.***

-----

**May 21, 2020**



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Hussam Fayiz Darwish**

**Chapter 11**

Continue status conference to June 18, 2020 at 10:30 a.m., same date/time as hearing on approval of Debtor's disclosure statement. Updated status report not required. (XX)

***Note: Appearances at this hearing are not required.***

-----

**June 18, 2020**

Continue status conference to August 6, 2020 at 10:30 a.m. Court to issue order to show cause why this case should not been dismissed or converted due to inability of Debtor to propose a viable plan of reorganization -- the hearing will be set for August 6, 2020 at 10:30 a.m.

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

Hussam Fayiz Darwish

Represented By  
Michael Jones

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

8:20-10262 MESCO, Inc.

Chapter 11

#23.00 CONT'D Hearing RE: Motion by United States Trustee to Dismiss or Convert Case Pursuant to 11 U.S.C. Section 1112(b)

FR: 5-21-20

Docket 40

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 7/23/2020 AT 10:30 A.M.,  
Per Order Entered 6/10/2020 (XX)

Courtroom Deputy:

CONTINUED: Hearing Continued to 7/23/2020 at 10:30 a.m., Per Order Entered 6/10/2020 (XX) - td (6/10/2020)

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

May 21, 2020

Deny motion without prejudice as moot, unless the moving party withdraws the hearing prior to the hearing.

Party Information

Debtor(s):

MESCO, Inc.

Represented By  
Michael G Spector  
Vicki L Schennum

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

8:20-10620 Nelson D. Randin

Chapter 13

#24.00 Hearing RE: Chapter 13 Debtor's Motion for Order Approving Settlement and Compromise of Dispute and Approving and Ratifying Post-petition Transfer of Property Under Federal Rule of Bankruptcy Procedure 9019 Between the Debtors and Objecting Creditors Leon I. Davis and Barbara Silverman

Docket 37

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

June 18, 2020

Grant motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**Debtor(s):**

Nelson D. Randin

Represented By  
Joseph A Weber

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Nelson D. Randin**

Fritz J Firman

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

8:20-10682 Kim-Lan T Nguyen

Chapter 13

#25.00 Hearing RE: Chapter 13 Trustee's Objection to Debtor's Claims of Exemptions

Docket 18

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 18, 2020**

Continue the hearing to August 6, 2020 at 10:30 a.m. to allow Movant to address various service and other issues.

Court's Comments:

Service:

1. Debtor's attorney was not served with the Motion.
2. Debtor was not advised of the deadline for filing an opposition.

Merits:

1. A copy of Schedule C was not attached to the Motion.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

CONT... **Kim-Lan T Nguyen**

**Chapter 13**

2. A proper declaration in support of the Motion was not provided.

3. The Motion does not indicate whether the Trustee is seeking a total disallowance of a homestead exemption, i.e., \$0.00, or some lesser amount such as \$75,000 or \$100,000. The court notes that according to Schedule I, Debtor appears to have a minor dependent, an indicator that Debtor may be entitled to an exemption of \$100,000 as a head of household. As there is no allegation that Debtor did not reside on the subject property at the time of the filing, Debtor would appear to be entitled to an exemption of least a \$75,000 exemption.

4. In light of the amount of the exemption claimed in Schedule C, did the Trustee or his counsel inquire about the basis for the amount at the time of the 341a meeting?

***Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required. Non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

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

**Debtor(s):**

Kim-Lan T Nguyen

Represented By  
Thinh V Doan

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 18, 2020

Hearing Room 5A

10:30 AM

8:20-11102 Eugene S. Tamburelli and Shirley A. Tamburelli

Chapter 13

#26.00 Hearing RE: Debtors' Objection to Claim of Bank of America, Claim Number 4-1

Docket 22

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Debtors' Notice of  
Voluntary Dismissal of Objection to the Proof of Claim of Bank of America,  
Claim Number 4-1, filed 6/5/2020

Courtroom Deputy:

**OFF CALENDAR: Debtors' Notice of Voluntary Dismissal of Objection to  
the Proof of Claim of Bank of America, Claim Number 4-1, filed 6/5/2020 -  
td (6/8/2020)**

Tentative Ruling:

- NONE LISTED -

**Party Information**

**Debtor(s):**

Eugene S. Tamburelli

Represented By  
Joseph A Weber  
Fritz J Firman

**Joint Debtor(s):**

Shirley A. Tamburelli

Represented By  
Joseph A Weber  
Fritz J Firman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 18, 2020

Hearing Room 5A

2:00 PM

8:18-12967 Lillian Sikanovski Dulac

Chapter 7

#27.00 CON'TD Hearing RE: Motion for relief from automatic stay  
[ACTION IN NON-BANKRUPTCY FORUM]

RONALD DULAC

VS.

DEBTOR

FR: 4-2-20

Docket 107

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9/3/2020 AT 2:00 P.M.,  
Per Order Entered 5/22/2020 (XX)

Courtroom Deputy:

**CONTINUED: Hearing Continued to 9/3/2020 at 2:00 p.m., Per Order  
Entered 5/22/2020 (XX) - td (5/22/2020)**

Tentative Ruling:

April 2, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue the hearing to June 18, 2020 at 10:00 a.m. The parties are ordered to meet and confer by telephone or videoconference regarding a resolution by



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Lillian Sikanovski Dulac**

**Chapter 7**

or before May 21, 2020 and file a joint status report regarding the same no later than June 4, 2020. If Movant is not agreeable to a continuance (and waiver of the 30-day requirement), the motion will be denied without prejudice.

Basis for the Tentative Ruling:

On March 27, 2020, the Orange County Superior Court issued a press release effectively shutting down the Court as to all nonemergency matters for sixty days. The press release states in part:

"All other Civil hearing dates on any civil case set during the next 60 days (including court and jury trials in progress or calendared to begin during this timeframe) are deemed vacated and will be reset for a date beyond 60 days. Notice will be provided to all parties. Although hearings may continue to display as calendared in electronic online case access, no hearings will be conducted during this period. See Administrative Order 2020/06 posted on the court's website [www.occourts.org](http://www.occourts.org)."

As little to nothing will be litigated in state court for at least the next 60 days, the time would be better spent attempting to reach resolution on some or all of the issues pending between the parties.

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

**Debtor(s):**

Lillian Sikanovski Dulac

Represented By  
Michael Jones  
Sara Tidd

**Movant(s):**

Ronald Dulac

Represented By  
Michael G Spector

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Erin P Moriarty

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Lillian Sikanovski Dulac**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

2:00 PM

**8:18-12967 Lillian Sikanovski Dulac**

**Chapter 7**

Adv#: 8:19-01078 Bertrand H Dulac and Georgette C Dulac, Trustees o v. Dulac et al

**#28.00** Hearing RE: Motion for Summary Judgment as to Particular Claims for Relief (1st, 2nd, 6th and 7th), or in the Alternative, for a Determination of Facts Not Genuinely in Dispute on Complaint-in-Intervention

Docket 35

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9/3/2020 AT 2:00 P.M.,  
Per Order Entered 5/26/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 9/3/2020 at 2:00 p.m., Per Order  
Entered 5/26/2020 (XX) - td (5/26/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Lillian Sikanovski Dulac

Represented By  
Michael Jones  
Sara Tidd

**Defendant(s):**

Ronald H. Dulac

Represented By  
Erin P Moriarty

Lillian Sikanovcki Dulac

Pro Se

**Plaintiff(s):**

Bertrand H Dulac and Georgette C

Represented By  
Ronald Appel  
Michael Jones  
Erin P Moriarty

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 18, 2020**

**Hearing Room 5A**

2:00 PM

**CONT...**

**Lillian Sikanovski Dulac**

Erin P Moriarty

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 23, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#1.00** CONT'D Hearing RE: The Official Committee of Unsecured Creditor's of Bruce Elieff's Motion for Order Substantially Consolidating Chapter 11 Estates of Morse Properties, LLC, 4627 Camden, LLC, TDV Development Corporation, Heritage Colorado LLC, and Broadband Nation LLC into Chapter 11 Estate of Bruce Elieff

FR: 5-7-20; 5-19-20

Docket 421

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 6/19/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m., Per Order  
Entered 6/19/2020 (XX) - td (6/19/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 23, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#2.00** CON'TD Hearing RE: The Official Committee of Unsecured Creditor's of Bruce Elieff's Motion for Order Substantially Consolidating Chapter 11 Estates of Morse Properties, LLC, 4627 Camden, LLC, TDV Development Corporation, Heritage Colorado LLC, and Broadband Nation LLC into Chapter 11 Estate of Bruce Elieff

FR: 5-7-20; 5-19-20

Docket 61

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 6/19/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m., Per Order  
Entered 6/19/2020 (XX) - td (6/19/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 23, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#3.00** CON'TD Hearing RE: The Official Committee of Unsecured Creditor's of Bruce Elieff's Motion for Order Substantially Consolidating Chapter 11 Estates of Morse Properties, LLC, 4627 Camden, LLC, TDV Development Corporation, Heritage Colorado LLC, and Broadband Nation LLC into Chapter 11 Estate of Bruce Elieff

FR: 5-7-20; 5-19-20

Docket 54

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 6/19/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m., Per Order  
Entered 6/19/2020 (XX) - td (6/19/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 23, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#4.00** CON'TD Hearing RE: The Official Committee of Unsecured Creditor's of Bruce Elieff's Motion for Order Substantially Consolidating Chapter 11 Estates of Morse Properties, LLC, 4627 Camden, LLC, TDV Development Corporation, Heritage Colorado LLC, and Broadband Nation LLC into Chapter 11 Estate of Bruce Elieff

FR: 5-7-20; 5-19-20

Docket 56

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 6/19/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m., Per Order  
Entered 6/19/2020 (XX) - td (6/19/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, June 23, 2020

Hearing Room 5A

10:00 AM

8:19-13858 Bruce Elieff

Chapter 11

#5.00 CON'TD Hearing RE: Debtors' Motion for an Order Authorizing Extension of Exclusivity Period for Soliciting Acceptances to the Plan, Pursuant to 11 U.S.C. Section 1121(d) **[Affects All Debtors]**

FR: 5-7-20; 5-19-20

Docket 357

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M., Per Order Entered 6/19/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m., Per Order Entered 6/19/2020 (XX) - td (6/19/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 23, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#6.00** CONT'D Hearing RE: Related Debtors' Motion for Order Disallowing Claims of Todd C. Kurtin Pursuant to 11 U.S.C. Section 502(d):

Claim No. 29	Kurtin	\$33,892,117.62	[Debtor: Elieff]
Claim No. 9	Kurtin	\$33,892,117.62	[Debtor: Morse]
Claim No. 12	Kurtin	\$33,892,117.62	[Debtor: Camden]

FR: 4-16-20; 5-12-20; 5-19-20

Docket 323

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 23, 2020**

There is no tentative ruling for this matter. The court will entertain oral argument as follows:

1. Moving Party: Maximum of 30 minutes to highlight key arguments
2. Responding Party: Maximum of 30 minutes to highlight key arguments
3. Moving Party: 20 minutes for final argument

The matter will then be taken under advisement and an oral ruling re the same will be set for July 7, 2020 at 2:00 p.m. The oral ruling may be set forth in writing under the tentative ruling field prior to the time set for the same. The parties will be contacted by chambers if that is the case.

The following is the court's tentative "roadmap" to the June 25, 2020 calendar.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 23, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff**

**Chapter 11**

I. Matters for that will proceed on June 25, 2020:

A. Motion for Substantive Consolidation (the court is currently leaning toward granting)

B. Motion for the Appointment of a Ch. 11 Trustee (Elieff/Camden/Morse)

C. Motion to Convert to Chapter 7 (Broadband/Heritage/TDV) --  
*Special note: If the Motion for Substantive Consolidation is granted, the motion to convert these cases to chapter 7 will be denied*

D. Motion to Extend Exclusivity -- Tentative ruling already posted to grant in part (as to Debtors, deny in part (as to Committee)).

E. Motion for Approval of Stipulation re Assignment of Right to Sue Insiders. Tentative ruling already posted to grant unless a chapter 11 trustee is appointed.

II. Matters that will be continued to July 16 at 2:00 p.m.

A. All Kurtin Objections to Claim to the extent not rendered moot if the Motion for Substantive Consolidation is granted.

B. All Interim Fee Applications

C. Both OSC re J. Benice (civil contempt and preliminary injunction)

D. Motion for Cancellation of Retainer/Disgorgement re J. Benice

III. Debtors' Disclosure Statement hearing currently set for July 23, 2020

This disclosure statement will likely need to be substantially modified or withdrawn and a new hearing date set.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 23, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff**

**Chapter 11**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, June 23, 2020

Hearing Room 5A

10:00 AM

8:19-13858 Bruce Elieff

Chapter 11

#7.00 CONT'D Hearing RE: Creditor Todd Kurtin's Objection to Claims:

Cl. #12 (Elieff) Miller Barondess LLP

Cl. #4 (Morse) Miller Barondess LLP

Cl. #5 (Camden) Miller Barondess LLP

FR: 5-12-20; 5-19-20

Docket 360

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 6/22/2020 (XX)

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m., Per Order  
Entered 6/22/2020 (XX) - td (6/22/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 23, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#8.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim # 1 by Miller Barondess LLP**

FR: 5-12-20; 5-19-20

Docket 36

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 6/22/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m., Per Order  
Entered 6/22/2020 (XX) - td (6/22/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, June 23, 2020

Hearing Room 5A

10:00 AM

8:20-10373 Heritage Colorado LLC

Chapter 11

#9.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #1 by Miller Barondess LLP

FR: 5-12-20; 5-19-20

Docket 36

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 6/22/2020 (XX)

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m., Per Order Entered 6/22/2020 (XX) - td (6/22/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 23, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#10.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #2 by Miller Barondess**

FR: 5-12-20; 5-19-20

Docket 36

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 6/22/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m., Per Order  
Entered 6/22/2020 (XX) - td (6/22/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, June 23, 2020

Hearing Room 5A

10:00 AM

8:19-13858 Bruce Elieff

Chapter 11

#11.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claims:

Cl. #21 (Elieff) E.O.C. Ord, Inc.

Cl. # 8 (Morse) E.O.C. Ord, Inc.

Cl. #10 (Camden) E.O.C. Ord, Inc.

FR: 5-12-20; 5-19-20

Docket 362

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 6/22/2020 (XX)

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m., Per Order  
Entered 6/22/2020 (XX) - td (6/22/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 23, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#12.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #2 by E.O.C. Ord, Inc.**

FR: 5-12-20; 5-19-20

Docket 35

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 6/22/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m., Per Order  
Entered 6/22/2020 (XX) - td (6/22/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 23, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#13.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim # 3 By E.O.C.  
Ord, Inc.**

FR: 5-12-20; 5-19-20

Docket 35

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 6/22/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m., Per Order  
Entered 6/22/2020 (XX) - td (6/22/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 23, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#14.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #3 by E.O.C. Ord, Inc.**

FR: 5-12-20; 5-19-20

Docket 35

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 6/22/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m., Per Order  
Entered 6/22/2020 (XX) - td (6/22/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 23, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#15.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claims:

Cl. # 6 (**Morse**) Bond Safeguard Insurance Company

Cl. #8 (**Camden**) Bond Safeguard Insurance Company

FR: 5-12-20; 5-19-20

Docket 364

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 6/22/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m., Per Order  
Entered 6/22/2020 (XX) - td (6/22/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 23, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#16.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #3 by Bond  
Safeguard Insurance Company**

FR: 5-12-20; 5-19-20

Docket 37

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 6/22/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m., Per Order  
Entered 6/22/2020 (XX) - td (6/22/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 23, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#17.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #2 by Bond  
Safeguard Insurance Company**

FR: 5-12-20; 5-19-20

Docket 34

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 6/22/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m., Per Order  
Entered 6/22/2020 (XX) - td (6/22/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, June 23, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#18.00** CONT'D Hearing RE: Creditor Todd Kurtin's Objection to Claim #4 by Bond  
Safeguard Insurance Company

FR: 5-12-20; 5-19-20

Docket 37

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 6/25/2020 AT 10:00 A.M.,  
Per Order Entered 6/22/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 6/25/2020 at 10:00 a.m., Per Order  
Entered 6/22/2020 (XX) - td (6/22/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#1.00** CONT'D Hearing RE: The Official Committee of Unsecured Creditor's of Bruce Elieff's Motion for Order Substantially Consolidating Chapter 11 Estates of Morse Properties, LLC, 4627 Camden, LLC, TDV Development Corporation, Heritage Colorado LLC, and Broadband Nation LLC into Chapter 11 Estate of Bruce Elieff

FR: 5-7-20; 5-19-20; 6-23-20

Docket 421

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

Participants may connect to the videoconference through an Internet browser by entering the Videoconference URL shown below, as well as the meeting ID and password, when prompted. Alternatively, participants may dial in by telephone at the number indicated below.

Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff**

**Chapter 11**

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Password: 307874  
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**TENTATIVE RULING**

Grant the motion, including the language set forth in Exhibit A to the Reply pleading.

Basis for Tentative Ruling:

"[S]ubstantive consolidation is proper in circumstances where creditors have treated the separate entities as a single unit, or the business affairs of the consolidated entities are hopelessly entangled. Hopeless entanglement can be established by proving that there has been an abuse of the corporate form and the other typical alter ego elements." *In re SK Foods, LP*, 499 B.R. at 833-34

By the Motion, Movant has established, by clear and convincing evidence, grounds for the substantive consolidation of the six subject debtors. The evidence clearly demonstrates that the business affairs of the debtors, all controlled and wholly owned by the individual Debtor Bruce Elieff are "hopelessly entangled." Such hopeless entanglement is evident by

1) State court orders entered in the Kurtin Lawsuit, which orders are based on evidence presented in motions filed by Kurtin prior to the bankruptcy filings. The has reviewed such evidence not to for the purpose of establishing alter ego for purposes of the Motion but for the purpose of establishing grounds for substantive consolidation based on alter ego "elements." The court incorporates by reference herein the legal analysis set forth in the Motion (except as to the

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff**

**Chapter 11**

judicial estoppel argument) and Reply.

2) Kurtin's own arguments/evidence in support of his motion for the appointment of a chapter 11 trustee in the Elieff, Camden and Morse cases which references Elieffs practicing of funneling millions of dollars through his various wholly owned companies.

3) The Schedules and Statements of Affairs in the related cases.

4) Importantly, the Debtors' *joinder* in the Motion without qualification, thereby effectively admitting to the argument/evidence/legal analysis therein.

5) These cases "scream" out for substantive consolidation and present the "poster boy" case for such consolidation.

6) The objections of the secured creditors have been addressed in Exhibit A to the reply.

7) Re the Objection of Mr. Nolan, though the service time was one day late (20 days instead of 21), the hearing was May 7, 2020 to June 25, 2020, thereby allowing Mr. Nolan several additional weeks to file a supplemental opposition if he wished. See LBR 9013-1(m)(4) (allowing for an automatic extension of time to file responsive pleadings in the event of a continuance of the hearing). Finally, while the copy served on Mr. Nolan was not formatted perfectly, it was not illegible.

8. The court disagrees with Kurtin that the Committee had no standing to bring the Motion.

*Special note: This tentative ruling may or may not be expanded prior to the hearing.*

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

**Debtor(s):**

Bruce Elieff

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT...**

**Bruce Elieff**

Paul J Couchot

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#2.00** CON'TD Hearing RE: Debtors' Motion for an Order Authorizing Extension of Exclusivity Period for Soliciting Acceptances to the Plan, Pursuant to 11 U.S.C. Section 1121(d) [**Affects All Debtors**]

FR: 5-7-20; 5-19-20; 6-23-20

Docket 357

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff**

**Chapter 11**

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Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Grant the Motion as to Debtors; deny motion as to "co-exclusivity" to Elieff Creditors' Committee:

Basis for Tentative Ruling

1. Debtor has established grounds for the extension of the exclusivity periods by, among other things, identifying the circumstances establishing the complexity of the related debtors (and as evidenced by the number and breadth matters set for hearing before this court on June 23, 2020 and June 25), progress made toward reorganization including the sale of certain properties and preparation for sale of others, existence of plan determinative litigation re the Kurtin claim, etc.

2. The court is not persuaded that it has the authority to grant "co-exclusivity" to the Creditors' Committee under 1121. The cases cited in the Motion are not helpful, e.g., in the *Bi-Lo LLC* case no legal analysis is provided for granting co-exclusivity, in *Integrated Resources*, the debtor stipulated to a "carve-out" of its right exclusivity as to the creditors' committee and labor union, and *In re United Press Int'l* also involved a carve-out for certain creditors to file plans (though the court there referred to the "exclusivity club," the procedure had been initially suggested by the parties and simply allowed certain creditors to file plans during the debtor's exclusivity period. Here, Debtors represent that there is an agreement between them and the Creditors' Committee to file a joint plan so there really is no need for a separate extension of exclusivity to the Creditors' Committee.

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

**Debtor(s):**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff**  
Bruce Elieff

Represented By  
Paul J Couchot

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#3.00** CONT'D Hearing RE: Creditor Todd Kurtin's Objection to Claims:

Cl. #12 **(Elieff)** Miller Barondess LLP

Cl. #4 **(Morse)** Miller Barondess LLP

Cl. #5 **(Camden)** Miller Barondess LLP

FR: 5-12-20; 5-19-20; 6-23-20

Docket 360

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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<https://cacb.zoomgov.com/j/1608107407>



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff**

**Chapter 11**

Meeting ID: 160 810 7407

Password: 307874

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Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#4.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claims:

Cl. #21 (**Elieff**) E.O.C. Ord, Inc.

Cl. # 8 (**Morse**) E.O.C. Ord, Inc.

Cl. #10 (**Camden**) E.O.C. Ord, Inc.

FR: 5-12-20; 5-19-20; 6-23-20

Docket 362

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff**

**Chapter 11**

Meeting ID: 160 810 7407

Password: 307874

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Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#5.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claims:

Cl. # 6 (**Morse**) Bond Safeguard Insurance Company

Cl. #8 (**Camden**) Bond Safeguard Insurance Company

FR: 5-12-20; 5-19-20; 6-23-20

Docket 364

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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Meeting ID: 160 810 7407

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff**

**Chapter 11**

Password: 307874

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Dial by your location

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Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

8:19-13858 Bruce Elieff

Chapter 11

#6.00 CON'TD Hearing RE: First Interim Application for Allowance of Compensation and Reimbursement of Expenses **[Affects Bruce Elieff]**

**[COUCHOT LAW, LLP, GENERAL INSOLVENCY COUNSEL TO BRUCE ELIEFF]**

FR: 4-30-20; 5-14-20; 5-19-20

Docket 390

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 30, 2020**

There is no tentative ruling due to pleadings filed by the Elieff Creditors Committee and Todd Kurtin requiring a review of legal authority and non-judicially noticed pleadings that is beyond the normal review of fee applications. The parties will be permitted to make brief arguments. The hearings will likely be continued to May 14, 2020 at 10:30 a.m.

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff  
June 25, 2020**

**Chapter 11**

**SPECIAL NOTICE!**

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Meeting ID: 160 810 7407

Password: 307874

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Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING:**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff**

**Chapter 11**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

8:19-13858 Bruce Elieff

Chapter 11

#7.00 CON'TD Hearing RE: First Interim Application for Allowance and Payment of Fees and Reimbursement of Expenses

**[HOGAN LOVELLS US LLP AS COUNSEL TO THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS OF BRUCE ELIEFF]**

FR: 4-30-20; 5-14-20; 5-19-20

Docket 382

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 30, 2020**

There is no tentative ruling due to pleadings filed by the Elieff Creditors Committee and Todd Kurtin requiring a review of legal authority and non-judicially noticed pleadings that is beyond the normal review of fee applications. The parties will be permitted to make brief arguments. The hearings will likely be continued to May 14, 2020 at 10:30 a.m.

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

CONT... **Bruce Elieff**

**Chapter 11**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

---

10:00 AM

**CONT... Bruce Elieff**

**Chapter 11**

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

8:19-13858 Bruce Elieff

Chapter 11

#8.00 CON'TD Hearing RE: First Interim Fee Application for Allowance and Payment of Fees and Reimbursement of Expenses Incurred as Financial Advisor to the Debtors of Bruce Elieff, Morse Properties, LLC and 4627 Camden, LLC **[Affects All Debtors]**

**[FORCE TEN PARTNERS, LLC, FINANCIAL ADVISOR TO THE DEBTORS]**

FR: 4-30-20; 5-14-20; 5-19-20

Docket 391

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 30, 2020**

There is no tentative ruling due to pleadings filed by the Elieff Creditors Committee and Todd Kurtin requiring a review of legal authority and non-judicially noticed pleadings that is beyond the normal review of fee applications. The parties will be permitted to make brief arguments. The hearings will likely be continued to May 14, 2020 at 10:30 a.m.

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

CONT... **Bruce Elieff**

**Chapter 11**

**June 25, 2020**

**SPECIAL NOTICE!**

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**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff**

**Chapter 11**

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

8:19-13858 Bruce Elieff

Chapter 11

#9.00 CON'TD Hearing RE: First Interim Application for Allowance and Payment of Fees and Reimbursement of Expenses

**[TRAVERSE, LLC AS FINANCIAL ADVISOR TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF BRUCE ELIEFF]**

FR: 4-30-20 5-14-20; 5-19-20

Docket 384

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 30, 2020**

There is no tentative ruling due to pleadings filed by the Elieff Creditors Committee and Todd Kurtin requiring a review of legal authority and non-judicially noticed pleadings that is beyond the normal review of fee applications. The parties will be permitted to make brief arguments. The hearings will likely be continued to May 14, 2020 at 10:30 a.m.

-----

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff  
June 25, 2020**

**Chapter 11**

**SPECIAL NOTICE!**

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<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff**

**Chapter 11**

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#10.00** CONT'D Hearing RE: Creditor Todd Kurtin's Motion for Order Directing Appointment of Chapter 11 Trustee

FR: 1-30-20; 4-17-20; 5-14-20; 5-19-20

Docket 209

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff**

**Chapter 11**

Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

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**TENTATIVE RULING**

Grant motion for the appointment of a chapter 11 trustee

Basis for Tentative Ruling

Movant has established by clear and convincing evidence grounds for the appointment of a chapter 11 trustee pursuant to 11 U.S.C. 1104(b)(1), i.e., for cause, including fraud, dishonesty, incompetence or gross mismanagement of the affairs of the Debtors before and after the commencement of the case. The court incorporates by reference herein the evidence and legal analysis set for the Motion and Reply, except disparaging remarks concerning the Creditors' Committee. Further, the court makes no findings for purposes of this Motion, concerning the propriety of actions taken by attorney J. Benice. The court also incorporates by reference herein the legal analysis set forth in the joinder briefs filed by the United States on behalf of the Internal Revenue Service and the United States Trustee. Finally, the evidence presented by Motion for Substantive Consolidation filed by the Creditors' Committee (to which Debtors Elieff, Camden and Morse joined) supports the appointment of a chapter 11 trustee.

The Committee's 11th hour request for the appointment of an examiner in lieu of a trustee is too little too late. Such a request could have, and should have, been presented by a properly and timely filed noticed motion.

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#11.00** CONT'D Hearing RE: Motion for Approval of Stipulation Between Bruce Elieff and the Official Committee of Unsecured Creditors of Bruce Elieff Granting the Committee Standing to Pursue Avoidance Actions and Actions Against Insiders on Behalf of Bruce Elieff's Estate; Stipulation

FR: 4-17-20; 5-14-20; 5-19-20

Docket 217

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

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Password: 307874

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff**

**Chapter 11**

-----  
Dial by your location

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Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING:**

Grant the motion unless the Motion to Appoint a Chapter 11 Trustee is granted, in which case this Motion will be denied.

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Movant(s):**

Official Committee of Unsecured

Represented By  
Richard Lee Wynne

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#12.00** CONT'D Hearing RE: Order to Show Cause as to Why Jeffery S. Benice Should Not Be Held in Contempt of Court for Violation of the Court's March 20,, 2020 Order Granting Amended Stipulation (Dkt. Nos. 331; 333)  
(OSC Issued 4/27/2020)

FR: 5-21-20

Docket 476

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 21, 2020**

Continue hearing to June 25, 2020 at 10:00 a.m.

***Note: Appearances at this hearing are not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.***

-----

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff**

**Chapter 11**

number indicated below.

Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

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Password: 307874

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Dial by your location

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Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#13.00** CON'TD Hearing RE: Creditor Todd Kurtin's Motion for Order Cancelling Alleged Retainer Agreements and Requiring Jeffery S. Benice and Benice Law to Immediately Disgorge \$4,182,244.73

FR: 5-7-20; 5-21-20

Docket 381

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

CONT... **Bruce Elieff**

Chapter 11

Dial by your location

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Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:20-01046 Kurtin v. Benice et al

**#14.00** CON'TD Hearing RE: Order to Show Cause RE: Preliminary Injunction  
(OSC Issued 4/13/2020)

FR: 5-7-20; 5-21-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 21, 2020**

Continue this matter to June 25, 2020 at 10:00 a.m.

***Note: If both parties accept the tentative ruling, appearances at this hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

-----  
**June 25, 2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

CONT... **Bruce Elieff**

**Chapter 11**

**SPECIAL NOTICE!**

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Meeting ID: 160 810 7407

Password: 307874

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Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Bruce Elieff**

**Chapter 11**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Jeffrey S. Benice

Pro Se

Benice Law

Pro Se

**Plaintiff(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

8:19-13874 Morse Properties LLC

Chapter 11

#15.00 CON'TD Hearing RE: First Interim Application for Allowance of Compensation and Reimbursement of Expenses

**[COUCHOT LAW LLP, GENERAL INSOLVENCY COUNSEL TO MORSE PROPERTIES, LLC]**

FR: 4-30-20; 5-14-20; 5-19-20

Docket 35

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 30, 2020**

There is no tentative ruling due to pleadings filed by the Elieff Creditors Committee and Todd Kurtin requiring a review of legal authority and non-judicially noticed pleadings that is beyond the normal review of fee applications. The parties will be permitted to make brief arguments. The hearings will likely be continued to May 14, 2020 at 10:30 a.m.

-----

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Morse Properties LLC  
June 25, 2020**

**Chapter 11**

**SPECIAL NOTICE!**

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<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

---

10:00 AM

**CONT... Morse Properties LLC**

**Chapter 11**

**Party Information**

**Debtor(s):**

Morse Properties LLC

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

8:19-13875 4627 Camden LLC

Chapter 11

#16.00 CON'TD Hearing RE: First Interim Application for Allowance of Compensation and Reimbursement of Expenses

**[COUCHOT LAW, LLP, GENERAL INSOLVENCY COUNSEL TO 4627  
CAMDEN, LLC]**

FR: 4-30-20; 5-14-20; 5-19-20

Docket 37

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 30, 2020**

There is no tentative ruling due to pleadings filed by the Elieff Creditors Committee and Todd Kurtin requiring a review of legal authority and non-judicially noticed pleadings that is beyond the normal review of fee applications. The parties will be permitted to make brief arguments. The hearings will likely be continued to May 14, 2020 at 10:30 a.m.

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... 4627 Camden LLC  
June 25, 2020**

**Chapter 11**

**SPECIAL NOTICE!**

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**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

---

10:00 AM

**CONT... 4627 Camden LLC**

**Chapter 11**

**Party Information**

**Debtor(s):**

4627 Camden LLC

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#17.00** CON'TD Hearing RE: The Official Committee of Unsecured Creditor's of Bruce Elieff's Motion for Order Substantially Consolidating Chapter 11 Estates of Morse Properties, LLC, 4627 Camden, LLC, TDV Development Corporation, Heritage Colorado LLC, and Broadband Nation LLC into Chapter 11 Estate of Bruce Elieff

FR: 5-7-20; 5-19-20; 6-23-20

Docket 61

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Broadband Nation LLC**

**Chapter 11**

Password: 307874

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**TENTATIVE RULING**

Grant the motion, including the language set forth in Exhibit A to the Reply pleading.

Basis for Tentative Ruling:

"[S]ubstantive consolidation is proper in circumstances where creditors have treated the separate entities as a single unit, or the business affairs of the consolidated entities are hopelessly entangled. Hopeless entanglement can be established by proving that there has been an abuse of the corporate form and the other typical alter ego elements." *In re SK Foods, LP*, 499 B.R. at 833-34

By the Motion, Movant has established, by clear and convincing evidence, grounds for the substantive consolidation of the six subject debtors. The evidence clearly demonstrates that the business affairs of the debtors, all controlled and wholly owned by the individual Debtor Bruce Elieff are "hopelessly entangled." Such hopeless entanglement is evident by

1) State court orders entered in the Kurtin Lawsuit, which orders are based on evidence presented in motions filed by Kurtin prior to the bankruptcy filings. The has reviewed such evidence not to for the purpose of establishing alter ego for purposes of the Motion but for the purpose of establishing grounds for substantive consolidation based on alter ego "elements." The court incorporates

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Broadband Nation LLC**

**Chapter 11**

by reference herein the legal analysis set forth in the Motion (except as to the judicial estoppel argument) and Reply.

2) Kurtin's own arguments/evidence in support of his motion for the appointment of a chapter 11 trustee in the Elieff, Camden and Morse cases which references Elieffs practicing of funneling millions of dollars through his various wholly owned companies.

3) The Schedules and Statements of Affairs in the related cases.

4) Importantly, the Debtors' *joinder* in the Motion without qualification, thereby effectively admitting to the argument/evidence/legal analysis therein.

5) These cases "scream" out for substantive consolidation and present the "poster boy" case for such consolidation.

6) The objections of the secured creditors have been addressed in Exhibit A to the reply.

7) Re the Objection of Mr. Nolan, though the service time was one day late (20 days instead of 21), the hearing was May 7, 2020 to June 25, 2020, thereby allowing Mr. Nolan several additional weeks to file a supplemental opposition if he wished. See LBR 9013-1(m)(4) (allowing for an automatic extension of time to file responsive pleadings in the event of a continuance of the hearing). Finally, while the copy served on Mr. Nolan was not formatted perfectly, it was not illegible.

8. The court disagrees with Kurtin that the Committee had no standing to bring the Motion.

*Special note: This tentative ruling may or may not be expanded prior to the hearing.*

**Party Information**

**Debtor(s):**

Broadband Nation LLC

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Broadband Nation LLC**

Robert P Goe

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#18.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #3 by Bond  
Safeguard Insurance Company**

FR: 5-12-20; 5-19-20; 6-23-20

Docket 37

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Broadband Nation LLC**

**Chapter 11**

Dial by your location

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Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#19.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim # 1 by Miller Barondess LLP**

FR: 5-12-20; 5-19-20; 6-23-20

Docket 36

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Broadband Nation LLC**

**Chapter 11**

Dial by your location

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Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#20.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #2 by E.O.C. Ord, Inc.

FR: 5-12-20; 5-19-20; 6-23-20

Docket 35

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

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Meeting ID: 160 810 7407

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Broadband Nation LLC**

**Chapter 11**

Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

8:20-10372 Broadband Nation LLC

Chapter 11

#21.00 CONT'D Hearing RE: Creditor Todd Kurtin's Motion For Order Converting Case to Chapter 7

FR: 4-2-20; 5-14-20; 5-19-20

Docket 26

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

The court is inclined to deny this motion as premature and serving no cognizable purpose. Movant argues that Debtor has no assets and, therefore, no path to reorganization. Accepting that as true, what would be accomplished by a conversion to chapter 7? That said, Debtor needs to advise the court of the reorganization exit strategy in this case.

-----

**June 25, 2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Broadband Nation LLC**

**Chapter 11**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

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**TENTATIVE RULING**

Deny Motion in light of the tentative ruling to grant the Committee's motion to substantively consolidate this case with the other related cases.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Broadband Nation LLC**

**Chapter 11**

**Party Information**

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**Movant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#22.00** CONT'D Hearing RE: Objection of Creditor Todd Kurtin to the Professional Fee Statement of #1 of Goe & Forsythe & Hodges LLP

FR: 5-14-20; 5-19-20

Docket 60

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

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Meeting ID: 160 810 7407

Password: 307874

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Broadband Nation LLC**

**Chapter 11**

Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

8:20-10372    **Broadband Nation LLC**

**Chapter 11**

#23.00    CON'TD STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case

FR: 4-2-20; 5-14-20; 5-19-20

Docket      2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

The reorganization purpose of this filing is not clearly articulated in the status report. Debtor states that the case was filed to "preserve assets" for the benefit of creditors. What assets? Debtor's Schedules A/B show receivables from related entities with a value of \$0.00. Further, Debtor vaguely states that it intends to participate in a joint plan with other unnamed related debtors. What does this Debtor, with no assets of value, have to contribute to a joint plan?

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**June 25, 2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Broadband Nation LLC**

**Chapter 11**

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Password: 307874

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Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

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**TENTATIVE RULING**

Continue Status Conference to October 22, 2020 at 10:30 a.m.; updated Status Report must be filed by October 8, 2020.

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

**Debtor(s):**

Broadband Nation LLC

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Broadband Nation LLC**

Robert P Goe

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#24.00** CON'TD Hearing RE: The Official Committee of Unsecured Creditor's of Bruce Elieff's Motion for Order Substantially Consolidating Chapter 11 Estates of Morse Properties, LLC, 4627 Camden, LLC, TDV Development Corporation, Heritage Colorado LLC, and Broadband Nation LLC into Chapter 11 Estate of Bruce Elieff

FR: 5-7-20; 5-19-20; 6-23-20

Docket 54

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

CONT... Heritage Colorado LLC

Chapter 11

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Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874  
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**TENTATIVE RULING**

Grant the motion, including the language set forth in Exhibit A to the Reply pleading.

Basis for Tentative Ruling:

"[S]ubstantive consolidation is proper in circumstances where creditors have treated the separate entities as a single unit, or the business affairs of the consolidated entities are hopelessly entangled. Hopeless entanglement can be established by proving that there has been an abuse of the corporate form and the other typical alter ego elements." *In re SK Foods, LP*, 499 B.R. at 833-34

By the Motion, Movant has established, by clear and convincing evidence, grounds for the substantive consolidation of the six subject debtors. The evidence clearly demonstrates that the business affairs of the debtors, all controlled and wholly owned by the individual Debtor Bruce Elieff are "hopelessly entangled." Such hopeless entanglement is evident by

1) State court orders entered in the Kurtin Lawsuit, which orders are based on evidence presented in motions filed by Kurtin prior to the bankruptcy filings. The has reviewed such evidence not to for the purpose of establishing alter ego for purposes of the Motion but for the purpose of establishing grounds for substantive consolidation based on alter ego "elements." The court incorporates by reference herein the legal analysis set forth in the Motion (except as to the judicial estoppel argument) and Reply.

2) Kurtin's own arguments/evidence in support of his motion for the appointment

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Heritage Colorado LLC Chapter 11**

of a chapter 11 trustee in the Elieff, Camden and Morse cases which references Elieffs practicing of funneling millions of dollars through his various wholly owned companies.

3) The Schedules and Statements of Affairs in the related cases.

4) Importantly, the Debtors' *joinder* in the Motion without qualification, thereby effectively admitting to the argument/evidence/legal analysis therein.

5) These cases "scream" out for substantive consolidation and present the "poster boy" case for such consolidation.

6) The objections of the secured creditors have been addressed in Exhibit A to the reply.

7) Re the Objection of Mr. Nolan, though the service time was one day late (20 days instead of 21), the hearing was May 7, 2020 to June 25, 2020, thereby allowing Mr. Nolan several additional weeks to file a supplemental opposition if he wished. See LBR 9013-1(m)(4) (allowing for an automatic extension of time to file responsive pleadings in the event of a continuance of the hearing). Finally, while the copy served on Mr. Nolan was not formatted perfectly, it was not illegible.

8. The court disagrees with Kurtin that the Committee had no standing to bring the Motion.

*Special note: This tentative ruling may or may not be expanded prior to the hearing.*

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

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#25.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #1 by Miller Barondess LLP**

FR: 5-12-20; 5-19-20; 6-23-20

Docket 36

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

CONT... Heritage Colorado LLC

Chapter 11

Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

**Party Information**

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#26.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim # 3 By E.O.C. Ord, Inc.

FR: 5-12-20; 5-19-20; 6-23-20

Docket 35

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

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Meeting ID: 160 810 7407

Password: 307874

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United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

CONT... Heritage Colorado LLC

Chapter 11

Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

**Party Information**

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#27.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #2 by Bond  
Safeguard Insurance Company**

FR: 5-12-20; 5-19-20; 6-23-20

Docket 34

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Heritage Colorado LLC**

**Chapter 11**

Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

8:20-10373 Heritage Colorado LLC

Chapter 11

#28.00 CONT'D Hearing RE: Creditor Todd Kurtin's Motion For Order Converting Case to Chapter 7

FR: 4-2-20; 5-14-20; 5-19-20

Docket 25

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

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The court is inclined to deny this motion as premature and serving no cognizable purpose. Movant argues that Debtor has no assets and, therefore, no path to reorganization. Accepting that as true, what would be accomplished by a conversion to chapter 7? That said, Debtor needs to advise the court of the reorganization exit strategy in this case.

-----

**June 25, 2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

CONT... **Heritage Colorado LLC**

**Chapter 11**

**SPECIAL NOTICE!**

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Meeting ID: 160 810 7407

Password: 307874

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Meeting ID: 160 810 7407

Password: 307874

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**TENTATIVE RULING**

Deny Motion in light of the tentative ruling to grant the Committee's motion to substantively consolidate this case with the other related cases.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Heritage Colorado LLC**

**Chapter 11**

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

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**Movant(s):**

Todd Kurtin

Represented By  
Lewis R Landau



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#29.00** CONT'D Hearing RE: Objection of Creditor Todd Kurtin to the Professional Fee Statement of #1 of Goe & Forsythe & Hodges LLP

FR: 5-14-20; 5-19-20

Docket 53

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Heritage Colorado LLC**

**Chapter 11**

Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

8:20-10373 Heritage Colorado LLC

Chapter 11

#30.00 CON'TD STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and (2)  
Requiring Report on Status of Chapter 11 Case

FR: 4-2-20; 5-14-20; 5-19-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

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The reorganization purpose of this filing is not clearly articulated in the status report. Debtor states that the case was filed to "preserve assets" for the benefit of creditors. What assets? Debtor's Schedules A/B show receivables from related entities with a value of \$0.00. Further, Debtor vaguely states that it intends to participate in a joint plan with other unnamed related debtors. What does this Debtor, with no assets of value, have to contribute to a joint plan?

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**June 25, 2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

CONT... Heritage Colorado LLC

Chapter 11

**SPECIAL NOTICE!**

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Meeting ID: 160 810 7407

Password: 307874

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**TENTATIVE RULING**

Continue Status Conference to October 22, 2020 at 10:30 a.m.; updated Status Report must be filed by October 8, 2020.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Heritage Colorado LLC**

**Chapter 11**

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#31.00** CON'TD Hearing RE: The Official Committee of Unsecured Creditor's of Bruce Elieff's Motion for Order Substantially Consolidating Chapter 11 Estates of Morse Properties, LLC, 4627 Camden, LLC, TDV Development Corporation, Heritage Colorado LLC, and Broadband Nation LLC into Chapter 11 Estate of Bruce Elieff

FR: 5-7-20; 5-19-20; 6-23-20

Docket 56

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

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Meeting ID: 160 810 7407

Password: 307874

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

CONT... TDV Development Corporation

Chapter 11

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Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874  
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**TENTATIVE RULING**

Grant the motion, including the language set forth in Exhibit A to the Reply pleading.

Basis for Tentative Ruling:

"[S]ubstantive consolidation is proper in circumstances where creditors have treated the separate entities as a single unit, or the business affairs of the consolidated entities are hopelessly entangled. Hopeless entanglement can be established by proving that there has been an abuse of the corporate form and the other typical alter ego elements." *In re SK Foods, LP*, 499 B.R. at 833-34

By the Motion, Movant has established, by clear and convincing evidence, grounds for the substantive consolidation of the six subject debtors. The evidence clearly demonstrates that the business affairs of the debtors, all controlled and wholly owned by the individual Debtor Bruce Elieff are "hopelessly entangled." Such hopeless entanglement is evident by

1) State court orders entered in the Kurtin Lawsuit, which orders are based on evidence presented in motions filed by Kurtin prior to the bankruptcy filings. The has reviewed such evidence not to for the purpose of establishing alter ego for purposes of the Motion but for the purpose of establishing grounds for substantive consolidation based on alter ego "elements." The court incorporates by reference herein the legal analysis set forth in the Motion (except as to the judicial estoppel argument) and Reply.

2) Kurtin's own arguments/evidence in support of his motion for the appointment

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

CONT... **TDV Development Corporation**

**Chapter 11**

of a chapter 11 trustee in the Elieff, Camden and Morse cases which references Elieffs practicing of funneling millions of dollars through his various wholly owned companies.

3) The Schedules and Statements of Affairs in the related cases.

4) Importantly, the Debtors' *joinder* in the Motion without qualification, thereby effectively admitting to the argument/evidence/legal analysis therein.

5) These cases "scream" out for substantive consolidation and present the "poster boy" case for such consolidation.

6) The objections of the secured creditors have been addressed in Exhibit A to the reply.

7) Re the Objection of Mr. Nolan, though the service time was one day late (20 days instead of 21), the hearing was May 7, 2020 to June 25, 2020, thereby allowing Mr. Nolan several additional weeks to file a supplemental opposition if he wished. See LBR 9013-1(m)(4) (allowing for an automatic extension of time to file responsive pleadings in the event of a continuance of the hearing). Finally, while the copy served on Mr. Nolan was not formatted perfectly, it was not illegible.

8. The court disagrees with Kurtin that the Committee had no standing to bring the Motion.

*Special note: This tentative ruling may or may not be expanded prior to the hearing.*

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

TDV Development Corporation

Represented By  
Robert P Goe



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#32.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #2 by Miller Barondess

FR: 5-12-20; 5-19-20; 6-23-20

Docket 36

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

Participants may connect to the videoconference through an Internet browser by entering the Videoconference URL shown below, as well as the meeting ID and password, when prompted. Alternatively, participants may dial in by telephone at the number indicated below.

Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... TDV Development Corporation**

**Chapter 11**

Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

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

TDV Development Corporation

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#33.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #3 by E.O.C. Ord, Inc.

FR: 5-12-20; 5-19-20; 6-23-20

Docket 35

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... TDV Development Corporation**

**Chapter 11**

Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

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

TDV Development Corporation

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#34.00** CONT'D Hearing RE: Creditor Todd Kurtin's Objection to Claim #4 by Bond  
Safeguard Insurance Company

FR: 5-12-20; 5-19-20; 6-23-20

Docket 37

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

Participants may connect to the videoconference through an Internet browser by entering the Videoconference URL shown below, as well as the meeting ID and password, when prompted. Alternatively, participants may dial in by telephone at the number indicated below.

Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... TDV Development Corporation**

**Chapter 11**

Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

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

TDV Development Corporation

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

8:20-10374 TDV Development Corporation

Chapter 11

#35.00 CON'TD Hearing RE: Creditor Todd Kurtin's Motion For Order Converting Case to Chapter 7

FR: 4-2-20; 5-14-20; 5-19-20

Docket 25

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

The court is inclined to deny this motion as premature and serving no cognizable purpose. Movant argues that Debtor has no assets and, therefore, no path to reorganization. Accepting that as true, what would be accomplished by a conversion to chapter 7? That said, Debtor needs to advise the court of the reorganization exit strategy in this case.

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**June 25, 2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... TDV Development Corporation**

**Chapter 11**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

Participants may connect to the videoconference through an Internet browser by entering the Videoconference URL shown below, as well as the meeting ID and password, when prompted. Alternatively, participants may dial in by telephone at the number indicated below.

Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

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

TDV Development Corporation

Represented By  
Robert P Goe

**Movant(s):**

Todd Kurtin

Represented By



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... TDV Development Corporation**

Lewis R Landau

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#36.00** CONT'D Hearing RE: Objection of Creditor Todd Kurtin to the Professional Fee Statement of #1 of Goe & Forsythe & Hodges LLP

FR: 5-14-20; 5-19-20

Docket 54

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

Participants may connect to the videoconference through an Internet browser by entering the Videoconference URL shown below, as well as the meeting ID and password, when prompted. Alternatively, participants may dial in by telephone at the number indicated below.

Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... TDV Development Corporation**

**Chapter 11**

Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

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

TDV Development Corporation

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, June 25, 2020

Hearing Room 5A

10:00 AM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#37.00** CON'TD STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and (2) Requiring Report on Status of Chapter 11 Case

FR: 4-2-20; 5-14-20; 5-19-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 2, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

The reorganization purpose of this filing is not clearly articulated in the status report. Debtor states that the case was filed to "preserve assets" for the benefit of creditors. What assets? Debtor's Schedules A/B show receivables from related entities with a value of \$0.00. Further, Debtor vaguely states that it intends to participate in a joint plan with other unnamed related debtors. What does this Debtor, with no assets of value, have to contribute to a joint plan?

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**June 25, 2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... TDV Development Corporation**

**Chapter 11**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

Participants may connect to the videoconference through an Internet browser by entering the Videoconference URL shown below, as well as the meeting ID and password, when prompted. Alternatively, participants may dial in by telephone at the number indicated below.

Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

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**TENTATIVE RULING**

Continue Status Conference to October 22, 2020 at 10:30 a.m.; updated Status Report must be filed by October 8, 2020.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, June 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... TDV Development Corporation**

**Chapter 11**

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, July 6, 2020**

**Hearing Room 5A**

3:00 PM

**8:20-11837 Golden Communications Inc.**

**Chapter 11**

**#1.00** Hearing RE: Debtor's Emergency Motion for Interim and Final Orders Authorizing Debtor to Pay Pre-petition Claims of Critical Vendors: and (2) Perform Under Agreements with Critical Vendors

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Absent opposition, grant Motion on interim basis through August 6, 2020. The final hearing will be held on August 6, 2020 at 10:30 a.m. Any supplemental pleadings in support of the Motion must be filed/served by July 16, 2020; any opposition/response must be filed/served by July 23, 2020; and reply must be filed/served by July 30, 2020.

**Party Information**

**Debtor(s):**

Golden Communications Inc.

Represented By  
Marc C Forsythe

**8:20-11837 Golden Communications Inc.**

**Chapter 11**

**#2.00** Hearing RE: Debtor's Emergency Motion for Order Authorizing Maintenance of a Pre-petition Bank Account for 30 Days

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, July 6, 2020**

**Hearing Room 5A**

3:00 PM

**CONT... Golden Communications Inc.**

**Chapter 11**

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Absent opposition, grant Motion.

**Party Information**

**Debtor(s):**

Golden Communications Inc.

Represented By  
Marc C Forsythe

**8:20-11837 Golden Communications Inc.**

**Chapter 11**

**#3.00** Hearing RE: Debtor's Emergency Motion for Order: (1) Prohibiting Utilities from Altering Refusing, or Discontinuing Service; and (2) Establishing Procedures to Determine Adequate Assurance of Payment for Future Utility Services

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Monday, July 6, 2020

Hearing Room 5A

3:00 PM

CONT... Golden Communications Inc.

Chapter 11

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Absent opposition, grant Motion (including proposed procedures therein), except that the court is not persuaded that the adequate assurance payment should be zero -- Debtor shall provide a deposit o each utility equal to one-half of the average monthly payment (based on 12-month period preceding the filing), payable within 7 days following entry of the order granting the Motion or within 7 days of learning of the existence of any other utility not referenced in the Motion.

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

Golden Communications Inc.

Represented By  
Marc C Forsythe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 7, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#1.00 ORAL RULING** Hearing RE: Related Debtors' Motion for Order Disallowing Claims of Todd C. Kurtin Pursuant to 11 U.S.C. Section 502(d):

Claim No. 29	Kurtin	\$33,892,117.62	[Debtor: Elieff]
Claim No. 9	Kurtin	\$33,892,117.62	[Debtor: Morse]
Claim No. 12	Kurtin	\$33,892,117.62	[Debtor: Camden]

FR: 4-16-20; 5-12-20; 5-19-20; 6-23-20

Docket 323

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 23, 2020**

There is no tentative ruling for this matter. The court will entertain oral argument as follows:

1. Moving Party: Maximum of 30 minutes to highlight key arguments
2. Responding Party: Maximum of 30 minutes to highlight key arguments
3. Moving Party: 20 minutes for final argument

The matter will then be taken under advisement and an oral ruling re the same will be set for July 7, 2020 at 2:00 p.m. The oral ruling may be set forth in writing under the tentative ruling field prior to the time set for the same. The parties will be contacted by chambers if that is the case. (XX)

The following is the court's tentative "roadmap" to the June 25, 2020

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 7, 2020**

**Hearing Room 5A**

2:00 PM

**CONT...**      **Bruce Elieff**  
calendar.

**Chapter 11**

I. Matters for that will proceed on June 25, 2020:

A. Motion for Substantive Consolidation (the court is currently leaning toward granting)

B. Motion for the Appointment of a Ch. 11 Trustee (Elieff/Camden/Morse)

C. Motion to Convert to Chapter 7 (Broadband/Heritage/TDV) --  
*Special note: If the Motion for Substantive Consolidation is granted, the motion to convert these cases to chapter 7 will be denied*

D. Motion to Extend Exclusivity -- Tentative ruling already posted to grant in part (as to Debtors, deny in part (as to Committee)).

E. Motion for Approval of Stipulation re Assignment of Right to Sue Insiders. Tentative ruling already posted to grant unless a chapter 11 trustee is appointed.

II. Matters that will be continued to July 16 at 2:00 p.m.

A. All Kurtin Objections to Claim to the extent not rendered moot if the Motion for Substantive Consolidation is granted.

B. All Interim Fee Applications

C. Both OSC re J. Benice (civil contempt and preliminary injunction)

D. Motion for Cancellation of Retainer/Disgorgement re J. Benice

III. Debtors' Disclosure Statement hearing currently set for July 23, 2020

This disclosure statement will likely need to be substantially modified or withdrawn and a new hearing date set.

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, July 7, 2020

Hearing Room 5A

2:00 PM

CONT... Bruce Elieff

Chapter 11

**July 7, 2020**

**RULING:** Deny the Motion for temporary disallowance of Claim #s 29 [Elieff], 9 [Morse], and 12 [Camden]

**BASIS FOR THE RULING:**

After reviewing all of the pleadings, statutory and case law, as well as the oral argument of counsel at the June 23, 2020 hearing, the court has determined that most efficient way of disposing of the issues presented under 11 U.S.C. 502(d) is to defer determination of the claim objections until adjudication of the related adversary proceeding, no. 19-01205. Importantly, all versions of the complaint in such adversary proceeding include a claim for relief under 502(d), in addition to the underlying avoidance claims upon which the 502(d) claim is based. The court has carefully reviewed all the case law cited by the parties and is not aware of any involved the circumstances presented here -- both a "standalone" 502(d) objection and a pending adversary proceeding asserting the same 502(d) claim. In effect, Debtors are simultaneously seeking a temporary disallowance (objection) and a permanent disallowance (adversary) on the same legal basis, i.e., 502(d). This is inefficient. Moreover, it appears, based on the argument presented at the hearing, that Debtors are essentially seeking to use Section 502(d) as a *de facto* vehicle for affirmative relief in advance of an adjudication of adversary proceeding, a purpose for which 502(d) is not intended. Whether this is the case or not, the court exercises its discretion to make a determination of the 502(d) claim within the adversary proceeding where it was initially raised.

Accordingly, the Motion is denied without prejudice to the plaintiff in the adversary proceeding requesting judicial notice of the evidence presented in the objections (subject to evidentiary objections thereto) in the course of the prosecution of the adversary proceeding. Same applies to the defendant in his defense of the adversary proceeding regarding pleadings filed in opposition to the Motion.

***Special Note: As the purpose of this hearing is for the court to issue its ruling regarding the Motion, no additional oral argument will be***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 7, 2020**

**Hearing Room 5A**

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2:00 PM

CONT...

**Bruce Elieff**

**Chapter 11**

***entertained regarding the ruling. An actual hearing will take place only if a party has a question about the ruling, in which case such party may so inform the clerk when the matter is called at 2:00 p.m.***

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

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-11414 Peter Woo Sik Kim**

**Chapter 7**

Adv#: 8:19-01155 Kang Family 2007 Revocable Trust v. Kim et al

**#1.00** CONT'D PRE-TRIAL CONFERENCE RE: Complaint Objecting to Discharge of Debt Under 11 U.S.C. §523(a)(3)(a) and 11 U.S.C. §523(a)(2)(B)

FR: 10-17-19; 1-16-20; 5-7-20; 6-4-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**October 17, 2019**

Discovery Cut-off Date:	Mar. 6, 2020
Deadline to Attend Mediation:	Jan. 31, 2020
Pretrial Conference Date:	Apr. 30, 2020 at 9:30 a.m.
Deadline to Lodge Joint Pretrial Stipulation:	Apr. 16, 2020

***Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

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**January 16, 2020**

Discovery Cut-off Date:	Mar. 16, 2020
Pretrial Conference Date:	May 7, 2020 at 9:30 a.m.
(XX)	
Deadline to Lodge Joint Pretrial Stipulation:	Apr. 23, 2020

***Note: If all parties accept the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Peter Woo Sik Kim**

**Chapter 7**

**June 4, 2020**

Continue the Pretrial Conference to July 9, 2020 at 9:30 a.m. to allow the parties to file an amended pretrial stipulation by June 25, 2020. The amended pretrial stipulation should address the comments of the court in its tentative ruling and also whether each party wishes to submit direct testimony by declaration in advance of the trial in accordance with this court's Trial Procedures or if they prefer live direct testimony. (XX)

Comments re the Pretrial Stipulation:

1. The court commends the parties for timely filing a thorough and thoughtful pretrial stipulation ("PS"), including a complete list of exhibits and witnesses. That said, the PS will need to be amended per the comments below.

2. Page 3, line 7: There appear to be action words missing, e.g., should "submitted a signed Letter of Intent to lease the property" be inserted?

3. Chronologically, paragraph 4 should probably replace paragraph 7.

4. Curiously, the Issues of Fact to be Litigated, starting on page 6, do not include all of the factual issues relating to 523(a)(2)(A) and (B). Instead, those issues have been relegated to section IV called Claims for Relief which includes mixed issues of fact and law re 523(a)(2). Also added are sections V (Remedies) and VI (Affirmative Defenses). Sections IV, V and VI (collectively the "Added Sections") are confusing and are not consistent with the structure of a pretrial stipulation as plainly set forth in LBR 7016-1(b)(2)(B) and (C). The section on Issues of Fact to be Litigated should include all issues of fact, including those that appear in the Added Sections. Similarly, the section on Issues of Law to be Litigated (Remaining Legal Issues) should include all legal issues, including those in the Added Sections. The court does not mind subheadings within the Issues of Fact and/or Issues of Law, but there should be one section on disputed facts and one section on issues of law.

4. Page 15, lines 1 and 3: "A list of" should be inserted after "Exhibits:" since

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Peter Woo Sik Kim**

**Chapter 7**

the exhibits themselves are not attached.

5. It is the court's usual procedure to conduct direct testimony by declaration (the plaintiff submits written direct testimony 30 days before; the defendant does so 21 days before trial and both parties submit any evidentiary objections 7 days prior to trial). See, the court's Trial Procedures at [cacb.uscourts.gov](http://cacb.uscourts.gov). However, direct testimony by declaration is not mandatory if the parties prefer live direct testimony. By listing the direct examination time estimates in the PS, are the communicating a preference for live direct testimony as opposed to direct testimony by declaration (exclusive of adverse or rebuttal testimony)? Live direct vs. written direct will affect the trial time estimate.

6. The trial will likely take place the week of September 21, 2020. While in-person appearances may be possible by that time, the court is amenable to a video conference option for any parties who cannot appear in person.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required; nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

-----

**July 9, 2020**

The parties must appear and address the following issues:

1. Whether direct testimony will be presented by written declarations (see Court's Comment #5 above in the tentative ruling for June 4, 2020. This issue does not appear to be addressed in the amended pretrial stipulation. As previously noted, this affects the trial time estimate and setting of trial dates.

2. Whether the parties will be prepared to conduct the trial entirely by video conference (Zoom) if the trial is held in September during the week of September 21, 2020.

The trial cannot be set until the above issues have been addressed.



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

9:30 AM

CONT... Peter Woo Sik Kim

Chapter 7

***Note: Appearances at this hearing are required.***

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

**Debtor(s):**

Peter Woo Sik Kim

Represented By  
Andrew S Bisom

**Defendant(s):**

Peter Kim

Pro Se

Sharon Kim

Pro Se

**Joint Debtor(s):**

Sharon Soyun Kim

Represented By  
Andrew S Bisom

**Plaintiff(s):**

Kang Family 2007 Revocable Trust

Represented By  
Edmond Richard McGuire

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Lynda T Bui  
Rika Kido

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 9, 2020

Hearing Room 5A

10:00 AM

8:18-13257 Scott Samuel Wilson and Stacy Anne Wilson

Chapter 13

#2.00 CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

U.S. BANK N.A.

VS.

DEBTORS

FR: 6-4-20

Docket 35

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion  
for Relief from the Automatic Stay (Settled by Stipulation) Entered 6/8/2020

Courtroom Deputy:

OFF CALENDAR: Order Granting Motion for Relief from the Automatic  
Stay (Settled by Stipulation) Entered 6/8/2020 - td (6/8/2020)

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the  
COVID-19 virus, notice is hereby given that ALL hearings before Judge  
Smith will be by TELEPHONE APPEARANCE ONLY until further notice.  
The courtroom will be locked. Any party who wishes to appear must  
register in advance by contacting CourtCall at (866) 582-6878. It is  
suggested that parties register with CourtCall at least 30 minutes prior  
to the hearing. Through June 30, 2020, CourtCall is offering discounted  
registration for attorneys and free registration for parties without an  
attorney.

June 4, 2020

If Debtors are now postpetition current with payments, grant an adequate  
protection order. If more time is needed to negotiate the terms of an  
adequate protection order, the parties may request a continuance during the

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Scott Samuel Wilson and Stacy Anne Wilson Chapter 13**

calendar roll call just prior to the hearing. Available continued hearing dates are June 11, 2020, June 18, 2020, July 9, 2020 and July 16, 2020 at 10:00 a.m.

*Special note: Debtor has provided a copy of a bank statement showing a payment on May 20, 2020; however, the court cannot confirm the tender of a payment on May 7, 2020 based on the evidence presented.*

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

Scott Samuel Wilson

Represented By  
Kristin R Lamar

**Joint Debtor(s):**

Stacy Anne Wilson

Represented By  
Kristin R Lamar

**Movant(s):**

U.S. Bank National Association

Represented By  
Kristin A Schuler-Hintz  
Nancy L Lee

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

10:00 AM

**8:18-13521 Jose F. Lopez**

**Chapter 13**

**#3.00 CON'TD Hearing RE: Motion for Relief from the automatic stay .  
[PERSONAL PROPERTY]**

NEW REZ LLC

VS.

DEBTOR

FR: 6-11-20

Docket 45

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 11, 2020 [UPDATED TENTATIVE TO REFLECT LATE OPPOSITION]**

Grant motion with 4001(a)(3) waiver unless the parties are negotiating the terms of an APO. If more time is needed, the hearing may be continued by making a request during the calendar roll call just prior to the commencement of the hearing. Available continued dates are June 18, 2020, July 9, 2020 and July 16, 2020 at 10:00 a.m.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Jose F. Lopez**

**Chapter 13**

-----  
**July 9, 2020**

Movant to advise the court re the status of this matter. If more time is needed, the hearing may be continued one final time by making a request during the calendar roll call just prior to the commencement of the hearing. Available continued dates are July 16, 2020 and August 6, 2020 at 10:00 a.m.

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

**Debtor(s):**

Jose F. Lopez

Represented By  
Michael D Franco

**Movant(s):**

NewRez LLC d/b/a Shellpoint

Represented By  
Eric P Enciso  
Kristin A Zilberstein

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 9, 2020

Hearing Room 5A

10:00 AM

8:19-13468 Eric Anthony Perez

Chapter 13

#4.00 CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

HSBC BANK USA, NA

VS.

DEBTOR

FR: 5-21-20; 6-18-20

Docket 38

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion  
for Relief from the Automatic Stay (Settled by Stipulation) Entered 6/18/2020

Courtroom Deputy:

OFF CALENDAR: Order Granting Motion for Relief from the Automatic  
Stay (Settled by Stipulation) Entered 6/18/2020 - td (6/18/2020)

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the  
COVID-19 virus, notice is hereby given that ALL hearings before Judge  
Smith will be by TELEPHONE APPEARANCE ONLY until further notice.  
The courtroom will be locked. Any party who wishes to appear must  
register in advance by contacting CourtCall at (866) 582-6878. It is  
suggested that parties register with CourtCall at least 30 minutes prior  
to the hearing. Through August 31, 2020, CourtCall is offering  
discounted registration for attorneys and free registration for parties  
without an attorney.

May 21, 2020

Grant with 4001(a)(3) waiver, unless the parties have negotiated the terms of  
an adequate protection order, in which case a request for a continuance may  
be made during the calendar roll call prior to the hearing. Available dates are

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Eric Anthony Perez**

**Chapter 13**

June 4, June 11 and June 18, 2020 at 10:00 a.m.  
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**June 18, 2020**

Grant with 4001(a)(3) waiver, unless there are on going discussions regarding the terms of an adequate protection order, in which case a request for a final continuance may be made during the calendar roll call prior to the hearing. Available dates are July 9, 2020 and July 16, 2020 at 10:00 a.m.

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

**Debtor(s):**

Eric Anthony Perez

Represented By  
Christopher J Langley

**Movant(s):**

HSBC Bank USA, National

Represented By  
Austin P Nagel

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 9, 2020

Hearing Room 5A

10:00 AM

8:19-14676 Alba Lilia Love

Chapter 7

#5.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

PENNYMAC LOAN SERVICES, LLC

VS.

DEBTOR

Docket 24

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 8, 2020**

Grant Motion with all relief requested therein.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room      5A**

10:00 AM

**CONT...      Alba Lilia Love**

**Chapter 7**

**Debtor(s):**

Alba Lilia Love

Pro Se

**Movant(s):**

PennyMac Loan Services, LLC

Represented By  
Robert P Zahradka

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:08-11747 John W Norling**

**Chapter 7**

Adv#: 8:08-01263      Werth et al v. Norling et al

**#6.00**      CON'TD Hearing RE: Plaintiffs' Motion to Reopen Adversary Proceeding

FR: 6-11-20

Docket      59

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 11, 2020**

Continue hearing to July 9, 2020 at 10:30 a.m. to allow Movant to correct defective notice issue. (XX)

Basis for Tentative Ruling:

Notice of the 14-day opposition filing deadline was not provided as required by LBR 9013-1(c)(2), which states that "the notice of motion must advise the opposing party that LBR 9013-1(f) requires a written response to be filed and served at least 14 days before the hearing."

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**July 9, 2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

CONT... John W Norling

Chapter 7

Grant Motion. The Clerk may re-close the adversary thirty (30) days following entry of the order granting the Motion without further notice or order of the court.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

John W Norling

Represented By  
Stephen D Brittain

**Defendant(s):**

John W Norling

Represented By  
Leighton Anderson

Sakura D Norling

Represented By  
Leighton Anderson

**Joint Debtor(s):**

Sakura D Norling

Represented By  
Stephen D Brittain

**Plaintiff(s):**

Elvyn Dona Werth

Represented By  
David T Ward  
Paul J Kurtzhall  
J Scott Williams

Alice Dona Werth

Represented By  
David T Ward  
Paul J Kurtzhall  
J Scott Williams

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... John W Norling**

**Chapter 7**

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

**8:16-12110 Stuart Moore (USA) Ltd.**

**Chapter 7**

Adv#: 8:18-01085 Thomas H. Casey, Chapter 7 Trustee v. Moore et al

**#7.00** CONT'D STATUS CONFERENCE RE: First Amended Complaint for Avoidance of Recovery of Fraudulent and Preferential Transfers (Another Summons Issued 9/13/18)

FR: 12-6-18; 1-31-19; 3-12-19; 4/18/19; 7-11-19, 7-16-19; 9-12-19; 11-21-19; 2-20-20; 5-7-20; 6-4-20

Docket 3

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**January 31, 2019**

Continued to March 12, 2019 at 10:30 a.m.; updated status report not required. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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**July 9, 2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Stuart Moore (USA) Ltd.**

**Chapter 7**

Defendant to advise the court re the status of the lodgment of the outstanding motion re motion to dismiss. If an order has been lodged prior to the time of the hearing, this matter will go off calendar.

**Party Information**

**Debtor(s):**

Stuart Moore (USA) Ltd.

Represented By  
William M Burd  
Jeffrey S Shinbrot

**Defendant(s):**

Stuart Moore

Pro Se

Sylvie Moore Masson

Pro Se

**Plaintiff(s):**

Thomas H. Casey, Chapter 7 Trustee

Represented By  
Jeffrey S Shinbrot

**Trustee(s):**

Thomas H Casey (TR)

Represented By  
Thomas H Casey  
Jeffrey S Shinbrot  
Jeffrey I Golden

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

8:18-10566 Eugene Martin Huapaya

Chapter 7

#8.00 Hearing RE: Trustee's Final Report and Application for Final Fees and Expenses

[WENETA M.A. KOSMALA, CHAPTER 7 TRUSTEE]

Docket 124

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 9, 2020**

Approve fees and expenses as requested.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.**

**Party Information**

**Debtor(s):**

Eugene Martin Huapaya

Represented By  
Joseph A Weber

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Eugene Martin Huapaya**

Fritz J Firman

**Chapter 7**

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Erin P Moriarty



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

8:18-10566 Eugene Martin Huapaya

Chapter 7

#9.00 Hearing RE: Application for Payment of Final Fees and/or Expenses

[LAW OFFICES OF WENETA M.A. KOSMALA, ATTORNEY FOR CHAPTER 7 TRUSTEE]

Docket 113

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 9, 2020**

Approve fees and expenses as requested.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.**

**Party Information**

**Debtor(s):**

Eugene Martin Huapaya

Represented By  
Joseph A Weber

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Eugene Martin Huapaya**

Fritz J Firman

**Chapter 7**

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Erin P Moriarty

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#10.00 Hearing RE: Trustee's Motion to Extend Deadline to Assume and Assign  
Admiral Insurance Policy Pursuant to 11 U.S.C. Section 363 and 365

Docket 399

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 9, 2020**

Grant the Motion to extend through August 17, 2020.

*Special Note: Though a stipulation has been filed and an order entered regarding an identical motion in the related "GP," case, the two cases are not substantively consolidated and no stipulation has been filed in this case.*

**Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required and Movant shall lodge an order consistent with the same.**

**Party Information**

**Debtor(s):**

Friendly Village MHP Associates LP

Represented By  
Howard Camhi

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... Friendly Village MHP Associates LP**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Kristine A Thagard  
Arthur Grebow  
David Wood  
Tinho Mang

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#11.00 Hearing RE: Trustee's Motion to Approve Second Amendment to Purchase and Sale Agreement and First Amendment to Assignment of Claim and Estates' Interest in Insurance Policy Pursuant to 11 U.S.C. Sections 363

Docket 403

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 9, 2020**

Continue hearing to July 16, 2020 at 10:30 a.m.

**Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.**

**Party Information**

**Debtor(s):**

Friendly Village MHP Associates LP

Represented By  
Howard Camhi

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Friendly Village MHP Associates LP**

**Chapter 7**

Kristine A Thagard  
Arthur Grebow  
David Wood  
Tinho Mang

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

8:18-13864 Friendly Village GP, LLC

Chapter 7

#12.00 Hearing RE: Trustee's Motion to Extend Deadline to Assume and Assign Admiral Insurance Policy Pursuant to 11 U.S.C. Sections 363 and 365

Docket 214

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Approving Stipulation to Extend Deadline to Assume and Assign Admiral Insurance Policy Pursuant to 11 U.S.C. Sections 363 and 3655; and to Withdraw Trustee's Motion to Extend Deadline to Assume and Assign Entered 7/7/2020

Courtroom Deputy:

OFF CALENDAR: Order Approving Stipulation to Extend Deadline to Assume and Assign Admiral Insurance Policy Pursuant to 11 U.S.C. Sections 363 and 3655; and to Withdraw Trustee's Motion to Extend Deadline to Assume and Assign Entered 7/7/2020 - td (7/7/2020)

Tentative Ruling:

- NONE LISTED -

Party Information

**Debtor(s):**

Friendly Village GP, LLC

Represented By  
Howard Camhi

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
David Wood  
Kristine A Thagard

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

8:18-13864 Friendly Village GP, LLC

Chapter 7

#13.00 Hearing RE: Trustee's Motion to Approve Second Amendment to Purchase and Sale Agreement and First Amendment to Assignment of Claim and Estates' Interest in Insurance Policy Pursuant to 11 U.S.C. Sections 363

Docket 217

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 9, 2020**

Continue hearing to July 16, 2020 at 10:30 a.m.

**Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.**

**Party Information**

**Debtor(s):**

Friendly Village GP, LLC

Represented By  
Howard Camhi

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Friendly Village GP, LLC**

David Wood  
Kristine A Thagard

**Chapter 7**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

8:19-13242 10827 Studebaker LLC, a California limited liabili

Chapter 11

#14.00 Hearing RE: Fourth Motion of Debtor to Extend Debtor's Exclusivity Periods for Filing and Soliciting Approval of Plan of Reorganization

Docket 117

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 9, 2020**

Grant the Motion for a final extension through September 1, 2020, the date requested in the Motion.

*Special note: The Reply requests a different date of September 17, 2020. However, the Motion itself requested September 1, 2020 and no notice of errata was ever filed so the September 1 date is the operative date.*

**Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.**

**Party Information**

**Debtor(s):**

10827 Studebaker LLC, a California

Represented By  
Steven Werth

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... 10827 Studebaker LLC, a California limited liabili**

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#15.00** CON'TD Hearing RE: Debtor Bruce Elieff's Objection to Claim Nos. 30, 31, 32, 33 and 34 of Robert Nolan

FR: 6-11-20

Docket 576

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 10/22/2020 AT 10:30 A.M., Per Order Entered 7/6/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 10/22/2020 at 10:30 a.m., Per Order Entered 7/6/2020 (XX) - td (7/6/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#16.00** Hearing RE: Joint Motion of Debtor, Bruce Elieff, and the Official Committee of Unsecured Creditors of Bruce Elieff in Aid of Obtaining Access to 26 Pelican Point Drive, Newport Coast, CA 92657

Docket 647

**Courtroom Deputy:**

**CONTINUED: Order Approving Stipulation to Continue Hearing SIGNED on 7/8/20 -- Matter is contiued to September 10, 2020 at 10:30 a.m. -- eas**

**Tentative Ruling:**

- NONE LISTED -

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

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

8:19-14869 Omar Vasquez and Elisabeth Aguilar

Chapter 13

#17.00 CON'TD Hearing RE: Debtors' Objection to Claim Number 2 filed by Resurgent Capital Services (\$1,116.03)

FR: 5-21-20

Docket 23

**Courtroom Deputy:**

**SPECIAL NOTE: Withdrawal of Claim #2 filed 6/19/2020. Withdrawal of Debtor's Objection to be filed per Ms. Sood, Attorney for Debtor - td (6/19/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 21, 2020**

Continue hearing to July 9, 2020 at 10:30 a.m. to allow Debtors to correct service issue. (XX)

Under LBR 3007-1(c)(2), a complete copy of the proof of claim must be attached to the claim objection. Under LBR 3007-1(b)(2), the claim objection (which includes the proof of claim) must be served with the notice of the claim objection. Here, Debtors have failed to attach a copy of the proof of claim. This is important in terms of allowing the creditor to properly track and identify

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Omar Vasquez and Elisabeth Aguilar**  
the debt referenced in the objection.

**Chapter 13**

Tentative ruling for 7/9/20 hearing (if unopposed): Sustain objection

***Note: If Debtors accept the foregoing tentative ruling, appearance at this hearing is not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.***

-----

**July 9, 2020**

If the Objection is not withdrawn by Debtors prior to today's hearing, overrule the Objection as moot as claimant has withdrawn the subject proof of claim.

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Omar Vasquez

Represented By  
Sunita N Sood

**Joint Debtor(s):**

Elisabeth Aguilar

Represented By  
Sunita N Sood

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

8:19-14869 Omar Vasquez and Elisabeth Aguilar

Chapter 13

#18.00 CON'TD Hearing RE: Debtors' Objection to Claim Number 3 filed by Resurgent Capital Services (\$435.58)

FR: 5-21-20

Docket 25

**Courtroom Deputy:**

**SPECIAL NOTE: Withdrawal of Claim #2 filed 6/19/2020. Withdrawal of Debtor's Objection to be filed per Ms. Sood, Attorney for Debtor - td (6/19/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 21, 2020**

Continue hearing to July 9, 2020 at 10:30 a.m. to allow Debtors to correct service issue. (XX)

Under LBR 3007-1(c)(2), a complete copy of the proof of claim must be attached to the claim objection. Under LBR 3007-1(b)(2), the claim objection (which includes the proof of claim) must be served with the notice of the claim objection. Here, Debtors have failed to attach a copy of the proof of claim. This is important in terms of allowing the creditor to properly track and identify



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

CONT... Omar Vasquez and Elisabeth Aguilar  
the debt referenced in the objection.

Chapter 13

Tentative ruling for 7/9/20 hearing (if unopposed): Sustain objection

***Note: If Debtors accept the foregoing tentative ruling, appearance at this hearing is not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.***

-----

**July 9, 2020**

If the Objection is not withdrawn by Debtors prior to today's hearing, overrule the Objection as moot as claimant has withdrawn the subject proof of claim.

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Omar Vasquez

Represented By  
Sunita N Sood

**Joint Debtor(s):**

Elisabeth Aguilar

Represented By  
Sunita N Sood

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

8:19-14869 Omar Vasquez and Elisabeth Aguilar

Chapter 13

#19.00 CON'TD Hearing RE: Debtors' Objection to Claim Number 4 filed by Resurgent Capital Services (\$432.83)

FR: 5-21-20

Docket 27

**Courtroom Deputy:**

**SPECIAL NOTE: Withdrawal of Claim #2 filed 6/19/2020. Withdrawal of Debtor's Objection to be filed per Ms. Sood, Attorney for Debtor - td (6/19/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 21, 2020**

Continue hearing to July 9, 2020 at 10:30 a.m. to allow Debtors to correct service issue. (XX)

Under LBR 3007-1(c)(2), a complete copy of the proof of claim must be attached to the claim objection. Under LBR 3007-1(b)(2), the claim objection (which includes the proof of claim) must be served with the notice of the claim objection. Here, Debtors have failed to attach a copy of the proof of claim. This is important in terms of allowing the creditor to properly track and identify

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

CONT... Omar Vasquez and Elisabeth Aguilar  
the debt referenced in the objection.

Chapter 13

Tentative ruling for 7/9/20 hearing (if unopposed): Sustain objection

***Note: If Debtors accept the foregoing tentative ruling, appearance at this hearing is not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.***

-----

**July 9, 2020**

If the Objection is not withdrawn by Debtors prior to today's hearing, overrule the Objection as moot as claimant has withdrawn the subject proof of claim.

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Omar Vasquez

Represented By  
Sunita N Sood

**Joint Debtor(s):**

Elisabeth Aguilar

Represented By  
Sunita N Sood

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

8:19-14869 Omar Vasquez and Elisabeth Aguilar

Chapter 13

#20.00 CON'TD Hearing RE: Debtors' Objection to Claim Number 5 filed by Resurgent Capital Services (\$437.47)

FR: 5-21-20

Docket 29

**Courtroom Deputy:**

**SPECIAL NOTE: Withdrawal of Claim #5 filed 6/22/2020. Withdrawal of Debtor's Objection to be filed per Ms. Sood, Attorney for Debtor - td (6/22/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 21, 2020**

Continue hearing to July 9, 2020 at 10:30 a.m. to allow Debtors to correct service issue. (XX)

Under LBR 3007-1(c)(2), a complete copy of the proof of claim must be attached to the claim objection. Under LBR 3007-1(b)(2), the claim objection (which includes the proof of claim) must be served with the notice of the claim objection. Here, Debtors have failed to attach a copy of the proof of claim. This is important in terms of allowing the creditor to properly track and identify

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 9, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Omar Vasquez and Elisabeth Aguilar**  
the debt referenced in the objection.

**Chapter 13**

Tentative ruling for 7/9/20 hearing (if unopposed): Sustain objection

***Note: If Debtors accept the foregoing tentative ruling, appearance at this hearing is not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.***

-----

**July 9, 2020**

If the Objection is not withdrawn by Debtors prior to today's hearing, overrule the Objection as moot as claimant has withdrawn the subject proof of claim.

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Omar Vasquez

Represented By  
Sunita N Sood

**Joint Debtor(s):**

Elisabeth Aguilar

Represented By  
Sunita N Sood

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

8:20-10307 David Patterson

Chapter 13

#21.00 CONT'D Hearing RE: Debtor's Objection to Claim of Alley Bank (Claim No. 6)  
and Motion for Order Disallowing Claim

FR: 6-4-20

Docket 16

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

Continue hearing to July 9, 2020 at 10:30 a.m. to allow Debtor to correct service issue.(XX)

Basis for Tentative Ruling:

Service: Debtor did not serve claimant, a federally insured depository, in accordance with FRBP 7004(h). Rule 7004(h) requires service by certified mail to an officer of claimant, unless unless the claimant has appeared by its attorney. The court is aware that subsequent to the filing of the claim objection, Debtor entered into a stipulation with claimant for relief from stay re claimant's collateral and that claimant's attorney signed off on the stipulation. However, that attorney, Adam Barasch, was not served with the claim

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

CONT... David Patterson

Chapter 13

objection, so service is defective.

Merits: The court is inclined to sustain the objection on the merits, except the request for attorneys fees and costs as no legal authority for such has been presented.

Tentative ruling for 7/9/20 (if unopposed): Sustain objection; deny request for attorneys fees and costs.

***Note: If Debtor accepts the foregoing tentative ruling, appearance at this hearing is not required. Non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

-----

**July 9, 2020**

Sustain objection; deny request for attorneys fees and costs.

***Note: If Debtor accepts the foregoing tentative ruling, appearance at this hearing is not required. Non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

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

**Debtor(s):**

David Patterson

Represented By  
Amanda G Billyard

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

8:20-11507 Hytera Communications America (West) Inc

Chapter 11

#22.00 FINAL Hearing RE: Emergency Motion for the Entry of an Order Authorizing Hytera America Incorporated to Assume the Amended and Restated Independent Director Service Agreement

FR: 6-2-10

Docket 11

Courtroom Deputy:

June 2, 2020

Appearances:

NOTES:

**RULING: TENTATIVE RULING STANDS**

SPECIAL NOTE TO COURTROOM DEPUTY/LAW CLERK:

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

June 2, 2020

The court is inclined to deny this Motion on an expedited basis. The IDSA is



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 9, 2020

Hearing Room 5A

10:30 AM

CONT... **Hytera Communications America (West) Inc** **Chapter 11**

essentially the equivalent to the employment and/or appointment of a restructuring officer, the terms of which involve a substantial use of estate funds without court oversight, to wit, a monthly fee of \$25,000 per month, the employment of attorneys, advisors and other professionals at the Independent Director's discretion, etc.

-----

**July 9, 2020**

Grant the Motion, except that 1) the granting of the Motion is without prejudice to the Creditors' Committee or the United States Trustee being heard on the issue of the Independent Director's compensation on a properly noticed motion at any time during the course of the case, and 2) though the IDSA permits the Independent Director to seek employment of professionals under 11 U.S.C. 327 and 328, the court reserves the right to approve such employment under 11 U.S.C. 330 rather than 328 in its discretion.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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

Hytera Communications America

Represented By  
John W Lucas  
Jason H Rosell  
Victoria Newmark

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-10423 Chad Paul Delannoy**

**Chapter 7**

Adv#: 8:17-01073 Woodlawn Colonial, L P v. Delannoy

**#1.00 CON'TD STATUS CONFERENCE RE: Complaint for Determination of Non-Dischargeability of Debt**

FR: 7-27-17; 9-21-17, 4-12-18; 5-31-18; 7-19-18; 9-20-18; 12-6-18; 3-21-19; 5-9-19; 6-18-19; 9-19-19; 11-21-19; 1-30-20; 4-2-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 10/22/2020 AT 9:30 A.M.,  
Per Order Entered 7/9/2020 (XX)**

**Courtroom Deputy:**

**SPECIAL NOTE: Order Granting Plaintiff Woodlawn Colonial, L.P.'s Motion (1) to Dismiss Plaintiff's First & Second Claims for Relief; & (2) for Entry of Judgment on Plaintiff's Third Claim for Relief Entered 9/6/2019; Non-Dischargeable Judgment Entered 9/6/2019. Remaining Issue is Defendant's Counterclaim fld 6/12/17, dkt #7 - td (9/6/2019)**

**CONTINUED: Status Conference Continued to 10/22/2020 at 9:30 a.m., Per Order Entered 7/9/2020 (XX) - td (7/9/2020)**

**Tentative Ruling:**

**July 27, 2017**

No tentative ruling -- the disposition of the status conference will depend upon the outcome of Plaintiff's motion for stay of the adversary proceeding, which set on today's 10:30am calendar.

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**September 21, 2017**

Impose sanctions against counsel for Plaintiff in the amount of \$100 for failure to file joint status report as required by LBR 7016-1.

Discovery Cut-off Date: Jan. 18, 2018

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room

5A

9:30 AM

CONT...

**Chad Paul Delannoy**

**Chapter 7**

Deadline to File Pretrial Motions:	Feb. 1, 2018
Reserved hearing date re Pretrial Motions:	Mar. 8, 2018 at 2:00 p.m. (xx)
Pretrial Conference:	Apr. 12, 2018 at 9:30 a.m.
(XX)	
Deadline to File Pretrial Stipulation	Mar. 29, 2018

*Special Note: Defendant's counterclaim may be moot in light of the sale of the truck by the Trustee.*

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

-----  
**July 19, 2018**

In light of pending appeal, continue status conference to September 20, 2018 at 9:30 a.m., updated status report must be filed by September 13, 2018. (XX)

**Note: Appearances at this hearing are not required.**

-----  
**September 20, 2018**

Continue status conference to December 6, 2018 at 9:30 a.m.; updated status report must be filed by November 29, 2018. (XX)

**Note: Appearances at today's hearing are not required; Plaintiff to serve notice of the continued hearing date/time.**

-----  
**December 6, 2018**

Continue status conference to March 21, 2019 at 9:30 a.m.; updated joint status report must be filed by March 7, 2019 (XX)

**Note: Appearances at today's hearing are not required; Plaintiff to serve notice of the continued hearing date/time.**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

9:30 AM

CONT... Chad Paul Delannoy

Chapter 7

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**March 21, 2019**

Continue status conference to May 9, 2019 at 2:00 p.m., same date/time as hearing on Plaintiff's motion for summary judgment; updated status report not required. (XX)

***Note: Appearances at the March 21, 2019 status conference are not required.***

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

**Debtor(s):**

Chad Paul Delannoy

Represented By  
Robert P Goe  
Charity J Miller

**Defendant(s):**

Chad Paul Delannoy

Pro Se

**Plaintiff(s):**

Woodlawn Colonial, L P

Represented By  
Howard M Bidna

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01214 Marshack v. Chang Ding Metal Co., Ltd. et al

**#2.00** STATUS CONFERENCE RE: Complaint for: 1. Breach of Contract Against Chang Ding; 2. Breach of Contract Against Hoa Phat; 3. Breach of Contract Against Pomina; 4. Avoidance and Recovery of Constructive Fraudulent Transfers Pursuant to 11 USC Sections 544, 548, 550, 551; California Civil Code Section 3439.04, 3439.05, 3439.07, 3439.08, 3439.09 Against Chang Ding; 5. Avoidance and Recovery of Constructive Fraudulent Transfers Pursuant to 11 USC Sections 544, 548, 550, 551; California Civil Code Section 3439.04, 3439.05, 3439.07, 3439.08, 3439.09 Against Hoa Phat; and 6. Avoidance and Recovery of Constructive Fraudulent Transfers Pursuant to 11 USC Sections 544, 548, 550, 551; California Civil Code Section 3439.04, 3439.05, 3439.07, 3439.08, 3439.09 Against Pomina

(Another Summons Issued 4/15/2020)

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 8/20/2020 AT 2:00 P.M.,  
Per Ordder Entered 5/29/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 8/20/2020 at 2:00 p.m., Per  
Order Entered 5/29/2020 (XX) - td (5/29/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Chang Ding Metal Co., Ltd.

Pro Se

Hoa Phat Steel Co., Ltd.

Pro Se

Pomina 2 Steel Corporation

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01218 Marshack v. Kim et al

**#3.00 PRE-TRIAL CONFERENCE RE: Complaint for: 1. Breach of Fiduciary Duty; 2. Accounting; and 3. Defalcation of Trust**

FR: 2-6-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 10/8/2020 AT 9:30 A.M.,  
Per Order Entered 3/10/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Pre-trial Conference Continued to 10/8/2020 at 9:30 a.m.,  
Per Order Entered 3/10/2020 (XX) - td (3/10/2020)**

**Tentative Ruling:**

**February 6, 2020**

Discovery Cut-off Date:	June 1, 2020
Deadline to Attend Mediation:	June 15, 2020
Pretrial Conference Date: (XX)	July 16, 2020 at 9:30 a.m.
Deadline to Lodge Joint Pretrial Stipulation:	July 6, 2020

*Special Note: The joint status report filed 1/28/20 provides very little information regarding the status of the case, why there is no discovery schedule, and why Plaintiff is waiting for non-answering defendants to participate. Per the docket, only one defendant, Minh An, was granted an extension of time to January 7, 2020 to file an answer. An's answer was timely filed.*

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

**Party Information**

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Ik Dong Kim

Pro Se

Gill Su Sun

Pro Se

Minho An

Pro Se

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

9:30 AM

8:18-10566 Eugene Martin Huapaya

Chapter 7

Adv#: 8:20-01019 Kosmala v. Journey Investments Inc et al

#4.00 CON'TD STATUS CONFERENCE RE: Complaint for Declaratory Relief; Breach of Contract; and Turnover Earnest Money Deposit (11 U.S. C. Section 542, 543)

FR: 4-30-20; 6-11-20

Docket 1

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Adversary Proceeding Entered 7/6/2020

Courtroom Deputy:

OFF CALENDAR: Order Dismissing Adversary Proceeding Entered 7/6/2020 - td (7/6/2020)

Tentative Ruling:

April 30, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In light of the pending resolution of the matter, continue the status conference to June 11, 2020 at 9:30 a.m.; updated status report must be filed by May 28, 2020

if the adversary proceeding has not been dismissed by such date. (XX)

**Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance at the hearing will be**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

9:30 AM

CONT... Eugene Martin Huapaya

Chapter 7

***deemed acceptance of the tentative ruling.***

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**June 11, 2020**

Continue status conference to July 16, 2020 at 9:30 a.m. as a holding date.  
Updated status report must be filed by July 9, 2020 unless the adversary has  
been dismissed by such date. (XX)

***Note: Appearances at this hearing are not required; non-appearance at  
the hearing shall be deemed acceptance of the tentative ruling.***

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

**Debtor(s):**

Eugene Martin Huapaya

Represented By  
Joseph A Weber  
Fritz J Firman

**Defendant(s):**

Journey Investments Inc

Pro Se

Lawyers Title of Los Angeles

Pro Se

**Plaintiff(s):**

Weneta M.A. Kosmala

Represented By  
Erin P Moriarty

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Erin P Moriarty

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

9:30 AM

8:18-10971 James Christopher Patow

Chapter 7

Adv#: 8:19-01061 Marshack (TR) v. Patow et al

#5.00 CONT'D PRE-TRIAL CONFERENCE RE: First Amended Complaint for: (1) Avoidance, Recovery, and Preservation of Actual Fraudulent Transfer; (2) Avoidance, Recovery, and Preservation of Constructive Fraudulent Transfer; (3) Declaratory Relief as to Whether, and to what Extent, Assets Constitute Property of the Estate; (4) Turnover of Estates Interest in Trust Assets; and (5) Injunctive Relief

FR: 8-15-19; 1-16-20; 4-16-20

Docket 7

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 11/19/2020 AT 9:30 A.M.,  
Per Order Entered 5/19/2020 (XX)

**Courtroom Deputy:**

**CONTINUED: Pre-trial Conference Continued to 11/19/2020 at 9:30 a.m.,  
Per Order Entered 5/19/2020 (XX) - td (5/19/2020)**

**Tentative Ruling:**

**August 15, 2019**

Discovery Cut-off Date: 11/30/19  
Pretrial Conference Date: 1/16/20 at 9:30 a.m. (XX)  
Deadline to file Pretrial Stipulation: 1/9/20

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

**Party Information**

**Debtor(s):**

James Christopher Patow

Represented By  
Kevin J Kunde

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... James Christopher Patow**

**Chapter 7**

**Defendant(s):**

James Christopher Patow	Pro Se
Alvin and Linda Patow 2006 Trust	Pro Se
Linda Patow, as Trustee of the Alvin	Pro Se
Linda Patow	Pro Se

**Plaintiff(s):**

Richard A. Marshack (TR)	Represented By D Edward Hays Chad V Haes
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**Trustee(s):**

Richard A Marshack (TR)	Represented By D Edward Hays Chad V Haes
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

9:30 AM

**8:18-11594 George Carl Natzic**

**Chapter 7**

Adv#: 8:18-01170 Add2Net, Inc. v. Natzic et al

**#6.00** CONT'D STATUS CONFERENCE RE: Complaint for Non-dischargeability of Debt Due to: 1. Fraud (11 U.S.C. §523(a)(2)); 2. Fraud in a Fiduciary Capacity (11 U.S.C. §523(a)(4)); 3. Willful and Malicious Injury by the Debtor to Plaintiff (11 U.S.C. §523(a)(6)); and (4) Denial of Limited Discharge (11 U.S.C. §524(a)(3))

FR: 12-6-18; 1-24-19; 4-18-19; 6-20-19; 8-22-19; 9-19-19; 12-5-19; 2-20-20; 4-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9/17/2020 AT 9:30 A.M.,  
Per Order Entered 7/6/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 9/17/2020 at 9:30 a.m., Per  
Order Entered 7/6/2020 (XX) - td (7/6/2020)**

**Tentative Ruling:**

**June 20, 2019**

No tentative ruling. This tentative will be trailed to the 2:00 p.m. calendar along with the Motion to Dismiss

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**September 19, 2019**

In light of the upcoming trial in the state court litigation, continue status conference to December 5, 2019 at 9:30 a.m.; updated status report must be filed by November 21, 2019. (XX)

***Note: Appearances at today's hearing are not required; Plaintiff to serve notice of the continued hearing date/time.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

9:30 AM

CONT... George Carl Natzic

Chapter 7

**Party Information**

**Debtor(s):**

George Carl Natzic

Represented By  
Moises S Bardavid

**Defendant(s):**

George Carl Natzic

Pro Se

Cheri Lynn Natzic

Pro Se

**Joint Debtor(s):**

Cheri Lynn Natzic

Represented By  
Moises S Bardavid

**Plaintiff(s):**

Add2Net, Inc.

Represented By  
Kevin Meek

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

9:30 AM

**8:18-12322 Tung Phuong Nguyen-Phuc**

**Chapter 7**

Adv#: 8:20-01054 MedPro Group Inc. v. Borges et al

**#7.00 STATUS CONFERENCE RE: Adversary Complaint In The Nature Of  
Interpleader**

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 8/20/2020 AT 9:30 AM,  
Per Order Entered 7/1/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 8/20/2020 at 9:30 am, Per  
Order Entered 7/1/2020 (XX) - td (7/1/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tung Phuong Nguyen-Phuc

Represented By  
Leslie K Kaufman

**Defendant(s):**

Emma Borges

Pro Se

Jeffrey Golden

Pro Se

**Plaintiff(s):**

MedPro Group Inc.

Represented By  
Paul L Gale

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By  
Richard A Marshack  
Jerome Ringler  
Neil Macy Howard  
David Wood

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-11546 Joseph Ra**

**Chapter 7**

Adv#: 8:19-01157 Caraveo et al v. Ra

**#8.00** CON'TD PRE-TRIAL CONFERENCE RE: Complaint to Determine Dischargeability of Debt

FR: 10-17-19; 4-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 10/22/2020 AT 9:30 AM.,  
Per Order Entered 6/8/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Pre-trial Conference Continued to 10/22/2020 at 9:30 a.m.,  
Per Order Entered 6/8/2020 (XX) - td (6/8/2020)**

**Tentative Ruling:**

**October 17, 2019**

Discovery Cut-off Date:	Mar. 16, 2020
Deadline to Attend Mediation:	Feb. 7, 2020
Pretrial Conference Date: (XX)	Apr. 16, 2020 at 9:30 a.m.
Deadline to File Joint Pretrial Stipulation:	Apr. 2, 2020

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required; Plaintiff to lodge a scheduling order within 7 days of the hearing.***

**Party Information**

**Debtor(s):**

Joseph Ra

Represented By  
David B Golubchik



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Joseph Ra**

**Chapter 7**

**Defendant(s):**

Joseph Ra

Pro Se

**Plaintiff(s):**

Marcelo Caraveo

Represented By  
Christopher Barry

Holy Shirts and Pants, LLC

Represented By  
Christopher Barry

Early Bird Restaurant, LLC

Represented By  
Christopher Barry

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

9:30 AM

8:19-13858 Bruce Elieff

Chapter 11

Adv#: 8:20-01046 Kurtin v. Benice et al

#9.00 STATUS CONFERENCE RE: Complaint for Injunctive Relief

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Continue status conference to September 17, 2020 at 9:30 a.m. in light of the appointment of a chapter 11 trustee in the main case. Updated joint status report must be filed by September 3, 2020. (XX)

**Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required; Plaintiff shall serve notice of the continued hearing date/time.**

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room      5A**

9:30 AM

**CONT...      Bruce Elieff**

**Chapter 11**

**Defendant(s):**

Jeffrey S. Benice

Pro Se

Benice Law

Pro Se

**Plaintiff(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14596 Jason M. Barrette**

**Chapter 7**

Adv#: 8:20-01008 Barrette v. United States of America, Treasury Department, Int

**#10.00** CONT'D STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt [11 U.S.C. Section 523]

FR: 4-16-20; 6-11-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9/17/2020 AT 9:30 A.M.,  
Per Order Entered 6/16/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 9/17/2020 at 9:30 a.m., Per  
Order Entered 6/16/2020 (XX) - td (6/16/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

Jason M. Barrette

Represented By  
James D. Hornbuckle

**Defendant(s):**

United States of America, Treasury

Pro Se

**Plaintiff(s):**

Jason M. Barrette

Represented By  
James D. Hornbuckle

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

9:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#10.10 CON'TD Hearing RE: Trustee's Motion to Approve Second Amendment to Purchase and Sale Agreement and First Amendment to Assignment of Claim and Estates' Interest in Insurance Policy Pursuant to 11 U.S.C. Sections 363

FR: 7-9-20 (Advanced from 7-16-20 at 10:30 am)

Docket 403

\*\*\* VACATED \*\*\* REASON: Hearing continued to August 6, 2020 at 10:30 am per order approving stipulation entered 7/16/20 (XX)

Courtroom Deputy:

**CONTINUED: Hearing continued to August 6, 2020 at 10:30 am per order approving stipulation Entered 7/16/20- mp/td (XX) (7/16/20)**

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

July 9, 2020

Continue hearing to July 16, 2020 at 10:30 a.m. (XX)

**Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.**

Party Information

Debtor(s):

Friendly Village MHP Associates LP

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

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9:30 AM

**CONT... Friendly Village MHP Associates LP**

**Chapter 7**

Howard Camhi

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Kristine A Thagard  
Arthur Grebow  
David Wood  
Tinho Mang

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

9:30 AM

8:18-13864 Friendly Village GP, LLC

Chapter 7

#10.20 CON'TD Hearing RE: Trustee's Motion to Approve Second Amendment to Purchase and Sale Agreement and First Amendment to Assignment of Claim and Estates' Interest in Insurance Policy Pursuant to 11 U.S.C. Sections 363

FR: 7-9-20 (Advanced from 7-16-20 at 10:30 am)

Docket 217

\*\*\* VACATED \*\*\* REASON: Hearing continued to August 6, 2020 at 10:30 am per order approving stipulation entered 7/16/20 (XX)

**Courtroom Deputy:**

**CONTINUED: Hearing continued to August 6, 2020 at 10:30 am per order approving stipulation Entered 7/16/20- mp/td (XX) (7/16/20)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 9, 2020**

Continue hearing to July 16, 2020 at 10:30 a.m. (XX)

**Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.**

**Party Information**

**Debtor(s):**

Friendly Village GP, LLC

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Friendly Village GP, LLC**

**Chapter 7**

Howard Camhi

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
David Wood  
Kristine A Thagard



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:00 AM

8:16-14746 Herlinda Galaviz

Chapter 13

#11.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

JTF ROSE INC.

VS.

DEBTOR

Docket 49

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of  
Motion filed 5/22/2020

Courtroom Deputy:

OFF CALENDAR: Notice of Withdrawal of Motion filed 5/22/2020 - td  
(5/22/2020)

Tentative Ruling:

Party Information

Debtor(s):

Herlinda Galaviz

Represented By  
Rex Tran

Movant(s):

JTF Rose Inc., A California

Represented By  
Kristin A Zilberstein  
John P. Ward

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:00 AM

8:17-13818 Hans Nearhoff

Chapter 13

#12.00 Hearing RE: Motion for relief from automatic stay  
[ACTION IN NON-BANKRUPTCY FORUM]

GRADY ALEXANDER HANSHAW AND WILLIAM HANSHAW, SUCCESSOR  
CO-TRUSTEES OF THE GRADY HANSHAW LIVING TRUST

VS.

DEBTOR

Docket 70

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Grant motion with 4001(a)(3) relief.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Hans Nearhoff**

**Chapter 13**

**Party Information**

**Debtor(s):**

Hans Nearhoff

Represented By  
Ronald A Norman - BK SUSPENDED -

**Movant(s):**

Grady Alexander Hanshaw

Represented By  
James R Selth

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:00 AM

8:17-14768 Edgar Guzman

Chapter 13

#13.00 CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

DEUTSCHE BANK NATIONAL TRUST COMPANY

VS.

DEBTOR

FR: 5-21-20

Docket 63

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion  
for Relief from the Automatic Stay (Settled by Stipulation) Entered 6/26/2020

Courtroom Deputy:

OFF CALENDAR: Order Granting Motion for Relief from the Automatic  
Stay (Settled by Stipulation) Entered 6/26/2020 - td (6/26/2020)

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the  
COVID-19 virus, notice is hereby given that ALL hearings before Judge  
Smith will be by TELEPHONE APPEARANCE ONLY until further notice.  
The courtroom will be locked. Any party who wishes to appear must  
register in advance by contacting CourtCall at (866) 582-6878. It is  
suggested that parties register with CourtCall at least 30 minutes prior  
to the hearing. Through June 30, 2020, CourtCall is offering discounted  
registration for attorneys and free registration for parties without an  
attorney.

**May 21, 2020**

If Debtor is current with all postpetition payments, including May, 2020, grant  
standard adequate protection order which requires Debtor to stay postpetition  
current payments with one "strike," i.e., if Debtor fails to make a postpetition

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

10:00 AM

CONT... **Edgar Guzman**

**Chapter 13**

payment within the contractual grace period, Debtor shall be entitled to one 10-day cure notice. If Debtor defaults a second time, Movant need not provide a 10-day cure notice and may lodge an order granting immediate relief from stay (with waiver of FRBP 4001(a)(3) along with a declaration re non-payment.

If additional time is needed to finalize the terms of an APO, the parties may request a continuance at the time of the calendar roll call by the court clerk; available continued dates are June 4, 11, and 18, 2020 at 10:00 a.m.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

Edgar Guzman

Represented By  
Rebecca Tomilowitz

**Movant(s):**

DEUTSCHE BANK NATIONAL

Represented By  
Sean C Ferry

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:00 AM

8:18-10727 Mark Douglas Holland

Chapter 13

#14.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

U.S. BANK, NA

VS.

DEBTOR

Docket 67

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Grant motion with 4001(a)(3) relief.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Mark Douglas Holland**

**Chapter 13**

**Debtor(s):**

Mark Douglas Holland

Represented By  
William P White

**Movant(s):**

U.S. Bank National Association

Represented By  
Eric P Enciso  
Sean C Ferry

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

10:00 AM

8:18-13337 Manuel Trejo and Maria I Trejo

Chapter 13

#15.00 CONT'D Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

DEUTSCHE BANK NATIONAL TRUST COMPANY

VS.

DEBTORS

FR: 6-4-20

Docket 46

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

Grant motion with co-debtor relief and without waiver of 4001(a)(3) unless Movant is amenable to an adequate protection order. If Movant would like additional time to expore the terms of an adequate protection ord, it may request a continuance at the time of the calendar roll call just prior to the hearing. Available hearing dates are June 11, 2020, June 18, 2020, July 9, 2020 and July 16, 2020 at 10:00 a.m.



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Manuel Trejo and Maria I Trejo**

**Chapter 13**

*Special note: Debtor has not provided evidence of additional payments having been made that are not reflected in the Motion.*

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**July 16, 2020**

Grant the motion with co-debtor relief and without 4001(a)(3) waiver unless the parties are still negotiating the terms of an adequate protection order, in which case this hearing may be continued one final time to August 6, 2020 at 10:00 a.m. upon request of the moving party during the calendar roll call on the day of the hearing.

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

**Debtor(s):**

Manuel Trejo

Represented By  
Lionel E Giron

**Joint Debtor(s):**

Maria I Trejo

Represented By  
Lionel E Giron

**Movant(s):**

DEUTSCHE BANK NATIONAL

Represented By  
Sean C Ferry

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:00 AM

8:18-14136 David Maurice Denman

Chapter 13

#16.00 CONT'D Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

DEUTSCHE BANK, TRUST COMPANY AMERICAS

VS.

DEBTOR

FR: 4-30-20; 6-4-20

Docket 53

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion  
for Relief from the Automatic Stay under 11 U.S.C. Section 362 (Settled by  
Stipulation) Entered 6/22/2020

Courtroom Deputy:

OFF CALENDAR: Order Granting Motion for Relief from the Automatic  
Stay under 11 U.S.C. Section 362 (Settled by Stipulation) Entered  
6/22/2020 - td (6/22/2020)

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the  
COVID-19 virus, notice is hereby given that ALL hearings before Judge  
Smith will be by TELEPHONE APPEARANCE ONLY until further notice.  
The courtroom will be locked. Any party who wishes to appear must  
register in advance by contacting CourtCall at (866) 582-6878. It is  
suggested that parties register with CourtCall at least 30 minutes prior  
to the hearing. Through June 30, 2020, CourtCall is offering discounted  
registration for attorneys and free registration for parties without an  
attorney.

June 4, 2020

The parties previously stipulated to a continuance of the prior hearing in order

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... David Maurice Denman**

**Chapter 13**

to negotiate an adequate protection order and to obtain the necessary approvals by Movant's management. If more time is needed, the parties may request a continuance of this hearing by requesting the same at the time of the calendar roll call just prior to the hearing. Available continued dates are June 11, 2020, June 18, 2020, July 9, 2020 and July 16, 2020 at 10:00 a.m.

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

**Debtor(s):**

David Maurice Denman

Represented By  
Nicholas W Gebelt

**Movant(s):**

Deutsche Bank National Trust

Represented By  
Eric P Enciso  
Sean C Ferry  
Erin Elam

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:00 AM

8:19-12289 Douglas Paul Westfall and Jacqueline Ann Westfall

Chapter 13

#17.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

U.S. BANK NATIONAL ASSOCIATION

VS.

DEBTORS

Docket 44

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

If Movant is agreeable, continue the hearing to August 13, 2020 at 10:00 a.m. to allow the parties to explore the possibility of an agreed adequate protection order.

**Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Debtors will be deemed to have waived additional written notice of the continued hearing date and time.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Douglas Paul Westfall and Jacqueline Ann Westfall**

**Chapter 13**

**Debtor(s):**

Douglas Paul Westfall

Represented By  
Don Emil Brand

**Joint Debtor(s):**

Jacqueline Ann Westfall

Represented By  
Don Emil Brand

**Movant(s):**

U.S. Bank National Association

Represented By  
Sean C Ferry

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:00 AM

8:19-12841 Augusta Ayona

Chapter 13

#18.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

U.S. BANK NATIONAL ASSOCIATION

VS.

DEBTOR

Docket 46

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

If Movant is agreeable, continue the hearing to August 13, 2020 at 10:00 a.m. to allow the parties to explore the possibility of an agreed adequate protection order.

**Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Debtors will be deemed to have waived additional written notice of the continued hearing date and time.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Augusta Ayona**

**Chapter 13**

**Debtor(s):**

Augusta Ayona

Represented By  
Jaime A Cuevas Jr.

**Movant(s):**

U.S. Bank National Association, as

Represented By  
Sean C Ferry

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-13600 Ellie Elape Lam**

**Chapter 13**

**#19.00** CONT'D Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

U.S. BANK NATIONAL ASSOCIATION, NOT INDIVIDUALLY BUT SOLELY AS  
TRUSTEE FOR BLUEWATER INVESTMENT TRUST 2018-1, ITS  
SUCCESSOR AND ASSIGNS

VS.

DEBTOR

FR: 3-19-20; 4-30-20; 6-4-20

Docket 30

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**March 19, 2020**

Grant motion with 4001(a)(3) waiver unless Debtor is postpetition current by the time of the hearing (in which case a standard "3 Strikes" adequate protection order will be granted) or if the parties have reached an alternate resolution. If more time is needed to reach resolution, Movant may request a



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Ellie Elape Lam**

**Chapter 13**

continuance of the hearing at the time of the calendar roll call by the court clerk on the day of the hearing. Available continued dates are: 4/2, 4/9, 4/16, 4/30 and 5/2 at 10:00 a.m.

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**April 30, 2020**

Continue hearing to June 4, 2020 at 10:00 a.m. to allow the parties to complete resolution discussions. (XX)

*Special note:* If the parties have been unable to reach resolution and Movant wishes to proceed with this hearing, Movant so indicate to the clerk during the calendar roll call.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance by the parties shall be deemed acceptance of the tentative ruling.***

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**June 4, 2020**

The parties have previously requested a continuance of the hearing in order to discuss the terms of an adequate protection order. If more time is needed, continue the hearing one final time to July 16, 200 at 10:00 a.m.

***Note: If the parties accept the tentative ruling to continue the matter one final time to July 16, 2020, appearances at this hearing are not required; non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

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**July 16, 2020**

Grant motion with 4001(a)(3) waiver without prejudice to Movant submitting an agreed adequate protection order in lieu of an order granting immediate relief from stay.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:00 AM

CONT... Ellie Elape Lam

Chapter 13

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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

**Debtor(s):**

Ellie Elape Lam

Represented By  
Christopher J Langley

**Movant(s):**

U.S. Bank National Association, not

Represented By  
Dane W Exnowski  
Sean C Ferry  
Lemuel Bryant Jaquez

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:00 AM

8:19-14426 Michael Alan Kohn

Chapter 13

#20.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]  
FIRST TECH FEDERAL CREDIT UNION  
VS.  
DEBTOR

Docket 58

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

If Movant is agreeable, continue the hearing to August 13, 2020 at 10:00 a.m. to allow the parties to explore the possibility of an agreed adequate protection order. If Movant does not agree to a continuance, grant the Motion without 4001(a)(3) waiver relief.

**Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Debtors will be deemed to have waived additional written notice of the continued hearing date and time.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Michael Alan Kohn**

**Chapter 13**

**Debtor(s):**

Michael Alan Kohn

Represented By  
Christopher J Langley

**Movant(s):**

First Tech Federal Credit Union

Represented By  
Heather Anderson  
Arnold L Graff

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-14528 Vishundyal Ramotar Mohabir**

**Chapter 13**

**#21.00 CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]**

U.S. BANK, N.A.

VS.

DEBTOR

FR: 5-7-20; 6-18-20

Docket 34

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 7, 2020**

Grant motion with 4001(a)(3) waiver unless Debtor is postpetition current by the time of the hearing (in which case a standard "3 Strikes" adequate protection order will be granted) or if the parties have reached an alternate resolution. If more time is needed to reach resolution, Movant may request a continuance of the hearing at the time of the calendar roll call by the court clerk on the day of the hearing. Available continued dates are: 5/21, 6/4, 6/11

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Vishundyal Ramotar Mohabir**  
and 6/18/2020 at 10:00 a.m.

**Chapter 13**

**June 18, 2020**

Grant with 4001(a)(3) waiver, unless there are on going discussions regarding the terms of an adequate protection order, in which case a request for a final continuance may be made during the calendar roll call prior to the hearing. Available dates are July 9, 2020 and July 16, 2020 at 10:00 a.m.

**July 16, 2020**

Grant motion with 4001(a)(3) waiver without prejudice to Movant submitting an agreed adequate protection order in lieu of an order granting immediate relief from stay.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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

Vishundyal Ramotar Mohabir

Represented By  
Christopher J Langley

**Movant(s):**

U.S. Bank National Association

Represented By  
Sean C Ferry

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

10:00 AM

8:20-10553 Heather Jane Andruss

Chapter 13

#22.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]  
SPECIALIZED LOAN SERVICING LLC  
VS.  
DEBTOR

Docket 37

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

If Movant is agreeable, continue the hearing to August 13, 2020 at 10:00 a.m. to allow the parties to explore the possibility of an agreed resolution. If Movant is not agreeable to a continuance, the motion will be granted without the waiver of 4001(b)(3).

**Note: *If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Debtors will be deemed to have waived additional written notice of the continued hearing date and time.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Heather Jane Andruss**

**Chapter 13**

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

**Debtor(s):**

Heather Jane Andruss

Represented By  
Kevin Tang

**Movant(s):**

Specialized Loan Servicing LLC

Represented By  
Mukta Suri  
Kirsten Martinez

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:00 AM

8:20-10617 Robert James Ruble

Chapter 13

#23.00 Hearing RE: Motion for relief from the automatic stay ]REAL PROPERTY]

WILMINGTON TRUST, NA

VS.

DEBTOR

Docket 25

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Robert James Ruble**

**Chapter 13**

**Debtor(s):**

Robert James Ruble

Represented By  
Bert Briones

**Movant(s):**

Wilmington Trust, National

Represented By  
Austin P Nagel

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:00 AM

8:20-11372 Jose Noe Nuno and Misty Melissa Kauhane-Nuno

Chapter 7

#24.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
PARTNERS FEDERAL CREDIT UNION  
VS.  
DEBTORS

Docket 14

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Grant with 4001(a)(3) waiver.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Jose Noe Nuno and Misty Melissa Kauhane-Nuno**

**Chapter 7**

**Debtor(s):**

Jose Noe Nuno

Represented By  
Leslie K Kaufman

**Joint Debtor(s):**

Misty Melissa Kauhane-Nuno

Represented By  
Leslie K Kaufman

**Movant(s):**

Partners Federal Credit Union

Represented By  
Yuri Voronin

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:00 AM

8:20-11385 Kimberly Lyn McConnell

Chapter 7

#25.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
SANTANDER CONSUMER USA INC.  
VS.  
DEBTOR

Docket 8

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Grant with 4001(a)(3) waiver.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Kimberly Lyn McConnell**

**Chapter 7**

**Debtor(s):**

Kimberly Lyn McConnell

Represented By  
Daniel King

**Movant(s):**

Santander Consumer USA Inc.

Represented By  
Sheryl K Ith

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:00 AM

8:20-11436 Jeffrey D. Russell

Chapter 7

#26.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

TOYOTA LEASE TRUST

VS.

DEBTOR

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Jeffrey D. Russell**

**Chapter 7**

**Debtor(s):**

Jeffrey D. Russell

Represented By  
Thomas J Polis

**Movant(s):**

Toyota Lease Trust, serviced by

Represented By  
Kirsten Martinez

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

8:18-11579 Joann Teruya Stevenson

Chapter 13

#27.00 Hearing RE: Debtor's Motion for Order for Sale of Real Property of the Estate  
(OST Entered 6/17/2020)

Docket 55

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Grant the motion on the following terms: 1) the order granting the motion must include the language requested by secured creditor Caliber in its limited opposition, 2) the conditions requested by the chapter 13 trustee in his Opposition to the Motion, except that the trustee shall not distribute 1/2 of the net proceeds of the sale (net of any commission, ordinary closing fees and charges, and the trustee's administrative fee) until further order of the court, and 3) the non-filing spouse must file a motion seeking turnover of such proceeds with legal analysis and documentary evidence establishing entitlement to such proceeds.

Basis for the Tentative Ruling:

1. The non-filing spouse, Michael Stevenson, has not presented any documentary evidence regarding the date of acquisition of the subject

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Joann Teruya Stevenson**

**Chapter 13**

property and how title was taken (e.g, by filing a copy of the grant deed) and has not presented sufficient legal authority under California family law regarding liability, if any, of separate property for community debt.

2. It would appear that 1/2 of the sale proceeds should be sufficient to pay the remaining balance due under the plan.

3. If Mr. Stevenson does not agree to the procedure outlined in this tentative ruling, Debtor may need to file an adversary proceeding to complete the sale (which, given the delay in prosecuting an adversary proceeding, could jeopardize the sale).

***Note: If all parties accept the tentative ruling, appearances at the hearing are not required.***

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

**Debtor(s):**

Joann Teruya Stevenson

Represented By  
Richard G Heston

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

8:18-12967 Lillian Sikanovski Dulac

Chapter 7

#28.00 Hearing RE: Chapter 7 Trustee's Application to Employ Real Estate Broker  
Coldwell Banker and Agents William Friedman and Greg Bingham

Docket 121

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Grant the Motion. Overrule the objections of Ronald Dulac.

Basis for Tentative Ruling

1. Once the bankruptcy case was filed, the subject properties became property of the bankruptcy estate within the meaning of 11 U.S.C. 541(a), whether as community property or as Debtor's separate joint tenancy interest.
2. The trustee in a chapter 7 case acts as an independent fiduciary representative of the bankruptcy estate, responsible for the recovery, preservation, liquidation, and distribution of the estate. The trustee is "accountable for all property received" and it is the duty of the trustee to "collect and reduce to money the property" of the estate. 11 U.S. Code § 704(a)(1)-(2). The orders of the family law court do not trump the

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room**

**5A**

10:30 AM

**CONT... Lillian Sikanovski Dulac**

**Chapter 7**

ability of the trustee to administer property of the bankruptcy estate.

3. Pursuant to 11 U.S.C. § 328(a), a trustee may, with the court's approval, "employ or authorize the employment" of professionals, including real estate brokers, "on any reasonable terms and conditions of employment . . ." in order to help aid her in carrying out her duty to "collect and reduce to money" the Property, regardless of whether the Property is community property or separate property held under joint tendency.

4. The decision of a trustee to employ a particular real estate broker is within the business judgment of that trustee and the trustee is not required to employ a broker of the debtor's or co-owner's choosing. If the broker employed by the co-owner prepetition believes he has a claim against the estate, he can file a timely proof of claim; however, he does not have a right to receive a commission from escrow in the event of a 363 sale, unless of course he represents the prevailing purchaser at the sale.

5. The trustee is not bound by the terms of a prepetition listing agreement executed by the co-owner.

6. The court agrees with, and incorporates by reference, the legal authority and analysis in the Motion and Reply regarding the trustee's authority to employ brokers of her choosing. The court is not persuaded by Mr. Dulac's arguments to the contrary.

**Party Information**

**Debtor(s):**

Lillian Sikanovski Dulac

Represented By  
Michael Jones  
Sara Tidd

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Erin P Moriarty

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

8:18-14511 One Source Facility Solution, Inc.

Chapter 7

#29.00 CON'TD Hearing RE: Chapter 7 Creditor's Motion for an Order Authorizing Deposition Examination and Production of Documents from Debtor's Officer Dilip Joshi Pursuant to Federal Rule of Bankruptcy Procedure 2004

FR: 3-19-20; 4-30-20

Docket 64

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order on Stipulation RE: Manner for Taking the Examinations and Production of Documents from Debtors' Former Officers Dilip Joshi, Vasanti Joshi, and Nishan Joshi Pursuant to FRBP 2004 and the Continued Hearing on July 16, 2020 Being Taken Off Calendar Entered 7/29/2020**

Courtroom Deputy:

**OFF CALENDAR: Order on Stipulation RE: Manner for Taking the Examinations and Production of Documents from Debtors' Former Officers Dilip Joshi, Vasanti Joshi, and Nishan Joshi Pursuant to FRBP 2004 and the Continued Hearing on July 16, 2020 Being Taken Off Calendar Entered 7/29/2020 - td (6/29/2020)**

Tentative Ruling:

March 19, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In light of the current pandemic crisis, continue this matter to April 30, 2020 at

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room

5A

10:30 AM

CONT... One Source Facility Solution, Inc.

Chapter 7

10:30 a.m. In the interim, no deposition or production of documents are required to take place. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

-----

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant the motion on the following terms:

1) Dilip Joshi shall be required to appear for a 2004 examination by video conference (in Texas) on June 5, 2020 at 12:00 p.m. CST, or on such other date or time as the parties may mutually agree. The video conference shall be set up by Movant and information/instructions regarding the logistics of the video appearance shall be provided to Mr. Joshi's counsel at least 7 days prior to the examination.

2) At least seven days prior to the examination, Mr. Joshi shall produce all documents requested in the Motion or provide a detailed declaration stating why particular documents are not being produced. The production of documents and/or declaration shall be delivered to Movant's attorney so that it is received by such attorney on the seventh day prior to the examination. The parties may agree to the delivery of the same by electronic mail.

3. Mr. Joshi shall make himself available for examination in a quiet setting.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

CONT... **One Source Facility Solution, Inc.**  
Basis for the Tentative Ruling

**Chapter 7**

-- The world has changed dramatically since the Motion was filed in early February; face-face examinations and depositions are inconsistent with pandemic guidelines in California.

-- The court is not persuaded by the responding party's argument that no examination should take place on the basis of delay. There is no deadline for taking 2004 examinations and the court does not find the timing unreasonable.

-- The stipulation attached to the Motion sufficiently satisfies the court's Local Rules

-- As an officer or former officer of Debtor, the responding party cannot avoid providing information concerning assets and/or liabilities of Debtor by simply moving to another state shortly after filing the bankruptcy petition in this district. See, e.g., *In re Mograbi*, 197 B.R. 258, 259 (Bankr. N.D. Ohio 1996).

-- Conducting the examination by video conference a) will allow the responding party to remain in his current hometown, thereby eliminating any excuse for not appearing due to financial constraints and b) is the safest procedure for all concerned.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required. Non appearance by the parties will be deemed acceptance of the tentative ruling and the moving party shall lodge an order consistent with the same within 7 days of the hearing.***

**Party Information**

**Debtor(s):**

One Source Facility Solution, Inc.

Represented By  
James R Selth  
Nina Z Javan

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... One Source Facility Solution, Inc.**

**Chapter 7**



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

8:18-14511 One Source Facility Solution, Inc.

Chapter 7

#30.00 CON'TD Hearing RE: Chapter 7 Creditor's Motion for an Order Authorizing Deposition Examination and Production of Documents from Debtor's Officer Nishan Joshi Pursuant to Federal Rule of Bankruptcy Procedure 2004

FR: 3-19-20; 4-30-20

Docket 65

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order on Stipulation RE: Manner for Taking the Examinations and Production of Documents from Debtors' Former Officers Dilip Joshi, Vasanti Joshi, and Nishan Joshi Pursuant to FRBP 2004 and the Continued Hearing on July 16, 2020 Being Taken Off Calendar Entered 7/29/2020**

Courtroom Deputy:

**OFF CALENDAR: Order on Stipulation RE: Manner for Taking the Examinations and Production of Documents from Debtors' Former Officers Dilip Joshi, Vasanti Joshi, and Nishan Joshi Pursuant to FRBP 2004 and the Continued Hearing on July 16, 2020 Being Taken Off Calendar Entered 7/29/2020 - td (6/29/2020)**

Tentative Ruling:

March 19, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In light of the current pandemic crisis, continue this matter to April 30, 2020 at

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

CONT... One Source Facility Solution, Inc.

Chapter 7

10:30 a.m. In the interim, no deposition or production of documents are required to take place. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

-----

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant the motion on the following terms:

1) Nishan Joshi shall be required to appear for a 2004 examination by video conference (in Texas) on June 3, 2020 at 12:00 p.m. CST, or on such other date or time as the parties may mutually agree. The video conference shall be set up by Movant and information/instructions regarding the logistics of the video appearance shall be provided to Mr. Joshi's counsel at least 7 days prior to the examination.

2) At least seven days prior to the examination, Mr. Joshi shall produce all documents requested in the Motion or provide a detailed declaration stating why particular documents are not being produced. The production of documents and/or declaration shall be delivered to Movant's attorney so that it is received by such attorney on the seventh day prior to the examination. The parties may agree to the delivery of the same by electronic mail.

3. Mr. Joshi shall make himself available for examination in a quiet setting.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

CONT... **One Source Facility Solution, Inc.**  
Basis for the Tentative Ruling

Chapter 7

-- The world has changed dramatically since the Motion was filed in early February; face-face examinations and depositions are inconsistent with pandemic guidelines in California.

-- The court is not persuaded by the responding party's argument that no examination should take place on the basis of delay. There is no deadline for taking 2004 examinations and the court does not find the timing unreasonable.

-- The stipulation attached to the Motion sufficiently satisfies the court's Local Rules

-- As a former officer of Debtor, and as the owner of West One, the request to take the examination of Mr. Joshi is not unreasonable.

-- Conducting the examination by video conference is the safest procedure for all concerned.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required. Non appearance by the parties will be deemed acceptance of the tentative ruling and the moving party shall lodge an order consistent with the same within 7 days of the hearing.***

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

**Debtor(s):**

One Source Facility Solution, Inc.

Represented By  
James R Selth  
Nina Z Javan

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

8:18-14511 One Source Facility Solution, Inc.

Chapter 7

#31.00 CON'TD Hearing RE: Chapter 7 Creditor's Motion for an Order Authorizing Deposition Examination and Production of Documents from Debtor's Officer Vansanti Joshi Pursuant to Federal Rule of Bankruptcy Procedure 2004

FR: 3-19-20; 4-30-20

Docket 66

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order on Stipulation RE: Manner for Taking the Examinations and Production of Documents from Debtors' Former Officers Dilip Joshi, Vasanti Joshi, and Nishan Joshi Pursuant to FRBP 2004 and the Continued Hearing on July 16, 2020 Being Taken Off Calendar Entered 7/29/2020**

Courtroom Deputy:

**OFF CALENDAR: Order on Stipulation RE: Manner for Taking the Examinations and Production of Documents from Debtors' Former Officers Dilip Joshi, Vasanti Joshi, and Nishan Joshi Pursuant to FRBP 2004 and the Continued Hearing on July 16, 2020 Being Taken Off Calendar Entered 7/29/2020 - td (6/29/2020)**

Tentative Ruling:

March 19, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In light of the current pandemic crisis, continue this matter to April 30, 2020 at

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room

5A

10:30 AM

CONT... **One Source Facility Solution, Inc.**

Chapter 7

10:30 a.m. In the interim, no deposition or production of documents are required to take place. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant the motion on the following terms:

1) Visanti Joshi shall be required to appear for a 2004 examination by video conference (in Texas) on June 4, 2020 at 12:00 p.m. CST, or on such other date or time as the parties may mutually agree. The video conference shall be set up by Movant and information/instructions regarding the logistics of the video appearance shall be provided to Ms. Joshi's counsel at least 7 days prior to the examination.

2) At least seven days prior to the examination, Ms. Joshi shall produce all documents requested in the Motion or provide a detailed declaration stating why particular documents are not being produced. The production of documents and/or declaration shall be delivered to Movant's attorney so that it is received by such attorney on the seventh day prior to the examination. The parties may agree to the delivery of the same by electronic mail.

3. Ms. Joshi shall make herself available for examination in a quiet setting.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

CONT... **One Source Facility Solution, Inc.**  
Basis for the Tentative Ruling

Chapter 7

-- The world has changed dramatically since the Motion was filed in early February; face-face examinations are inconsistent with pandemic guidelines in California.

-- The court is not persuaded by the responding party's argument that no examination should take place on the basis of delay. There is no deadline for taking 2004 examinations and the court does not find the timing unreasonable.

-- The stipulation attached to the Motion sufficiently satisfies the court's Local Rules

-- As an officer or former officer of Debtor, the responding party cannot avoid providing information concerning assets and/or liabilities of Debtor by simply moving to another state shortly after filing the bankruptcy petition in this district. See, e.g., *In re Mograbi*, 197 B.R. 258, 259 (Bankr. N.D. Ohio 1996).

-- Conducting the examination by video conference a) will allow the responding party to remain in her current hometown, thereby eliminating any excuse for not appearing due to financial constraints and b) is the safest procedure for all concerned.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required. Non appearance by the parties will be deemed acceptance of the tentative ruling and the moving party shall lodge an order consistent with the same within 7 days of the hearing.***

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

**Debtor(s):**

One Source Facility Solution, Inc.

Represented By  
James R Selth  
Nina Z Javan

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... One Source Facility Solution, Inc.**

**Chapter 7**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

8:18-14512 One Source Facility Maintenance, Inc.

Chapter 7

#32.00 CON'TD Hearing RE: Chapter 7 Creditor's Motion for an Order Authorizing Deposition Examination and Production of Documents From Debtor's Officer Dilip Joshi Pursuant to Federal Rule of Bankruptcy Procedure 2004

FR: 3-19-20; 4-30-20

Docket 42

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order on Stipulation RE: Manner for Taking the Examinations and Production of Documents from Debtors' Officers Dilip Joshi and Vasanti Joshi Pursuant to FRBP 2004 and the Continued Hearing on Jly 16, 2020 Being Taken Off Calendar Entered 6/29/2020

Courtroom Deputy:

**OFF CALENDAR: Order on Stipulation RE: Manner for Taking the Examinations and Production of Documents from Debtors' Officers Dilip Joshi and Vasanti Joshi Pursuant to FRBP 2004 and the Continued Hearing on Jly 16, 2020 Being Taken Off Calendar Entered 6/29/2020 - td (6/29/2020)**

Tentative Ruling:

March 19, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In light of the current pandemic crisis, continue this matter to April 30, 2020 at



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

CONT... One Source Facility Maintenance, Inc.

Chapter 7

10:30 a.m. In the interim, no deposition or production of documents are required to take place. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

-----

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant the motion on the following terms:

1) Dilip Joshi shall be required to appear for a 2004 examination by video conference (in Texas) on June 5, 2020 at 12:00 p.m. CST, or on such other date or time as the parties may mutually agree. The video conference shall be set up by Movant and information/instructions regarding the logistics of the video appearance shall be provided to Mr. Joshi's counsel at least 7 days prior to the examination.

2) At least seven days prior to the examination, Mr. Joshi shall produce all documents requested in the Motion or provide a detailed declaration stating why particular documents are not being produced. The production of documents and/or declaration shall be delivered to Movant's attorney so that it is received by such attorney on the seventh day prior to the examination. The parties may agree to the delivery of the same by electronic mail.

3. Mr. Joshi shall make himself available for examination in a quiet setting.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... One Source Facility Maintenance, Inc.**  
Basis for the Tentative Ruling

**Chapter 7**

-- The world has changed dramatically since the Motion was filed in early February; face-face examinations and depositions are inconsistent with pandemic guidelines in California.

-- The court is not persuaded by the responding party's argument that no examination should take place on the basis of delay. There is no deadline for taking 2004 examinations and the court does not find the timing unreasonable.

-- The stipulation attached to the Motion sufficiently satisfies the court's Local Rules

-- As an officer or former officer of Debtor, the responding party cannot avoid providing information concerning assets and/or liabilities of Debtor by simply moving to another state shortly after filing the bankruptcy petition in this district. See, e.g., *In re Mograbi*, 197 B.R. 258, 259 (Bankr. N.D. Ohio 1996).

-- Conducting the examination by video conference a) will allow the responding party to remain in his current hometown, thereby eliminating any excuse for not appearing due to financial constraints and b) is the safest procedure for all concerned.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required. Non appearance by the parties will be deemed acceptance of the tentative ruling and the moving party shall lodge an order consistent with the same within 7 days of the hearing.***

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

**Debtor(s):**

One Source Facility Maintenance,

Represented By  
James R Selth

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

8:18-14512 One Source Facility Maintenance, Inc.

Chapter 7

#33.00 CON'TD Hearing RE: Chapter 7 Creditor's Motion for an Order Authorizing Deposition Examination and Production of Documents from Debtor's Officer Vansant Joshi Pursuant to Federal Rule of Bankruptcy Procedure 2004

FR: 3-19-20; 4-30-20

Docket 43

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order on Stipulation RE: Manner for Taking the Examinations and Production of Documents from Debtors' Officers Dilip Joshi and Vasanti Joshi Pursuant to FRBP 2004 and the Continued Hearing on Jly 16, 2020 Being Taken Off Calendar Entered 6/29/2020

Courtroom Deputy:

**OFF CALENDAR: Order on Stipulation RE: Manner for Taking the Examinations and Production of Documents from Debtors' Officers Dilip Joshi and Vasanti Joshi Pursuant to FRBP 2004 and the Continued Hearing on Jly 16, 2020 Being Taken Off Calendar Entered 6/29/2020 - td (6/29/2020)**

Tentative Ruling:

March 19, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through April 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

In light of the current pandemic crisis, continue this matter to April 30, 2020 at

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

CONT... **One Source Facility Maintenance, Inc.**

Chapter 7

10:30 a.m. In the interim, no deposition or production of documents are required to take place.(XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

-----

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Grant the motion on the following terms:

1) Visanti Joshi shall be required to appear for a 2004 examination by video conference (in Texas) on June 4, 2020 at 12:00 p.m. CST, or on such other date or time as the parties may mutually agree. The video conference shall be set up by Movant and information/instructions regarding the logistics of the video appearance shall be provided to Ms. Joshi's counsel at least 7 days prior to the examination.

2) At least seven days prior to the examination, Ms. Joshi shall produce all documents requested in the Motion or provide a detailed declaration stating why particular documents are not being produced. The production of documents and/or declaration shall be delivered to Movant's attorney so that it is received by such attorney on the seventh day prior to the examination. The parties may agree to the delivery of the same by electronic mail.

3. Ms. Joshi shall make herself available for examination in a quiet setting.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

CONT... **One Source Facility Maintenance, Inc.**  
Basis for the Tentative Ruling

Chapter 7

-- The world has changed dramatically since the Motion was filed in early February; face-face examinations are inconsistent with pandemic guidelines in California.

-- The court is not persuaded by the responding party's argument that no examination should take place on the basis of delay. There is no deadline for taking 2004 examinations and the court does not find the timing unreasonable.

-- The stipulation attached to the Motion sufficiently satisfies the court's Local Rules

-- As an officer or former officer of Debtor, the responding party cannot avoid providing information concerning assets and/or liabilities of Debtor by simply moving to another state shortly after filing the bankruptcy petition in this district. See, e.g., *In re Mograbi*, 197 B.R. 258, 259 (Bankr. N.D. Ohio 1996).

-- Conducting the examination by video conference a) will allow the responding party to remain in her current hometown, thereby eliminating any excuse for not appearing due to financial constraints and b) is the safest procedure for all concerned.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required. Non appearance by the parties will be deemed acceptance of the tentative ruling and the moving party shall lodge an order consistent with the same within 7 days of the hearing.***

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

**Debtor(s):**

One Source Facility Maintenance,

Represented By  
James R Selth

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

8:19-11771 Gustavo Bautista Ortiz and Amparo Hernandez Castro

Chapter 11

#34.00 Hearing RE: Confirmation of Debtors and Debtors-In-Possessions' First Amended Chapter 11 Plan of Reorganization

(Set at DS Hrg. Held 4/2/20)

Docket 152

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Confirm the plan. Postconfirmation status conference will be held on January 21, 2021 at 10:30 a.m.; postconfirmation status report must be filed by January 7, 2021.

**Note: Appearance at this hearing is not required. Debtors shall lodge a confirmation order that includes the postconfirmation status conference date and deadline for filing the postconfirmation status report.**

**Party Information**

**Debtor(s):**

Gustavo Bautista Ortiz

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Gustavo Bautista Ortiz and Amparo Hernandez Castro**  
Giovanni Orantes  
Luis A Solorzano

**Chapter 11**

**Joint Debtor(s):**

Amparo Hernandez Castro

Represented By  
Giovanni Orantes  
Luis A Solorzano

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

8:19-11771 Gustavo Bautista Ortiz and Amparo Hernandez Castro

Chapter 11

#35.00 CONT'D STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case

FR: 12-19-19; 4-2-20

Docket 91

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**December 19, 2019**

Claims Bar Date:	Mar. 3, 2020
Deadline to file plan/DS:	Feb 14, 2020
Continued Status Conference:	Apr. 2, 2020 at 10:30 a.m. (XX)
Updated Status Report due*:	Mar. 19, 2020

\*Updated status report not required if plan/DS have been filed by such date.

**Note: Appearance at this hearing is not required if Debtor is in substantial compliance with the requirements of the U.S. Trustee. It is Debtor's responsibility to ascertain its compliance status prior to the hearing.**

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

CONT... Gustavo Bautista Ortiz and Amparo Hernandez Castro

Chapter 11

**April 2, 2020**

Continue status conference to the same date/time as the plan confirmation hearing; updated status report not required.

***Note: Appearance at this hearing is not required if Debtor is in substantial compliance with the requirements of the U.S. Trustee. It is Debtor's responsibility to ascertain its compliance status prior to the hearing.***

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**July 16, 2020**

Take chapter 11 status conference off calendar in light of confirmation of plan.

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Gustavo Bautista Ortiz

Represented By  
Giovanni Orantes  
Luis A Solorzano

**Joint Debtor(s):**

Amparo Hernandez Castro

Represented By  
Giovanni Orantes  
Luis A Solorzano

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

**8:19-12411 Orange County Bail Bonds, Inc.**

**Chapter 11**

**#36.00** CONT'D Hearing RE: Debtor's Application to Employ Magaraian & Dimercurio, A Professional Law Corporation as State Court and Appeal Litigation Counsel

FR: 5-21-20; 6-4-20

Docket 110

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

Continue this hearing to July 16, 2020 at 10:30 a.m., the same date/time set for hearing on approval of Debtor's amended disclosure statement and the Subchapter V status conference. (XX)

Re this application, the court believes it would be premature to rule on the application until a determination is made regarding the pending motion to dismiss or convert the case.

***Note: If the parties accept the foregoing tentative ruling, appearances at today's hearing are excused; non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

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CONT... Orange County Bail Bonds, Inc.

Chapter 11

**July 16, 2020**

Approve the Application. Overrule objections.

Basis for Tentative Ruling:

1. The court is not persuaded that the prosecution of the appeal would have no value. There is no evidence that creditors exclusive of Global would receive a 100% distribution without the appeal. To the contrary, the estate appears to be currently administratively insolvent based on the most recent MOR. Moreover, without the prosecution of the appeal, other creditors are certain to have to share in any distribution with Global's \$550k claim.
2. Should Debtor be successful in the appeal, creditors could receive a higher percentage due to the elimination or reduction of the Global claim.
3. There is risk of losing with any appeal.
4. Global will have an opportunity to object to the amount of fees when a fee application is presented for court approval.

***Note: If objecting creditor accepts the tentative ruling, appearances at this hearing are not required.***

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

Orange County Bail Bonds, Inc.

Represented By  
Marc C Forsythe  
Ryan S Riddles

**Trustee(s):**

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court  
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**8:19-12411 Orange County Bail Bonds, Inc.**

**Chapter 11**

**#37.00** CONT'D Hearing RE: Motion to (1) Dismiss Debtor's Chapter 11 Bankruptcy or, in the Alternative, to Convert Case to Chapter 7; and (2) Objecting to Amended Petition Electing Subchapter V

FR: 5-7-20; 6-4-20

Docket 123

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

Continue this hearing to July 16, 2020 at 10:30 a.m., the same date/time set for hearing on approval of Debtor's amended disclosure statement and the Subchapter V status conference. (XX)

Basis for Tentative Ruling

The court would like to review this motion along with the disclosure statement in order to put the entire matter in context. The court would also appreciate input from the Subchapter V Trustee has provided the most objective view of the viability and prospects for reorganization than either of the warring parties.

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**Chapter 11**

The court encourages the Movant and Debtor to work with the Trustee regarding the possible terms of a consensual plan that will end this costly litigation once and for all.

The court encourages Debtor to re-review the Trustee's status report filed on April 29, 2020, in particular re the alleged \$7M contingent ACIC claim filed Debtor on its behalf, for which Debtor is not contractually liable, the status of the Civic Center lease as statutorily rejected, and the fair market rental value of the premises.

***Note: If the parties accept the foregoing tentative ruling, appearances at today's hearing are excused; non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

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**July 16, 2020**

Continue this hearing to November 19, 2020 at 10:30 a.m., the same date as the continued hearing on approval of the disclosure statement. See tentative ruling for Cal. #28.

Basis for Tentative Ruling:

While the court understands and appreciates Global's objection to the continuation of the case as a Subchapter V, Debtor is making efforts toward reorganization. It would appear that Debtor's business will ride or die on the outcome of the November 3, 2020 election results re the bail law. The court believes Debtor has sufficiently made the case for allowing the case to continue at least until the election. If the results are not favorable, it would seem that dismissal or conversion would be appropriate.

***Note: If Movant accepts the tentative ruling, appearances at today's hearing are not required.***

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

Orange County Bail Bonds, Inc.

Represented By

**United States Bankruptcy Court  
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**CONT... Orange County Bail Bonds, Inc.**

**Chapter 11**

Marc C Forsythe  
Ryan S Riddles

**Trustee(s):**

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Thursday, July 16, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-12411 Orange County Bail Bonds, Inc.**

**Chapter 11**

**#38.00** Hearing RE: (Sub Chapter V) Disclosure Amended Statement Describing Debtor's First Sub Chapter V Plan of Reorganization Dated June 3, 2020

Docket 156

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Continue the hearing one final time to November 19, 2020 at 10:30 a.m. An amended disclosure statement must be filed no later than October 22, 2020; any response or opposition must be filed by November 5, 2020; any reply must be filed by November 12, 2020.

Court's Comments re the Disclosure Statement (DS):

If the November 3, 2020 election results are not favorable to Debtor, it is likely this case will be dismissed or converted. It is for this reason, the hearing is being continued to a date after November 3, 2020.

1. DS, p. 5:7. American's claim is contingent and unliquidated- not simply contingent as defined here in the DS.

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CONT...

**Orange County Bail Bonds, Inc.**

**Chapter 11**

2. DS, p. 5:24-28. The term "Bankruptcy Rules" should also be defined as including the "Interim Rules" applicable to Subchapter V cases that were adopted by Bankruptcy Court per First Amended General Order 20-01 entered February 14, 2020.
3. DS, p. 14:24. Amend to state that American is largest contingent and unliquidated creditor
4. DS, p. 19:19-20. The plan term and projected disposable income figures need to be added. DS, p. 19:21-21:5.
5. Global objects to the disclosures regarding the referendum on SB-10 (which created a no-cash-bail system in criminal cases) as inadequate because it fails to detail the risk factor to the Plan if the referendum does not pass. See, Global Opp'n, p. 7:1-10. This objection well-taken. As noted by Global, with regards to the initial disclosure statement, the Court previously ruled that the DS should discuss what happens if the referendum does not pass.

This needs to be discussed because as Trustee simply stated it: "Depending on the outcome of the Referendum which is on this November's ballot the Debtor may be able to return to its prior history of profits, and the payments in the proposed plan may be feasible. If the outcome of the Referendum is not favorable to the Debtor, the payments in the proposed plan will not be feasible." Trustee Report, p. 2:5-9.

6. DS, p. 21:6-22. The DS fails to provide adequate information regarding American's contingent, unliquidated claim in the approximate amount of \$7.8 million and why this claim is included in the Plan.

As noted by Trustee, American simply does not have a claim against the estate. Debtor's principal, Miller, was personally obligated for payment of American's claims as the contracting party- not Debtor. And to the extent that Miller may have an indemnification claim against Debtor for payment of American's



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**Orange County Bail Bonds, Inc.**

**Chapter 11**

claim based "third party beneficiary," such claim is not time barred because Miller failed to timely file a proof of claim for this potential indemnification claim. Trustee Report, p. 5:26-6:8; see, Global Opp'n, p. 8:9-9:2.

Moreover, even if the Court were to accept Debtor's counterargument that, "If [American] had to sue, they clearly could directly sue not only Mr. Miller, as the signatory on the contract, but also the Debtor for payment based on third party beneficiary, quantum meruit and/or unjust enrichment claims," see, Reply, p. 7:8-19, at best, American's claim should be estimated to be no more than \$50,000-\$78,000 because Miller testified that the claim rate against bonds written by Debtor is less than 1%. See, Trustee Report, p. 6:9-21. Debtor also stated non-opposition to estimating American's claim. See, Reply, p. 7:8-9. The Court, in its prior tentative ruling, ruled that Debtor should provide further information to address the UST's objection to the initial disclosure statement as to why Debtor filed a claim for such a high contingent, unliquidated claim. See, Global Opp'n, p. 8:13-18. Accordingly, the DS fails to provide adequate information regarding the American claim, and why it should not be estimated to be much lower than the \$7.8 million if the claim is included in the Plan at all.

7. DS, p. 21:23-22:7. The DS fails to provide adequate information regarding Bail Bonds Information Agency ("BBIA"). Per the DS, BBIA has also been operating in the bail bonds industry and ceased operations as of the petition and postpetition revenue that BBIA received for bonds written prepetition have been transferred to Debtor. The DS does not state how much revenue has been "transferred" to Debtor or any evidence of such transfer which, as noted by Trustee, "begs the question- what income did BBIA receive post-petition?" Trustee Report, p. 3:16-20.

As further noted by Global, since Debtor's principal was also the principal of BBIA and receiving a salary from both, it raises issues relating to fraudulent transfers and breaches of fiduciary duty (presumably because Miller was apparently working simultaneously

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**Chapter 11**

at a bail bonds competitor of Debtor), but the DS does not provide adequate information about potential claims against BBIA. See, Global Opp'n, p. 4:12-5:9.

Instead, Debtor simply states that there is no need to expend estate resources litigating meritless claims in light of concessions that Debtor is purportedly offering in the Plan- of course these concessions are conditioned on the motion to dismiss or convert being denied. See, Reply, p. 14:17-15:7.

8. DS, p. 24:1-25:17. With regards to the administrative claim of Debtors' counsel, Goe Forsythe & Hodges ("GFH"), Global objects to the DS regarding GFH's administrative claim is well taken because the DS fails to provide adequate information on how GFH's fees exceeding \$261,600 have benefited the estate which only has \$20,000 in general, non-insider unsecured claims and such fees exceed Debtor's postpetition revenue to date. See, Global Opp'n, p. 6:1-24; Trustee Report, p. 2:10-11; Plan, p. 000022 (total administrative claims are \$358,107)(rounded).

Moreover, while the Plan states that GFH is willing to subordinate its claim to allow payment of the remaining administrative claims on the effective date of the Plan and will be paid along with Class 3 claims, Exhibit E does not match this proposed Plan treatment and Debtor concedes this error. See, Trustee Report, p. 3:21-24; Reply, p. 4:16-17.

9. DS, p. 24:17-25:2 and 26:4-18; Plan, p. 000021. There appear to be inconsistencies in Debtor's proposed concessions as explained in the Reply and Plan treatment.

First, the phrasing of the Plan is confusing because it states that "1043 Civic Center Drive, LLC (the "Landlord") and Mr. Miller have agreed to subordinate the following claims to be paid outside the plan, and after payments are distributed to general unsecured creditors pursuant to the terms of the plan." Plan, p. 000021, ln. 15-18.. Thus, it is unclear if the timing of the subordination occurs

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**Orange County Bail Bonds, Inc.**

**Chapter 11**

after general unsecured creditors are paid, or whether these claims are being subordinated to payment after general unsecured creditors.

In addition, per the Plan, Miller will subordinate his \$88,500 admin insider compensation claim, but the Reply states that Miller is reducing (not subordinating) his claim from \$88,500 to \$55,000. See, Plan, p. 000021, In. 22-23; Reply, p. 4:20-23.

Regarding the Landlord's admin rent claim of \$23,000, the Plan states that this claim is being subordinated but the Reply states that it is being waived. See, Plan, p. 000021, In. 24-25; Reply, p. 4:24-25.

Global's objection regarding the amount of Miller's priority wage claim in the amount of \$13,650 is overruled because that is the current statutory cap amount effective April 1, 2019- not \$12,850. See, Global Opp'n, p. 5:19-20. See, 11 U.S.C. § 507(a)(4).

10. DS, p. 26:26-30:2. With regards to Plan treatment for Class 2 (general unsecured creditors), Class 3 (Global) and Class 5 (Miller's insider claim), the Plan proposes that Class 2, 3, and 5 will share pro-rata distributions. However, the Plan proposes to pay the distributions to Global into an escrow account pending the outcome of state court appeal of the Global Judgment. As explained by Trustee, such treatment would likely not be fair and equitable because Global is receiving treatment that is not equal to treatment that other claims are being received, the Global Judgment is a final judgment and Global's claim has not been objected to, and the Plan places unfair risk on Global that the case is later converted to chapter 7 (perhaps even voluntarily by Debtor) and Global never receives the benefit of the escrow account payments because those funds are used to pay chapter 7 admin expenses instead. See, Trustee Report, p. 4:12-5:24. Thus, the DS provides in adequate information on why Global is receiving unequal treatment which is likely not fair and equitable under 11 U.S.C. § 1191(e). Debtor does not deny that the Plan proposes to escrow only

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**CONT...**

**Orange County Bail Bonds, Inc.**

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payments made to Global pending the outcome of the appeal but provides no further explanation on why Global is receiving different treatment. See, Reply, p. 6:12-16.

In addition, the Plan proposes to set aside \$100,000 of the Saddozai Sale for the benefit of Class 3 (Global), but since GFH's claim of at least \$261,000 is being subordinated to receive payment with Class 3, Global is not likely to receive the benefit of the \$100,000 from the Saddozai Sale Proceeds. Such, the real benefit is likely with Global being the primary beneficiary since its claim is approximately \$545,879 and Class holds claims totaling approximately \$20,000. See, Plan, Ex. E. The DS should be amended to clarify that Global may not receive \$100,000 from the Saddozai Sale Proceeds.

11. DS, p. 31:17-24. The Plan states that if confirmed, the Landlord will "extend" the lease where Debtor is currently operating. However, such lease has already be rejected by operation of law since more than 120 days have passed for this commercial lease. See, Trustee Report, p. 7:1-10; Global Opp'n, p. 9:1-18.
12. Trustee identified the need for a tolling agreements with BBIA, the Landlord, Miller, Mrs. Miller, and related entities and persons that preserves the deadline for avoidance of both prepetition and post-petition transfers in the event the case is ever converted to chapter 7 post-confirmation. Trustee Report, p. 7:12-20. Debtor is agreeable to such tolling agreements. See, Reply, p. 13:18-20,
13. With regards to Debtor executing an indemnification agreement that will facilitate the foreclosure of the Saddozai residence because the foreclosing trustee is concerned about potential liability during the pandemic so an indemnity agreement is required, see, Trustee Report, p. 2:16-23, Debtor has filed a motion to approve such indemnity agreement on negative notice [dkt. 163].
14. DS, p. 9:19-10:11. Global again raises the issue of feasibility. The Court previously ruled that feasibility is a confirmation issue. Debtor has addressed the issue of the \$50,000 reserve in its Reply.

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**CONT... Orange County Bail Bonds, Inc.**

**Chapter 11**

**Party Information**

**Debtor(s):**

Orange County Bail Bonds, Inc.

Represented By  
Marc C Forsythe  
Ryan S Riddles

**Trustee(s):**

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court  
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**Thursday, July 16, 2020**

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**8:19-12411 Orange County Bail Bonds, Inc.**

**Chapter 11**

**#39.00** CON'TD STATUS CONFERENCE Hearing RE: Status of Subchapter V Case; (2) Requiring Report on Status of of Subchapter V Case; (3) Requiring Subchapter V Trustee to Appear at the Status Conference; and (4) Setting Scheduling for Subchapter V Plan Confirmation

FR: 4-30-20

Docket 0

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 30, 2020**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue Status Conference to July 16, 2020 at 10:30 a.m. Debtor must file an amended plan and disclosure statement no later than June 3, 2020. The hearing on approval of Debtor's amended disclosure statement shall also be July 16, 2020 at 10:30 a.m. Any response/comments to the amended disclosure statement must be filed no later than June 24, 2020. The Subchapter V Trustee shall file an updated status report by June 24, 2020 but may, at his option, file comments to the amended disclosure statement in lieu of an updated status report. Any reply by Debtor must be filed no later than July 9, 2020. (XX)

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CONT... Orange County Bail Bonds, Inc.

Chapter 11

**[GOLD STAR PLEADING]**\* The Subchapter V Trustee's status report filed as Docket #130 is designated as a "Gold Star Pleading" due to its thoroughness and thoughtful analysis.

*\*Special Note: "Gold Star" designation above signifies an exceptionally well-prepared pleading.*

***Note: If all parties, i.e., Debtor, Subch V Trustee, U.S. Trustee and Creditor GBF, accept the foregoing tentative ruling, appearances at this hearing are not required. Non appearances by all parties will be deemed acceptance of the tentative ruling.***

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**July 16, 2020**

Continue status conference to November 19, 2020 at 10:30 a.m.; updated status report by Trustee must be filed by November 12, 2020 unless the Trustee has filed a response to the amended disclosure statement, in which case the requirement of an updated status report will be waived.

***Note: Appearances at this hearing are not required.***

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

**Debtor(s):**

Orange County Bail Bonds, Inc.

Represented By  
Marc C Forsythe  
Ryan S Riddles

**Trustee(s):**

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court  
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**Thursday, July 16, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13587 Trent Tyrell Berglin and Adrienne Lynn Berglin**

**Chapter 11**

**#40.00** Hearing RE: Confirmation of Second Amended Chapter 11 Plan of Reorganization

(Set at DS hrg. held 5-21-20)

Docket 85

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Confirm plan on condition that Debtors file proof that the cure payment required under the stipulation with Acar Leasing filed on 7/7/20 [docket #92] and approved by order of the court on 7/9/20 [docket #93] was timely paid prior to today's hearing. Upon the filing of such proof, Class 2 will be deemed to have accepted the plan and the plan will be confirmed. Postconfirmation status conference date: January 21, 2021 at 10:30 a.m. Postconfirmation status report due: January 7, 2021.

The order approving the stipulation requires that the cure payment be made within two days of its entry. Upon receipt of proof of such payment, the court will deem Class 2 to have accepted the plan.



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CONT... Trent Tyrell Berglin and Adrienne Lynn Berglin Chapter 11

***Note: If Debtor accepts the foregoing tentative ruling, appearance at this hearing is not required.***

Party Information

**Debtor(s):**

Trent Tyrell Berglin

Represented By  
Michael Jones  
Sara Tidd

**Joint Debtor(s):**

Adrienne Lynn Berglin

Represented By  
Michael Jones  
Sara Tidd

**United States Bankruptcy Court  
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8:19-13587 Trent Tyrell Berglin and Adrienne Lynn Berglin

Chapter 11

#41.00 CONT'D STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case

FR: 11-21-19; 2-20-20; 3-19-20; 4-30-20; 5-21-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**November 21, 2019**

Claims bar date: Jan. 27, 2020 (notice to creditors by 11/27/19)  
Deadline to file plan/DS : Jan. 31, 2020  
Continued Status Conference: Feb. 20, 2020 at 10:30 a.m. (XX)  
Updated Status Report due: Feb. 6, 2020 (waived if plan/DS timely filed)

***Note: If Debtors accept the foregoing tentative ruling and are in substantial compliance with the requirements of the U.S. Trustee, appearance at this hearing is not required. It is the responsibility of Debtors to confirm compliance with the U.S. Trustee prior to the hearing.***

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10:30 AM

CONT... Trent Tyrell Berglin and Adrienne Lynn Berglin

Chapter 11

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**February 20, 2020**

Continue hearing to March 19, 2020 at 10:30 a.m.; same date/time as hearing on approval of disclosure statement. (XX)

***Note: Appearance at today's hearing is not required; updated status report not required for 3/19/20 hearing.***

-----  
**March 19, 2020**

Continue status conference to April 30, 2020 at 10:30 a.m.; updated status report not required. (XX)

***Note: Appearance at today's hearing is not required; updated status report not required for 4/30/20 hearing.***

-----  
**April 30, 2020**

Continue status conference to May 21, 2020 at 10:30 a.m.; updated status report not required. (XX)

***Note: Appearance at today's hearing is not required; updated status report not required for 4/30/20 hearing.***

-----  
**May 21, 2020**

Continue status conference to July 16, 2020 at 10:30 am, same date/time as hearing on plan confirmation. Updated status report not required. (XX)

***Note: Appearances at this hearing are not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.***

-----  
**July 16, 2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, July 16, 2020**

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10:30 AM

**CONT... Trent Tyrell Berglin and Adrienne Lynn Berglin Chapter 11**

Take chapter 11 status conference off calendar in light of conditional confirmation of plan.

***Note: Appearance at this hearing is not required.***

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

Trent Tyrell Berglin

Represented By  
Michael Jones

**Joint Debtor(s):**

Adrienne Lynn Berglin

Represented By  
Michael Jones

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

8:19-13681 Jennifer Ribertelli

Chapter 7

#42.00 Hearing RE: U.S. Trustee's Motion for Denial of Discharge Pursuant to 11 U.S.C. Section 727(a)(8),

Docket 38

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

July 16, 2020

Grant motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**Debtor(s):**

Jennifer Ribertelli

Pro Se

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, July 16, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Jennifer Ribertelli**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, July 16, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10620 Nelson D. Randin**

**Chapter 13**

**#43.00** Hearing RE: Debtor's Objection to Claim of Two Jinn, Inc., Claim Number 17-1 (\$23,555.00)

Docket 44

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Disallow claim in the amount of \$15,000; allow the balance of the claim as a general unsecured claim. Deny request for attorneys fees.

Basis for Tentative Ruling

1. The proof of claim includes two components -- the \$15,000 bond and the premium balance on the separate \$100,000 bond. The claim is entitled to the presumption of validity.
2. Debtor has provided evidence sufficient to rebut the presumption regarding the \$15,000 bond. Claimant, which has the ultimate burden of proof, has not come forward with any evidence to refute Debtor's evidence re exoneration of the bond.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Nelson D. Randin**

**Chapter 13**

3. Debtor has not, however, provided evidence sufficient to shift the burden of proof as to the \$8,000 premium balance to Claimant. The premium stands as an allowed claim.

4. As the proof of claim has been only partially disallowed, the court finds there is no prevailing party entitled to attorney fees.

***Note: If Debtor accepts the foregoing tentative ruling, appearance at this hearing is not required.***

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

**Debtor(s):**

Nelson D. Randin

Represented By  
Joseph A Weber  
Fritz J Firman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

8:20-11102 Eugene S. Tamburelli and Shirley A. Tamburelli

Chapter 13

#44.00 Hearing RE: Debtors' Objection to Claim of Ben Bridge Jewelers, Claim Number 15-1

Docket 42

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of Proof of Claim No. 15, filed 7/1/2020; Notice of Withdrawal of Objection to Claim filed 7/2/2020

Courtroom Deputy:

**OFF CALENDAR: Notice of Withdrawal of Proof of Claim No. 15, filed 7/1/2020; Notice of Withdrawal of Objection to Claim filed 7/2/2020 - td (7/2/2020)**

Tentative Ruling:

- NONE LISTED -

**Party Information**

**Debtor(s):**

Eugene S. Tamburelli

Represented By  
Joseph A Weber  
Fritz J Firman

**Joint Debtor(s):**

Shirley A. Tamburelli

Represented By  
Joseph A Weber  
Fritz J Firman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#44.10 CON'TD Hearing RE: Trustee's Motion to Approve Second Amendment to Purchase and Sale Agreement and First Amendment to Assignment of Claim and Estates' Interest in Insurance Policy Pursuant to 11 U.S.C. Sections 363

FR: 7-9-20

Docket 403

\*\*\* VACATED \*\*\* REASON: ADVANCED TO 7/16/2020 AT 9:30 A.M.,  
Per Order Entered 7/15/2020 (XX)

Courtroom Deputy:

**ADVANCED: Hearing Advanced to 7/16/2020 at 9:30 a.m., Per Order Entered 7/15/2020 (XX) - td (7/15/2020)**

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

July 9, 2020

Continue hearing to July 16, 2020 at 10:30 a.m. (XX)

**Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.**

Party Information

Debtor(s):

Friendly Village MHP Associates LP

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Friendly Village MHP Associates LP**

**Chapter 7**

Howard Camhi

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Kristine A Thagard  
Arthur Grebow  
David Wood  
Tinho Mang

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

10:30 AM

8:18-13864 Friendly Village GP, LLC

Chapter 7

#44.20 CON'TD Hearing RE: Trustee's Motion to Approve Second Amendment to Purchase and Sale Agreement and First Amendment to Assignment of Claim and Estates' Interest in Insurance Policy Pursuant to 11 U.S.C. Sections 363

FR: 7-9-20

Docket 217

\*\*\* VACATED \*\*\* REASON: ADVANCED TO 7/16/2020 AT 9:30 A.M.,  
Per Order Entered 7/15/2020 (XX)

**Courtroom Deputy:**

**ADVANCED: Hearing Advanced to 7/16/2020 at 9:30 a.m., Per Order Entered 7/15/2020 (XX) - td (7/15/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 9, 2020**

Continue hearing to July 16, 2020 at 10:30 a.m. (XX)

**Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.**

**Party Information**

**Debtor(s):**

Friendly Village GP, LLC

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Friendly Village GP, LLC**

**Chapter 7**

Howard Camhi

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
David Wood  
Kristine A Thagard

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#45.00** CONT'D Hearing RE: Creditor Todd Kurtin's Objection to Claims:

Cl. #12 **(Elieff)** Miller Barondess LLP

Cl. #4 **(Morse)** Miller Barondess LLP

Cl. #5 **(Camden)** Miller Barondess LLP

FR: 5-12-20; 5-19-20; 6-23-20; 6-25-20

Docket 360

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

Participants may connect to the videoconference through an Internet browser by entering the Videoconference URL shown below, as well as the meeting ID and password, when prompted. Alternatively, participants may dial in by telephone at the number indicated below.

Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Bruce Elieff**

**Chapter 11**

Meeting ID: 160 810 7407

Password: 307874

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Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

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**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Overrule that portion of the objection based on Sec. 502(b)(1) as moot in light of this court's order re substantive consolidation.

As to the 502(b)(4) portion of the objection, the following will apply:

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**CONT...**

**Bruce Elieff**

**Chapter 11**

1. Discovery deadline of September 4, 2020
2. Continued hearing date: October 22, 2020 at 2:00 p.m.
3. Any supplemental pleadings by the objecting party must be filed by September 17, 2020; any supplemental response pleadings must be filed by October 1, 2020; any supplemental reply pleadings must be filed by October 8, 2020.

***Note: If the parties accept the foregoing tentative ruling, appearance at this hearing is not required.***

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#46.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claims:

Cl. #21 (**Elieff**) E.O.C. Ord, Inc.

Cl. # 8 (**Morse**) E.O.C. Ord, Inc.

Cl. #10 (**Camden**) E.O.C. Ord, Inc.

FR: 5-12-20; 5-19-20; 6-23-20; 6-25-20

Docket 362

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

Participants may connect to the videoconference through an Internet browser by entering the Videoconference URL shown below, as well as the meeting ID and password, when prompted. Alternatively, participants may dial in by telephone at the number indicated below.

Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Bruce Elieff**

**Chapter 11**

Meeting ID: 160 810 7407

Password: 307874

-----

Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

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**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Overrule that portion of the objection based on Sec. 502(b)(1) as moot in light of this court's order re substantive consolidation.

As to the 502(b)(4) portion of the objection, the following will apply:

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**CONT...**

**Bruce Elieff**

**Chapter 11**

1. Discovery deadline of September 4, 2020
2. Continued hearing date: October 22, 2020 at 2:00 p.m.
3. Any supplemental pleadings by the objecting party must be filed by September 17, 2020; any supplemental response pleadings must be filed by October 1, 2020; any supplemental reply pleadings must be filed by October 8, 2020.

***Note: If the parties accept the foregoing tentative ruling, appearance at this hearing is not required.***

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#47.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claims:

Cl. # 6 (**Morse**) Bond Safeguard Insurance Company

Cl. #8 (**Camden**) Bond Safeguard Insurance Company

FR: 5-12-20; 5-19-20; 6-23-20; 6-25-20

Docket 364

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Bruce Elieff**

**Chapter 11**

Password: 307874

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Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

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**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Overrule objection as moot in light of the court's order re substantive consolidation.

*Special note: Objecting creditor in his most recent reply appears to be requesting that the court order the claimant to withdraw duplicate claims or amend its claim. The court declines to issue such an order in connection with*

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**CONT...**     **Bruce Elieff**  
*this objection.*

**Chapter 11**

***Note: Appearances at this hearing are not required.***

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

8:19-13858 Bruce Elieff

Chapter 11

#48.00 CON'TD Hearing RE: First Interim Application for Allowance of Compensation and Reimbursement of Expenses [**Affects Bruce Elieff**]

[**COUCHOT LAW, LLP, GENERAL INSOLVENCY COUNSEL TO BRUCE ELIEFF**]

FR: 4-30-20; 5-14-20; 5-19-20; 6-25-20

-----  
**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

This matter will be taken under advisement. No further oral argument is necessary. Oral Ruling will be issued on July 30, 2020 at 2:00 p.m.

Docket 390

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

CONT...

Bruce Elieff

Chapter 11

**Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

**April 30, 2020**

There is no tentative ruling due to pleadings filed by the Elieff Creditors Committee and Todd Kurtin requiring a review of legal authority and non-judicially noticed pleadings that is beyond the normal review of fee applications. The parties will be permitted to make brief arguments. The hearings will likely be continued to May 14, 2020 at 10:30 a.m.

-----

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

Participants may connect to the videoconference through an Internet browser by entering the Videoconference URL shown below, as well as the meeting ID and password, when prompted. Alternatively, participants may dial in by telephone at the number indicated below.

Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Bruce Elieff**

**Chapter 11**

-----  
Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING:**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

8:19-13858 Bruce Elieff

Chapter 11

#49.00 CON'TD Hearing RE: First Interim Application for Allowance and Payment of Fees and Reimbursement of Expenses

[HOGAN LOVELLS US LLP AS COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF BRUCE ELIEFF]

FR: 4-30-20; 5-14-20; 5-19-20; 6-25-20

-----  
**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

July 16, 2020

This matter will be taken under advisement. No further oral argument is necessary. Oral Ruling will be issued on July 30, 2020 at 2:00 p.m.

Docket 382

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

CONT...

**Bruce Elieff**

**Chapter 11**

**CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

**April 30, 2020**

There is no tentative ruling due to pleadings filed by the Elieff Creditors Committee and Todd Kurtin requiring a review of legal authority and non-judicially noticed pleadings that is beyond the normal review of fee applications. The parties will be permitted to make brief arguments. The hearings will likely be continued to May 14, 2020 at 10:30 a.m.

-----  
**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Bruce Elieff**

**Chapter 11**

-----  
Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

8:19-13858 Bruce Elieff

Chapter 11

#50.00 CON'TD Hearing RE: First Interim Fee Application for Allowance and Payment of Fees and Reimbursement of Expenses Incurred as Financial Advisor to the Debtors of Bruce Elieff, Morse Properties, LLC and 4627 Camden, LLC [**Affects All Debtors**]

[**FORCE TEN PARTNERS, LLC, FINANCIAL ADVISOR TO THE DEBTORS**]

FR: 4-30-20; 5-14-20; 5-19-20; 6-25-20  
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**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

July 16, 2020

This matter will be taken under advisement. No further oral argument is necessary. Oral Ruling will be issued on July 30, 2020 at 2:00 p.m.

Docket 391

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

---

2:00 PM

CONT...

Bruce Elieff

Chapter 11

**Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

**April 30, 2020**

There is no tentative ruling due to pleadings filed by the Elieff Creditors Committee and Todd Kurtin requiring a review of legal authority and non-judicially noticed pleadings that is beyond the normal review of fee applications. The parties will be permitted to make brief arguments. The hearings will likely be continued to May 14, 2020 at 10:30 a.m.

-----

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Bruce Elieff**

**Chapter 11**

-----  
Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

8:19-13858 Bruce Elieff

Chapter 11

#51.00 CON'TD Hearing RE: First Interim Application for Allowance and Payment of Fees and Reimbursement of Expenses

[TRAVERSE, LLC AS FINANCIAL ADVISOR TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF BRUCE ELIEFF]

FR: 4-30-20 5-14-20; 5-19-20; 6-25-20

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

July 16, 2020

This matter will be taken under advisement. No further oral argument is necessary. Oral Ruling will be issued on July 30, 2020 at 2:00 p.m.

Docket 384

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

CONT...

Bruce Elieff

Chapter 11

**CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

**April 30, 2020**

There is no tentative ruling due to pleadings filed by the Elieff Creditors Committee and Todd Kurtin requiring a review of legal authority and non-judicially noticed pleadings that is beyond the normal review of fee applications. The parties will be permitted to make brief arguments. The hearings will likely be continued to May 14, 2020 at 10:30 a.m.

-----

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

Participants may connect to the videoconference through an Internet browser by entering the Videoconference URL shown below, as well as the meeting ID and password, when prompted. Alternatively, participants may dial in by telephone at the number indicated below.

Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Bruce Elieff**

**Chapter 11**

Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#52.00** CONT'D Hearing RE: Order to Show Cause as to Why Jeffery S. Benice Should Not Be Held in Contempt of Court for Violation of the Court's March 20,, 2020 Order Granting Amended Stipulation (Dkt. Nos. 331; 333) (OSC Issued 4/27/2020)

FR: 5-21-20; 6-25-20

Docket 476

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 21, 2020**

Continue hearing to June 25, 2020 at 10:00 a.m.

***Note: Appearances at this hearing are not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.***

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**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Bruce Elieff**

**Chapter 11**

number indicated below.

Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

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**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

No opposition to this matter has been filed. Based on the evidence presented, the court finds Mr. Benice to be in contempt of its March 20, 2020 Order. As no evidence (such as time records) have been presented in

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Bruce Elieff Chapter 11**  
support attorneys fees requested, no such fees will be awarded at this time.

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#53.00** CON'TD Hearing RE: Creditor Todd Kurtin's Motion for Order Cancelling Alleged Retainer Agreements and Requiring Jeffery S. Benice and Benice Law to Immediately Disgorge \$4,182,244.73

FR: 5-7-20; 5-21-20; 6-25-20

Docket 381

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Bruce Elieff**

**Chapter 11**

Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

-----  
**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

The court is currently not persuaded that Section 329(a) provides a sufficient legal basis for the relief sought. It appears that Mr. Benice represents Debtor only in the dischargeability adversary proceeding. Section 329 (a) applies to "any attorney representing a debtor in a case under this title . . ." and FRBP 2016(b) an attorney for a debtor to file a disclosure statement "within 14 days after the order of relief" or "at another time as the court may direct."

Movant should focus his argument today the application to Section 329 to the circumstance where an attorney is representing a debtor solely in an dischargeability action and direct the court to the evidence he feels supports a finding that such representation was contemplated at the time of the subject transfer.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

---

2:00 PM

**CONT... Bruce Elieff**

**Chapter 11**

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:20-01046 Kurtin v. Benice et al

**#54.00** CON'TD Hearing RE: Order to Show Cause RE: Preliminary Injunction  
(OSC Issued 4/13/2020)

FR: 5-7-20; 5-21-20; 6-25-20

Docket 8

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 21, 2020**

Continue this matter to June 25, 2020 at 10:00 a.m.

***Note: If both parties accept the tentative ruling, appearances at this hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

-----  
**June 25, 2020**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

CONT... **Bruce Elieff**

Chapter 11

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

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**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

CONT...

Bruce Elieff

Chapter 11

**The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

**July 16, 2020**

The court is inclined to deny this OSC on the basis of lack of standing. In the court's view, the Chapter 11 trustee would be the only party with standing to seek injunctive relief on behalf of the bankruptcy estate.

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Jeffrey S. Benice

Pro Se

Benice Law

Pro Se

**Plaintiff(s):**

Todd Kurtin

Represented By  
Lewis R Landau

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

8:19-13874 Morse Properties LLC

Chapter 11

#55.00 CON'TD Hearing RE: First Interim Application for Allowance of Compensation and Reimbursement of Expenses

[COUCHOT LAW LLP, GENERAL INSOLVENCY COUNSEL TO MORSE PROPERTIES, LLC]

FR: 4-30-20; 5-14-20; 5-19-20; 6-25-20

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**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

July 16, 2020

This matter will be taken under advisement. No further oral argument is necessary. Oral Ruling will be issued on July 30, 2020 at 2:00 p.m.

Docket 35

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

CONT... **Morse Properties LLC**

**Chapter 11**

**CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

**April 30, 2020**

There is no tentative ruling due to pleadings filed by the Elieff Creditors Committee and Todd Kurtin requiring a review of legal authority and non-judicially noticed pleadings that is beyond the normal review of fee applications. The parties will be permitted to make brief arguments. The hearings will likely be continued to May 14, 2020 at 10:30 a.m.

-----

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Morse Properties LLC**

**Chapter 11**

Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

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

Morse Properties LLC

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

8:19-13875 4627 Camden LLC

Chapter 11

#56.00 CON'TD Hearing RE: First Interim Application for Allowance of Compensation and Reimbursement of Expenses

**[COUCHOT LAW, LLP, GENERAL INSOLVENCY COUNSEL TO 4627  
CAMDEN, LLC]**

FR: 4-30-20; 5-14-20; 5-19-20; 6-25-20

Docket 37

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 30, 2020**

There is no tentative ruling due to pleadings filed by the Elieff Creditors Committee and Todd Kurtin requiring a review of legal authority and non-judicially noticed pleadings that is beyond the normal review of fee applications. The parties will be permitted to make brief arguments. The hearings will likely be continued to May 14, 2020 at 10:30 a.m.

-----

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... 4627 Camden LLC  
June 25, 2020**

**Chapter 11**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

Participants may connect to the videoconference through an Internet browser by entering the Videoconference URL shown below, as well as the meeting ID and password, when prompted. Alternatively, participants may dial in by telephone at the number indicated below.

Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

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**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

CONT... 4627 Camden LLC

Chapter 11

**COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.**

**July 16, 2020**

This matter will be taken under advisement. No further oral argument is necessary. Oral Ruling will be issued on July 30, 2020 at 2:00 p.m.

***Note: Appearance at this hearing is not required.***

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

**Debtor(s):**

4627 Camden LLC

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#57.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #3 by Bond  
Safeguard Insurance Company

FR: 5-12-20; 5-19-20; 6-23-20; 6-25-20

Docket 37

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Dial by your location

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

CONT... **Broadband Nation LLC**  
+1 669 254 5252 US (San Jose)

Chapter 11

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

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**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Same tentative ruling as for #47

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

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#58.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim # 1 by Miller Barondess LLP

FR: 5-12-20; 5-19-20; 6-23-20; 6-25-20

Docket 36

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Dial by your location

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

CONT... **Broadband Nation LLC**  
+1 669 254 5252 US (San Jose)

Chapter 11

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

-----  
**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Same tentative ruling as for #45

**Party Information**

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#59.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #2 by E.O.C.  
Ord, Inc.

FR: 5-12-20; 5-19-20; 6-23-20; 6-25-20

Docket 35

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

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<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Dial by your location

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Broadband Nation LLC**  
+1 669 254 5252 US (San Jose)

**Chapter 11**

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

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**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Same tentative ruling as #46

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

Broadband Nation LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#60.00** CONT'D Hearing RE: Objection of Creditor Todd Kurtin to the Professional Fee Statement of #1 of Goe & Forsythe & Hodges LLP

FR: 5-14-20; 5-19-20; 6-25-20

Docket 60

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

Participants may connect to the videoconference through an Internet browser by entering the Videoconference URL shown below, as well as the meeting ID and password, when prompted. Alternatively, participants may dial in by telephone at the number indicated below.

Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

-----

Dial by your location



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

CONT... **Broadband Nation LLC**  
+1 669 254 5252 US (San Jose)

Chapter 11

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

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**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

This matter will be taken under advisement. No further oral argument is necessary. Oral Ruling will be issued on July 30, 2020 at 2:00 p.m.

**Party Information**

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#61.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #1 by Miller Barondess LLP

FR: 5-12-20; 5-19-20; 6-23-20; 6-25-20

Docket 36

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

Participants may connect to the videoconference through an Internet browser by entering the Videoconference URL shown below, as well as the meeting ID and password, when prompted. Alternatively, participants may dial in by telephone at the number indicated below.

Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Dial by your location

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**CONT...**      **Heritage Colorado LLC**  
                  +1 669 254 5252 US (San Jose)

**Chapter 11**

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

-----

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Same tentative ruling as #45

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

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#62.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim # 3 By E.O.C.  
Ord, Inc.

FR: 5-12-20; 5-19-20; 6-23-20; 6-25-20

Docket 35

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

Participants may connect to the videoconference through an Internet browser by entering the Videoconference URL shown below, as well as the meeting ID and password, when prompted. Alternatively, participants may dial in by telephone at the number indicated below.

Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

-----

Dial by your location

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

CONT... Heritage Colorado LLC  
+1 669 254 5252 US (San Jose)

Chapter 11

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

-----  
**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

This matter will be taken under advisement. No further oral argument is necessary. Oral Ruling will be issued on July 30, 2020 at 2:00 p.m.

-----  
**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Heritage Colorado LLC  
without an attorney.**

**Chapter 11**

**July 16, 2020**

Same tentative ruling as #46

**Party Information**

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#63.00 CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #2 by Bond  
Safeguard Insurance Company**

FR: 5-12-20; 5-19-20; 6-23-20; 6-25-20

Docket 34

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Dial by your location

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

CONT... Heritage Colorado LLC  
+1 669 254 5252 US (San Jose)

Chapter 11

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

-----  
**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Same tentative ruling as #47

**Note: Appearance at this hearing is not required.**

**Party Information**

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#64.00** CONT'D Hearing RE: Objection of Creditor Todd Kurtin to the Professional Fee Statement of #1 of Goe & Forsythe & Hodges LLP

FR: 5-14-20; 5-19-20; 6-25-20

Docket 53

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Dial by your location

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

CONT... Heritage Colorado LLC  
+1 669 254 5252 US (San Jose)

Chapter 11

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

-----  
**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

This matter will be taken under advisement. No further oral argument is necessary. Oral Ruling will be issued on July 30, 2020 at 2:00 p.m.

**Party Information**

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#65.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #2 by Miller Barondess

FR: 5-12-20; 5-19-20; 6-23-20; 6-25-20

Docket 36

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Dial by your location

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

CONT... TDV Development Corporation  
+1 669 254 5252 US (San Jose)

Chapter 11

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

-----  
**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Same tentative ruling as #45

**Party Information**

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#66.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #3 by E.O.C.  
Ord, Inc.

FR: 5-12-20; 5-19-20; 6-23-20; 6-25-20

Docket 35

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Dial by your location

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

CONT... TDV Development Corporation  
+1 669 254 5252 US (San Jose)

Chapter 11

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

-----  
**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Same tentative ruling as #46.

**Party Information**

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#67.00** CONT'D Hearing RE: Creditor Todd Kurtin's Objection to Claim #4 by Bond  
Safeguard Insurance Company

FR: 5-12-20; 5-19-20; 6-23-20; 6-25-20

Docket 37

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

-----

Dial by your location

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

CONT... TDV Development Corporation  
+1 669 254 5252 US (San Jose)

Chapter 11

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

-----  
**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Same tentative ruling as #47

**Party Information**

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 16, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#68.00** CONT'D Hearing RE: Objection of Creditor Todd Kurtin to the Professional Fee Statement of #1 of Goe & Forsythe & Hodges LLP

FR: 5-14-20; 5-19-20; 6-25-20

Docket 54

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

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Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Dial by your location

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 16, 2020

Hearing Room 5A

2:00 PM

CONT... TDV Development Corporation  
+1 669 254 5252 US (San Jose)

Chapter 11

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

***Note: Appearance at this hearing is not required.***

-----  
**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

This matter will be taken under advisement. No further oral argument is necessary. Oral Ruling will be issued on July 30, 2020 at 2:00 p.m.

**Party Information**

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11541 Oscar A Banuelos**

**Chapter 13**

**#1.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Oscar A Banuelos

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11515 Samuel Michelson**

**Chapter 13**

**#2.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 4

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Samuel Michelson

Represented By  
Douglas A Crowder

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Tuesday, July 21, 2020

Hearing Room 5A

1:30 PM

**8:20-11363 Abel Hernandez Rosales**

**Chapter 13**

#3.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Case  
Due to a Prohibition Against Being a Debtor Under 11 U.S.C. Section 109(g)  
Entered 5/13/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case Due to a Prohibition Against  
Being a Debtor Under 11 U.S.C. Section 109(g) Entered 5/13/2020 - td  
(7/1/2020)**

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

**Debtor(s):**

Abel Hernandez Rosales

Represented By  
Michael R Totaro

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11330 Jonathan Michael Muller**

**Chapter 13**

**#4.00 Hearing RE: Confirmation of 3rd Amended Chapter 13 Plan**

Docket 20

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Jonathan Michael Muller

Represented By  
Richard G Heston

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11309 Mark B. Crum**

**Chapter 13**

**#5.00 Hearing RE: Conirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Mark B. Crum

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11307 Ryan David Castle and Ana Alicia Castle**

**Chapter 13**

**#6.00 Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

Docket 14

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Ryan David Castle

Represented By  
Heather J Canning

**Joint Debtor(s):**

Ana Alicia Castle

Represented By  
Heather J Canning

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, July 21, 2020

Hearing Room 5A

1:30 PM

8:20-11237 Rose M. Xiong

Chapter 7

#7.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 11

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Debtor's Notice of  
Conversion of Bankruptcy Case From Chapter 13 to Chapter 7 filed  
5/14/2020; Case Converted to Chapter 7

Courtroom Deputy:

**OFF CALENDAR: Debtor's Notice of Conversion of Bankruptcy Case  
From Chapter 13 to Chapter 7 filed 5/14/2020; Case Converted to  
Chapter 7 - td (5/14/2020)**

Party Information

Debtor(s):

Rose M. Xiong

Represented By  
Christine A Kingston

Trustee(s):

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11234 Susan Rosemarie Wahl**

**Chapter 13**

**#8.00 Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

Docket 15

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Susan Rosemarie Wahl

Represented By  
Joshua L Sternberg

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11152 David Wayne Hurley**

**Chapter 13**

**#9.00 Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

Docket 18

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

David Wayne Hurley

Represented By  
Christopher P Walker

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11135 Martha Bahena de Marin**

**Chapter 13**

**#10.00 Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

Docket 18

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Martha Bahena de Marin

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11102 Eugene S. Tamburelli and Shirley A. Tamburelli**

**Chapter 13**

**#11.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Eugene S. Tamburelli

Represented By  
Joseph A Weber  
Fritz J Firman

**Joint Debtor(s):**

Shirley A. Tamburelli

Represented By  
Joseph A Weber  
Fritz J Firman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11036 Stephon R. Dailing**

**Chapter 13**

**#12.00** Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Stephon R. Dailing

Represented By  
Julie J Villalobos

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11010 Rolando Marquez**

**Chapter 13**

**#13.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 16

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Rolando Marquez

Represented By  
Stephen L Burton

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10947 David R Johnson and Gail L Johnson**

**Chapter 13**

**#14.00 Hearing RE: Confirmation of 2nd Amended Chapter 13 Plan**

Docket 31

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

David R Johnson

Represented By  
Julie J Villalobos

**Joint Debtor(s):**

Gail L Johnson

Represented By  
Julie J Villalobos

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10940 Steven D. Kallestad and Sarah B. Kallestad**

**Chapter 13**

**#15.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 5-26-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Steven D. Kallestad

Represented By  
Christine A Kingston

**Joint Debtor(s):**

Sarah B. Kallestad

Represented By  
Christine A Kingston

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10903 Jeffrey Murray**

**Chapter 13**

**#16.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 5-26-20

Docket 20

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Jeffrey Murray

Represented By  
Jeffrey B Smith

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10845 Darren Kenney**

**Chapter 13**

**#17.00 CON'TD Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

FR: 5-26-20

Docket 29

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Darren Kenney

Represented By  
Chris T Nguyen

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10771 David Cunningham**

**Chapter 13**

**#18.00 CON'TD Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

FR: 5-26-20

Docket 18

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

David Cunningham

Represented By  
Stephen R Wade

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10725 Danelle M. Partida**

**Chapter 13**

**#19.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Danelle M. Partida

Represented By  
Steven B Lever

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10682 Kim-Lan T Nguyen**

**Chapter 13**

**#20.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 5-26-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Kim-Lan T Nguyen

Represented By  
Thinh V Doan

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10645 Anthony Bergman**

**Chapter 13**

**#21.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 5-26-20

Docket 21

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Anthony Bergman

Represented By  
Stephen L Burton

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10620 Nelson D. Randin**

**Chapter 13**

**#22.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 4-28-20; 5-26-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Nelson D. Randin

Represented By  
Joseph A Weber

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10617 Robert James Ruble**

**Chapter 13**

**#23.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 5-26-20

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Robert James Ruble

Represented By  
Bert Briones

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10553 Heather Jane Andruss**

**Chapter 13**

**#24.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

(Re-set from 4/28/2020)

FR: 5-26-20

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Heather Jane Andruss

Represented By  
Kevin Tang

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10518 John C Crismon and Rhonda L Crismon**

**Chapter 13**

**#25.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 5-26-20

Docket 17

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

John C Crismon

Represented By  
Anerio V Altman

**Joint Debtor(s):**

Rhonda L Crismon

Represented By  
Anerio V Altman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10513 Fernando Serrano**

**Chapter 13**

**#26.00 CON'TD Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

FR: 4-28-20; 5-26-20

Docket 20

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Fernando Serrano

Represented By  
Bert Briones

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10435 Dale Stanley and Debra A. Stanley**

**Chapter 13**

**#27.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 5-26-20

Docket 14

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Dale Stanley

Represented By  
Michael D Franco

**Joint Debtor(s):**

Debra A. Stanley

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10328 Juan Carlos Valdez**

**Chapter 13**

**#28.00** CONT'D Hearing RE: Confirmation of Chapter 13 Plan

FR: 4-28-20; 5-26-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Juan Carlos Valdez

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10307 David Patterson**

**Chapter 13**

**#29.00 CONT'D Hearing RE: Confirmation of Chapter 13 Plan**

FR: 4-28-10

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

David Patterson

Represented By  
Amanda G Billyard

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10250 Leticia Rubio**

**Chapter 13**

**#30.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 4-28-20; 5-26-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Leticia Rubio

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10069 Lauren Lizbeth Witek**

**Chapter 13**

**#31.00 CON'TD Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

FR: 4-28-20

Docket 29

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Lauren Lizbeth Witek

Represented By  
Dana M Douglas

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10017 Almazella Northington**

**Chapter 13**

**#32.00 CON'TD Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

FR: 4-28-20

Docket 17

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Almazella Northington

Represented By  
Norma Duenas

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14869 Omar Vasquez and Elisabeth Aguilar**

**Chapter 13**

**#33.00 CONT'D Hearing RE: Confirmation of Chapter 13 Plan**

FR: 2-25-20; 4-28-20; 5-26-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Omar Vasquez

Represented By  
Sunita N Sood

**Joint Debtor(s):**

Elisabeth Aguilar

Represented By  
Sunita N Sood

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14688 Jose Antonio Velazquez**

**Chapter 13**

**#34.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 2-25-20; 4-28-20

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Jose Antonio Velazquez

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14528 Vishundyal Ramotar Mohabir**

**Chapter 13**

**#35.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 2-25-20; 4-28-20; 5-26-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Vishundyal Ramotar Mohabir

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

1:30 PM

**8:19-14308 Karla Golbert**

**Chapter 13**

**#36.00** CONT'D Hearing RE: Confirmation of Chapter 13 Plan

FR: 1-21-20; 2-25-20; 4-28-10

Docket 13

**Courtroom Deputy:**

- NONE LISTED -

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

**Debtor(s):**

Karla Golbert

Represented By  
Anerio V Altman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Tuesday, July 21, 2020

Hearing Room 5A

2:30 PM

8:19-13239 John Fouse

Chapter 13

#37.00 Hearing RE: Motion Under LBR 3016-1(n) and (w) to Modify Plan or Suspend Plan Payments

Docket 43

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order of Dismissal Arising from Debtor's Request for Voluntary Dismissal of Chapter 13 Entered 7/20/2020

Courtroom Deputy:

**OFF CALENDAR: Order of Dismissal Arising from Debtor's Request for Voluntary Dismissal of Chapter 13 Entered 7/20/2020 - td (7/20/2020)**

Party Information

**Debtor(s):**

John Fouse

Represented By  
Sundee M Teeple

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:19-10796 Mario Jonathan Saldivar and Alicia Marie Braddock Chapter 13**

**#38.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding For Failure to Make Plan Payments**

FR: 4-28-20; 5-26-20

Docket 74

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 7/6/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 7/6/2020 - td (7/6/2020)**

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

**Debtor(s):**

Mario Jonathan Saldivar

Represented By  
Joshua L Sternberg

**Joint Debtor(s):**

Alicia Marie Braddock

Represented By  
Joshua L Sternberg

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:19-10043 Kevin S. Yoneda**

**Chapter 13**

**#39.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments**

FR: 4-28-20; 5-26-20

Docket 38

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 7/20/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 7/20/2020 - td (7/20/2020)**

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

**Debtor(s):**

Kevin S. Yoneda

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:18-14723 Bertha Zapata**

**Chapter 13**

**#40.00** CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

FR: 2-25-20; 4-28-20; 5-26-20

Docket 57

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bertha Zapata

Represented By  
Gary Polston

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:18-14641 Richard Thomas McPhee**

**Chapter 13**

**#41.00** CONT'D Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Make Plan Payments

FR: 4-28-20; 5-26-20

Docket 35

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 7/20/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 7/20/2020 - td (7/20/2020)**

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

**Debtor(s):**

Richard Thomas McPhee

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:15-14589 Frank Torres and Victoria Torres**

**Chapter 13**

**#42.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding**

FR: 5-26-20

Docket 57

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Debtor's Notice of Conversion of Bankruptcy Case from Chapter 13 to Chapter 7 filed 7/17/2020; Case Converted to Chapter 7**

**Courtroom Deputy:**

**OFF CALENDAR: Debtor's Notice of Conversion of Bankruptcy Case from Chapter 13 to Chapter 7 filed 7/17/2020; Case Converted to Chapter 7 - td (7/20/2020)**

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

**Debtor(s):**

Frank Torres

Represented By  
Michael G Spector

**Joint Debtor(s):**

Victoria Torres

Represented By  
Michael G Spector

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, July 21, 2020**

**Hearing Room 5A**

2:30 PM

**8:15-13947 Seanny Seong Hyo Shin**

**Chapter 13**

**#43.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding

Docket 65

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 7/6/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 7/6/2020 - td (7/7/2020)**

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

**Debtor(s):**

Seanny Seong Hyo Shin

Represented By  
Arlene M Tokarz

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01213 Marshack v. An et al

**#1.00** CON'TD STATUS CONFERENCE RE: Complaint for: 1. Avoidance and Recover of Constructive Fraudulent Transfers; 2. Avoidance and Recovery of Property of the Bankruptcy Estate; 3. Avoidance of Preferential Transfers; and 4. Recovery of Avoided Transfers

FR: 1-30-20; 3-19-20; 5-21-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 10/22/2020 AT 9:30 A.M.,  
Per Order Entered 7/9/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference is Continued to 10/22/2020 at 9:30 am,  
Per Order Entered 7/9/2020 (XX) - td (7/9/2020)**

**Tentative Ruling:**

**January 30, 2020**

Joint status report not timely filed.\* Parties must appear and advise the court re the status of this matter.

\* The Stipulation and Order [docket #s 5 & 6] only extended the answer date -- did not include an extension of the deadline to file a status report.

***Note: Appearances at the hearing are required.***

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**May 21, 2020**

Continue the status conference to July 23, 2020 at 9:30 a.m.; updated status report must be filed by July 16, 2020 if the adversary is still pending by such date.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

***Note: Appearances at this hearing are not required.***

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Minho An

Pro Se

Byungwhan Chung

Pro Se

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Goe  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 23, 2020

Hearing Room 5A

9:30 AM

8:18-13296 Roman Gabriel Machutt

Chapter 7

Adv#: 8:20-01073 Weneta M.A. Kosmala v. Machutt

#2.00 STATUS CONFERENCE RE: Complaint for Revocation of the Debtor's Discharge Pursuant to 11 U.S.C. Section 727(d) and Rule 7001(4) of the Federal Rules of Bankruptcy Procedure

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 23, 2020**

In light of the pending motion for default judgment, continue the status conference to August 20, 2020 at 9:30 a.m. An updated status report is not required if a default judgment has been entered on or prior to August 6, 2020.

**Note: As Defendant has not made an appearance in this adversary, appearance at this status conference is not required and Plaintiff shall give notice of the continued hearing date/time.**

Party Information



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Roman Gabriel Machutt**

**Chapter 7**

**Debtor(s):**

Roman Gabriel Machutt

Represented By  
Brian J Soo-Hoo

**Defendant(s):**

Roman Gabriel Machutt

Pro Se

**Plaintiff(s):**

Weneta M.A. Kosmala

Represented By  
Faye C Rasch

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Reem J Bello

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 23, 2020

Hearing Room 5A

9:30 AM

8:19-11546 Joseph Ra

Chapter 7

Adv#: 8:19-01164 Laplant v. Ra

#3.00 PRE-TRIAL CONFERENCE RE: Complaint To: (1) Determine Non-Dischargeability Of Debtor (11 U.S.C. Section 523(a)(4), (6) FRBP Rule 7001(6)) (2) Determine Validity, Priority Or Extent Of Lien Or Other Interest In Property (11 U.S.C. Section 506, FRBP Rule 7001(4)); (3) To Seek Declaratory Relief (FRBP Rule 7001(9))

FR: 11-7-19

Docket 1

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR; Status Conference Set for 9/17/2020 at 9:30 a.m., Per Order Entered 4/23/2020 (XX)

Courtroom Deputy:

**OFF CALENDAR: Status Conference Set for 9/17/2020 at 9:30 a.m., Per Order Staying Proceeding Entered 4/23/2020 (XX) - td (4/23/2020)**

Tentative Ruling:

**November 7, 2019**

Discovery Cut-off Date:	May 1, 2020
Deadline to Attend Mandatory Mediation:	June 15, 2020
Pretrial Conference Date: (XX)	July 23, 2020 at 9:30 a.m.
Deadline to File Joint Pretrial Stipulation:	July 9, 2020

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

Party Information

**Debtor(s):**

Joseph Ra

Represented By  
David B Golubchik

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Joseph Ra**

**Chapter 7**

**Defendant(s):**

Joseph Ra

Pro Se

**Plaintiff(s):**

Joseph Laplant

Represented By  
Bret D Lewis

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

9:30 AM

**8:19-13149 Dubitec America Inc**

**Chapter 7**

Adv#: 8:20-01075 Casey v. Sealink International, Inc.

**#4.00** STATUS CONFERENCE RE: Chapter 7 Trustee's Complaint for: (1) Breach of Contract; (3) Conversion; (3) Intentional Interference with Contractual Relations; (4) Violation of California Penal Code, Section 496, Subdivision (C); and (5) Attorney Fees

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 23, 2020**

Discovery Cut-off Date:	Oct. 15, 2020
Pretrial Conference Date:	Nov. 19, 2020 at 9:30 a.m.
Deadline to File Joint Pretrial Stipulation:	Nov. 5, 2020

*Special note: A trial date will be set at the Pretrial Conference and will be set for a date in 2021. Whether the trial will be in-person or by video conference will depend upon the status of the pandemic.*

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

9:30 AM

CONT... Dubitec America Inc  
*order consistent with the same.*

Chapter 7

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

**Debtor(s):**

Dubitec America Inc

Represented By  
Gordon A Petersen

**Defendant(s):**

Sealink International, Inc.

Pro Se

**Plaintiff(s):**

Thomas H Casey

Represented By  
Gordon A Petersen

**Trustee(s):**

Thomas H Casey (TR)

Represented By  
Gordon A Petersen

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

9:30 AM

**8:19-13149 Dubitec America Inc**

**Chapter 7**

Adv#: 8:20-01076 Casey v. Legacy Polymers, Inc. et al

**#5.00 STATUS CONFERENCE RE: Chapter 7 Trustee's Complaint for (1) Breach of Contract; and (2) Attorney Fees**

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 23, 2020**

Discovery Cut-off Date:	Nov. 2, 2020
Pretrial Conference Date:	Dec. 17, 2020 at 9:30 a.m.
Deadline to File Joint Pretrial Stipulation:	Dec. 3, 2020

*Special note: A trial date will be set at the Pretrial Conference and will be set for a date in 2021. Whether the trial will be in-person or by video conference will depend upon the status of the pandemic.*

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

9:30 AM

CONT... Dubitec America Inc

Chapter 7

**Party Information**

**Debtor(s):**

Dubitec America Inc

Represented By  
Gordon A Petersen

**Defendant(s):**

Legacy Polymers, Inc.

Pro Se

Qixiang Zhang

Pro Se

**Plaintiff(s):**

Thomas H Casey

Represented By  
Gordon A Petersen

**Trustee(s):**

Thomas H Casey (TR)

Represented By  
Gordon A Petersen

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

10:00 AM

**8:12-18188 Luis Savastano**

**Chapter 7**

Adv#: 8:13-01220 Bobinski v. Savastano

**#6.00** CON'TD Third Person Examination of Dominic Savastano RE: Enforcement of Judgment

FR: 12-5-19; 1-16-20; 3-19-20; 4-30-20

Docket 183

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**December 5, 2019**

Examinee Dominic Savastano to appear in court for swearing in by the courtroom clerk; the examination will thereafter proceed outside the courtroom.

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**January 16, 2020**

Examinee Dominic Savastano to appear in court for swearing in by the courtroom clerk; the examination will thereafter proceed outside the courtroom

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

10:00 AM

CONT... Luis Savastano

Chapter 7

**March 19, 2020**

Continue his matter to April 30, 2020 at 10:00 a.m. in light of special pandemic policy in effect. The parties are, however, free to stipulate to an examination outside the courthouse prior to April 30, 2020. (XX)

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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**April 30, 2020**

Continue his matter to July 23, 2020 at 10:00 a.m. in light of the special pandemic policy in effect. The parties are, however, free to stipulate to an examination outside the courthouse via video conference or otherwise prior to July 23, 2020. (XX)

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

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**July 23, 2020**

Continue his matter to Oct. 22, 2020 at 10:00 a.m. in light of the special pandemic policy in effect. The parties are, however, free to stipulate to an examination outside the courthouse via video conference or otherwise prior to Oct. 22, 2020.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

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

**Debtor(s):**

Luis Savastano

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

10:00 AM

CONT... Luis Savastano

**Chapter 7**

Nathan Fransen

**Defendant(s):**

Luis Savastano

Represented By  
Nathan Fransen

**Plaintiff(s):**

Richard Bobinski

Represented By  
Crystal Bergstrom

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Karen S Naylor (TR)

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

10:00 AM

**8:12-18188 Luis Savastano**

**Chapter 7**

Adv#: 8:13-01220 Bobinski v. Savastano

**#7.00 CON'TD Third Person Examination of Guadalupe (Lupe) Savastano RE:  
Enforcement of Judgment**

FR: 9-12-19; 11-19-19; 1-16-20; 3-19-20; 4-30-20

Docket 175

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**September 12, 2019**

Examinee Guadalupe Savastano to appear in court to be sworn in by the court clerk. Thereafter, the examination will take place outside the courtroom  
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**November 19, 2019**

Continued to Jan. 16, 2020 at 10:30 a.m. per stipulation of the parties. (XX)  
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**March 19, 2020**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 23, 2020

Hearing Room 5A

10:00 AM

CONT... Luis Savastano

Chapter 7

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue his matter to April 30, 2020 at 10:00 a.m. in light of special pandemic policy in effect. The parties are, however, free to stipulate to an examination outside the courthouse prior to April 30, 2020. (XX)

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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April 30, 2020

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Continue his matter to July 23, 2020 at 10:00 a.m. in light of the special pandemic policy in effect. The parties are, however, free to stipulate to an examination outside the courthouse via video conference or otherwise prior to July 23, 2020. (XX)

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance at the hearing will be***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

10:00 AM

CONT... Luis Savastano

Chapter 7

***deemed acceptance of the tentative ruling.***  
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**July 23, 2020**

Continue his matter to Oct. 22, 2020 at 10:00 a.m. in light of the special pandemic policy in effect. The parties are, however, free to stipulate to an examination outside the courthouse via video conference or otherwise prior to Oct. 22, 2020.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

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

**Debtor(s):**

Luis Savastano

Represented By  
Nathan Fransen

**Defendant(s):**

Luis Savastano

Represented By  
Nathan Fransen

**Movant(s):**

Judicial Judgment Enforcement

Represented By  
Crystal Bergstrom

**Plaintiff(s):**

Richard Bobinski

Represented By  
Crystal Bergstrom

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Karen S Naylor (TR)

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 23, 2020

Hearing Room 5A

10:00 AM

8:19-11449 Jill Allyn Rosoff

Chapter 13

#8.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

SERVIS ONE, INC.

VS.

DEBTOR

Docket 48

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 8/20/2020 AT 10:00 A.M.,  
Per Order Entered 7/22/2020 (XX)

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 8/20/2020 at 10:00 a.m., Per Order Entered 7/22/2020 (XX) - td (7/22/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 23, 2020**

Grant motion with 4001(a)(3) waiver, except that Movant shall not conduct a foreclosure sale prior to December 31, 2020.

**Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Jill Allyn Rosoff**

**Chapter 13**

**Debtor(s):**

Jill Allyn Rosoff

Represented By  
Kelly H. Zinser

**Movant(s):**

Servis One Inc, DBA BSI Financial

Represented By  
Reilly D Wilkinson  
Lemuel Bryant Jaquez

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 23, 2020

Hearing Room 5A

10:00 AM

8:20-10262 MESCO, Inc.

Chapter 11

#9.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

DAVID LIPIZ AND MICHELE LIPIZ, ET AL.

VS.

DEBTOR

Docket 62

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion  
for Relief from the Automatic Stay (Settled by Stipulation) Entered 7/16/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic  
Stay (Settled by Stipulation) Entered 7/16/2020 - td (7/16/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

MESCO, Inc.

Represented By  
Michael G Spector  
Vicki L Schenum

**Movant(s):**

David Liptz and Michelle Liptz; The

Represented By  
Martin W. Phillips



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 23, 2020

Hearing Room 5A

10:00 AM

8:20-10262 MESCO, Inc.

Chapter 11

#10.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

MV FUND I, LLC, ET AL.

VS.

DEBTOR

Docket 63

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion  
for Relief from the Automatic Stay (Settled by Stipulation) Entered 7/16/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic  
Stay (Settled by Stipulation) Entered 7/16/2020 - td (7/16/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

MESCO, Inc.

Represented By  
Michael G Spector  
Vicki L Schenum

**Movant(s):**

MV Fund I, LLC; Slater Family

Represented By  
Martin W. Phillips

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

10:00 AM

8:20-11799 Heather Leigh Tolson

Chapter 13

#11.00 Hearing RE: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 16

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 23, 2020**

Deny Motion.

Basis for Tentative Ruling:

For purposes of this Motion, Debtor has not persuaded the court with clear and convincing evidence (or even by a preponderance of the evidence) that this case was filed in good faith. The foregoing conclusion is based upon the following:

1. This is the fourth bankruptcy affecting this property to be filed since the notice of default was recorded on Oct. 30, 2018 and a foreclosure sale was set for Mar. 4, 2019. Debtor filed a chapter 7 case, no. 19-10753, on March 1, 2019, three days prior to the March 4, 2019 scheduled foreclosure sale. On Dec. 17, 2019, Debtor filed a chapter 13 case, no. 19-14868. That case was

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

10:00 AM

CONT... **Heather Leigh Tolson** **Chapter 13**

dismissed at the first confirmation hearing held on February 25, 2020 due in part to Debtor's failure to make the plan payment that became due on February 17, 2020. The order dismissing the case was entered on February 28, 2020. Three days later, Debtor's fiance, Mr. McMillan, and co-owner of the property filed a chapter 7, no. 20-10747. Relief from the automatic stay was granted in McMillan's case with *in rem* relief under Sec. 362(d)(4) by an order entered April 28, 2020. The current case was filed on June 24, 2020, just hours before the April 28 Order was recorded in the Orange County Recorder's Office and five days prior to the foreclosure sale on June 29, 2020.

2. It is clear from the foregoing chronology that Debtor and McMillan have utilized the bankruptcy process in multiple filings to thwart the objecting creditor from foreclosing on the property. This is the very purpose for which 362(d)(4) was enacted. Debtor has the burden of demonstrating that the strategic filing of four bankruptcy filings in 15 months is not bad faith.

3. Debtor asserts that she will be able to refinance the property in order to pay off the loan when it become all due and payable in June 2021 but provides no evidence that such refinance is feasible.

4. Currently, the extension of the automatic stay is of little effect given that the objecting creditor has been in paid in full through the foreclosure and currently is not a creditor entitled to payment under the plan.

5. The legal impact and efficacy of the postpetition foreclosure sale and the related issue of whether the foreclosure violated the automatic stay in this case is beyond the scope of this hearing. However, the court notes that the *in rem* relief provided by Section 362(d)(4) only becomes effective upon the recording of the 352(d)(4) order. In this matter, the recordation occurred postpetition. Further, the Bankruptcy Appellate Panel of this Circuit has held that 549(c) is not available as a defense for the good faith purchaser of property at a postpetition foreclosure sale. *In re Mitchell*, 279 B.R. 839 (BAP 9<sup>th</sup> Cir 2002) ( Section 549(c) not be invoked by one who purchased debtor's property in good faith at foreclosure sale conducted in violation of automatic stay). *Accord*, 40235 *Washington St. Corp. v. Lusardi*, 396 F.3d 1076, 1080 (The 9th Circuit reached the same conclusion as the BAP in *Mitchell*).

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Heather Leigh Tolson Chapter 13**

6. The court recognizes there may be an issue as to whether the recordation of the 362(d)(4) *after* the filing of the instant case constitutes a violation of the temporary stay in this case. However, the postpetition recordation does not negate the apparent abuse of the bankruptcy process noted above and need not be determined in connection with the Motion to extend the stay.

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

**Debtor(s):**

Heather Leigh Tolson

Represented By  
Joseph A Weber  
Fritz J Firman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 23, 2020

Hearing Room 5A

10:00 AM

8:20-11840 DeWayne A. Normand and Maria Acosta De Normand

Chapter 13

#12.00 Hearing RE: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 23, 2020**

Deny motion.

Basis for Tentative Ruling:

Notwithstanding the fact that the prior case was dismissed due to Debtors' attorney's failure to timely file the commencement documents, the current case still appears to have not been filed in good faith as the chapter 13 plan is infeasible on its face. The plan provides for 60 monthly payments of \$1,950.00 for total distributions of \$117,000 with an estimated payout of 84%. However, Debtor's Schedule J shows monthly disposable income of only \$716.00 (\$716 x 60 = \$42,960). Para. 13 of Schedule I indicates that Debtors do not expect any increase in monthly income.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... DeWayne A. Normand and Maria Acosta De Normand**

**Chapter 13**

**Debtor(s):**

DeWayne A. Normand

Represented By  
Michael E Plotkin

**Joint Debtor(s):**

Maria Acosta De Normand

Represented By  
Michael E Plotkin

**Movant(s):**

DeWayne A. Normand

Represented By  
Michael E Plotkin  
Michael E Plotkin

Maria Acosta De Normand

Represented By  
Michael E Plotkin

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

10:00 AM

8:20-11916 Monica M Wilson

Chapter 7

#12.10 Hearing RE: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 9

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 23, 2020**

Deny the Motion.

Basis for Tentative Ruling:

1. Debtor has not rebutted the presumption that the case was not filed in good faith based upon the following circumstances:

a.) Debtor failed to attend the continued 341a meeting set in the prior case, no. 20-10112 (First Case) set for April 30, 2020. Debtor states in her declaration in support of the Motion that she did not attend due to COVID-19 concerns. However, the April 30, 2020 meeting of creditors was a telephonic meeting. See Renotice of 341a meeting and certificate of mailing to Debtor re the same at docket #s 34 and 35 in the First Case. Debtor does not explain why she could not and did not attend the hearing by telephone.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Monica M Wilson**

**Chapter 7**

b.) Debtor has no equity in the subject real property by her own admission -- she lists a value of \$570,000 and secured totalling in excess of \$688,000.

c.) Debtor, according to her declaration in support of the Motion is unemployed and has no means or intent of making mortgage payments to either of the two secured lenders. Notably, in the First Case, Debtor listed gross income of approximately \$2700 from two jobs. Thus, Debtor's financial situation has deteriorated since the First Case was filed.

d.) According to the opposition filed by the senior secured creditor, U.S. Bank, Debtor hasn't made a mortgage payment in seven years and is \$176,000 in arrears. See Oppn at p. 4. Further, the balance of the loan is \$583, 955.71, not \$570,000.00. Oppn. at p. 2.

e.) In light of the number years in default, the amount in arrears and Debtor's unemployment status, her stated plan to either sell the property (presumably after abandonment by the trustee and through a "short sale") or obtain a loan modification, is unrealistic and is not at all indicative of good faith.

f.) Debtor filed schedules on June 19, 2020 that contains false and misleading misrepresentations. The schedules appear to be the exact same schedules filed in the First Case and the information set forth therein do not reflect Debtor's current financial circumstances. For example, in Schedule I, Debtor still lists \$2700 in monthly income from her former Walmart and parttime employment but in the Statement of Financial Affairs (SOFA) indicates 2020 income of only \$900. Further, Schedule I contradicts Debtor's declaration in support of the Motion wherein she states that she is unemployed. In addition, in the current case, Debtor still lists the debt owed to the secured lenders in Schedules A and D as the same amount that was owed when the First Case was filed six months ago. No attempt was made to update the information, though the Schedules were filed under penalty of perjury. It is Debtor's responsibility to review all the information in the Schedules for accuracy.



**United States Bankruptcy Court  
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**CONT... Monica M Wilson**

**Chapter 7**

Based upon all of the foregoing, Debtor has failed to meet her burden of proof (whether by preponderance or clear and convincing standards) that this case was filed in good faith.

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

**Debtor(s):**

Monica M Wilson

Represented By  
John K Rounds

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

8:17-13516 Christopher A Schaller

Chapter 7

#13.00 Hearing RE: Chapter 7 Trustee's Objection to Claim No. 19-1 of Action Bag & Cover, Inc. (\$6,910.00)

Docket 127

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

July 23, 2020

Sustain Objection.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Trustee is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Trustee will be so notified.***

**Party Information**

**Debtor(s):**

Christopher A Schaller

Represented By  
Vincent Renda

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

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10:30 AM

**CONT... Christopher A Schaller**

Erin P Moriarty

**Chapter 7**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

8:17-13516 Christopher A Schaller

Chapter 7

#14.00 Hearing RE: Chapter 7 Trustee's Objection to Claim No. 23-1 of Cam Hanen  
(\$11,164.23)

Docket 129

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

July 23, 2020

Sustain Objection.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Trustee is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Trustee will be so notified.***

**Party Information**

**Debtor(s):**

Christopher A Schaller

Represented By  
Vincent Renda

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Christopher A Schaller**

Erin P Moriarty

**Chapter 7**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

8:18-11579 Joann Teruya Stevenson

Chapter 13

#15.00 Hearing RE: Debtor's Motion for Authority to Incur Debt  
(OST Entered 7/8/2020)

Docket 77

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

July 23, 2020

Grant the Motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**Debtor(s):**

Joann Teruya Stevenson

Represented By  
Richard G Heston

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Joann Teruya Stevenson**

**Chapter 13**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

8:18-12967 Lillian Sikanovski Dulac

Chapter 7

#16.00 Hearing RE: Chapter 7 Trustee's Motion for Order: (1) Approving Sale of Real Property Free and Clear of Liens; (2) Approving Overbid Procedures; (3) Allowing the Sale of Co-owned Property; (4) Authorizing Disbursement of Proceeds

Docket 126

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 23, 2020**

Continue the hearing to September 3, 2020 at 2:00 p.m., same date as the hearing on Trustee's motion for summary judgment in the related adversary proceeding as well as Mr. Dulac's motion for relief from stay.

Comments of the Court re this matter:

1. Notice:

a. The Notice [docket #130] does not fully comply with the requirements of LBR 6004-1(b)(2) as noted by objecting party, Ronald Dulac ("Dulac"). Specifically, the Notice does not disclose the initial bid of Commom Ground and the amount of any cash deposit, and does not set forth detailed overbid



**United States Bankruptcy Court  
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**Thursday, July 23, 2020**

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10:30 AM

**CONT... Lillian Sikanovski Dulac Chapter 7**

procedures, e.g., the amount of any initial overbid, the amount of incremental overbidding, deposit requirements (if any), and procedure for submitting financial information (if any).

b. The Notice adequately explains why the property has not been fully marketed and the problems regarding the lack of access to the same.

c. The Notice lacks clarity, primarily because of all of the various contingencies associated with lack of access to the property, inability to list the property on the MLS, etc. Such issues should be resolved in the event that Trustee prevails on the SJM, which is why this hearing should be continued to Sept. 3.

d. As a purchase agreement has not been executed, the basic terms of the the Common Ground offer should be disclosed in the Notice.

2. Service: Trustee is not required to serve the broker employed by Dulac or any other parties who have shown an interest in the property prior to the chapter 7 filing. However, Trustee is required to provide a copy of the Notice to the court clerk for posting on the court's website pursuant to LBR 6007-1(f).

3. Commission: As previously noted in the court's July 16, 2020 tentative ruling regarding Trustee's application to employ broker, the court is not persuaded that Dulac's broker is entitled to a commission (except to the extent that he represents the prevailing bidder).

4. The Court's 2015 Abstention Order: The Court is not bound by an abstention order entered in a prior chapter 13 case. The roles of a chapter 13 trustee and a chapter 7 trustee are markedly different regarding the administration of estate property. Unlike a chapter 7 trustee, a chapter 13 trustee does not have the responsibility or authority to take exclusive control over property of the estate and the liquidation of the same.

5. Orders of the State Court re Sale of Property of the Estate: The Court is not bound by orders of the state court concerning the administration of property of the bankruptcy estate. The cases cited by Dulac in his opposition are inapposite, unpersuasive and not binding on this court.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

CONT... Lillian Sikanovski Dulac

Chapter 7

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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

**Debtor(s):**

Lillian Sikanovski Dulac

Represented By  
Michael Jones  
Sara Tidd

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Erin P Moriarty

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

8:19-13547 Luis Alberto Rodriguez, Jr.

Chapter 11

#17.00 Hearing RE: Confirmation of First Amended Chapter 11 Plan of Reorganization  
(Set at DS hrg. held 5-21-20)

Docket 79

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 23, 2020**

Continue hearing to September 17, 2020 at 10:30 a.m. to allow Debtor to address confirmation deficiencies; supplemental evidence must be filed by September 3, 2020.

Court's Comments:

1. Feasibility - 1129(a)(11):

The plan is not feasible without family contributions which will total nearly \$80,000 over the term of the plan. However, Debtor has not identified the contributing family members and has not provided declarations of the contributors confirming their willingness and financial ability to commit to the contributions.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Thursday, July 23, 2020

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10:30 AM

CONT... Luis Alberto Rodriguez, Jr.

Chapter 11

2. Cramdown - 1129(b)(2)(B)

The court disagrees with Debtor that the absolute priority rule does not apply. The non-voting classes cannot be deemed to have accepted the plan. As they have not accepted the plan, cramdown and satisfaction of the absolute priority rule is required. See, *Bell Road Inv. Co. v. M. Long Arabians (In re M. Long Arabians)*, 103 B.R. 211, 215 (BAP 9th Cir. 1989)(stating that "the failure or inability of a creditor to vote on confirmation of a plan is not equivalent to acceptance of the plan"). In this regard, Debtor is offering "new value" of \$2500 but provides no analysis regarding the adequacy of the \$2500 contribution. See *In re Brotby*, 303 B.R. 177, 195-96 (9th Cir. BAP 2003) in which the BAP held that this court had not made sufficient findings that an individual's new value contribution was substantial, necessary for a successful reorganization, and that it was reasonably equivalent to the interest the debtor would receive under the plan. See also, *In re Juarez*, 603 B.R. 610, 622 (9th Cir. BAP 2019).

***Note: If Debtor accepts the foregoing tentative ruling, appearance at this hearing is not required.***

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

Luis Alberto Rodriguez Jr.

Represented By  
Michael Jones  
Sara Tidd

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

8:19-13547 Luis Alberto Rodriguez, Jr.

Chapter 11

#18.00 CON'TD STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case

FR: 12-5-19; 4-9-20; 5-21-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**December 5, 2019**

Deadline to file plan/disclosure statement:	Feb. 28, 2020
Continued status conference: (XX)	Apr. 9, 2020 at 10:30 a.m.
Deadline to file updated status report:	Mar.26, 2020*

\*Requirement of an updated status report is waived if the plan and disclosure statement are timely filed.

***Note: If Debtors accept the foregoing tentative ruling and are in substantial compliance with the requirements of the U.S. Trustee, appearance at this hearing is not required. It is the responsibility of Debtors to confirm compliance with the U.S. Trustee prior to the***

United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

CONT... Luis Alberto Rodriguez, Jr.  
*hearing.*

Chapter 11

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**April 9, 2020**

Continue the status conference to May 21, 2020 at 10:30 a.m.; updated status report not required. (XX)

***Note: Appearances at this hearing are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling.***

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**May 21, 2020**

Continue status conference to July 23, 2020 at 10:30 a.m., the same date/time as plan confirmation hearing. Updated status report not required. (XX)

***Note: Appearance at this hearing is not required; non appearance will be deemed acceptance of the tentative ruling.***

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**July 23, 2020**

Continue the status conference to September 17, 2020 at 10:30 a.m.; updated status report not required.

**Party Information**

**Debtor(s):**

Luis Alberto Rodriguez Jr.

Represented By  
Michael Jones

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

8:19-13770 Dove Real Estate & Association Management LLC

Chapter 11

#19.00 Hearing RE: First and Final Application Allowance and Payment of Compensation and Reimbursement of Expenses

[WEINTRAUB & SELTH, APC, GENERAL BANKRUPTCY COUNSEL TO THE DEBTOR]

Docket 110

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

July 23, 2020

Approve final fees and expenses as requested.

**Note:** *This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.*

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Dove Real Estate & Association Management LLC**

**Chapter 11**

**Debtor(s):**

Dove Real Estate & Association

Represented By  
Daniel J Weintraub  
Crystle Jane Lindsey



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 11

#20.00 Hearing RE: Motion of Chapter 11 Trustee for Order: (1) Authorizing Sale of Real Property (**2392 Morse Avenue, Irvine, California 92614**) Free and Clear of Liens Pursuant to 11 U.S.C. Sections 363(b) and 363(f); (2) Approving Overbid Procedures; (3) Determining Buyer or Successful Bidder to be a Good Faith Purchaser; (4) Approving Compensation of Real Estate Broker; (5) Authorizing Distribution of Sale Proceeds; and (6) Waiving 14 Day Stay Imposed by Fed. R. Bankr. P. 6004(h) and Local Bk. Rule 6004-1

Docket 736

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 23, 2020**

Grant motion subject to overbid.

If there are overbidders, the hearing will be put on second call while the sale takes place off the record.

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Bruce Elieff**

Lisa Nelson

**Chapter 11**

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Alan G Tippie

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 11

#21.00 Hearing RE: Motion of Chapter 11 Trustee for Order: (1) Authorizing Sale of Real Property (**4507 Perham Road, Corona del Mar, CA 92625**) Free and Clear of Liens Pursuant to 11 U.S.C. Sections 363(b) and 363(f); (2) Approving Overbid Procedures; (3) Determining Buyer or Successful Bidder to be a Good Faith Purchaser; (4) Approving Compensation of Real Estate Broker; (5) Authorizing Distribution of Sale Proceeds; and (6) Waiving 14 Day Stay Imposed by Fed. R. Bankr. P. 6004(h) and Local Bk. Rule 6004-1

Docket 738

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 23, 2020**

Grant motion subject to overbid, without waiver of FRBP 6004, free and clear of the liens and interests of Chase, the USA and K. Elieff, which liens and interest shall attach to the proceeds pending further order of the Court as requested by the Trustee in his reply. The Court believes that the property has been sufficiently marketed, such that Ms. Elieff's request that the sale be postponed for 90 days of additional marketing is denied. If there are overbidders, the hearing will be put on second call while the sale takes place off the record.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

CONT... Bruce Elieff

Chapter 11

**Special Note:** The Court is aware that Citi Investment filed an adversary proceeding against the Trustee on July 22, 2020 for quiet title in an apparent attempt to halt the hearing on this Motion. The Trustee shall advise the court if he wishes to proceed with the hearing on the Motion in light of the same.

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

Bruce Elieff

Represented By  
Paul J Couchot  
Lisa Nelson

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Alan G Tippie

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#22.00** Hearing RE: Disclosure Statement for Debtors' Plan of Liquidation (Dated January 29, 2020) **[Affects All Debtors]**

Docket 262

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9/3/2020 AT 10:30 A.M.,  
Per Order Entered 6/25/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 9/3/2020 at 10:30 a.m., Per Order  
Entered 6/25/2020 (XX) - td (6/25/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 11

#23.00 CON'TD STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case

FR: 12-5-19; 4-9-20

Docket 1

**Courtroom Deputy:**

**SPECIAL NOTE: Order Granting Motion to Approve Joint Administration of Cases in Part and Setting Hearing on Certain Issues Entered 10/10/2019. LEAD CASE: BRUCE ELIEFF, Case No. (8:19-bk-13858-ES) Jointly Administered with Member Cases: Morse Properties, LLC, Case No. (8:19-bk-13874-ES); and 4627 Camden, LLC, Case No. (8:19-bk-13875-ES).**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**December 5, 2019**

Claims bar date:	Feb. 14, 2020
Deadline to serve notice of claims bar date:	Dec. 13, 2019
Deadline to file plan/disclosure statement:	Feb. 21, 2020
Continued status conference: (XX)	Apr. 9, 2020 at 10:30 a.m.
Deadline to file updated status report:	Mar.26, 2020*

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

CONT... Bruce Elieff

Chapter 11

*\*Special note: a hearing on the motion for summary judgment re the subordination action cannot be heard prior to April 9, 2020 at 2:00 p.m.*

*\*Requirement of an updated status report is waived if the plan and disclosure statement are timely filed.*

***Note: If Debtors accept the foregoing tentative ruling and are in substantial compliance with the requirements of the U.S. Trustee, appearance at this hearing is not required. It is the responsibility of Debtors to confirm compliance with the U.S. Trustee prior to the hearing.***

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**April 9, 2020**

Continue this status conference to July 23, 2020 at 10:30 a.m., the date currently set for hearing on the adequacy of Debtor's disclosure statement; an updated status report is not required. (XX)

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**July 23, 2020**

Continue Status Conference to October 1, 2020 at 10:30 a.m.; updated Status Report must be filed by September 17, 2020

***Note: Appearances at this hearing are not required.***

*Special note: Unless, Debtors' counsel has an urgent update to report, the court would prefer not to engage in a general discussion about upcoming hearings scheduled for this and related cases.*

***Note: If Debtors accept the foregoing tentative ruling and are in substantial compliance with the requirements of the U.S. Trustee, appearance at this hearing is not required. It is the responsibility of Debtors to confirm compliance with the U.S. Trustee prior to the hearing. Nonappearance by Debtors and the U.S. Trustee will be deemed***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

10:30 AM

CONT... **Bruce Elieff**

**Chapter 11**

***acceptance of the tentative ruling. Nonappearance by Debtors and the U.S. Trustee shall be deemed acceptance of the tentative ruling.***

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

8:20-10262 MESCO, Inc.

Chapter 11

#24.00 CONT'D Hearing RE: Motion by United States Trustee to Dismiss or Convert Case Pursuant to 11 U.S.C. Section 1112(b)

FR: 5-21-20; 6-18-20

Docket 40

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9/17/2020 AT 10:30 A.M.,  
Per Order Entered 7/20/2020 (XX)

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 9/17/2020 at 10:30 a.m., Per Order Entered 7/20/2020 (XX) - td (7/20/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 21, 2020**

Deny motion without prejudice as moot, unless the moving party withdraws the hearing prior to the hearing.

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

MESCO, Inc.

Represented By  
Michael G Spector  
Vicki L Schennum

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

**8:20-10518 John C Crismon and Rhonda L Crismon**

**Chapter 13**

**#25.00** Hearing RE: Debtors' Objection to the Claim of Strategic Funding Source, Inc. dba "Kapitus" filed as Claim #5 in the Sum of \$27,959.65

Docket 42

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 23, 2020**

Continue the hearing to September 3, 2020 at 10:30 a.m. to allow Debtors to provide additional notice to claimant at the addresses and to the attention of the person identified on p.7 of the addendum to the proof of claim.

Basis for Tentative Ruling:

LBR 3007-1(b)(2) requires that notice be given at the address set forth in the proof of claim. In this case multiple notices appear on the proof of claim and addendum thereto. Though the objection was served at the address indicated on the first page of the proof of claim, the addendum at p. 7 adds additional instructions for service of notices, to wit:

Kapitus  
Attn: Bankruptcy Correspondence Center

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

CONT... **John C Crismon and Rhonda L Crismon**

**Chapter 13**

2500 Discovery Lane, Suite 200  
Rockwell, TX 75032

Kapitus  
Attn: Carolina Baez  
120 West 45th Street, 4th Floor  
New York, NY 10036

Tentative ruling for 9/3/20 hearing (if unopposed): Sustain objection.

***Note: If Debtors accept the foregoing tentative ruling, appearance at this hearing is not required.***

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

John C Crismon

Represented By  
Anerio V Altman

**Joint Debtor(s):**

Rhonda L Crismon

Represented By  
Anerio V Altman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

8:20-10936 Vantage Point Apparel Software, Inc.

Chapter 11

#26.00 CON'TD STATUS HEARING RE: (1) Status of Subchapter V Case; (2) Requiring Report on Status of Subchapter V Case; (3) Requiring Subchapter V Trustee to Appear at the Status Conference; and (4) Setting Scheduling for Subchapter V Plan Confirmation

FR: 5-12-20

Docket 7

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 12, 2020 [This Tentative Ruling has been modified since the original posting]**

Deadline to file plan/disclosure statement: **Aug. 14, 2020\***  
Claims Bar Date (service of notice by 5/19/20): July 20, 2020  
Continued Status Conference: July 23, 2020 at 10:30am  
Deadline for Debtor and Trustee to file Updated Status Report: July 9, 2020

**\*Special Note: The court has reviewed the report filed by the trustee on 5/11/20 and, in light of the same, no appearances at this status conference are required and the deadline for filing a plan has been**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

CONT... Vantage Point Apparel Software, Inc. Chapter 11  
***modified to August 14, 2020. Non appearance at the hearing will be deemed acceptance of the tentative ruling. The court will issue its own order.***

***Note: Appearances at this hearing are not required if all parties accept the tentative ruling required.***

-----

**July 23, 2020**

Extend the deadline for filing a plan and disclosure statement from August 14, 2020 to October 15, 2020 and continue the Status Conference to November 19, 2020 at 10:30 a.m.; an updated status report must be filed by Debtor by November 5, 2020 and by the Trustee by November 12, 2020. However, if Debtor timely files a plan and disclosure statement by October 15, 2020, updated status reports will not be required and the Status Conference will be continued to the date/time of the hearing regarding approval of the disclosure statement.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and the Court will issue its own order re the same.***

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

Vantage Point Apparel Software, Inc.	Represented By Michael Jones
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**Trustee(s):**

Mark M Sharf (TR)	Pro Se
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United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

8:20-11026 Little John's Antique Arms, Inc.

Chapter 11

#27.00 Hearing RE: Debtor-in-Possession's Motion for Authority to Disburse Funds

Docket 67

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 23, 2020**

Grant the Motion as modified by the Stipulation filed as docket #80.

**Note: In light of the stipulation between Debtor and Ms. Gangel, it would appear the Motion is now unopposed, in which case appearances are not required.**

**Party Information**

**Debtor(s):**

Little John's Antique Arms, Inc.

Represented By  
Richard A Marshack  
Chad V Haes  
D Edward Hays

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

8:20-11102 Eugene S. Tamburelli and Shirley A. Tamburelli

Chapter 13

#28.00 Hearing RE: Debtors' Objection to Pinnacle Credit Services, LLC's Claim, Claim Number 20

Docket 46

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Withdrawal of Claim No. 20 filed 6/24/2020; Notice of Withdrawal of Objection to Claim filed 7/2/2020

Courtroom Deputy:

**OFF CALENDAR: Withdrawal of Claim No. 20 filed 6/24/2020; Notice of Withdrawal of Objection to Claim filed 7/2/2020 - td (7/1/2020)**

Tentative Ruling:

- NONE LISTED -

**Party Information**

**Debtor(s):**

Eugene S. Tamburelli

Represented By  
Joseph A Weber  
Fritz J Firman

**Joint Debtor(s):**

Shirley A. Tamburelli

Represented By  
Joseph A Weber  
Fritz J Firman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

8:20-11135 Martha Bahena de Marin

Chapter 13

#29.00 Hearing RE: Debtor's Motion to Avoid Junior Lien on Principal Residence

Docket 22

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 23, 2020**

Grant Motion with language requested by U.S. Bank in its response.

***Note: If Debtor accepts the foregoing tentative ruling, appearances at this hearing are not required.***

**Party Information**

**Debtor(s):**

Martha Bahena de Marin

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, July 23, 2020

Hearing Room 5A

10:30 AM

8:20-11507 Hytera Communications America (West) Inc

Chapter 11

#29.10 Hearing RE: Motion of Debtors Requesting (A) the Scheduling of an Auction and Sale Hearing in Connection with the Sale of the Specified Assets of the Debtors, (B) Approval of Bidding Procedures for Such Assets, (C) Approval of Purchase Agreement with Stalking Horse Bidder, (D) Approval of the Form and Scope of Notice of Auction and Sale Hearing, (E) Approval of Procedures for the Assumption, Assignment and Sale of Contracts and Leases to the Purchaser, and (F) Approval of Sale of the Debtors' Assets to the Purchaser

Docket 118

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 23, 2020**

Grant the Motion as to the Bidding Procedures, the Notices, and the modified briefing schedule. Continue the sale approval portion of the Motion to **August 27, 2020 at 10:00 a.m.**

The court prefers to set the sale motion after the motion to dismiss and on a different date to allow for both motions to be fully reviewed by the court and argued by the parties. Further, the court sees no prejudice to Debtor, Committee or any other interested party in setting the sale motion out by one week.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Hytera Communications America (West) Inc**

**Chapter 11**

**Party Information**

**Debtor(s):**

Hytera Communications America

Represented By  
John W Lucas  
Jason H Rosell  
Victoria Newmark  
Steptoe & Johnson

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, July 23, 2020

Hearing Room 5A

2:00 PM

8:19-13858 Bruce Elieff

Chapter 11

#30.00 CONT'D Hearing RE: Creditor Todd Kurtin's Objection to Claim #27 by Stephan Z. Elieff - \$4,464,870.00

FR: 5-7-20

Docket 375

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 10/22/2020 AT 2:00 P.M.  
AS A STATUS CONFERENCE, Per Order Entered 7/22/2020 (XX)

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 10/22/2020 at 2:00 pm as a Status Conference, Per Order Entered 7/22/2020 (XX) - td (7/22/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#31.00** CON'TD Hearing RE: Creditor Todd Kurtin's Objection to Claim #28 by Nevada Sun, Inc., a Nevada Corporation - \$28,367,797.00 [Affects Bruce Elieff]

FR: 5-7-20

Docket 376

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 10/22/2020 AT 2:00 PM  
AS A STATUS CONFERENCE, Per Order Entered 7/22/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 10/22/2020 at 2:00 pm as a Status  
Conference, Per Order Entered 7/22/2020 (XX) - td (7/22/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01205 Elieff et al v. Kurtin

**#32.00** CONT'D Hearing RE: Joint Motion for Summary Judgment on Claim for Mandatory Subordination of Claim Pursuant to 11 U.S.C. Section 510(b)

FR: 4-9-20; 4-23-20

Docket 57

**\*\*\* VACATED \*\*\* REASON: RESCHEDULED TO 7/23/2020 AT 3:00 P.M., Per Order Entered 7/21/2020 (XX)**

**Courtroom Deputy:**

**RESCHEDULED: Hearing Rescheduled to 7/23/2020 AT 3:00 PM, Per Order Entered 7/21/2020 (XX) - td (7/21/2020)**

**Tentative Ruling:**

**April 23, 2020**

This motion for partial summary adjudication as to the subordination claims shall be continued to July 23, 2020 at 2:00 p.m.(XX)

Basis for Tentative Ruling:

1. Defendant asserts he needs time to conduct discovery,
2. If the tentative ruling for #2 on today's calendar stands, Plaintiffs will be filing a third amended complaint.

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

2:00 PM

**CONT...**

**Bruce Elieff**

Lewis R Landau

**Chapter 11**

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

3:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01205 Elieff et al v. Kurtin

**#33.00** CONT'D Hearing RE: Joint Motion for Summary Judgment on Claim for Mandatory Subordination of Claim Pursuant to 11 U.S.C. Section 510(b)

FR: 4-9-20; 4-23-20 (Rescheduled from 2:00 pm)

Docket 57

**\*\*\* VACATED \*\*\* REASON: HEARING CONTINUED TO JULY 24,  
2020 AT 2:00 P.M. BY THE COURT**

**Courtroom Deputy:**

**CONTINUED: HEARING CONTINUED TO JULY 24, 2020 AT 2:00 P.M. BY  
THE COURT.**

**Tentative Ruling:**

**April 23, 2020**

This motion for partial summary adjudication as to the subordination claims shall be continued to July 23, 2020 at 2:00 p.m.(XX)

Basis for Tentative Ruling:

1. Defendant asserts he needs time to conduct discovery,
2. If the tentative ruling for #2 on today's calendar stands, Plaintiffs will be filing a third amended complaint.

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, July 23, 2020**

**Hearing Room 5A**

3:00 PM

**CONT...**

**Bruce Elieff**

Lewis R Landau

**Chapter 11**

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Friday, July 24, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01205 Elieff et al v. Kurtin

**#1.00** CONT'D Hearing RE: Joint Motion for Summary Judgment on Claim for Mandatory Subordination of Claim Pursuant to 11 U.S.C. Section 510(b)

FR: 4-9-20; 4-23-20 (Rescheduled from 2:00 pm); 7-23-20

Docket 57

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 23, 2020**

This motion for partial summary adjudication as to the subordination claims shall be continued to July 23, 2020 at 2:00 p.m.(XX)

Basis for Tentative Ruling:

1. Defendant asserts he needs time to conduct discovery,
  2. If the tentative ruling for #2 on today's calendar stands, Plaintiffs will be filing a third amended complaint.
- 

**July 23, 2020**

Grant the Motion as to 510(b); deny as to 510(c)(2)

Procedure for today's hearing: Plaintiffs will have up to 30 minutes for opening argument, followed by Defendant for 30 minutes and ending with 15 minutes of reply by Plaintiffs (plus any unused portion of the opening argument time).

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Friday, July 24, 2020

Hearing Room 5A

2:00 PM

CONT...

**Bruce Elieff**

**Chapter 11**

Evidentiary Rulings will not be issued until the formal findings re the ruling are issued.

Basis for Tentative Ruling:

Bruce Elieff ("Elieff") filed a voluntary chapter 11 on October 2, 2019, and Morse Properties, LLC ("Morse") and 4627 Camden, LLC ("Camden") filed voluntary chapter 11 petitions on October 3, 2019. On October 15, 2019, Elieff, Morse, and Camden commenced an adversary proceeding against Todd Kurtin ("Kurtin") to avoid Kurtin's \$34 million judgment lien and subordinate the claim (the "AP"). On December 11, 2019, Debtors filed a second amended complaint (the "SAC")[AP dkt. #11]. On January 9, 2020, Kurtin filed a motion to dismiss the SAC (the "Motion to Dismiss")[AP dkt. # 19]. On March 3, 2020, the order granting the Committee's motion to intervene as to the first claim for relief only was entered [AP dkt. #65]. On May 7, 2020, the order granting the Motion to Dismiss in part, and denying in part [dkt. 100]. Plaintiffs Elieff, Morse, Camden, and the Committee were granted leave to amend the SAC except for any claims under 11 U.S.C. § 510(c)(2). On May 14, 2020, the third amended complaint was filed (the "TAC")[dkt. 105].

Trustee and the Committee (collectively, "Plaintiffs") now move for summary judgment on all of the claims for relief -1<sup>st</sup> Claim (Elieff), 6<sup>th</sup> Claim (Morse), and 9<sup>th</sup> Claim (Camden)] seeking mandatory subordination of Kurtin's claims § 510(b) [AP dkt. #57]. Kurtin opposes the Motion.

Summary Judgment Standard

A party seeking summary judgment bears the initial responsibility of demonstrating the absence of a genuine issue of material fact, and establishing that it is entitled to judgment as a matter of law as to those matters upon which it has the burden of proof. *Celotex Corporation v. Catrett*, 477 U.S. 317, 323 (1986). The opposing party must make an affirmative showing on all matters placed in issue by the motion as to which it has the

**United States Bankruptcy Court  
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Friday, July 24, 2020

Hearing Room

5A

2:00 PM

CONT...

**Bruce Elieff**

**Chapter 11**

burden of proof at trial. *Id.* at 324. The substantive law will identify which facts are material. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. *Id.* A factual dispute is genuine where the evidence is such that a reasonable jury could return a verdict for the nonmoving party. *Id.* The court must view the evidence presented on the motion in the light most favorable to the opposing party. *Id.*

In the absence of any disputed material facts, the inquiry shifts to whether the moving party is entitled to judgment as a matter of law. *Celotex*, 477 U.S. at 323. Furthermore, where intent is at issue, summary judgment is seldom granted. See, *Provenz v. Miller*, 102 F.3d 1478, 1489 (9th Cir. 1996), *cert. denied*, 118 S. Ct. 48 (1997).

Judicial Notice of Facts set forth in the State Court Appellate  
Opinions

As a preliminary matter, the California Court of Appeals previously issued two opinions related to this matter: *Kurtin v. Elieff* ("*Kurtin I*"), 215 Cal.App.4<sup>th</sup> 455 019 (2013) and *Kurtin v. Elieff* ("*Kurtin II*"), 2019 WL 4594775 \*1 (Cal. Ct. App. 4<sup>th</sup> Sep. 23, 2019). See, Debtors' RJN. [AP dkt. #61], Ex. 1-2. Plaintiffs argue that "there is no dispute over the material facts, which were established in Kurtin I and Kurtin II." Mot., p. 5:9-10; See, Debtors RJN, p. 3:1-2 ("Therefore, the Court may take judicial notice of both the existence and *content* [Kurtin I and Kurtin II]."). The Court is aware of the limitations on taking judicial notice, even as to the opinions of another court. Under Fed.R.Evid. 201, i.e., that a court may take judicial notice of facts that are not subject to reasonable dispute in that 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," See, *Lee v. City of Los Angeles*, 250 F.3d 668, 690 (9th Cir. 2001)(" when a court takes judicial notice of another court's opinion, it may do so "not for the truth of the facts recited therein, but for the existence of the opinion, which is not subject to reasonable dispute over its authenticity.") See

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Hearing Room 5A

2:00 PM

CONT...

**Bruce Elieff**

**Chapter 11**

also, *Mazzocco v. Lehavi*, 2015 WL 12672026, at \*4 (S.D. Cal. Apr. 13, 2015)  
(declining to take judicial notice of facts within a state appellate court opinion)

In this matter, the Court may certainly take judicial notice of the Kurtin I and Kurtin II opinions and the adjudicated rulings therein. However, it would not be appropriate to take judicial notice of non-adjudicative factual characterizations in either opinion. For example, as noted by Kurtin, the issue of whether the Settlement Agreement "arose from" the purchase or sale of securities within the context of 11 U.S.C. § 510(b) was not before the California appellate court and, therefore, its characterization of the Settlement Agreement as a "buy out" will not be judicially noticed.

The Undisputed Facts

On June 23, 2003, Kurtin filed an action for breach of fiduciary duty, constructive fraud, misappropriation and other claims in the Orange County Superior Court, case no. 03CC0022 (the "First Lawsuit"). An amended complaint was later filed. Kurtin RJN Ex. 1-2.

The First Lawsuit was settled by settlement agreement (the "Settlement Agreement") in August 2005, a copy of which is attached as Exhibit 1 to Bruce Elieff's declaration. Debtors' Statement of Uncontroverted Facts ("SUF") 12-13; Kurtin's Statement of Genuine Disputes of Material Facts ("SGI") 12-13.

Exhibit B to the Settlement Agreements lists several entities defined as the "Joint Entities." Per the Settlement Agreement, Elieff was to be paid \$48.8 million in four installments: \$21 million, \$1.8 million, \$13.1 million, and \$12.9 million. Id.

Elieff and the Joint Entities were jointly and severally responsible for paying the first installment, but only the Joint Entities were responsible for paying the last three installments totaling \$27.8 million. SUF 19; SGI 19.

The Settlement Agreement included the following distribution clause in Section 14, "Elieff shall not take any distribution from any of the Joint Entities if such distribution prevents satisfaction of payment of the Settlement

**United States Bankruptcy Court  
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Santa Ana  
Judge Erithe Smith, Presiding  
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Friday, July 24, 2020

Hearing Room

5A

2:00 PM

CONT...

**Bruce Elieff**

**Chapter 11**

Payments." SUF 36; SGI 36.

Elieff made the \$21 million first installment payment. SUF 25; SGI 25. The Joint Entities made the \$1.8 million second installment, but only paid \$3.5 of the \$13.1 million third installment payment, and paid nothing on the final installment of \$12.9 million. SUF 26; SGI 26.

When Kurtin sought to enforce the agreement against the Joint Entities under section 664.6 of the Code of Civil Procedure in the context of the 2003 litigation, the trial judge denied his request on the ground that the Joint Entities were not "parties" to Kurtin's 2003 litigation. SUF 29; SGI 29.

On May 12, 2007, Kurtin received an arbitration award an arbitration award amending the Settlement Agreement to allow Kurtin to obtain Elieff's interests in the Joint Entities (which secured the Settlement Payments) and apply the same towards the satisfaction of the Settlement Payment. See, Kurtin RJN, Ex. 5. The arbitration award did not preclude any other legal or equitable remedies that Kurtin may have held.

On December 10, 2007, Kurtin filed a second lawsuit in Orange County Superior Court against Elieff and the Joint Entities, case no. 00100307 (the "Second Lawsuit") and later filed a first amended complaint. See, Kurtin RJN Ex. 7-8; SUF 33; SGI 33.

On May 20, 2010, after a bifurcated jury trial, judgment was entered in in favor of Kurtin in the amount of \$24.4 million (the "2010 Judgment"). See, SUF 37, 39; SGI 37, 39; Kurtin RJN, Ex. 9.

By published opinion dated April 16, 2013, the California Court of Appeal affirmed the 2010 Judgment's finding of liability against Elieff and the trial court's order granting a new trial as to damages only. *Kurtin I*, 215 Cal. App. 4th 455.

On March 13, 2017, Kurtin's new trial as to damages was held. Kurtin RJN Ex. 11.

On November 20, 2017, the state court entered an amended judgment

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in favor Kurtin in the amount of \$20.3 million for Elieff's breach of the distribution provision in section ¶14 of the Settlement Agreement (the "2017 Judgment"). RJN Ex. 11.

On September 23, 2019, the California Court of Appeal reduced the principal amount of the 2017 Judgment by \$3,546,862.07 and ordered that prejudgment interest calculated be based on the reduced damage award. *Kurtin II*, 2019 WL 4594775, at \* 4 and 6.

Kurtin has filed proofs of claim against Debtors based on the 2017 Judgment, as subsequently amended on February 4, 2020. See, Kurtin RJN, Ex. 14-17.

Plaintiffs have Carried their Burden Establishing the Absence of  
Genuine Dispute Regarding the Material Fact of Whether the  
Settlement Agreement is an Agreement for the Purchase and Sale of  
Securities

The Ninth Circuit has adopted a broad interpretation of what constitutes "a claim arising from the purchase or sale of a security." *Am. Wagering, Inc.*, 493 F.3d at 1072. 1072. "[T]he statute sweeps broadly...and reaches even ordinary breach of contract claims so long as there is a sufficient nexus between the claim and the purchase of securities." *In re Tristar Esperanza Properties, LLC*, 782 F.3d 492, 495 (9th Cir. 2015); *Am. Wagering, supra*, at 1072 ("As noted above, a number of courts, including this one, have held that breach of contract claims may be subordinated under section 510(b) where there exists some nexus or causal relationship between the claim and the purchase of the securities....").

In assessing the "arising from" element, the courts focus upon the origin or source of the claim. "The phrase 'arising from' as employed in § 510(b) 'connotes, in ordinary usage, something broader than causation' and is instead 'ordinarily understood to mean originating from, having its origin in, growing out of, or flowing from or in short, incident to, or having connection with." *In re Del Biaggio*, 834 F.3d 1003, 1009 (9<sup>th</sup> Cir. 2016).

"[T]he status of the claim on the date of the petition does not end the §

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510(b) inquiry," so the "critical question for purposes of § 510(b), then, is not whether the claim is debt or equity at the time of the petition, but rather whether the claim *arises from* the purchase or sale of a security." Tristar, 782 F.3d at 497 (emphasis in original). To that end, courts may "look behind" a judgment to determine whether the claim arises from the purchase or sale of securities. See, *Am. Wagering*, 493 F.3d at 1071 (analyzing the terms of the underlying consulting contract to determine whether a money judgment based on the value of stock arose from the purchase or sale of securities); *Betacom*, 240 F.3d at 831-32 (remanding to the bankruptcy court the determination of whether two promissory notes arose from the purchase or sale of stock because "there is little evidence in the record to explain their origin" and directing that if the promissory notes are "linked" to a merger agreement, they should be subordinated); See also, *In re SeaQuest Diving, LP*, 579 F.3d 411, 425 (5<sup>th</sup> Cir. 2009)("Rather, the court must look behind the judgment and examine the totality of the circumstances to determine whether the transaction is a 'rescission of a purchase or sale of a security of a debtor.'").

Here, Plaintiffs have carried their burden to demonstrate the lack of a genuine dispute over the material fact of whether the Settlement Agreements is an agreement to purchase or sale securities. The Settlement Agreement requires Kurtin to transfer his interest in the SunCal LLCs to Elieff, and transfer his interests in the trade name "SunCal". Moreover, that the Settlement Agreement includes a clause requiring Kurtin to not "solicit any SunCal employees for employment for a period of one year." See, Elieff Decl., Ex. 1 (the Settlement Agreement), p. 1-4. These terms would appear to support Plaintiffs argument that the Settlement Agreement was an agreement, at least in part, for the purchase or sale of securities.

As discussed above, to determine the "origin" of a claim, the Court may "look behind" the relevant documents to the circumstances giving rise to the claim at issue. And to the extent that both parties have, in either their pleadings or evidentiary objections, argued that the parol evidence should bar the Court's review beyond the Settlement Agreement (while, ironically, both offering parol evidence in the form of financial statements, deposition

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transcripts, appellate briefs, etc. in support of a favorable interpretation of the Settlement Agreement), such argument is unpersuasive in light of Settlement Agreement terms appearing to support both positions (as discussed above).

Moreover, and more importantly, as cited above, Ninth Circuit law provides the Court should not limit its review to the face of the Settlement Agreement. See, *Am. Wagering*, 493 F.3d at 1071 (analyzing the terms of the underlying consulting contract to determine whether a money judgment based on the value of stock arose from the purchase or sale of securities); *Betacom*, 240 F.3d at 831-32 (remanding to the bankruptcy court the determination of whether two promissory notes arose from the purchase or sale of stock because "there is little evidence in the record to explain their origin" and directing that if the promissory notes are "linked" to a merger agreement, they should be subordinated); See also, *In re SeaQuest Diving, LP*, 579 F.3d 411, 425 (5<sup>th</sup> Cir. 2009)("Rather, the court must look behind the judgment and examine the totality of the circumstances to determine whether the transaction is a 'rescission of a purchase or sale of a security of a debtor.'").

In this case, the Court can look behind the Judgment to the Settlement Agreement and find that Settlement Agreement "arises" from the purchase and sale of securities. The undisputed fact is that the Settlement Agreement required Kurtin to transfer his interests in the Joint Entities to Elieff. See, SUF 12-13; SGI 12-13 (the Settlement Agreement). While Kurtin argues that the Settlement Agreement is not an agreement to purchase or sale securities but rather an agreement to end the partnership between Elieff and Kurtin (and a partnership interest is not a security under the Code), this argument ignores the plain language of § 510(b) which does not "require that the underlying agreement for a purchase and sale of the security need be solely an agreement for the purchase and sale of the security." Pl. Joint Reply [dkt. 127], p. 17. The undisputed fact remains that at least a part of the Settlement Agreement required Kurtin to transfer his interest in the Joint Entities, which Kurtin did via assignments to Elieff. See, Elieff Supp. Decl., p. 2-4, ¶¶8-22 and Ex. 1-15 (assignments from Kurtin to Elieff).

Moreover, Kurtin's reliance on *In re Khan*, 846 F.3d 1058, 1063 (9th



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Cir. 2017) to argue that there is not a sufficient nexus between Kurtin's damages and the purchase or sale securities if the Court only looks at "conduct" that gave rise to the Judgment (which was Elieff diversion of funds from the Joint Entities in violation of ¶14 of the Settlement Agreement) is unpersuasive because *Khan* is factually distinguishable. Kurtin Supp. Opp'n [dkt. 120], p. 17-20.

Unlike *Khan*, in which the court emphasized that the damages sought for securities that were converted years after the sale of the securities were sold "were not remotely related to the purchase," 846 F.3d at 1064, here Kurtin's damages, in contrast, are directly related to the purchase of securities which was at least one part of the Settlement Agreement. Pl. Joint Reply [dkt. 127], p. 10-12. Moreover, unlike the damages in *Khan* that was based on a tort, Kurtin's damages in the Judgment were based on a breach of contract claim. See *id.*, p. 13. Additionally, unlike *Khan*, in which the Court noted tortious conversion of stock is not one of the risks that a purchaser of stock assumes, the non-payment of Settlement Payments was a risk that Kurtin willingly assumed evidenced by the fact that the parties contracted to include ¶14 in the Settlement Agreement. See *id.*

The Court also need not necessarily adopt the "but for" test advocated by Plaintiffs because, even as Plaintiffs acknowledge, the Ninth Circuit has not adopted the "but for" test even though it has explicitly endorsed circuit court cases that do so in holding that "arising from" should be given an "expansive "some nexus" reading." See, Pl. Joint Reply [dkt. 127], p. 8-10 (citing *In re Del Biaggio*, 834 F.3d 1003, 1009 (9<sup>th</sup> Cir. 2016)). The Ninth Circuit, however, has stated that, "the statute sweeps broadly...and reaches even ordinary breach of contract claims so long as there is a sufficient nexus between the claim and the purchase of securities." *In re Tristar Esperanza Properties, LLC*, 782 F.3d 492, 495 (9<sup>th</sup> Cir. 2015); *Am. Wagering, supra*, at 1072 ("As noted above, a number of courts, including this one, have held that breach of contract claims may be subordinated under section 510(b) where there exists some nexus or causal relationship between the claim and the purchase of the securities..."). "The phrase 'arising from' as employed in § 510(b) 'connotes, in ordinary usage, something broader than causation' and is

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instead 'ordinarily understood to mean originating from, *having its origin in*, growing out of, or flowing from or in short, *incident to, or having connection with.*" *Del Biaggio*, 834 F.3d at 1009.

Here, the Court finds that the Judgment has its origin, is incident to, and has a connection to the Settlement Agreement, which itself is an agreement, at least partially, to purchase and sale of securities of Debtors' affiliates, the Joint Entities. As discussed above, because § 510(b) does not require that the underlying agreement only and entirely be an agreement to purchase or sale securities, how much of the Settlement Payments can be allocated to the securities transferred (versus allocated to Kurtin's other obligations under the Settlement Agreement) is not a material fact that is determinative of the application of §510(b)

Kurtin's further argues that, even if the Settlement Agreement was partly an agreement to purchase or sale of securities, the "sale" of securities was completed after Kurtin transferred his interest and Kurtin made the first \$21 million payment. See, Elieff Supp. Decl., p. 11. Thus, because Kurtin had no further personal liability for the remaining Settlement Payments, and the Judgment is ultimately based on non-payment of these remaining Settlement Payments, the Judgment is not an agreement to purchase or sale agreements. *Id.* However, "the June 11, 2007 Amended Arbitration Award, which constituted an amendment to the Settlement Agreement, provided that if the Joint Entities missed a buyout payment, Kurtin's remedy was to take back from Elieff the equity interests in the Joint Entities that he had sold to Elieff. ECF No. 59, Ex. 4." *Pl. Joint Reply* [dkt. 127], p. 14-15. This provision in the arbitration award did not create a lien on Kurtin's interests in the Joint Entities because it did not provide that Kurtin would need to foreclose on that lien. Instead, Kurtin held the "right to require" Elieff to transfer the Kurtin's interest in the Joint Entities, and Elieff was required to, back to Kurtin if the full Settlement Payments were not received. See, *Elieff Decl.* [dkt. 59], Ex. 4.

Judicial estoppel, also known as the doctrine of inconsistent positions, is a common law principle that "generally operates to preclude a party from asserting a position in a legal proceeding inconsistent with a position taken by

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that party in the same or a prior litigation." § 6:1.Overview, Bankr. Evid. Manual § 6:1 (2018 ed.)(citation omitted). The purpose of judicial estoppel is to "protect the integrity of the judicial process by prohibit parties from deliberately changing positions according to the exigencies of the moment." *Ah Quin v. County of Kauai Dept. of Transp.*, 733 F.3d 267, 270-71 (9th Cir. 2013)(citing *New Hampshire v. Maine*, 532 U.S. 742, 749-50 (2001).

"Judicial estoppel is a discretionary doctrine, applied on a case-by-case basis." *Id.* While judicial estoppel "is 'probably not reducible to any general formulation of principle," the following factors "typically inform the decision" of whether to apply to judicial estoppel: (1) a party's later position is clearly inconsistent with its earlier position, (2) the party persuaded the court to accept the earlier position, so that the court's acceptance of the later position "would create the perception that either the first or the econ court was misled," and (3) the party asserting the inconsistent position will receive an "unfair advantage or impose an unfair detriment on the opposing party if not estopped." *Ah Quin, supra*, at 270. These factors, however, "do not establish inflexible prerequisites or an exhaustive formula for determining the application of judicial estoppel" and additional considerations may be appropriate in specific factual contexts. *Id.* at 270-72. Moreover, "it may appropriate to resist application of judicial estoppel when a party's prior position was based on inadvertence or mistake." *Ah Quin, supra*, at 271 (finding vacating and remanding district court's summary judgment because the determination of "mistake" and "inadvertence" within the context judicial estoppel required inquiry into the debtor's subjective intent when completing the bankruptcy schedules and omitting a litigation claim).

Here, Kurtin's alleged admissions that specifically reference the Settlement Agreement as "buy out" do appear to have been made in pleadings in the state court litigation. Though Plaintiffs make a strong argument for judicial estoppel, application of this equitable doctrine is not necessary for the Court to find as a matter of law that the Settlement Agreement involved the purchase and sale of a security within the meaning of §510(b). Stated otherwise, Plaintiffs have carried their burden to demonstrate the absence of a material fact that the Settlement Agreement was, at least in part, an agreement for Kurtin to sell his securities in the Joint Entities, at least

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the directly owned Joint Entities, within the context of the Elieff and Kurtin ending their partnership.

Kurtin's Request for Further Discovery is Denied

Kurtin again requests that the Motion be denied because Kurtin has purportedly not had an opportunity to complete discovery related to Debtor's affiliations, how much of the Settlement Payments was allocated to any alleged "buyout" amount, and Kurtin's "old and cold" defense. See, Kurtin Supp. Opp'n [dkt. 120], p. 32-38. First, as discussed above, there is no dispute that at least the directly owned Joint Entities were affiliates of Debtor. Pl. Joint Reply [dkt. 127], p. 23-24. Also, as discussed above, there is no requirement that the entire agreement at issue be an agreement for the sale or purchase of securities. So, while the Court previously mentioned that it had a question on whether any amount of the Settlement Payments could be allocated to Kurtin's transfer of the SunCal's names (and Plaintiffs dispute that Kurtin had any interest in the SunCal names), a determination of how the Settlement Payments were allocated is not necessary. See, Committee Supp. Br., p. 6-8; Contra, Kurtin Supp. Opp'n [dkt. 120], p. 20-28.

With regards to Kurtin's "Old and Cold" defense, this defense has not been adopted by the Ninth Circuit so no discovery related to this defense is required. See, Committee Supp. Br., p. 8-9; Pl. Joint Reply [dkt. 127], p. 28-29 (top of page). Even Kurtin admits that Ninth Circuit has not adopted the "old and cold" defense. See, Kurtin Supp. Opp'n [dkt. 120], p. 38. At best, the Ninth Circuit discussed the defense in a footnote in *In re Tristar Esperanza Properties, LLC*, 782 F.3d 492 fn. 4. (9th Cir. 2015) and found that it did not need to decide whether the "old and cold" defense can ever be available. See, Pl. Joint Reply [dkt. 127], p. 28 (top of page), ln. 20-28. Further, no "subsequent published case from a court in the Ninth Circuit has even mentioned the so-called "old and cold" defense, much less applied it." *Id.* Accordingly, Kurtin's request to deny the Motion based on his need for further discovery should be denied.

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Section 510(c)(2) does not apply to mandatory subordination under § 510(b)

In its ruling on the Motion to Dismiss, the Court dismissed the claims for relief based on § 510(c)(2) with prejudice. See, Order Granting in Part and Denying in Part Motion to Dismiss Second Amended Complaint and Scheduling Order (the "12(b)(6) Order") [dkt. 100], Ex A, p. 12-13 of the tentative ruling. The instant Motion requests relief under § 510(c)(2) but the Motion was filed before that ruling. The Court understands that Plaintiffs have filed a motion for reconsideration of the dismissal of the 510(c)(2) claim for relief that is set for hearing on August 6, 2020. I included it in this tentative ruling because it was part of the Motion.

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, July 30, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#1.00 ORAL RULING RE: First Interim Application for Allowance of Compensation and Reimbursement of Expenses [Affects Bruce Elieff]**

**[COUCHOT LAW, LLP, GENERAL INSOLVENCY COUNSEL TO BRUCE ELIEFF]**

FR: 4-30-20; 5-14-20; 5-19-20; 6-25-20; 7-16-20

Docket 390

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

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

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#2.00 ORAL RULING RE:** First Interim Application for Allowance and Payment of Fees and Reimbursement of Expenses

**[HOGAN LOVELLS US LLP AS COUNSEL TO THE OFFICIAL COMMITTEE  
OF UNSECURED CREDITORS OF BRUCE ELIEFF]**

FR: 4-30-20; 5-14-20; 5-19-20; 6-25-20; 7-16-20

Docket 382

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
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**8:19-13858 Bruce Elieff**

**Chapter 11**

**#3.00 ORAL RULING RE: First Interim Fee Application for Allowance and Payment of Fees and Reimbursement of Expenses Incurred as Financial Advisor to the Debtors of Bruce Elieff, Morse Properties, LLC and 4627 Camden, LLC [Affects All Debtors]**

**[FORCE TEN PARTNERS, LLC, FINANCIAL ADVISOR TO THE DEBTORS]**

FR: 4-30-20; 5-14-20; 5-19-20; 6-25-20; 7-16-20

Docket 391

**Courtroom Deputy:**

- NONE LISTED -

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

Bruce Elieff

Represented By  
Paul J Couchot



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2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#4.00 ORAL RULING RE:** First Interim Application for Allowance and Payment of Fees and Reimbursement of Expenses

**[TRAVERSE, LLC AS FINANCIAL ADVISOR TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF BRUCE ELIEFF]**

FR: 4-30-20 5-14-20; 5-19-20; 6-25-20; 7-16-20

Docket 384

**Courtroom Deputy:**

- NONE LISTED -

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

Bruce Elieff

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
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**8:19-13874 Morse Properties LLC**

**Chapter 11**

**#5.00 ORAL RULING RE:** First Interim Application for Allowance of Compensation and Reimbursement of Expenses

**[COUCHOT LAW LLP, GENERAL INSOLVENCY COUNSEL TO MORSE PROPERTIES, LLC]**

FR: 4-30-20; 5-14-20; 5-19-20; 6-25-20; 7-16-20

Docket 35

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Morse Properties LLC

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
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**Hearing Room 5A**

2:00 PM

**8:19-13875 4627 Camden LLC**

**Chapter 11**

**#6.00 ORAL RULING RE:** First Interim Application for Allowance of Compensation and Reimbursement of Expenses

**[COUCHOT LAW, LLP, GENERAL INSOLVENCY COUNSEL TO 4627  
CAMDEN, LLC]**

FR: 4-30-20; 5-14-20; 5-19-20; 6-25-20; 7-16-20

Docket 37

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

4627 Camden LLC

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, July 30, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-10372 Broadband Nation LLC**

**Chapter 11**

**#7.00 ORAL RULING RE:** Objection of Creditor Todd Kurtin to the Professional Fee Statement of #1 of Goe & Forsythe & Hodges LLP

FR: 5-14-20; 5-19-20; 6-25-20; 7-16-20

Docket 60

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Broadband Nation LLC

Represented By  
Robert P Goe

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Santa Ana  
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**Thursday, July 30, 2020**

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2:00 PM

**8:20-10373 Heritage Colorado LLC**

**Chapter 11**

**#8.00 ORAL RULING RE:** Objection of Creditor Todd Kurtin to the Professional Fee Statement of #1 of Goe & Forsythe & Hodges LLP

FR: 5-14-20; 5-19-20; 6-25-20; 7-16-20

Docket 53

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Heritage Colorado LLC

Represented By  
Robert P Goe

**United States Bankruptcy Court  
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**Thursday, July 30, 2020**

**Hearing Room 5A**

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**8:20-10374 TDV Development Corporation**

**Chapter 11**

**#9.00 ORAL RULING RE:** Objection of Creditor Todd Kurtin to the Professional Fee Statement of #1 of Goe & Forsythe & Hodges LLP

FR: 5-14-20; 5-19-20; 6-25-20; 7-16-20

Docket 54

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

TDV Development Corporation

Represented By  
Robert P Goe

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Friday, July 31, 2020

Hearing Room 5A

9:00 AM

8:20-11837 Golden Communications Inc.

Chapter 11

#1.00 Hearing RE: Debtor's Motion for Order Approving Post-Petition Financing Pursuant to 11 U.S.C. Section 364(c)(3) (OST Entered 7/22/2020)

Docket 45

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through June 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

July 31, 2020

Grant the Motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court's law clerk will immediately contact Debtor's counsel and advise counsel to join CourtCall.***

Party Information

**Debtor(s):**

Golden Communications Inc.

Represented By  
Marc C Forsythe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Monday, August 3, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01205 Elieff et al v. Kurtin

**#1.00 ORAL RULING Hearing RE:** Joint Motion for Summary Judgment on Claim for Mandatory Subordination of Claim Pursuant to 11 U.S.C. Section 510(b)

FR: 4-9-20; 4-23-20 (Rescheduled from 2:00 pm); 7-23-20; 7-24-20

Docket 57

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 8/13/2020 AT 2:00 P.M.,  
Per Order Entered 7/31/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: HEARING IS CONTINUED TO AUGUST 13, 2020 AT 2:00PM  
(continuance noted at hearing held 7/30/20 --eas)/td (XX) (7/31/2020)**

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14077 Team Business Solutions, Inc.**

**Chapter 7**

Adv#: 8:18-01141 Richard A Marshack v. SNCR California, Inc., et al

**#1.00** CONT'D STATUS CONFERENCE RE: First Amended Complaint for: 1. Declaratory Relief (Successor Liability); 2. Intentional Fraudulent Transfer; 3. Constructive Fraudulent Transfer; 4. Preservation of Avoided Transfer; 5. Turnover of Assets; 6. Breach of Fiduciary Duty; 7. Misappropriation of Trade Secrets; 8. Unjust Enrichment (Another Summons Issued 12/6/10)

FR: 2-12-19; 3-12-19; 4-4-19; 4-16-19; 6-20-19; 8-22-19; 11-7-19; 1-9-20; 4-2-20; 6-4-20

Docket 55

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 11/5/20 AT 9:30 A.M., Per Order Entered 8/4/20 (XX)**

**Courtroom Deputy:**

**SPECIAL NOTE: Notice of Voluntary Dismissal of Adversary Proceeding Against Kirk Nelson Only filed 1/7/2019, Document # 72 - td (1/9/2019)**

**CONTINUED: Order Approving Stipulation ENTERED 8/4/20 - matter continued to 11/5/20 at 9:30 a.m. -- eas / td (XX) (8/4/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 20, 2019**

Joint status report not filed by June 13, 2019 pursuant to this court's order

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Team Business Solutions, Inc. Chapter 7**  
entered 4/25/19. Impose sanctions in the amount of \$100 against each party for the failure to do so.

***Note: Appearances at this hearing are required.***  
-----

**August 22, 2019**

Joint status report not filed by August 8, 2019 pursuant to this court's order entered June 17, 2019. Impose sanctions in the amount of \$100 against each party's attorney for the failure to do so.

***Note: Appearances at this hearing are required.***  
-----

**January 9, 2020**

Updated joint status report not filed as required by this court's order entered October 17, 2019 [docket #117]. Impose sanctions of \$200 against counsel for plaintiff and defendants.

***Note: Appearances at this hearing are required.***

**Party Information**

**Debtor(s):**

Team Business Solutions, Inc.

Represented By  
J Scott Williams

**Defendant(s):**

SNCR California, Inc.,

Represented By  
Michael G Spector

John Creamer

Pro Se

Kirk Nelson

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

---

9:30 AM

**CONT... Team Business Solutions, Inc.**

**Chapter 7**

**Plaintiff(s):**

Richard A Marshack

Represented By  
Thomas J Eastmond  
Robert P Goe

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Thomas J Eastmond  
Robert P Goe

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

8:17-14406 Kirk M. Nelson

Chapter 7

Adv#: 8:19-01016 Marshack v. Nelson

#2.00 CON'TD STATUS CONFERENCE RE: Complaint: 1. To Determine Non-Dischargeability Of Debt Pursuant to 11 U.S.C. Section 523(a)(3)(B)

FR: 4-11-19; 5-30-19; 9-12-19; 11-7-19; 1-9-20; 4-2-20; 6-4-20

Docket 1

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 11/5/2020 AT 9:30 A.M.,  
Per Order Entered 7/31/2020 (XX)

Courtroom Deputy:

CONTINUED: Status Conference Continued to 11/5/2020 at 9:30 a.m., Per Order Entered 7/31/2020 (XX) - td (7/31/2020)

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

April 11, 2019

Continue Status Conference to May 30, 2019 at 10:30 a.m., same date/time as hearing on Defendants' motion to dismiss. Joint status report not required. (XX)

**Note: Appearances at this hearing are not required.**

May 30, 2019

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Kirk M. Nelson**

**Chapter 7**

No tentative ruling -- trail matter to the 2:00pm calendar  
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**January 9, 2020**

Updated joint status report not filed as required by this court's order entered October 17, 2019 [docket #22]. Impose sanctions of \$100 against counsel for plaintiff and defendants.

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

**Debtor(s):**

Kirk M. Nelson

Represented By  
J Scott Williams

**Defendant(s):**

Kirk M Nelson

Pro Se

**Plaintiff(s):**

Richard A Marshack

Represented By  
Robert P Goe  
Thomas J Eastmond

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01215 Marshack v. R-Techo, Co., Ltd.

**#3.00** CONT'D STATUS CONFERENCE RE: Complaint for: 1. Avoidance and Recovery of Intentional Fraudulent Transfers; 2. Avoidance and Recovery of Constructive Fraudulent Transfers; 3. Avoidance and Recovery of Preferential Transfers; 4. Recovery of Avoided Transfers; 5. Declaratory Judgment: Alber Ego; 6. Recovery of Unauthorized, Improper Distributions to Shareholders; 7. Substantive Consolidation; 8. Breach of Fiduciary Duty; 9. Turnover of Property of the Estate; 10. Preservations of Avoided Transfers; 11. Disallowance of Claims; and 12. Temporary Restraining Order and Preliminary Injunction

FR: 2-6-20; 4-2-20; 6-4-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 11/5/20 AT 9:30 A.M., Per Order Entered 7/31/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 11/5/2020 at 9:30 a.m, Per Order Entered 7/31/2020 (XX) - td (7/31/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**February 6, 2020**

No timely filed updated status report or motion for default judgment has been filed in this case. Accordingly, the court may impose sanctions in the amount

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

9:30 AM

**CONT...**      **Prime Metals U.S.A., Inc.**      **Chapter 7**  
of \$100 and/or issue an order to show cause why this adversary proceeding  
should not be dismissed for failure to prosecute.

***Note: Appearance at this hearing is required.***

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

R-Techo, Co., Ltd.

Pro Se

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01217 Marshack v. Mr. C's Towing at Southgate, Inc.

**#4.00** CONT'D STATUS CONFERENCE RE: Complaint for: 1. Avoidance and Recovery of Constructive Fraudulent Transfers pursuant to 11 U.S.C. Sections 544, 548, 550, 551; California Civil Code Sections 3439.04, 3439.05, 3439.07, 3439.08, 3439.09; 2. Recovery of Avoided Transfers; 3. Turnover of Property of the Estate; 4. Preservation of Avoided Transfers; 5. Temporary Restraining Order and Preliminary Injunction against Mr. C's Towing at Southgate, Inc.

FR: 2-6-20; 4-2-20; 6-4-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 11/5/2020 AT 9:30 A.M.,  
Per Order Entered 7/31/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 11/5/2020 at 9:30 a.m., Per  
Order Entered 7/31/2020 (XX) - td (7/31/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**February 6, 2020**

A proof of service showing proper service of the summons and complaint has not been filed. Further, no timely filed updated status report or motion for default judgment has been filed in this case. Accordingly, the court may



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

impose sanctions in the amount of \$100 and/or issue an order to show cause why this adversary proceeding should not be dismissed for failure to prosecute.

***Note: Appearance at this hearing is required.***

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**April 2, 2020**

Continue status conference to May 21, 2020 at 9:30 a.m.; Joint status report must be filed by May 7, 2020.

The tentative ruling is based on the fact that it is not clear that the service issue has been resolved.

***Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall lodge an order consistent with the same.***

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Mr. C's Towing at Southgate, Inc.

Represented By  
Ryan S Riddles

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01218 Marshack v. Kim et al

**#5.00** CON'TD STATUS CONFERENCE RE: RE: Complaint for: 1. Breach of Fiduciary Duty; 2. Accounting; and 3. Defalcation of Trust

(Another Summons Issued 2/11/2020)  
FR: 4-30-10; 6-4-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 11/5/2020 AT 9:30 A.M.,  
Per Order Entered 7/31/2020 (XX)**

**Courtroom Deputy:**

**SPECIAL NOTE: Pre-trial Conference Scheduled for 1/21/2021 at 9:30 a.m. - td (6/2/2020)**

**CONTINUED: Status Conference Continued to 11/5/2020 at 9:30 a.m., Per Order Entered 7/31/2020 (XX) - td (7/31/2020)**

**Tentative Ruling:**

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Ik Dong Kim

Pro Se

Gill Su Sun

Pro Se

Minho An

Represented By  
Michael H Yi

**Plaintiff(s):**

Richard A Marshack

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

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9:30 AM

**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-10898 Alicia K Pipitone**

**Chapter 13**

Adv#: 8:19-01108 Pipitone v. Choice Motor Credit, LLC

**#6.00 PRE-TRIAL CONFERENCE RE: Complaint to Compel Turnover of Property to the Estate**

FR: 8-22-19; 10-3-19; 11-21-19; 1-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9/10/2020 AT 9:30 A.M.,  
Per Order Entered 7/17/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Pre-Trial Conference Continued to 9/10/2020 at 9:30 a.m.,  
Per Order Entered 7/17/2020 (XX) - td (7/17/2020)**

**Tentative Ruling:**

**August 22, 2019**

Continue Status Conference to October 3, 2019 at 9:30 a.m. (XX)

A motion for default judgment may self-calendared for the same date/time as the continued Status Conference date. Alternatively, the motion may be filed without a hearing pursuant to the procedure set forth in Local Bankruptcy Rule 9013-1(o).

The motion for default judgment, supported by evidence, must be served on defendant and defendant's counsel in accordance with Local Rule 9013-1(d).

If the motion for default judgment is not heard by the continued date of the Status Conference, **THE ADVERSARY MAY BE DISMISSED** at the Status Conference for failure to prosecute.

***Note: Appearance at this hearing is not required; Plaintiff to serve Defendant with notice of the continued status conference date/time.***

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United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

CONT... Alicia K Pipitone

Chapter 13

**October 3, 2019**

Continue status conference to November 21, 2019 at 9:30 a.m.; updated status report must be filed by November 7, 2019. (XX)

The status conference is being continued in light of Plaintiff's representations in the status report that some issues have been resolved and that Defendant has hired new counsel to set aside default.

***Note: Appearance at this hearing is not required; Plaintiff to serve Defendant with notice of the continued status conference date/time.***

**January 16, 2020**

Discovery Cut-off Date:	May 15, 2020
Deadline to Attend Mediation:	June 30, 2020
Pretrial Conference Date:	Aug. 6, 2020 at 9:30 a.m. (XX)
Deadline to File Joint Pretrial Stipulation:	July 23, 2020

*Special Note: In the JSR, Plaintiff seeks more than 7 months to complete discovery without explanation.*

***Note: If all parties accept the the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.***

**Party Information**

**Debtor(s):**

Alicia K Pipitone

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Alicia K Pipitone**

**Chapter 13**

Marc A Goldbach

**Defendant(s):**

Choice Motor Credit, LLC

Represented By  
Misty A Perry Isaacson

**Plaintiff(s):**

Alicia Pipitone

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-13260 Simon Szwachowicz**

**Chapter 7**

Adv#: 8:20-01090 Kosmala v. Szwachowicz et al

**#7.00** STATUS CONFERENCE RE: Complaint: (1) To Avoid and Recover Fraudulent Transfer Pursuant to 11 U.S.C. §§ 544(b) and 550; and California Civil Code §§ 3439.04(a)(1), 3439.07, and 3439.09; (2) To Avoid and Recover Fraudulent Transfer Pursuant to 11 U.S.C. §§ 544(b) and 550; and California Civil Code §§ 3439.04(a)(2), 3439.07, and 3439.09; (3) To Preserve Avoided Transfers Pursuant to 11 U.S.C. § 551; (4) For Declaratory Relief

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Another Summons Issued 5/22/2020 Setting Status Conference on Amended Complaint for 8/6/2020 at 9:30 a.m. (xx)**

**Courtroom Deputy:**

**OFF CALENDAR: Another Summons Issued 5/22/2020 Setting Status Conference on Amended Complaint for 8/6/2020 at 9:30 a.m. (xx) - td (5/22/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Simon Szwachowicz

Represented By  
Matthew C Mullhofer

**Defendant(s):**

Simon Szwachowicz

Pro Se

Marta Szwachowicz

Pro Se

**Plaintiff(s):**

Weneta M.A. Kosmala

Represented By  
Reem J Bello



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Simon Szwachowicz**

**Chapter 7**

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Reem J Bello  
Ryan W Beall

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-13260 Simon Szwachowicz**

**Chapter 7**

Adv#: 8:20-01090 Kosmala v. Szwachowicz

**#8.00** STATUS CONFERENCE RE: First Amended Complaint: (1) To Avoid and Recover Fraudulent Transfer Pursuant to 11 U.S.C. §§ 544(b) and 550; and California Civil Code §§ 3439.04(a)(1), 3439.07, and 3439.09; (2) To Avoid and Recover Fraudulent Transfer Pursuant to 11 U.S.C. §§ 544(b) and 550; and California Civil Code §§ 3439.04(a)(2), 3439.07, and 3439.09; (3) To Preserve Avoided Transfers Pursuant to 11 U.S.C. § 551; (4) For Declaratory Relief

Docket 3

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 11/19/2020 AT 9:30 A.M.,  
Per Order Entered 7/27/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 11/19/2020 at 9:30 a.m.,  
Per Order Entered 7/27/2020 (XX) - td (7/27/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Simon Szwachowicz

Represented By  
Matthew C Mullhofer

**Defendant(s):**

Marta Szwachowicz

Pro Se

**Plaintiff(s):**

Weneta M.A. Kosmala

Represented By  
Reem J Bello

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Reem J Bello  
Ryan W Beall

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

8:19-14169 Gary Clesceri

Chapter 7

Adv#: 8:20-01091 Payday Loan, LLC v. Clesceri

#9.00 STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 6, 2020**

Discovery Cut-off Date:	Dec. 7, 2020
Deadline to Attend Mediation:	Jan. 22, 2021
Pretrial Conference Date:	Feb. 18, 2021 at 9:30 a.m.
Deadline to file Joint Pretrial Stipulation:	Feb. 4, 2021

**Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall lodge a scheduling order consistent with the same within 7 days of the hearing.**

**Note: If all parties agree with the foregoing schedule, appearances at today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

9:30 AM

CONT... Gary Clesceri

Chapter 7

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

**Debtor(s):**

Gary Clesceri

Represented By  
Michael G Spector

**Defendant(s):**

Gary Clesceri

Pro Se

**Joint Debtor(s):**

Charlene Clesceri

Represented By  
Michael G Spector

**Plaintiff(s):**

Payday Loan, LLC

Represented By  
Timothy J Silverman

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-14255 Dana Kim**

**Chapter 7**

Adv#: 8:20-01016 Romex Textiles, Inc. v. Kim

**#10.00** CONT'D STATUS CONFERENCE RE: Complaint to Determine Dischargeability  
of a Debt and Objection to Discharge

FR: 4-30-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 6, 2020**

Discovery Cut-off Date: Jan. 29, 2021

Pretrial Conference Date: Mar. 4, 2021 at 9:30 a.m.

Deadline to file Joint Pretrial Stipulation: Feb. 18, 2021

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall lodge a scheduling order consistent with the same within 7 days of the hearing.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Dana Kim**

**Chapter 7**

**Party Information**

**Debtor(s):**

Dana Kim

Represented By  
Kelly K Chang

**Defendant(s):**

Dana Kim

Pro Se

**Plaintiff(s):**

Romex Textiles, Inc.

Represented By  
Nico N Tabibi

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

9:30 AM

**8:20-10554 Ivel Lorraine Melton**

**Chapter 7**

Adv#: 8:20-01084 Hudec v. Melton et al

**#11.00 STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt**

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 10/8/2020 AT 9:30 A.M.,  
Per Order Entered 7/24/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 10/8/2020 at 9:30 a.m., Per  
Order Entered 7/24/2020 (XX) - td (7/24/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Ivel Lorraine Melton

Represented By  
Brian C Andrews

**Defendant(s):**

Ivel Lorraine Melton

Pro Se

Glenn Mitchell Melton

Pro Se

**Joint Debtor(s):**

Glenn Mitchell Melton

Represented By  
Brian C Andrews

**Plaintiff(s):**

Susan Hudec

Represented By  
Micah L Bailey

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

8:15-14803 Orlando Martinez

Chapter 13

#12.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

DEUTSCHE BANK NATIONAL ASSOCIATION

VS.

DEBTOR

Docket 54

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 6, 2020 [MODIFIED SINCE ORIGINAL POSTING]**

Continue hearing to allow parties to meet and confer re possible forbearance. Available continued hearing dates are: August 13, 2020, August 20, 2020 and September 3, 2020 at 10:00 a.m. The parties may request a particular date during the clerk's calendar roll call just prior to the hearing.

**Party Information**

**Debtor(s):**

Orlando Martinez

Represented By



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room      5A**

10:00 AM

**CONT...      Orlando Martinez**

Mark S Martinez

**Chapter 13**

**Movant(s):**

Deutsche Bank National

Represented By  
Jacky Wang

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

10:00 AM

**8:18-13337 Manuel Trejo and Maria I Trejo**

**Chapter 13**

**#13.00** CONT'D Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

DEUTSCHE BANK NATIONAL TRUST COMPANY

VS.

DEBTORS

FR: 6-4-20; 7-16-20

Docket 46

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 4, 2020**

Grant motion with co-debtor relief and without waiver of 4001(a)(3) unless Movant is amenable to an adequate protection order. If Movant would like additional time to expore the terms of an adequate protection ord, it may request a continuance at the time of the calendar roll call just prior to the hearing. Available hearing dates are June 11, 2020, June 18, 2020, July 9, 2020 and July 16, 2020 at 10:00 a.m.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Manuel Trejo and Maria I Trejo**

**Chapter 13**

*Special note: Debtor has not provided evidence of additional payments having been made that are not reflected in the Motion.*

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**July 16, 2020**

Grant the motion with co-debtor relief and without 4001(a)(3) waiver unless the parties are still negotiating the terms of an adequate protection order, in which case this hearing may be continued one final time to August 6, 2020 at 10:00 a.m. upon request of the moving party during the calendar roll call on the day of the hearing.

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**August 6, 2020 [MODIFIED SINCE ORIGINAL POSTING]**

In light of approval of trial loan modification agreement, grant adequate protection order that is consistent with the terms of such trial modification agreement.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Movant shall lodge an order within 7 days.***

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

Manuel Trejo

Represented By  
Lionel E Giron

**Joint Debtor(s):**

Maria I Trejo

Represented By  
Lionel E Giron

**Movant(s):**

DEUTSCHE BANK NATIONAL

Represented By  
Sean C Ferry

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Manuel Trejo and Maria I Trejo**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

10:00 AM

**8:18-13521 Jose F. Lopez**

**Chapter 13**

**#14.00 CON'TD Hearing RE: Motion for Relief from the automatic stay .  
[PERSONAL PROPERTY]**

NEW REZ LLC

VS.

DEBTOR

FR: 6-11-20; 7-9-20

Docket 45

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 11, 2020 [UPDATED TENTATIVE TO REFLECT LATE OPPOSITION]**

Grant motion with 4001(a)(3) waiver unless the parties are negotiating the terms of an APO. If more time is needed, the hearing may be continued by making a request during the calendar roll call just prior to the commencement of the hearing. Available continued dates are June 18, 2020, July 9, 2020 and July 16, 2020 at 10:00 a.m.

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Jose F. Lopez  
July 9, 2020**

**Chapter 13**

Movant to advise the court re the status of this matter. If more time is needed, the hearing may be continued one final time by making a request during the calendar roll call just prior to the commencement of the hearing. Available continued dates are July 16, 2020 and August 6, 2020 at 10:00 a.m.

-----

**August 6, 2020**

Grant the Motion with co-debtor relief and without 4001(a)(3) waiver if no resolution has been reached. Movant may, at its discretion, lodge an adequate protection order in lieu of an order granting immediate relief from stay.

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

Jose F. Lopez

Represented By  
Michael D Franco

**Movant(s):**

NewRez LLC d/b/a Shellpoint

Represented By  
Eric P Enciso  
Kristin A Zilberstein

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

8:19-11704 Brian D. Thaler

Chapter 13

#15.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]  
DEUTSCHE BANK NATIONAL TRUST COMPANY  
VS.  
DEBTOR

Docket 41

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 6, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

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10:00 AM

**CONT... Brian D. Thaler**

**Chapter 13**

**Debtor(s):**

Brian D. Thaler

Represented By  
James D. Hornbuckle

**Movant(s):**

Deutsche Bank National Trust

Represented By  
Sean C Ferry  
Eric P Enciso

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

8:19-14288 Danielle Marie Hetland

Chapter 7

#16.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]  
ATHENE ANNUITY AND LIFE COMPANY  
VS.  
DEBTOR

Docket 37

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 6, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Danielle Marie Hetland**

**Chapter 7**

**Debtor(s):**

Danielle Marie Hetland

Represented By  
Timothy McFarlin

**Movant(s):**

Athene Annuity and Life Company

Represented By  
Katie M Parker

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Reem J Bello

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

8:20-11427 Sean Anthony Couevas

Chapter 7

#17.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

CAB WEST, LLC

VS.

DEBTOR

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 6, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Sean Anthony Couevas**

**Chapter 7**

**Debtor(s):**

Sean Anthony Couevas

Represented By  
Timothy McFarlin

**Movant(s):**

Cab West, LLC

Represented By  
Sheryl K Ith

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

8:20-11713 Naaman B Chalhoub and Roula Chalhoub

Chapter 7

#18.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]  
PNC BANK, NATIONAL ASSOCIATION  
VS.  
DEBTORS

Docket 16

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 6, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Naaman B Chalhoub and Roula Chalhoub**

**Chapter 7**

**Debtor(s):**

Naaman B Chalhoub

Represented By  
Bert Briones

**Joint Debtor(s):**

Roula Chalhoub

Represented By  
Bert Briones

**Movant(s):**

PNC Bank, National Association

Represented By  
Katie M Parker

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:10-21772 Vera Senyutkina Jacobs and Edward Lee Jacobs

Chapter 7

#19.00 Hearing RE: Debtors' Motion to Reopen Chapter 7 Bankruptcy Case in Order to File Motion to Avoid Lien Under Section 522(f) on Real Property

Docket 18

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**PECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 6, 2020**

Grant Motion. The Clerk of Court may re-close the case 60 days after the entry of the order granting the Motion without out further notice or order of the court if a motion to avoid lien is not filed by such time.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**Debtor(s):**

Vera Senyutkina Jacobs

Represented By  
Gregory J Doan  
Brian J Soo-Hoo

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... Vera Senyutkina Jacobs and Edward Lee Jacobs**

**Chapter 7**

**Joint Debtor(s):**

Edward Lee Jacobs

Represented By  
Gregory J Doan  
Brian J Soo-Hoo

**Trustee(s):**

Thomas H Casey (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:16-12854 Paul Edward Rubio

Chapter 13

#20.00 Hearing RE: Debtor's Motion for Order Allowing Creditor to Put Forbearance Payments on Back End of Mortgage Loan

Docket 167

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9/17/2020 AT 10:30 A.M.,  
Per Order Entered 8/5/2020 (XX)

Courtroom Deputy:

**CONTINUED: Hearing Continued to 9/17/2020 at 10:30 a.m., Per Order Entered 8/5/2020 (XX) - td (8/5/2020)**

Tentative Ruling:

**PECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 6, 2020**

Grant motion.

Debtor's lender is authorized to place the forbearance payments at the end of the loan.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Paul Edward Rubio**

**Chapter 13**

**Debtor(s):**

Paul Edward Rubio

Represented By  
Lauren Rode

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:18-13238 Paul David Scarborough and Julie Ann Scarborough

Chapter 7

#21.00 Hearing RE: Chapter 7 Trustee's Final Report and Application for Final Fees and Expenses

[KAREN SUE NAYLOR, CHAPTER 7 TRUSTEE]

Docket 54

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 6, 2020**

Approve fees and expenses as requested.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.**

**Party Information**

**Debtor(s):**

Paul David Scarborough

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... Paul David Scarborough and Julie Ann Scarborough Chapter 7**  
Thomas E Brownfield

**Joint Debtor(s):**

Julie Ann Scarborough

Represented By  
Thomas E Brownfield

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Nanette D Sanders

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:18-13238 Paul David Scarborough and Julie Ann Scarborough

Chapter 7

#22.00 Hearing RE: Application for Payment of Final Fees and/or Expenses

[RINGSTAD & SANDERS LLP, ATTORNEY FOR KAREN SUE NAYLOR,  
CHAPTER 7 TRUSTEE]

Docket 49

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 6, 2020**

Approve fees and expenses as requested.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.**

**Party Information**

**Debtor(s):**

Paul David Scarborough

Represented By  
Thomas E Brownfield

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room      5A**

---

10:30 AM

**CONT...      Paul David Scarborough and Julie Ann Scarborough**

**Chapter 7**

**Joint Debtor(s):**

Julie Ann Scarborough

Represented By  
Thomas E Brownfield

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Nanette D Sanders

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:18-13238 Paul David Scarborough and Julie Ann Scarborough

Chapter 7

#23.00 Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses from September 18, 2019 through April 14, 2020

[HAHN FIFE & CO, LLP, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]

Docket 51

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 6, 2020**

Approve fees and expenses as requested.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.**

**Party Information**

**Debtor(s):**

Paul David Scarborough

Represented By

Thomas E Brownfield

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room      5A**

10:30 AM

**CONT...      Paul David Scarborough and Julie Ann Scarborough**

**Chapter 7**

**Joint Debtor(s):**

Julie Ann Scarborough

Represented By  
Thomas E Brownfield

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Nanette D Sanders



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#24.00 CON'TD Hearing RE: Trustee's Motion to Approve Second Amendment to Purchase and Sale Agreement and First Amendment to Assignment of Claim and Estates' Interest in Insurance Policy Pursuant to 11 U.S.C. Sections 363

FR: 7-9-20 (Advanced from 7-16-20 at 10:30 am); 7-16-20

Docket 403

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 9, 2020**

Continue hearing to July 16, 2020 at 10:30 a.m. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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**August 6, 2020**

Grant Motion.

***Note: This matter appears to be uncontested. Accordingly, no court***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

CONT... Friendly Village MHP Associates LP Chapter 7  
***appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

Friendly Village MHP Associates LP

Represented By  
Howard Camhi

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Kristine A Thagard  
Arthur Grebow  
David Wood  
Tinho Mang

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

10:30 AM

**8:18-13864 Friendly Village GP, LLC**

**Chapter 7**

**#25.00** CON'TD Hearing RE: Trustee's Motion to Approve Second Amendment to Purchase and Sale Agreement and First Amendment to Assignment of Claim and Estates' Interest in Insurance Policy Pursuant to 11 U.S.C. Sections 363

FR: 7-9-20 (Advanced from 7-16-20 at 10:30 am); 7-16-20

Docket 217

**Courtroom Deputy:**

**CONTINUED: Hearing continued to August 6, 2020 at 10:30 am per order approving stipulation Entered 7/16/20- mp/td (XX) (7/16/20)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 9, 2020**

Continue hearing to July 16, 2020 at 10:30 a.m. (XX)

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

-----  
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**August 6, 2020**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

CONT... Friendly Village GP, LLC

Chapter 7

Grant Motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**Debtor(s):**

Friendly Village GP, LLC

Represented By  
Howard Camhi

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
David Wood  
Kristine A Thagard

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

**8:19-10913 Cassandra Dean Duerscheidt**

**Chapter 7**

Adv#: 8:19-01122 M.G.B. Construction, Inc. v. Duerscheidt

**#26.00** Hearing RE: Plaintiff M.G.B. Construction, Inc.'s Motion for Order Granting Leave to File Amended Adversary Complaint

Docket 46

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**PECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 6, 2020**

Grant the Motion. An amended complaint must be filed no later than August 20, 2020; a responsive pleading by Defendant must be filed no later than September 21, 2020. Discovery is re-opened and extended through and including November 16, 2020. Pretrial Conference is continued to December 17, 2020 at 9:30 a.m. with the Joint Pretrial Stipulation due by December 10, 2020.

***Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall lodge an order consistent with the same within 7 days of today's hearing.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Cassandra Dean Duerscheidt**

**Chapter 7**

**Debtor(s):**

Cassandra Dean Duerscheidt

Represented By  
Brian J Soo-Hoo  
Douglas A Plazak

**Defendant(s):**

Cassandra Dean Duerscheidt

Represented By  
Douglas A Plazak

**Plaintiff(s):**

M.G.B. Construction, Inc.

Represented By  
Scott A Kron

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:19-11712 Scott Alexander Svidergol

Chapter 7

#27.00 Hearing RE: Chapter 7 Trustee's Final Report and Application for Final Fees and Expenses

[THOMAS H. CASEY, CHAPTER 7 TRUSTEE]

Docket 24

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 6, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

**Party Information**

**Debtor(s):**

Scott Alexander Svidergol

Represented By  
Michael N Nicastro

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... Scott Alexander Svidergol**

**Chapter 7**

**Trustee(s):**

Thomas H Casey (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:19-12890 Manufacture Resource Products, Inc.

Chapter 7

#28.00 Hearing RE: Chapter 7 Trustee's Motion to Approve Compromise of Controversy and Fix Overbidding Procedures

Docket 37

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 6, 2020**

Grant Motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Manufacture Resource Products, Inc.

Represented By  
Thomas J Polis

**Trustee(s):**

Karen S Naylor (TR)

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

10:30 AM

**CONT...**

**Manufacture Resource Products, Inc.**

Nanette D Sanders

**Chapter 7**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:19-14441 Aimen Elbusifi

Chapter 7

Adv#: 8:20-01020 Angar v. Aimen

#29.00 Hearing RE: Defendant's Motion for Attorney Fees Against Plaintiff

Docket 14

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Defendant's  
Withdrawal of Motion, filed 7/24/2020

Courtroom Deputy:

OFF CALENDAR: Notice of Defendant's Withdrawal of Motion, filed  
7/24/2020 - td (7/27/2020)

Tentative Ruling:

- NONE LISTED -

Party Information

**Debtor(s):**

Aimen Elbusifi

Represented By  
Brian J Soo-Hoo

**Defendant(s):**

Elbusifi Aimen

Represented By  
Michael D Franco

**Plaintiff(s):**

Mohammed Angar

Pro Se

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-14834 Hussam Fayiz Darwish**

**Chapter 11**

**#30.00 CON'TD STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and  
(2) Requiring Report on Status of Chapter 11 Case**

FR: 2-20-20; 5-21-20; 6-18-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**February 20, 2020**

Absent a noticed motion, the court will not provide any "advisory opinions" regarding Debtor's contemplation of a conversion of this case to one under Sub-Chapter V, including Debtor's eligibility to be a Sub-Chapter V debtor. That said, Debtor's counsel may want to consider the relevant deadlines under Sub-Chapter V (filing of plan, claims bar date, etc) and review legal authorities regarding chapter 13 eligibility in the "chapter 20" scenario. See, e.g., *In re Blackwell*, 514 B.R. 19 (Bankr. ND Cal. 2014).

Absent conversion:

Claims bar date: Apr. 23, 2020 (60 days not)

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, August 6, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Hussam Fayiz Darwish**

**Chapter 11**

Deadline to file plan/DS: Apr. 30, 2020  
Continued Status Conf: May 21, 2020 at 10:30am  
Updated Status Report: May 7, 2020 (waived if DS filed)

***Note: Appearance at this hearing is required.***

-----

**May 21, 2020**

Continue status conference to June 18, 2020 at 10:30 a.m., same date/time as hearing on approval of Debtor's disclosure statement. Updated status report not required. (XX)

***Note: Appearances at this hearing are not required.***

-----

**June 18, 2020**

Continue status conference to August 6, 2020 at 10:30 a.m. Court to issue order to show cause why this case should not be dismissed or converted due to inability of Debtor to propose a viable plan of reorganization -- the hearing will be set for August 6, 2020 at 10:30 a.m. (XX)

-----

**August 6, 2020**

Continue Status Conference to September 17, 2020 at 10:30 a.m.; updated Status Report not required. **However, all monthly operating reports required to be filed by September 17, 2020 (i.e., June, July and August) must be filed.**

***Note: Appearances at this hearing are not required.***

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

Hussam Fayiz Darwish

Represented By  
Michael Jones

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Hussam Fayiz Darwish**

**Chapter 11**

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:19-14834 Hussam Fayiz Darwish

Chapter 11

#31.00 Hearing RE: Order Issued to Debtor Hussam Fayiz Darwish to Show Cause Why Bankruptcy Case Should Not Be Dismissed or Converted (OSC Issued 6/22/2020)

Docket 68

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 6, 2020**

Continue OSC hearing to September 17, 2020 at 10:30 a.m.

*Special note: This is Debtor's last opportunity to avoid dismissal of the case. If the Amended Disclosure Statement is not approved at this hearing OR Debtor has not filed all monthly operating reports (June, July, August) by September 15, 2020, then the case will be dismissed.*

**Note: Appearances at this hearing are not required.**

**Party Information**

**Debtor(s):**

Hussam Fayiz Darwish

Represented By  
Michael Jones

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Hussam Fayiz Darwish**

**Chapter 11**



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10682 Kim-Lan T Nguyen**

**Chapter 13**

**#32.00 CON'TD Hearing RE: Chapter 13 Trustee's Objection to Debtor's Claims of Exemptions**

FR: 6-18-20

Docket 18

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**June 18, 2020**

Continue the hearing to August 6, 2020 at 10:30 a.m. to allow Movant to address various service and other issues. (XX)

Court's Comments:

Service:

1. Debtor's attorney was not served with the Motion.
2. Debtor was not advised of the deadline for filing an opposition.

Merits:

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, August 6, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Kim-Lan T Nguyen**

**Chapter 13**

1. A copy of Schedule C was not attached to the Motion.
2. A proper declaration in support of the Motion was not provided.
3. The Motion does not indicate whether the Trustee is seeking a total disallowance of a homestead exemption, i.e., \$0.00, or some lesser amount such as \$75,000 or \$100,000. The court notes that according to Schedule I, Debtor appears to have a minor dependent, an indicator that Debtor may be entitled to an exemption of \$100,000 as a head of household. As there is no allegation that Debtor did not reside on the subject property at the time of the filing, Debtor would appear to be entitled to an exemption of at least a \$75,000 exemption.
4. In light of the amount of the exemption claimed in Schedule C, did the Trustee or his counsel inquire about the basis for the amount at the time of the 341a meeting?

***Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required. Non-appearance at the hearing will be deemed acceptance of the tentative ruling.***

-----

**August 6, 2020**

Overrule objection. Service issue has not been corrected and Debtor filed amended Schedule C on 7/22/20 reducing the exemption to \$75,000.

***Note: If Trustee accepts the foregoing tentative ruling, appearance at this hearing is not required.***

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

**Debtor(s):**

Kim-Lan T Nguyen

Represented By  
Thinh V Doan

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Kim-Lan T Nguyen**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:20-11507 Hytera Communications America (West) Inc

Chapter 11

#33.00 STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and (2) Requiring Report on Status of Chapter 11 Case  
[Lead Case: (Lead Case: Hytera Communications America (West), Inc. (Case Number: 8:20-bk-11507-ES) ] Jointly Administered With Member Cases: Hytera America Incorporated (Case Number: 8:20-bk-11508-ES) and HYT North America, Inc. (Case Number: 8:20-bk-11509-ES)]

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 6, 2020**

Continue Status Conference to December 17, 2020; updated Status Report must be filed by December 3, 2020.

**Note: If Debtors are in substantial compliance with the requirements of the United States Trustee, appearance at this Status Conference is not required. It is Debtors' responsibility to confirm the status of their compliance with the UST in advance of the hearing. The court will issue its own order re continuance of the hearing.**

Party Information

**United States Bankruptcy Court  
Central District of California  
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**Thursday, August 6, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Hytera Communications America (West) Inc**

**Chapter 11**

**Debtor(s):**

Hytera Communications America

Represented By  
John W Lucas  
Jason H Rosell  
Victoria Newmark

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:20-11837 Golden Communications Inc.

Chapter 11

#34.00 FINAL Hearing RE: Debtor's Emergency Motion for Interim and Final Orders Authorizing Debtor to Pay Pre-petition Claims of Critical Vendors: and (2) Perform Under Agreements with Critical Vendors

FR: 7-6-20

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Absent opposition, grant Motion on interim basis through August 6, 2020. The final hearing will be held on August 6, 2020 at 10:30 a.m. Any supplemental pleadings in support of the Motion must be filed/served by July 16, 2020; any opposition/response must be filed/served by July 23, 2020; and reply must be filed/served by July 30, 2020. (XX)

-----

**August 6, 2020**

Grant motion on a final basis.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a**

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10:30 AM

**CONT... Golden Communications Inc.**

**Chapter 11**

***late opposition or appear at the hearing, the court will determine  
whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Golden Communications Inc.

Represented By  
Marc C Forsythe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 6, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01205 Elieff et al v. Kurtin

**#35.00** Hearing RE: Joint Motion for Reconsideration or, Alternatively, Entry of Partial Final Judgment Under FRCP 54(b) or Certification Under 28 U.S.C. Section 1292(b)

Docket 107

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 8/13/2020 AT 2:00 P.M.,  
Per Order Entered 7/31/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: HEARING CONTINUED TO AUGUST 13, 2020 AT 2:00 P.M.  
(per hearing held on 7/30/20 --eas)/td (XX) (7/31/2020)**

**Tentative Ruling:**

**July 23, 2020**

Grant the Motion as to 510(b); deny as to 510(c).

Procedure for today's hearing: Plaintiffs will be permitted up to 30 minutes for opening argument; Defendant will have 30 minutes to respond; 15 minutes for reply (plus any unused portion of the opening argument).

Rulings on Evidentiary Rulings will be issued at the time the formal findings are issued.

Basis for Tentative Ruling:

Bruce Elieff ("Elieff") filed a voluntary chapter 11 on October 2, 2019, and Morse Properties, LLC ("Morse") and 4627 Camden, LLC ("Camden") filed voluntary chapter 11 petitions on October 3, 2019. On October 15, 2019, Elieff, Morse, and Camden commenced an adversary proceeding against Todd Kurtin ("Kurtin") to avoid Kurtin's \$34 million judgment lien and subordinate the claim (the "AP"). On December 11, 2019, Debtors filed a



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2:00 PM

**CONT...**

**Bruce Elieff**

**Chapter 11**

second amended complaint (the "SAC")[AP dkt. #11]. On January 9, 2020, Kurtin filed a motion to dismiss the SAC (the "Motion to Dismiss")[AP dkt. #19]. On March 3, 2020, the order granting the Committee's motion to intervene as to the first claim for relief only was entered [AP dkt. #65]. On May 7, 2020, the order granting the Motion to Dismiss in part, and denying in part [dkt. 100]. Plaintiffs Elieff, Morse, Camden, and the Committee were granted leave to amend the SAC except for any claims under 11 U.S.C. § 510(c)(2). On May 14, 2020, the third amended complaint was filed (the "TAC")[dkt. 105].

Trustee and the Committee (collectively, "Plaintiffs") now move for summary judgment on all of the claims for relief -1<sup>st</sup> Claim (Elieff), 6<sup>th</sup> Claim (Morse), and 9<sup>th</sup> Claim (Camden)] seeking mandatory subordination of Kurtin's claims § 510(b) [AP dkt. #57]. Kurtin opposes the Motion.

Summary Judgment Standard

A party seeking summary judgment bears the initial responsibility of demonstrating the absence of a genuine issue of material fact, and establishing that it is entitled to judgment as a matter of law as to those matters upon which it has the burden of proof. *Celotex Corporation v. Catrett*, 477 U.S. 317, 323 (1986). The opposing party must make an affirmative showing on all matters placed in issue by the motion as to which it has the burden of proof at trial. *Id.* at 324. The substantive law will identify which facts are material. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. *Id.* A factual dispute is genuine where the evidence is such that a reasonable jury could return a verdict for the nonmoving party. *Id.* The court must view the evidence presented on the motion in the light most favorable to the opposing party. *Id.*

In the absence of any disputed material facts, the inquiry shifts to

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2:00 PM

**CONT...**

**Bruce Elieff**

**Chapter 11**

whether the moving party is entitled to judgment as a matter of law. *Celotex*, 477 U.S. at 323. Furthermore, where intent is at issue, summary judgment is seldom granted. See, *Provenz v. Miller*, 102 F.3d 1478, 1489 (9th Cir. 1996), *cert. denied*, 118 S. Ct. 48 (1997).

Judicial Notice of Facts set forth in the State Court Appellate  
Opinions

As a preliminary matter, the California Court of Appeals previously issued two opinions related to this matter: *Kurtin v. Elieff* ("*Kurtin I*"), 215 Cal.App.4<sup>th</sup> 455 019 (2013) and *Kurtin v. Elieff* ("*Kurtin II*"), 2019 WL 4594775 \*1 (Cal. Ct. App. 4<sup>th</sup> Sep. 23, 2019). See, Debtors' RJN. [AP dkt. #61], Ex. 1-2. Plaintiffs argue that "there is no dispute over the material facts, which were established in Kurtin I and Kurtin II." Mot., p. 5:9-10; See, Debtors RJN, p. 3:1-2 ("Therefore, the Court may take judicial notice of both the existence and *content* [*Kurtin I* and *Kurtin II*]"). The Court is aware of the limitations on taking judicial notice, even as to the opinions of another court. Under Fed.R.Evid. 201, i.e., that a court may take judicial notice of facts that are not subject to reasonable dispute in that 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," See, *Lee v. City of Los Angeles*, 250 F.3d 668, 690 (9th Cir. 2001)("when a court takes judicial notice of another court's opinion, it may do so "not for the truth of the facts recited therein, but for the existence of the opinion, which is not subject to reasonable dispute over its authenticity.") See also, *Mazzocco v. Lehavi*, 2015 WL 12672026, at \*4 (S.D. Cal. Apr. 13, 2015)(declining to take judicial notice of facts within a state appellate court opinion)

In this matter, the Court may certainly take judicial notice of the Kurtin I and Kurtin II opinions and the adjudicated rulings therein. However, it would not be appropriate to take judicial notice of non-adjudicative factual characterizations in either opinion. For example, as noted by Kurtin, the issue of whether the Settlement Agreement "arose from" the purchase or sale of securities within the context of 11 U.S.C. § 510(b) was not before the California appellate court and, therefore, it's characterization of the Settlement Agreement as a "buy out" will not be judicially noticed.

**United States Bankruptcy Court  
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**CONT...**

**Bruce Elieff**

**Chapter 11**

The Undisputed Facts

On June 23, 2003, Kurtin filed an action for breach of fiduciary duty, constructive fraud, misappropriation and other claims in the Orange County Superior Court, case no. 03CC0022 (the "First Lawsuit"). An amended complaint was later filed. Kurtin RJN Ex. 1-2.

The First Lawsuit was settled by settlement agreement (the "Settlement Agreement") in August 2005, a copy of which is attached as Exhibit 1 to Bruce Elieff's declaration. Debtors' Statement of Uncontroverted Facts ("SUF") 12-13; Kurtin's Statement of Genuine Disputes of Material Facts ("SGI") 12-13.

Exhibit B to the Settlement Agreements lists several entities defined as the "Joint Entities." Per the Settlement Agreement, Elieff was to be paid \$48.8 million in four installments: \$21 million, \$1.8 million, \$13.1 million, and \$12.9 million. Id.

Elieff and the Joint Entities were jointly and severally responsible for paying the first installment, but only the Joint Entities were responsible for paying the last three installments totaling \$27.8 million. SUF 19; SGI 19.

The Settlement Agreement included the following distribution clause in Section 14, "Elieff shall not take any distribution from any of the Joint Entities if such distribution prevents satisfaction of payment of the Settlement Payments." SUF 36; SGI 36.

Elieff made the \$21 million first installment payment. SUF 25; SGI 25. The Joint Entities made the \$1.8 million second installment, but only paid \$3.5 of the \$13.1 million third installment payment, and paid nothing on the final installment of \$12.9 million. SUF 26; SGI 26.

When Kurtin sought to enforce the agreement against the Joint Entities under section 664.6 of the Code of Civil Procedure in the context of the 2003 litigation, the trial judge denied his request on the ground that the Joint Entities were not "parties" to Kurtin's 2003 litigation. SUF 29; SGI 29.

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**Hearing Room 5A**

2:00 PM

**CONT...**

**Bruce Elieff**

**Chapter 11**

On May 12, 2007, Kurtin received an arbitration award an arbitration award amending the Settlement Agreement to allow Kurtin to obtain Elieff's interests in the Joint Entities (which secured the Settlement Payments) and apply the same towards the satisfaction of the Settlement Payment. See, Kurtin RJN, Ex. 5. The arbitration award did not preclude any other legal or equitable remedies that Kurtin may have held.

On December 10, 2007, Kurtin filed a second lawsuit in Orange County Superior Court against Elieff and the Joint Entities, case no. 00100307 (the "Second Lawsuit") and later filed a first amended complaint. See, Kurtin RJN Ex. 7-8; SUF 33; SGI 33.

On May 20, 2010, after a bifurcated jury trial, judgment was entered in in favor of Kurtin in the amount of \$24.4 million (the "2010 Judgment"). See, SUF 37, 39; SGI 37, 39; Kurtin RJN, Ex. 9.

By published opinion dated April 16, 2013, the California Court of Appeal affirmed the 2010 Judgment's finding of liability against Elieff and the trial court's order granting a new trial as to damages only. *Kurtin I*, 215 Cal. App. 4th 455.

On March 13, 2017, Kurtin's new trial as to damages was held. Kurtin RJN Ex. 11.

On November 20, 2017, the state court entered an amended judgment in favor Kurtin in the amount of \$20.3 million for Elieff's breach of the distribution provision in section ¶14 of the Settlement Agreement (the "2017 Judgment"). RJN Ex. 11.

On September 23, 2019, the California Court of Appeal reduced the principal amount of the 2017 Judgment by \$3,546,862.07 and ordered that prejudgment interest calculated be based on the reduced damage award. *Kurtin II*, 2019 WL 4594775, at \* 4 and 6.

Kurtin has filed proofs of claim against Debtors based on the 2017 Judgment, as subsequently amended on February 4, 2020. See, Kurtin RJN,

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2:00 PM

CONT... Bruce Elieff  
Ex. 14-17.

Chapter 11

Plaintiffs have Carried their Burden Establishing the Absence of  
Genuine Dispute Regarding the Material Fact of Whether the  
Settlement Agreement is an Agreement for the Purchase and Sale of  
Securities

The Ninth Circuit has adopted a broad interpretation of what constitutes "a claim arising from the purchase or sale of a security." *Am. Wagering, Inc.*, 493 F.3d at 1072. 1072. "[T]he statute sweeps broadly...and reaches even ordinary breach of contract claims so long as there is a sufficient nexus between the claim and the purchase of securities." *In re Tristar Esperanza Properties, LLC*, 782 F.3d 492, 495 (9th Cir. 2015); *Am. Wagering, supra*, at 1072 ("As noted above, a number of courts, including this one, have held that breach of contract claims may be subordinated under section 510(b) where there exists some nexus or causal relationship between the claim and the purchase of the securities....").

In assessing the "arising from" element, the courts focus upon the origin or source of the claim. "The phrase 'arising from' as employed in § 510(b) 'connotes, in ordinary usage, something broader than causation' and is instead 'ordinarily understood to mean originating from, having its origin in, growing out of, or flowing from or in short, incident to, or having connection with." *In re Del Biaggio*, 834 F.3d 1003, 1009 (9th Cir. 2016).

"[T]he status of the claim on the date of the petition does not end the § 510(b) inquiry," so the "critical question for purposes of § 510(b), then, is not whether the claim is debt or equity at the time of the petition, but rather whether the claim *arises from* the purchase or sale of a security." *Tristar*, 782 F.3d at 497 (emphasis in original). To that end, courts may "look behind" a judgment to determine whether the claim arises from the purchase or sale of securities. See, *Am. Wagering*, 493 F.3d at 1071 (analyzing the terms of the underlying consulting contract to determine whether a money judgment based on the value of stock arose from the purchase or sale of securities); *Betacom*, 240 F.3d at 831-32 (remanding to the bankruptcy court the determination of

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**CONT...**

**Bruce Elieff**

**Chapter 11**

whether two promissory notes arose from the purchase or sale of stock because "there is little evidence in the record to explain their origin" and directing that if the promissory notes are "linked" to a merger agreement, they should be subordinated); See also, *In re SeaQuest Diving, LP*, 579 F.3d 411, 425 (5<sup>th</sup> Cir. 2009)("Rather, the court must look behind the judgment and examine the totality of the circumstances to determine whether the transaction is a 'rescission of a purchase or sale of a security of a debtor.'").

Here, Plaintiffs have carried their burden to demonstrate the lack of a genuine dispute over the material fact of whether the Settlement Agreements is an agreement to purchase or sale securities. The Settlement Agreement requires Kurtin to transfer his interest in the SunCal LLCs to Elieff, and transfer his interests in the trade name "SunCal". Moreover, that the Settlement Agreement includes a clause requiring Kurtin to not "solicit any SunCal employees for employment for a period of one year." See, Elieff Decl., Ex. 1 (the Settlement Agreement), p. 1-4. These terms would appear to support Plaintiffs argument that the Settlement Agreement was an agreement, at least in part, for the purchase or sale of securities.

As discussed above, to determine the "origin" of a claim, the Court may "look behind" the relevant documents to the circumstances giving rise to the claim at issue. And to the extent that both parties have, in either their pleadings or evidentiary objections, argued that the parol evidence should bar the Court's review beyond the Settlement Agreement (while, ironically, both offering parol evidence in the form of financial statements, deposition transcripts, appellate briefs, etc. in support of a favorable interpretation of the Settlement Agreement), such argument is unpersuasive in light of Settlement Agreement terms appearing to support both positions (as discussed above).

Moreover, and more importantly, as cited above, Ninth Circuit law provides the Court should not limit its review to the face of the Settlement Agreement. See, *Am. Wagering*, 493 F.3d at 1071 (analyzing the terms of the underlying consulting contract to determine whether a money judgment based on the value of stock arose from the purchase or sale of securities); *Betacom*,

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**CONT...**

**Bruce Elieff**

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240 F.3d at 831-32 (remanding to the bankruptcy court the determination of whether two promissory notes arose from the purchase or sale of stock because "there is little evidence in the record to explain their origin" and directing that if the promissory notes are "linked" to a merger agreement, they should be subordinated); See also, *In re SeaQuest Diving, LP*, 579 F.3d 411, 425 (5<sup>th</sup> Cir. 2009)("Rather, the court must look behind the judgment and examine the totality of the circumstances to determine whether the transaction is a 'rescission of a purchase or sale of a security of a debtor.'").

In this case, the Court can look behind the Judgment to the Settlement Agreement and find that Settlement Agreement "arises" from the purchase and sale of securities. The undisputed fact is that the Settlement Agreement required Kurtin to transfer his interests in the Joint Entities to Elieff. See, SUF 12-13; SGI 12-13 (the Settlement Agreement). While Kurtin argues that the Settlement Agreement is not an agreement to purchase or sale securities but rather an agreement to end the partnership between Elieff and Kurtin (and a partnership interest is not a security under the Code), this argument ignores the plain language of § 510(b) which does not "require that the underlying agreement for a purchase and sale of the security need be solely an agreement for the purchase and sale of the security." Pl. Joint Reply [dkt. 127], p. 17. The undisputed fact remains that at least a part of the Settlement Agreement required Kurtin to transfer his interest in the Joint Entities, which Kurtin did via assignments to Elieff. See, Elieff Supp. Decl., p. 2-4, ¶¶8-22 and Ex. 1-15 (assignments from Kurtin to Elieff).

Moreover, Kurtin's reliance on *In re Khan*, 846 F.3d 1058, 1063 (9<sup>th</sup> Cir. 2017) to argue that there is not a sufficient nexus between Kurtin's damages and the purchase or sale securities if the Court only looks at "conduct" that gave rise to the Judgment (which was Elieff diversion of funds from the Joint Entities in violation of ¶14 of the Settlement Agreement) is unpersuasive because *Khan* is factually distinguishable. Kurtin Supp. Opp'n [dkt. 120], p. 17-20.

Unlike *Khan*, in which the court emphasized that the damages sought for securities that were converted years after the sale of the securities were

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sold "were not remotely related to the purchase, " 846 F.3d at 1064, here Kurtin's damages, in contrast, are directly related to the purchase of securities which was at least one part of the Settlement Agreement. Pl. Joint Reply [dkt. 127], p. 10-12. Moreover, unlike the damages in *Khan* that was based on a tort, Kurtin's damages in the Judgment were based on a breach of contract claim. See *id.*, p. 13. Additionally, unlike *Khan*, in which the Court noted tortious conversion of stock is not one of the risks that a purchaser of stock assumes, the non-payment of Settlement Payments was a risk that Kurtin willingly assumed evidenced by the fact that the parties contracted to include ¶14 in the Settlement Agreement. See *id.*

The Court also need not necessarily adopt the "but for" test advocated by Plaintiffs because, even as Plaintiffs acknowledge, the Ninth Circuit has not adopted the "but for" test even though it has explicitly endorsed circuit court cases that do so in holding that "arising from" should be given an "expansive "some nexus" reading." See, Pl. Joint Reply [dkt. 127], p. 8-10 (citing *In re Del Biaggio*, 834 F.3d 1003, 1009 (9<sup>th</sup> Cir. 2016)). The Ninth Circuit, however, has stated that, "the statute sweeps broadly...and reaches even ordinary breach of contract claims so long as there is a sufficient nexus between the claim and the purchase of securities." *In re Tristar Esperanza Properties, LLC*, 782 F.3d 492, 495 (9<sup>th</sup> Cir. 2015); *Am. Wagering, supra*, at 1072 ("As noted above, a number of courts, including this one, have held that breach of contract claims may be subordinated under section 510(b) where there exists some nexus or causal relationship between the claim and the purchase of the securities..."). "The phrase 'arising from' as employed in § 510(b) 'connotes, in ordinary usage, something broader than causation' and is instead 'ordinarily understood to mean originating from, *having its origin in*, growing out of, or flowing from or in short, *incident to, or having connection with.*" *Del Biaggio*, 834 F.3d at 1009.

Here, the Court finds that the Judgment has its origin, is incident to, and has a connection to the Settlement Agreement, which itself is an agreement, at least partially, to purchase and sale of securities of Debtors' affiliates, the Joint Entities. As discussed above, because § 510(b) does not



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require that the underlying agreement only and entirely be an agreement to purchase or sale securities, how much of the Settlement Payments can be allocated to the securities transferred (versus allocated to Kurtin's other obligations under the Settlement Agreement) is not a material fact that is determinative of the application of §510(b)

Kurtin's further argues that, even if the Settlement Agreement was partly an agreement to purchase or sale of securities, the "sale" of securities was completed after Kurtin transferred his interest and Kurtin made the first \$21 million payment. See, Elieff Supp. Decl., p. 11. Thus, because Kurtin had no further personal liability for the remaining Settlement Payments, and the Judgment is ultimately based on non-payment of these remaining Settlement Payments, the Judgment is not an agreement to purchase or sale agreements. *Id.* However, "the June 11, 2007 Amended Arbitration Award, which constituted an amendment to the Settlement Agreement, provided that if the Joint Entities missed a buyout payment, Kurtin's remedy was to take back from Elieff the equity interests in the Joint Entities that he had sold to Elieff. ECF No. 59, Ex. 4." Pl. Joint Reply [dkt. 127], p. 14-15. This provision in the arbitration award did not create a lien on Kurtin's interests in the Joint Entities because it did not provide that Kurtin would need to foreclose on that lien. Instead, Kurtin held the "right to require" Elieff to transfer the Kurtin's interest in the Joint Entities, and Elieff was required to, back to Kurtin if the full Settlement Payments were not received. See, Elieff Decl. [dkt. 59], Ex. 4.

Judicial estoppel, also known as the doctrine of inconsistent positions, is a common law principle that "generally operates to preclude a party from asserting a position in a legal proceeding inconsistent with a position taken by that party in the same or a prior litigation." § 6:1.Overview, Bankr. Evid. Manual § 6:1 (2018 ed.)(citation omitted). The purpose of judicial estoppel is to "protect the integrity of the judicial process by prohibit parties from deliberately changing positions according to the exigencies of the moment." *Ah Quin v. County of Kauai Dept. of Transp.*, 733 F.3d 267, 270-71 (9th Cir. 2013)(citing *New Hampshire v. Maine*, 532 U.S. 742, 749-50 (2001)).

"Judicial estoppel is a discretionary doctrine, applied on a case-by-

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case basis." *Id.* While judicial estoppel "is 'probably not reducible to any general formulation of principle," the following factors "typically inform the decision" of whether to apply to judicial estoppel: (1) a party's later position is clearly inconsistent with its earlier position, (2) the party persuaded the court to accept the earlier position, so that the court's acceptance of the later position "would create the perception that either the first or the econ court was misled," and (3) the party asserting the inconsistent position will receive an "unfair advantage or impose an unfair detriment on the opposing party if not estopped." *Ah Quin, supra*, at 270. These factors, however, "do not establish inflexible prerequisites or an exhaustive formula for determining the application of judicial estoppel" and additional considerations may be appropriate in specific factual contexts. *Id.* at 270-72. Moreover, "it may appropriate to resist application of judicial estoppel when a party's prior position was based on inadvertence or mistake." *Ah Quin, supra*, at 271 (finding vacating and remanding district court's summary judgment because the determination of "mistake" and "inadvertence" within the context judicial estoppel required inquiry into the debtor's subjective intent when completing the bankruptcy schedules and omitting a litigation claim).

Here, Kurtin's alleged admissions that specifically reference the Settlement Agreement as "buy out" do appear to have been made in pleadings in the state court litigation. Though Plaintiffs make a strong argument for judicial estoppel, application of this equitable doctrine is not necessary for the Court to find as a matter of law that the Settlement Agreement involved the purchase and sale of a security within the meaning of §510(b). Stated otherwise, Plaintiffs have carried their burden to demonstrate the absence of a material fact that the Settlement Agreement was, at least in part, an agreement for Kurtin to sell his securities in the Joint Entities, at least the directly owned Joint Entities, within the context of the Elieff and Kurtin ending their partnership.

**Kurtin's Request for Further Discovery is Denied**

Kurtin again requests that the Motion be denied because Kurtin has purportedly not had an opportunity to complete discovery related to Debtor's affiliations, how much of the Settlement Payments was allocated to any

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**Chapter 11**

alleged "buyout" amount, and Kurtin's "old and cold" defense. See, Kurtin Supp. Opp'n [dkt. 120], p. 32-38. First, as discussed above, there is no dispute that at least the directly owned Joint Entities were affiliates of Debtor. Pl. Joint Reply [dkt. 127], p. 23-24. Also, as discussed above, there is no requirement that the entire agreement at issue be an agreement for the sale or purchase of securities. So, while the Court previously mentioned that it had a question on whether any amount of the Settlement Payments could be allocated to Kurtin's transfer of the SunCal's names (and Plaintiffs dispute that Kurtin had any interest in the SunCal names), a determination of how the Settlement Payments were allocated is not necessary. See, Committee Supp. Br., p. 6-8; Contra, Kurtin Supp. Opp'n [dkt. 120], p. 20-28.

With regards to Kurtin's "Old and Cold" defense, this defense has not been adopted by the Ninth Circuit so no discovery related to this defense is required. See, Committee Supp. Br., p. 8-9; Pl. Joint Reply [dkt. 127], p. 28-29 (top of page). Even Kurtin admits that Ninth Circuit has not adopted the "old and cold" defense. See, Kurtin Supp. Opp'n [dkt. 120], p. 38. At best, the Ninth Circuit discussed the defense in a footnote in *In re Tristar Esperanza Properties, LLC*, 782 F.3d 492 fn. 4. (9th Cir. 2015) and found that it did not need to decide whether the "old and cold" defense can ever be available. See, Pl. Joint Reply [dkt. 127], p. 28 (top of page), ln. 20-28. Further, no "subsequent published case from a court in the Ninth Circuit has even mentioned the so-called "old and cold" defense, much less applied it." *Id.* Accordingly, Kurtin's request to deny the Motion based on his need for further discovery should be denied.

Section 510(c)(2) does not apply to mandatory subordination under § 510(b)

In its ruling on the Motion to Dismiss, the Court dismissed the claims for relief based on § 510(c)(2) with prejudice. See, Order Granting in Part and Denying in Part Motion to Dismiss Second Amended Complaint and Scheduling Order (the "12(b)(6) Order") [dkt. 100], Ex A, p. 12-13 of the tentative ruling. The instant Motion requests relief under § 510(c)(2) but the Motion was filed before that ruling. The Court understands a motion for

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**CONT...**      **Bruce Elieff**      **Chapter 11**  
reconsideration of its ruling regarding 510(c)(2) will be heard on Aug. 6, 2020.

Basis for Tentative Ruling.

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, August 13, 2020

Hearing Room 5A

10:00 AM

8:18-10727 Mark Douglas Holland

Chapter 13

#1.00 CON'T'D Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

U.S. BANK, NA

VS.

DEBTOR

FR: 7-16-20

Docket 67

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 20, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

Grant motion with 4001(a)(3) relief.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine**

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**Hearing Room 5A**

10:00 AM

**CONT... Mark Douglas Holland**

**Chapter 13**

***whether further hearing is required and Movant will be so notified.***  
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**August 13, 2020**

Grant with 4001(a)(3) waiver unless Movant has agreed to the terms of an adequate protection order or a further continuance. Available continued hearing dates are 8/20/20, 9/3/20, 9/10/20 and 9/17/20 at 10:00 a.m. A further continuance may be requested during the calendar roll call just prior to the hearing.

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

**Debtor(s):**

Mark Douglas Holland

Represented By  
William P White

**Movant(s):**

U.S. Bank National Association

Represented By  
Eric P Enciso  
Sean C Ferry

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
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Santa Ana  
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**Thursday, August 13, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-12289 Douglas Paul Westfall and Jacqueline Ann Westfall**

**Chapter 13**

**#2.00 CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]**

U.S. BANK NATIONAL ASSOCIATION

VS.

DEBTORS

FR: 7-16-20

Docket 44

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

If Movant is agreeable, continue the hearing to August 13, 2020 at 10:00 a.m. to allow the parties to explore the possibility of an agreed adequate protection order.

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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 13, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Douglas Paul Westfall and Jacqueline Ann Westfall  
August 13, 2020**

**Chapter 13**

Grant with 4001(a)(3) waiver unless Movant has agreed to the terms of an adequate protection order or a further continuance. Available continued hearing dates are 8/20/20, 9/3/20, 9/10/20 and 9/17/20 at 10:00 a.m. A further continuance may be requested during the calendar roll call just prior to the hearing.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Debtors will be deemed to have waived additional written notice of the continued hearing date and time.***

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

**Debtor(s):**

Douglas Paul Westfall

Represented By  
Don Emil Brand

**Joint Debtor(s):**

Jacqueline Ann Westfall

Represented By  
Don Emil Brand

**Movant(s):**

U.S. Bank National Association

Represented By  
Sean C Ferry

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
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**Thursday, August 13, 2020**

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10:00 AM

**8:19-12841 Augusta Ayona**

**Chapter 13**

**#3.00** CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

U.S. BANK NATIONAL ASSOCIATION

VS.

DEBTOR

FR: 7-16-20

Docket 46

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

If Movant is agreeable, continue the hearing to August 13, 2020 at 10:00 a.m. to allow the parties to explore the possibility of an agreed adequate protection order.

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**CONT... Augusta Ayona  
August 13, 2020**

**Chapter 13**

Grant with 4001(a)(3) waiver unless Movant has agreed to the terms of an adequate protection order or a further continuance. Available continued hearing dates are 8/20/20, 9/3/20, 9/10/20 and 9/17/20 at 10:00 a.m. A further continuance may be requested during the calendar roll call just prior to the hearing.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Debtors will be deemed to have waived additional written notice of the continued hearing date and time.***

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

**Debtor(s):**

Augusta Ayona

Represented By  
Jaime A Cuevas Jr.

**Movant(s):**

U.S. Bank National Association, as

Represented By  
Sean C Ferry

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Thursday, August 13, 2020

Hearing Room 5A

10:00 AM

8:19-14426 Michael Alan Kohn

Chapter 13

#4.00 CONT'D Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

FIRST TECH FEDERAL CREDIT UNION

VS.

DEBTOR

FR 7-16-20

Docket 58

\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Motion  
for Relief from the Automatic Stay (Settled by Stipulation) Entered 7/20/2020

Courtroom Deputy:

OFF CALENDAR: Order Granting Motion for Relief from the Automatic  
Stay (Settled by Stipulation) Entered 7/20/2020 - td (8/4/2020)

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the  
COVID-19 virus, notice is hereby given that ALL hearings before Judge  
Smith will be by TELEPHONE APPEARANCE ONLY until further notice.  
The courtroom will be locked. Any party who wishes to appear must  
register in advance by contacting CourtCall at (866) 582-6878. It is  
suggested that parties register with CourtCall at least 30 minutes prior  
to the hearing. Through August 31, 2020, CourtCall is offering  
discounted registration for attorneys and free registration for parties  
without an attorney.

July 16, 2020

If Movant is agreeable, continue the hearing to August 13, 2020 at 10:00 a.m.  
to allow the parties to explore the possibility of an agreed adequate protection  
order. If Movant does not agree to a continuance, grant the Motion without

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Santa Ana  
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Thursday, August 13, 2020

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CONT... Michael Alan Kohn  
4001(a)(3) waiver relief.

Chapter 13

**Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Debtors will be deemed to have waived additional written notice of the continued hearing date and time.**

Party Information

**Debtor(s):**

Michael Alan Kohn

Represented By  
Christopher J Langley

**Movant(s):**

First Tech Federal Credit Union

Represented By  
Heather Anderson  
Arnold L Graff

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 13, 2020**

**Hearing Room 5A**

10:00 AM

**8:19-14528 Vishundyal Ramotar Mohabir**

**Chapter 13**

**#5.00 CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]**

U.S. BANK, N.A.

VS.

DEBTOR

FR: 5-7-20; 6-18-20; 7-16-20

Docket 34

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the September 30, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**May 7, 2020**

Grant motion with 4001(a)(3) waiver unless Debtor is postpetition current by the time of the hearing (in which case a standard "3 Strikes" adequate protection order will be granted) or if the parties have reached an alternate resolution. If more time is needed to reach resolution, Movant may request a continuance of the hearing at the time of the calendar roll call by the court clerk on the day of the hearing. Available continued dates are: 5/21, 6/4, 6/11

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**Hearing Room 5A**

10:00 AM

**CONT... Vishundyal Ramotar Mohabir**  
and 6/18/2020 at 10:00 a.m.

**Chapter 13**

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**June 18, 2020**

Grant with 4001(a)(3) waiver, unless there are on going discussions regarding the terms of an adequate protection order, in which case a request for a final continuance may be made during the calendar roll call prior to the hearing. Available dates are July 9, 2020 and July 16, 2020 at 10:00 a.m.

-----  
**July 16, 2020**

Grant motion with 4001(a)(3) waiver without prejudice to Movant submitting an agreed adequate protection order in lieu of an order granting immediate relief from stay.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

-----  
**August 13, 2020**

Grant with 4001(a)(3) waiver unless Movant has agreed to the terms of an adequate protection order or a further continuance. Available continued hearing dates are 8/20/20, 9/3/20, 9/10/20 and 9/17/20 at 10:00 a.m. A further continuance may be requested during the calendar roll call just prior to the hearing.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Debtors will be deemed to have waived additional written notice of the continued hearing date and time.***

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 13, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Vishundyal Ramotar Mohabir**

**Chapter 13**

**Debtor(s):**

Vishundyal Ramotar Mohabir

Represented By  
Christopher J Langley

**Movant(s):**

U.S. Bank National Association

Represented By  
Sean C Ferry

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 13, 2020

Hearing Room 5A

10:00 AM

8:20-10553 Heather Jane Andruss

Chapter 13

#6.00 CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

SPECIALIZED LOAN SERVICING LLC

VS.

DEBTOR

FR: 7-16-20

Docket 37

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

If Movant is agreeable, continue the hearing to August 13, 2020 at 10:00 a.m. to allow the parties to explore the possibility of an agreed resolution. If Movant is not agreeable to a continuance, the motion will be granted without the waiver of 4001(b)(3).

**Note: If all parties accept the foregoing tentative ruling, appearances at**



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, August 13, 2020

Hearing Room 5A

10:00 AM

CONT... Heather Jane Andruss Chapter 13

***this hearing are not required and Debtors will be deemed to have waived additional written notice of the continued hearing date and time.***  
-----

**August 13, 2020**

Grant with 4001(a)(3) waiver unless Movant has agreed to the terms of an adequate protection order or a further continuance. Available continued hearing dates are 8/20/20, 9/3/20, 9/10/20 and 9/17/20 at 10:00 a.m. A further continuance may be requested during the calendar roll call just prior to the hearing.

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

**Debtor(s):**

Heather Jane Andruss

Represented By  
Kevin Tang

**Movant(s):**

Specialized Loan Servicing LLC

Represented By  
Mukta Suri  
Kirsten Martinez

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 13, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-11977 SC Development Fund, LLC**

**Chapter 7**

**#7.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

WILMINGTON SAVINGS FUND SOCIETY, FSB

VS.

DEBTOR

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 13, 2020**

Deny the Motion without prejudice.

Basis for Tentative Ruling:

1. Service: A motion for relief from stay is a contested matter within the meaning of FRBP 9014 and, therefore, Debtor, a business entity, was required to be served in accordance with FRBP 7004(b)(3). The proof of service does not reflect service to the attention of an officer, managing or general agent, or other person authorized to accept service of process.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, August 13, 2020

Hearing Room 5A

10:00 AM

CONT... SC Development Fund, LLC

Chapter 7

Service on Debtor's attorney is insufficient unless the attorney has been authorized to accept such service of process.

2. LBR 9013-1(g)(4): This local rule provides that "new arguments or matters raised for the first time in reply documents *will not be considered.*" (emphasis added). Here, Movant has presented new arguments and evidence in its reply that could have and should have been presented within twenty-one days of the hearing and, in so doing, deprived the Trustee of the opportunity to respond.

For example, the email from the Rockport CRO re the condition of the property was sent on July 21, 2020, twenty-three days before the hearing and nine days before the Trustee's opposition was due. Movant could have either filed the new evidence within the regular 21-day service time or requested a continuance of the hearing. It did neither. Instead, Movant waited until the 7-day reply deadline to serve the new evidence. Even more egregious, Movant waited until August 11, 2020 (just two days before the hearing) to file and serve a second broker's exterior opinion prepared on August 6, 2020 that significantly contradicts the May 1, 2020 valuation attached to the Motion by nearly \$4 million. Accordingly, the court will not consider the CRO email of July 21, 2020 and photos attached there or the broker's opinion/declaration filed August 11, 2020.

3. 362(d)(1): Without considering the late-filed evidence, Movant is left with its May 1, 2020 \$6.58M valuation of the underlying real property and its 30% equity cushion. Adequate protection does not take into account junior liens as such liens do not affect the protection of the senior lienholder's interest. The 9th Circuit in *In re Mellor* cited with approval a case where a 10% equity cushion was held to be adequate. Further, there is no timely filed evidence that the property is declining in value and that Movant's equity cushion is insufficient to protect its interest from any decline.

4. 362(d)(2): This matter is nuanced by the fact that Debtor is a junior lienholder and has no ownership interest in the subject real property. A nuanced analysis is required. The question under 362(d)(2) is whether there is enough equity to reach the estate's lien interest. That is, if the value of the property exceeds the amount of Movant's secured claim, there is excess

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Thursday, August 13, 2020

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10:00 AM

CONT... SC Development Fund, LLC

Chapter 7

value for the estate's trust deed interest, even if only partially so. The court is not persuaded by the non-binding ruling in *In re A Partners LLC*, 344 BR 114 (Bankr.ED.Cal) that the the estate's junior lien interest is limited to state law remedies. The decision does not recognize that a chapter 7 trustee may monetize a junior lien interest by selling such interest to a willing buyer under 363(b) without curing the default of the senior lienholder or paying the claim of the senior lienholder at a foreclosure sale.

5. Additional observations: Though not germane to the disposition of the Motion, the court notes parenthetically that it appears from the Rockport docket that Movant has not moved for relief from stay in that case. The court is also aware that Judge Clarkson denied approval of the stipulation between the Trustee and the debtor in that case for the pursuit of a receiver in state court. However, such circumstances do not impact the court's decision regarding the Motion one way or the other.

***Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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

SC Development Fund, LLC

Represented By  
Keith S Dobbins

**Movant(s):**

Wilmington Savings Fund Society,

Represented By  
Lemuel Bryant Jaquez

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Beth Gaschen  
Jeffrey I Golden

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 13, 2020

Hearing Room 5A

10:00 AM

8:20-11173 Enrique Vergara

Chapter 7

#7.10 CONT'D Motion for relief from the automatic stay [PERSONAL PROPERTY]

TOYOTA MOTOR CREDIT CORPORATION

VS.

DEBTOR

FR: 8-4-20, RM 5D

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 13, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 13, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Enrique Vergara**

**Chapter 7**

**Party Information**

**Debtor(s):**

Enrique Vergara

Represented By  
Jacqueline D Serrao

**Movant(s):**

Toyota Motor Credit Corporation

Represented By  
Kirsten Martinez

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, August 13, 2020

Hearing Room 5A

10:30 AM

8:20-10043 DzineSquare, Inc.

Chapter 7

#7.20 CONT'D Hearing RE: Amended motion for entry of an order: Acknowledging rejection of the leases

FR: 8-4-20, Rm 5D

Docket 30

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 13, 2020**

Continue hearing to September 10, 2020 at 10:00 a.m. to allow Movant to correct service issue: Debtor was not served with the Motion as required by LBR 9013-1(d). Further, as Debtor is a corporation, it must be served in accordance with Fed.R.Bankr.P. (FRBP) 7004(b)(3) as required by FRBP 9014 for contested matters such as this because Movant is seeking the surrender of property. Service to Debtor's attorney only is insufficient unless the attorney is authorized to accept service of process.

**Party Information**

**Debtor(s):**

DzineSquare, Inc.

Represented By  
Christian T Kim

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 13, 2020**

**Hearing Room 5A**

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10:30 AM

**CONT... DzineSquare, Inc.**

**Chapter 7**

Ann Chang

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, August 13, 2020

Hearing Room 5A

10:30 AM

8:20-10043 DzineSquare, Inc.

Chapter 7

#7.30 CONT'D Hearing RE: Motion for entry of an order: Granting relief from the automatic stay pursuant to 11 U.S.C. section 362(d)(1) and Fed. R. Bankr.P.4001 to effectuate setoff pursuant to 11 U.S.C. section 533 and applicable non-bankruptcy law (RE: Lease Agreements for buildings located In Grand Prairie, Texas and Santa Fe Springs, California)

MOVANT: PROLOGIS, L.P. AND PROLOGIS TEXAS I LLC

FR: 8-4-20, Rm 5D

Docket 31

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 13, 2020**

Continue hearing to September 10, 2020 at 10:00 a.m. to allow Movant to correct service issue: Debtor was not served with the Motion as required by LBR 4001-1(c)(1)(C). Further, as Debtor is a corporation, it must be served in accordance with Fed.R.Bankr.P. (FRBP) 7004(b)(3) as required by FRBP 9014 for contested matters. Service to Debtor's attorney only is insufficient unless the attorney is authorized to accept service of process.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, August 13, 2020**

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10:30 AM

**CONT... DzineSquare, Inc.**

**Chapter 7**

Tentative ruling for 9/10/20 hearing (if unopposed): Grant relief from stay request as set forth in motion filed as Docket #30.

*Special note: For any future motions for relief from stay, counsel is admonished to comply with LBR 4001-1(b)(1) which requires that such motions be filed on court mandated forms.*

**Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required.**

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

DzineSquare, Inc.

Represented By  
Christian T Kim  
Ann Chang

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 13, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10043 DzineSquare, Inc.**

**Chapter 7**

**#7.40** CON'TD Hearing RE: Motion for entry of an order: Allowing and directing payment of administrative expense pursuant to 11 U.S.C. § 503(b)(1)

FR: 8-4-20, Rm 5D

Docket 36

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 13, 2020**

Deny motion without prejudice.

Basis for Tentative Ruling

Aside from the service issue (Debtor was not served), the motion is not supported by sufficient evidence for entitlement administrative claim under Section 503(b)(1).

Standard under § 503(b)(1)

n *In re Goody's Family Clothing, Inc.*, 610 F.3d 812, 818 (3rd Cir. 2010), a case cited by Movant, the Third Circuit held that:

**United States Bankruptcy Court  
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Judge Erithe Smith, Presiding  
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Thursday, August 13, 2020

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10:30 AM

CONT... DzineSquare, Inc.

Chapter 7

"For a commercial lessor's claim to get administrative expense treatment under § 503(b)(1), *the debtor's occupancy of the leased premises must confer an actual and necessary benefit to the debtor in the operation of its business.* See *Calpine Corp. v. O'Brien Envtl. Energy, Inc. (In re O'Brien Envtl. Energy, Inc.)*, 181 F.3d 527, 532–33 (3d Cir.1999) (citing *Cramer v. Mammoth Mart, Inc. (In re Mammoth Mart, Inc.)*, 536 F.2d 950, 954 (1st Cir.1976)). Proving this is the lessor's burden. *Id.* at 533. Thus, the Landlords "must ... carry the heavy burden of demonstrating that the ['stub rent'] for which [they] seek [ ] payment provided *an actual benefit to the estate and that [incurring 'stub rent' was] necessary to preserve the value of the estate assets.*" *Id.* (citation omitted)." (emphasis added).

As to the Texas Lease, Movant provides no evidence as to how Debtor's occupation of the premises is providing an actual benefit to the chapter 7 estate and why such occupation is necessary to preserve the value of the chapter 7 estate assets. As to the California lease, Movant admits that the premises is not occupied by Debtor at all, but by a subtenant, thereby making less likely that Movant can demonstrate benefit to the estate or necessity for the preservation of estate assets.

Even if Movant had provided evidence sufficient to meet its burden of proof under § 503(b)(1), the court would not order the immediate payment of its asserted administrative claim because 1) there is no evidence that there are funds in the estate sufficient to pay such the claim, and 2) there are other administrative expenses entitled to priority (e.g., trustee's fees, professional fees, etc) that would have to be paid on a pro rata basis with Movant and the court has no evidence of the amount of such additional administrative expenses.

*Special note: The denial of this motion does not preclude Movant from filing a proof of claim in the case, which claim would be presumed valid unless the trustee or other party in interest objects under § 502.*

**Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required and Movant shall lodge an order consistent with the same within seven days.**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 13, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... DzineSquare, Inc.**

**Chapter 7**

**Party Information**

**Debtor(s):**

DzineSquare, Inc.

Represented By  
Christian T Kim  
Ann Chang

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 13, 2020

Hearing Room 5A

10:30 AM

8:19-14381 Lorne B Reyes and Elizabeth A Reyes

Chapter 7

#7.50 CON'TD Hearing RE: Chapter 7 Trustee's Final Report and Account and Application for Final Fees and Expenses

**[KAREN SUE NAYLOR, CHAPTER 7 TRUSTEE]**

FR: 8-4-20, Rm 5D

Docket 35

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 13, 2020**

Approve fees and expenses as requested.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Applicant is required. Should an opposition party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Applicant will be so notified.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 13, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... Lorne B Reyes and Elizabeth A Reyes**

**Chapter 7**

**Debtor(s):**

Lorne B Reyes

Represented By  
John A Harbin

**Joint Debtor(s):**

Elizabeth A Reyes

Represented By  
John A Harbin

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 13, 2020**

**Hearing Room 5A**

2:00 PM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01205 Elieff et al v. Kurtin

**#8.00 CON'TD ORAL RULING Hearing RE:** Joint Motion for Summary Judgment on Claim for Mandatory Subordination of Claim Pursuant to 11 U.S.C. Section 510(b)

FR: 4-9-20; 4-23-20 (Rescheduled from 2:00 pm); 7-23-20; 7-24-20; 8-3-10

Docket 57

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**April 23, 2020**

This motion for partial summary adjudication as to the subordination claims shall be continued to July 23, 2020 at 2:00 p.m.(XX)

Basis for Tentative Ruling:

1. Defendant asserts he needs time to conduct discovery,
  2. If the tentative ruling for #2 on today's calendar stands, Plaintiffs will be filing a third amended complaint.
- 

**August 13, 2020**

**Ruling:**

The court's ruling regarding the Motion for Summary Judgment on the Subordination Claims is the Grant as to 11 U.S.C. 510(b) and Deny as to 11 U.S.C. 510(c)(2) based on the substantive analysis set forth in the Court's July 23, 2020 Tentative Ruling (see below).



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, August 13, 2020

Hearing Room 5A

2:00 PM

CONT...

Bruce Elieff

Chapter 11

**Special Comments:**

- 1. After reviewing all the pleadings, admitted evidence and caselaw, including unauthorized and late pleadings filed through August 12, 2020, as well as a close review of *In re Khan*, 846 F.3d 1058 (9th Cir. 2017) and *In re KIT Digital, Inc.*, 497 B.R. 170 (Bankr. S.D.NY.2013), the Court adopts the substance of its tentative ruling of July 23, 2020, which ruling will be memorialized in a Memorandum of Decision and/or Opinion which will also include the Court's ruling regarding the Plaintiffs' Motion for Reconsideration (Cal #9) and will be certified pursuant to FRCP 54(b)**
- 2. The Court's Evidentiary Rulings will be set forth in a separate Order that will be issued concurrently with the Memorandum of Decision.**
- 3. The Briefing on this Ruling is CLOSED. No party is to submit any pleading whatsoever.**
- 4. The Memorandum of Decision and Order re Evidentiary Objections will be issued no later than the week of September 21, 2020.**
- 5. THERE WILL BE NO ORAL ARGUMENT PERMITTED TODAY RE THE RULING.**

-----  
**Tentative Ruling from July 23, 2020**

Grant the Motion as to 510(b); deny as to 510(c)(2)

Procedure for today's hearing: Plaintiffs will have up to 30 minutes for opening argument, followed by Defendant for 30 minutes and ending with 15 minutes of reply by Plaintiffs (plus any unused portion of the opening argument time).

Evidentiary Rulings will not be issued until the formal findings re the ruling are

**United States Bankruptcy Court  
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Santa Ana  
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Courtroom 5A Calendar**

**Thursday, August 13, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Bruce Elieff**  
issued.

**Chapter 11**

Basis for Tentative Ruling:

Bruce Elieff ("Elieff") filed a voluntary chapter 11 on October 2, 2019, and Morse Properties, LLC ("Morse") and 4627 Camden, LLC ("Camden") filed voluntary chapter 11 petitions on October 3, 2019. On October 15, 2019, Elieff, Morse, and Camden commenced an adversary proceeding against Todd Kurtin ("Kurtin") to avoid Kurtin's \$34 million judgment lien and subordinate the claim (the "AP"). On December 11, 2019, Debtors filed a second amended complaint (the "SAC")[AP dkt. #11]. On January 9, 2020, Kurtin filed a motion to dismiss the SAC (the "Motion to Dismiss")[AP dkt. #19]. On March 3, 2020, the order granting the Committee's motion to intervene as to the first claim for relief only was entered [AP dkt. #65]. On May 7, 2020, the order granting the Motion to Dismiss in part, and denying in part [dkt. 100]. Plaintiffs Elieff, Morse, Camden, and the Committee were granted leave to amend the SAC except for any claims under 11 U.S.C. § 510(c)(2). On May 14, 2020, the third amended complaint was filed (the "TAC")[dkt. 105].

Trustee and the Committee (collectively, "Plaintiffs") now move for summary judgment on all of the claims for relief -1<sup>st</sup> Claim (Elieff), 6<sup>th</sup> Claim (Morse), and 9<sup>th</sup> Claim (Camden)] seeking mandatory subordination of Kurtin's claims § 510(b) [AP dkt. #57]. Kurtin opposes the Motion.

Summary Judgment Standard

A party seeking summary judgment bears the initial responsibility of demonstrating the absence of a genuine issue of material fact, and establishing that it is entitled to judgment as a matter of law as to those matters upon which it has the burden of proof. *Celotex Corporation v. Catrett*, 477 U.S. 317, 323 (1986). The opposing party must make an affirmative showing on all matters placed in issue by the motion as to which it has the burden of proof at trial. *Id.* at 324. The substantive law will identify which

**United States Bankruptcy Court  
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Santa Ana  
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5A

2:00 PM

CONT...

**Bruce Elieff**

**Chapter 11**

facts are material. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. *Id.* A factual dispute is genuine where the evidence is such that a reasonable jury could return a verdict for the nonmoving party. *Id.* The court must view the evidence presented on the motion in the light most favorable to the opposing party. *Id.*

In the absence of any disputed material facts, the inquiry shifts to whether the moving party is entitled to judgment as a matter of law. *Celotex*, 477 U.S. at 323. Furthermore, where intent is at issue, summary judgment is seldom granted. See, *Provenz v. Miller*, 102 F.3d 1478, 1489 (9th Cir. 1996), *cert. denied*, 118 S. Ct. 48 (1997).

Judicial Notice of Facts set forth in the State Court Appellate  
Opinions

As a preliminary matter, the California Court of Appeals previously issued two opinions related to this matter: *Kurtin v. Elieff* ("*Kurtin I*"), 215 Cal.App.4<sup>th</sup> 455 019 (2013) and *Kurtin v. Elieff* ("*Kurtin II*"), 2019 WL 4594775 \*1 (Cal. Ct. App. 4<sup>th</sup> Sep. 23, 2019). See, Debtors' RJN. [AP dkt. #61], Ex. 1-2. Plaintiffs argue that "there is no dispute over the material facts, which were established in Kurtin I and Kurtin II." Mot., p. 5:9-10; See, Debtors RJN, p. 3:1-2 ("Therefore, the Court may take judicial notice of both the existence and *content* [Kurtin I and Kurtin II]."). The Court is aware of the limitations on taking judicial notice, even as to the opinions of another court. Under Fed.R.Evid. 201, i.e., that a court may take judicial notice of facts that are not subject to reasonable dispute in that 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," See, *Lee v. City of Los Angeles*, 250 F.3d 668, 690 (9th Cir. 2001)(" when a court takes judicial notice of another court's opinion, it may do so "not for the truth of the facts recited therein, but for the existence of the opinion, which is not subject to reasonable dispute over its authenticity.") See also, *Mazzocco v. Lehavi*, 2015 WL 12672026, at \*4 (S.D. Cal. Apr. 13,

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2015)(declining to take judicial notice of facts within a state appellate court opinion)

In this matter, the Court may certainly take judicial notice of the Kurtin I and Kurtin II opinions and the adjudicated rulings therein. However, it would not be appropriate to take judicial notice of non-adjudicative factual characterizations in either opinion. For example, as noted by Kurtin, the issue of whether the Settlement Agreement "arose from" the purchase or sale of securities within the context of 11 U.S.C. § 510(b) was not before the California appellate court and, therefore, its characterization of the Settlement Agreement as a "buy out" will not be judicially noticed.

The Undisputed Facts

On June 23, 2003, Kurtin filed an action for breach of fiduciary duty, constructive fraud, misappropriation and other claims in the Orange County Superior Court, case no. 03CC0022 (the "First Lawsuit"). An amended complaint was later filed. Kurtin RJN Ex. 1-2.

The First Lawsuit was settled by settlement agreement (the "Settlement Agreement") in August 2005, a copy of which is attached as Exhibit 1 to Bruce Elieff's declaration. Debtors' Statement of Uncontroverted Facts ("SUF") 12-13; Kurtin's Statement of Genuine Disputes of Material Facts ("SGI") 12-13.

Exhibit B to the Settlement Agreements lists several entities defined as the "Joint Entities." Per the Settlement Agreement, Elieff was to be paid \$48.8 million in four installments: \$21 million, \$1.8 million, \$13.1 million, and \$12.9 million. Id.

Elieff and the Joint Entities were jointly and severally responsible for paying the first installment, but only the Joint Entities were responsible for paying the last three installments totaling \$27.8 million. SUF 19; SGI 19.

The Settlement Agreement included the following distribution clause in Section 14, "Elieff shall not take any distribution from any of the Joint Entities if such distribution prevents satisfaction of payment of the Settlement

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Payments." SUF 36; SGI 36.

Elieff made the \$21 million first installment payment. SUF 25; SGI 25. The Joint Entities made the \$1.8 million second installment, but only paid \$3.5 of the \$13.1 million third installment payment, and paid nothing on the final installment of \$12.9 million. SUF 26; SGI 26.

When Kurtin sought to enforce the agreement against the Joint Entities under section 664.6 of the Code of Civil Procedure in the context of the 2003 litigation, the trial judge denied his request on the ground that the Joint Entities were not "parties" to Kurtin's 2003 litigation. SUF 29; SGI 29.

On May 12, 2007, Kurtin received an arbitration award an arbitration award amending the Settlement Agreement to allow Kurtin to obtain Elieff's interests in the Joint Entities (which secured the Settlement Payments) and apply the same towards the satisfaction of the Settlement Payment. See, Kurtin RJN, Ex. 5. The arbitration award did not preclude any other legal or equitable remedies that Kurtin may have held.

On December 10, 2007, Kurtin filed a second lawsuit in Orange County Superior Court against Elieff and the Joint Entities, case no. 00100307 (the "Second Lawsuit") and later filed a first amended complaint. See, Kurtin RJN Ex. 7-8; SUF 33; SGI 33.

On May 20, 2010, after a bifurcated jury trial, judgment was entered in in favor of Kurtin in the amount of \$24.4 million (the "2010 Judgment"). See, SUF 37, 39; SGI 37, 39; Kurtin RJN, Ex. 9.

By published opinion dated April 16, 2013, the California Court of Appeal affirmed the 2010 Judgment's finding of liability against Elieff and the trial court's order granting a new trial as to damages only. *Kurtin I*, 215 Cal. App. 4th 455.

On March 13, 2017, Kurtin's new trial as to damages was held. Kurtin RJN Ex. 11.

On November 20, 2017, the state court entered an amended judgment

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in favor Kurtin in the amount of \$20.3 million for Elieff's breach of the distribution provision in section ¶14 of the Settlement Agreement (the "2017 Judgment"). RJN Ex. 11.

On September 23, 2019, the California Court of Appeal reduced the principal amount of the 2017 Judgment by \$3,546,862.07 and ordered that prejudgment interest calculated be based on the reduced damage award. *Kurtin II*, 2019 WL 4594775, at \* 4 and 6.

Kurtin has filed proofs of claim against Debtors based on the 2017 Judgment, as subsequently amended on February 4, 2020. See, Kurtin RJN, Ex. 14-17.

Plaintiffs have Carried their Burden Establishing the Absence of  
Genuine Dispute Regarding the Material Fact of Whether the  
Settlement Agreement is an Agreement for the Purchase and Sale of  
Securities

The Ninth Circuit has adopted a broad interpretation of what constitutes "a claim arising from the purchase or sale of a security." *Am. Wagering, Inc.*, 493 F.3d at 1072. 1072. "[T]he statute sweeps broadly...and reaches even ordinary breach of contract claims so long as there is a sufficient nexus between the claim and the purchase of securities." *In re Tristar Esperanza Properties, LLC*, 782 F.3d 492, 495 (9th Cir. 2015); *Am. Wagering, supra*, at 1072 ("As noted above, a number of courts, including this one, have held that breach of contract claims may be subordinated under section 510(b) where there exists some nexus or causal relationship between the claim and the purchase of the securities....").

In assessing the "arising from" element, the courts focus upon the origin or source of the claim. "The phrase 'arising from' as employed in § 510(b) 'connotes, in ordinary usage, something broader than causation' and is instead 'ordinarily understood to mean originating from, having its origin in, growing out of, or flowing from or in short, incident to, or having connection with." *In re Del Biaggio*, 834 F.3d 1003, 1009 (9<sup>th</sup> Cir. 2016).

"[T]he status of the claim on the date of the petition does not end the §

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510(b) inquiry," so the "critical question for purposes of § 510(b), then, is not whether the claim is debt or equity at the time of the petition, but rather whether the claim *arises from* the purchase or sale of a security." Tristar, 782 F.3d at 497 (emphasis in original). To that end, courts may "look behind" a judgment to determine whether the claim arises from the purchase or sale of securities. See, *Am. Wagering*, 493 F.3d at 1071 (analyzing the terms of the underlying consulting contract to determine whether a money judgment based on the value of stock arose from the purchase or sale of securities); *Betacom*, 240 F.3d at 831-32 (remanding to the bankruptcy court the determination of whether two promissory notes arose from the purchase or sale of stock because "there is little evidence in the record to explain their origin" and directing that if the promissory notes are "linked" to a merger agreement, they should be subordinated); See also, *In re SeaQuest Diving, LP*, 579 F.3d 411, 425 (5<sup>th</sup> Cir. 2009)("Rather, the court must look behind the judgment and examine the totality of the circumstances to determine whether the transaction is a 'rescission of a purchase or sale of a security of a debtor.'").

Here, Plaintiffs have carried their burden to demonstrate the lack of a genuine dispute over the material fact of whether the Settlement Agreements is an agreement to purchase or sale securities. The Settlement Agreement requires Kurtin to transfer his interest in the SunCal LLCs to Elieff, and transfer his interests in the trade name "SunCal". Moreover, that the Settlement Agreement includes a clause requiring Kurtin to not "solicit any SunCal employees for employment for a period of one year." See, Elieff Decl., Ex. 1 (the Settlement Agreement), p. 1-4. These terms would appear to support Plaintiffs argument that the Settlement Agreement was an agreement, at least in part, for the purchase or sale of securities.

As discussed above, to determine the "origin" of a claim, the Court may "look behind" the relevant documents to the circumstances giving rise to the claim at issue. And to the extent that both parties have, in either their pleadings or evidentiary objections, argued that the parol evidence should bar the Court's review beyond the Settlement Agreement (while, ironically, both offering parol evidence in the form of financial statements, deposition

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transcripts, appellate briefs, etc. in support of a favorable interpretation of the Settlement Agreement), such argument is unpersuasive in light of Settlement Agreement terms appearing to support both positions (as discussed above).

Moreover, and more importantly, as cited above, Ninth Circuit law provides the Court should not limit its review to the face of the Settlement Agreement. See, *Am. Wagering*, 493 F.3d at 1071 (analyzing the terms of the underlying consulting contract to determine whether a money judgment based on the value of stock arose from the purchase or sale of securities); *Betacom*, 240 F.3d at 831-32 (remanding to the bankruptcy court the determination of whether two promissory notes arose from the purchase or sale of stock because "there is little evidence in the record to explain their origin" and directing that if the promissory notes are "linked" to a merger agreement, they should be subordinated); See also, *In re SeaQuest Diving, LP*, 579 F.3d 411, 425 (5<sup>th</sup> Cir. 2009)("Rather, the court must look behind the judgment and examine the totality of the circumstances to determine whether the transaction is a 'rescission of a purchase or sale of a security of a debtor.'").

In this case, the Court can look behind the Judgment to the Settlement Agreement and find that Settlement Agreement "arises" from the purchase and sale of securities. The undisputed fact is that the Settlement Agreement required Kurtin to transfer his interests in the Joint Entities to Elieff. See, SUF 12-13; SGI 12-13 (the Settlement Agreement). While Kurtin argues that the Settlement Agreement is not an agreement to purchase or sale securities but rather an agreement to end the partnership between Elieff and Kurtin (and a partnership interest is not a security under the Code), this argument ignores the plain language of § 510(b) which does not "require that the underlying agreement for a purchase and sale of the security need be solely an agreement for the purchase and sale of the security." Pl. Joint Reply [dkt. 127], p. 17. The undisputed fact remains that at least a part of the Settlement Agreement required Kurtin to transfer his interest in the Joint Entities, which Kurtin did via assignments to Elieff. See, Elieff Supp. Decl., p. 2-4, ¶¶8-22 and Ex. 1-15 (assignments from Kurtin to Elieff).



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Moreover, Kurtin's reliance on *In re Khan*, 846 F.3d 1058, 1063 (9th Cir. 2017) to argue that there is not a sufficient nexus between Kurtin's damages and the purchase or sale securities if the Court only looks at "conduct" that gave rise to the Judgment (which was Elieff diversion of funds from the Joint Entities in violation of ¶14 of the Settlement Agreement) is unpersuasive because *Khan* is factually distinguishable. Kurtin Supp. Opp'n [dkt. 120], p. 17-20.

Unlike *Khan*, in which the court emphasized that the damages sought for securities that were converted years after the sale of the securities were sold "were not remotely related to the purchase," 846 F.3d at 1064, here Kurtin's damages, in contrast, are directly related to the purchase of securities which was at least one part of the Settlement Agreement. Pl. Joint Reply [dkt. 127], p. 10-12. Moreover, unlike the damages in *Khan* that was based on a tort, Kurtin's damages in the Judgment were based on a breach of contract claim. See *id.*, p. 13. Additionally, unlike *Khan*, in which the Court noted tortious conversion of stock is not one of the risks that a purchaser of stock assumes, the non-payment of Settlement Payments was a risk that Kurtin willingly assumed evidenced by the fact that the parties contracted to include ¶14 in the Settlement Agreement. See *id.*

The Court also need not necessarily adopt the "but for" test advocated by Plaintiffs because, even as Plaintiffs acknowledge, the Ninth Circuit has not adopted the "but for" test even though it has explicitly endorsed circuit court cases that do so in holding that "arising from" should be given an "expansive "some nexus" reading." See, Pl. Joint Reply [dkt. 127], p. 8-10 (citing *In re Del Biaggio*, 834 F.3d 1003, 1009 (9th Cir. 2016)). The Ninth Circuit, however, has stated that, "the statute sweeps broadly...and reaches even ordinary breach of contract claims so long as there is a sufficient nexus between the claim and the purchase of securities." *In re Tristar Esperanza Properties, LLC*, 782 F.3d 492, 495 (9th Cir. 2015); *Am. Wagering, supra*, at 1072 ("As noted above, a number of courts, including this one, have held that breach of contract claims may be subordinated under section 510(b) where there exists some nexus or causal relationship between the claim and the purchase of the securities...."). "The phrase 'arising from' as employed in §

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510(b) 'connotes, in ordinary usage, something broader than causation' and is instead 'ordinarily understood to mean originating from, *having its origin in*, growing out of, or flowing from or in short, *incident to, or having connection with.*" *Del Biaggio*, 834 F.3d at 1009.

Here, the Court finds that the Judgment has its origin, is incident to, and has a connection to the Settlement Agreement, which itself is an agreement, at least partially, to purchase and sale of securities of Debtors' affiliates, the Joint Entities. As discussed above, because § 510(b) does not require that the underlying agreement only and entirely be an agreement to purchase or sale securities, how much of the Settlement Payments can be allocated to the securities transferred (versus allocated to Kurtin's other obligations under the Settlement Agreement) is not a material fact that is determinative of the application of §510(b)

Kurtin's further argues that, even if the Settlement Agreement was partly an agreement to purchase or sale of securities, the "sale" of securities was completed after Kurtin transferred his interest and Kurtin made the first \$21 million payment. See, Elieff Supp. Decl., p. 11. Thus, because Kurtin had no further personal liability for the remaining Settlement Payments, and the Judgment is ultimately based on non-payment of these remaining Settlement Payments, the Judgment is not an agreement to purchase or sale agreements. *Id.* However, "the June 11, 2007 Amended Arbitration Award, which constituted an amendment to the Settlement Agreement, provided that if the Joint Entities missed a buyout payment, Kurtin's remedy was to take back from Elieff the equity interests in the Joint Entities that he had sold to Elieff. ECF No. 59, Ex. 4." Pl. Joint Reply [dkt. 127], p. 14-15. This provision in the arbitration award did not create a lien on Kurtin's interests in the Joint Entities because it did not provide that Kurtin would need to foreclose on that lien. Instead, Kurtin held the "right to require" Elieff to transfer the Kurtin's interest in the Joint Entities, and Elieff was required to, back to Kurtin if the full Settlement Payments were not received. See, Elieff Decl. [dkt. 59], Ex. 4.

Judicial estoppel, also known as the doctrine of inconsistent positions, is a common law principle that "generally operates to preclude a party from

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asserting a position in a legal proceeding inconsistent with a position taken by that party in the same or a prior litigation." § 6:1.Overview, Bankr. Evid. Manual § 6:1 (2018 ed.)(citation omitted). The purpose of judicial estoppel is to "protect the integrity of the judicial process by prohibit parties from deliberately changing positions according to the exigencies of the moment." *Ah Quin v. County of Kauai Dept. of Transp.*, 733 F.3d 267, 270-71 (9th Cir. 2013)(citing *New Hampshire v. Maine*, 532 U.S. 742, 749-50 (2001).

"Judicial estoppel is a discretionary doctrine, applied on a case-by-case basis." *Id.* While judicial estoppel "is 'probably not reducible to any general formulation of principle,' the following factors "typically inform the decision" of whether to apply to judicial estoppel: (1) a party's later position is clearly inconsistent with its earlier position, (2) the party persuaded the court to accept the earlier position, so that the court's acceptance of the later position "would create the perception that either the first or the econ court was misled," and (3) the party asserting the inconsistent position will receive an "unfair advantage or impose an unfair detriment on the opposing party if not estopped." *Ah Quin, supra*, at 270. These factors, however, "do not establish inflexible prerequisites or an exhaustive formula for determining the application of judicial estoppel" and additional considerations may be appropriate in specific factual contexts. *Id.* at 270-72. Moreover, "it may appropriate to resist application of judicial estoppel when a party's prior position was based on inadvertence or mistake." *Ah Quin, supra*, at 271 (finding vacating and remanding district court's summary judgment because the determination of "mistake" and "inadvertence" within the context judicial estoppel required inquiry into the debtor's subjective intent when completing the bankruptcy schedules and omitting a litigation claim).

Here, Kurtin's alleged admissions that specifically reference the Settlement Agreement as "buy out" do appear to have been made in pleadings in the state court litigation. Though Plaintiffs make a strong argument for judicial estoppel, application of this equitable doctrine is not necessary for the Court to find as a matter of law that the Settlement Agreement involved the purchase and sale of a security within the meaning of §510(b). Stated otherwise, Plaintiffs have carried their burden to demonstrate

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the absence of a material fact that the Settlement Agreement was, at least in part, an agreement for Kurtin to sell his securities in the Joint Entities, at least the directly owned Joint Entities, within the context of the Elieff and Kurtin ending their partnership.

Kurtin's Request for Further Discovery is Denied

Kurtin again requests that the Motion be denied because Kurtin has purportedly not had an opportunity to complete discovery related to Debtor's affiliations, how much of the Settlement Payments was allocated to any alleged "buyout" amount, and Kurtin's "old and cold" defense. See, Kurtin Supp. Opp'n [dkt. 120], p. 32-38. First, as discussed above, there is no dispute that at least the directly owned Joint Entities were affiliates of Debtor. Pl. Joint Reply [dkt. 127], p. 23-24. Also, as discussed above, there is no requirement that the entire agreement at issue be an agreement for the sale or purchase of securities. So, while the Court previously mentioned that it had a question on whether any amount of the Settlement Payments could be allocated to Kurtin's transfer of the SunCal's names (and Plaintiffs dispute that Kurtin had any interest in the SunCal names), a determination of how the Settlement Payments were allocated is not necessary. See, Committee Supp. Br., p. 6-8; Contra, Kurtin Supp. Opp'n [dkt. 120], p. 20-28.

With regards to Kurtin's "Old and Cold" defense, this defense has not been adopted by the Ninth Circuit so no discovery related to this defense is required. See, Committee Supp. Br., p. 8-9; Pl. Joint Reply [dkt. 127], p. 28-29 (top of page). Even Kurtin admits that Ninth Circuit has not adopted the "old and cold" defense. See, Kurtin Supp. Opp'n [dkt. 120], p. 38. At best, the Ninth Circuit discussed the defense in a footnote in *In re Tristar Esperanza Properties, LLC*, 782 F.3d 492 fn. 4. (9th Cir. 2015) and found that it did not need to decide whether the "old and cold" defense can ever be available. See, Pl. Joint Reply [dkt. 127], p. 28 (top of page), ln. 20-28. Further, no "subsequent published case from a court in the Ninth Circuit has even mentioned the so-called "old and cold" defense, much less applied it." *Id.* Accordingly, Kurtin's request to deny the Motion based on his need for

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further discovery should be denied.

Section 510(c)(2) does not apply to mandatory subordination under § 510(b)

In its ruling on the Motion to Dismiss, the Court dismissed the claims for relief based on § 510(c)(2) with prejudice. See, Order Granting in Part and Denying in Part Motion to Dismiss Second Amended Complaint and Scheduling Order (the "12(b)(6) Order") [dkt. 100], Ex A, p. 12-13 of the tentative ruling. The instant Motion requests relief under § 510(c)(2) but the Motion was filed before that ruling. The Court understands that Plaintiffs have filed a motion for reconsideration of the dismissal of the 510(c)(2) claim for relief that is set for hearing on August 6, 2020. I included it in this tentative ruling because it was part of the Motion.

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot

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Adv#: 8:19-01205 Elieff et al v. Kurtin

**#9.00** CON'TD Hearing RE: Joint Motion for Reconsideration or, Alternatively, Entry of Partial Final Judgment Under FRCP 54(b) or Certification Under 28 U.S.C. Section 1292(b)

FR: 8-6-20

Docket 107

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 13, 2020**

Grant in part; deny in part: Grant request for partial final judgment under FRCP 54(b); deny all other relief.

**Oral Argument Procedure for Today's Hearing:**

- 1. If Movants wish to address the Tentative Ruling, they will have 30 minutes to do so and Respondent will have 30 minutes to respond. Movants may reserve a portion of the 30 minutes for final argument following Respondent's arguments.**
- 2. If Movant wish to rest on the Tentative Ruling and only respond to any oral argument by Respondent, they may waive opening argument and use the 30 minutes to respond.**

**Additional Notes:**

- 1. The ruling on the Motion will be set forth in a Memorandum of Decision and/or Opinion that will include the Court's ruling on the**

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**Motion for Summary Judgment (Cal. #8) and will be issued subsequent to this hearing but no later than the week of September 21, 2020.**

**2. Unless specifically authorized at today's hearing, no party shall file any subsequent substantive pleading without leave of the court.**

**3. The parties are encouraged to meet and confer regarding a mutual resolution.**

Basis for Tentative Ruling.

On October 15, 2019, Elieff, Morse, and Camden filed an adversary complaint against Todd Kurtin ("Kurtin") to avoid Kurtin's \$34 million judgment lien and subordinate the claim (the "AP"). On December 11, 2019, Debtors filed a second amended complaint (the "SAC")[AP dkt. #11]. On January 9, 2020, Kurtin filed a motion to dismiss the SAC (the "Motion to Dismiss")[AP dkt. #19]. On March 3, 2020, the order granting the Committee's motion to intervene as to the first claim for relief only was entered [AP dkt. #65].

On May 7, 2020, the order granting the Motion to Dismiss in part, and denying in part was entered [dkt. 100]. Plaintiffs Elieff, Morse, Camden, and the Committee were granted leave to amend the SAC except for any claims under 11 U.S.C. § 510(c)(2) (the "May 7 Order"). On May 14, 2020, the third amended complaint was filed (the "TAC")[dkt. 105].

The Court's oral ruling on Trustee and the Committee's motion for summary judgment on the § 510(b) mandatory subordination claim for relief (the "MSJ") is set for hearing with this motion.

A. Reconsideration

1. Legal standard for reconsideration under FRCP 59(a)

FRCP 59(a)(1), made applicable herein by Rule 9023, states that, after a nonjury trial, a new trial may be granted "on all or some of the issues . . . for any reason for which a rehearing has heretofore been granted in a suit in equity in federal court". "Rule 59 does not specify the grounds on which a

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motion for a new trial may be granted." *Zhang v. Am. Gem Seafoods, Inc.*, 339 F.3d 1020, 1035 (9th Cir.2003). However, there are three well-recognized grounds for granting new trials in court-tried actions under FRCP 59(a)(2): (1) manifest error of law; (2) manifest error of fact; and (3) newly discovered evidence. *Brown v. Wright*, 588 F.2d 708, 710 (9th Cir. 1978); 6A Moore's Federal Practice P 59.07 at 59-94.

The Court's Prior Ruling Regarding § 510(c)(2) in the May 7

Order

In relevant part, the Court ordered the following in the May 7 Order: "Plaintiffs shall file any amended complaint... except as to Plaintiffs' claim under 11 U.S.C. §510(c)(2) which is dismissed without leave to amend." The dismissal of the relief requested under §510(c)(2) with prejudice was based upon the Court's conclusion that §510(c)(2) does not apply to the mandatory subordination provision of § 510(b). More specifically, the Court found that the natural and logical reading of 510(c) is that subsections (1) and (2) relate to *equitable* subordination only, to the exclusion of the mandatory subordination provisions of 510(b). Further, the Court found instructive the observation of the First Circuit in *In re Merrimac Paper Co., Inc.*, 420 F.3d 53, 65 (1st Cir. 2005) that "a lien can only be transferred under [§ 510(c)(2)] when the underlying claim has been equitably subordinated."

Manifest Error

By the Motion, Trustee and the Committee (collectively, "Plaintiffs") argue that the Court committed manifest error by dismissing Plaintiffs' claims under §510(c)(2) in the SAC in part because § 510(c)(2) is a remedy, not a "cause of action" and, therefore, dismissal of such remedy at pleading stage is premature. See, Mot., p. 8-9. Plaintiffs also contend that the Court erred by relying on the *Merrimac* decision because the issue before the First Circuit was solely equitable subordination and not mandatory subordination. Finally, Plaintiffs maintain that the Court misread the plain language of § 510(c)(2). See, Reply, p. 3-7.

First, with respect to Plaintiffs' argument that it was improper to dismiss the remedy of § 510(c)(2) at the pleading stage, the Court agrees that



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§ 510(c)(2) is a remedy and acknowledged as much in the May 7 Order. However, in the Court's view, § 510(c)(2) is a remedy only available for equitable subordination and Plaintiffs did not allege any equitable subordination causes of action in the SAC. See, May 7 Order, p. 12-13 (bottom of page); see generally, the SAC. Accordingly, this argument does not support reconsideration.

Second, while *Merrimac* is neither binding on this Court or on "all fours," in that the First Circuit was not called upon to decide the applicability of §510(c)(2) to § 510(b), the Court nevertheless finds its holding instructive as far as it goes, i.e., that "a lien can *only* be transferred under [§ 510(c)(2)] when the underlying claim has been *equitably* subordinated." 420 F.3d at 65.(emphasis added). Plaintiffs have not presented more persuasive authority. Ultimately, the Court's reference to the instructive value of *Merrimac* does not constitute manifest error.

Finally, having reviewed the Motion and Reply filed by the Plaintiffs, the Court is not persuaded that it erred in its interpretation of the interplay between 510(b) and 510(c)(2). Section 510(c) provides:

(c) Notwithstanding subsections (a) and (b) of this section, after notice and a hearing, the court may—

(1) 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 or all or part of an allowed interest to all or part of another allowed interest; or

(2) order that any lien securing such a subordinated claim be transferred to the estate.

Section 510(c)(2) permits the transfer to the estate of any lien securing "such" a subordinated claim. This Court interprets "such" as referring back to a claim subordinated under the preceding subsection 510(c)(1). Indeed, as structured, 510(c) creates a subordination completely separate and different from mandatory subordination created under 510(b). The Court agrees with Kurtin that "the syntax of Section 510(c) is structured so that said section is

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**CONT...**

**Bruce Elieff**

**Chapter 11**

read as a single sentence independently of subsections (a) and(b)." Opposition, p.9. This reading of 510(c) is supported by the subsection's preamble, "[n]otwithstanding subsections (a) and (b) of this section," which signals Congress' intent to provide a special remedy for equitably subordinated claims. Plaintiffs' argument might be more persuasive to the Court if 510(c)(2) simply read "order that any lien securing a subordinated claim . . ." or even "order that any lien securing any subordinated claim . . . ."

Rule 54(b) Certification

Under FRCP 54(b), made applicable herein by FRBP 7054, states that "[w]hen an action presents more than one claim for relief...or when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay."

"Rule 54(b) controls the analysis of finality of judgments for purposes of appeal in federal civil actions, including bankruptcy adversary proceedings... Rule 54(b) reflects the federal policy against piecemeal appeals and waste of judicial resources." *In re Belli*, 268 B.R. 851, 855 (B.A.P. 9th Cir. 2001) (citing *Curtiss-Wright Corp. v. General Elec. Co.*, 446 U.S. 1, 8 (1980)). To make a Rule 54(b) certification, the court must make the "express determination that there is no just reason for delay, together with an express direction that judgment be entered." *Id.* "A mere reference to Rule 54(b) without both the express determination and express direction does not suffice... Either the so-called "Rule 54(b) certification" or "Rule 54(b) order" appears on the face of the record using mandated express language or it is absent." *Id.*

"If there is a Rule 54(b) certification, it is treated as a final order over which appellate jurisdiction exists "as of right" under 28 U.S.C. § 158(a)(1). If there is no Rule 54(b) certification, then the order is interlocutory, and appellate jurisdiction depends upon whether the appellate court grants leave to appeal under 28 U.S.C. § 158(a)(3)." *Belli*, 268 B.R. at 856.

To determine whether certification is appropriate under FRCP 54(b), the Supreme Court has "outlined the steps to be followed in making

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determinations under Rule 54(b)." See, *Curtiss-Wright Corp. v. Gen. Elec. Co.*, 446 U.S. 1, 7 (1980). A court "must first determine that it is dealing with a 'final judgment'" in the "sense that it is a decision upon a cognizable claim for relief, and it must be 'final in the sense that it is 'an ultimate disposition of an individual claim entered in the course of a multiple claims action.'" *Id.*

After a finding of finality, the court must determine "whether there is any just reason for delay... It is left to the sound judicial discretion of the district court to determine the 'appropriate time' when each final decision in a multiple claims action is ready for appeal... This discretion is to be exercised 'in the interest of sound judicial administration.'" *Curtiss-Wright*, 446 U.S. at 8 (citations omitted). "[I]n deciding whether there are no just reasons to delay the appeal of individual final judgments in setting such as this, a district court must take into account judicial administrative interests as well as the equities involved." *Id.* "Certification is proper if it will aid 'expeditious decision' of the case." *In re Bowen*, 198 B.R. 551, 555 (B.A.P. 9th Cir. 1996)(citing *Texaco, Inc. v. Pensoldt*, 939 F.2d 794, 798 (9th Cir. 1991).

Thus, "[t]hree conditions must be satisfied before certification of a claim under Federal Rule of Civil Procedure 54(b): (1) multiple claims or parties are involved in the suit; (2) a final decision as to one or more claims or parties has been rendered; and (3) the court finds that there is no just reason for delaying an appeal." *Sitrick v. Dreamworks, LLC*, 2007 WL 9711434, at \* 2 (C.D. Cal. Jan. 4, 2007)(citing *Curtiss-Wright, supra*, at 7-8).

Turning to the instant matter, the first condition is satisfied because the AP includes multiple claims against Kurtin- including claims under § 510(c) and avoidance causes of action. See generally, the SAC and TAC. The second condition is also satisfied because with the Court's oral ruling and granting of the MSJ, the Court will have rendered a final decision on all of the claims under §510 (the 1<sup>st</sup>, 7<sup>th</sup>, and 10<sup>th</sup> claims for relief in the SAC, and the 1<sup>st</sup>, 6<sup>th</sup>, and 9<sup>th</sup> claims for relief in the TAC). A judgment is final if the judgment "is an ultimate disposition of an *individual claim* entered in the course of a multiple claims action."

*Wood v. GCC Bend, LLC*, 422 F.3d 873, 878 (9th Cir. 2005) (emphasis added). Thus, all claims for relief or remedies alleged under § 510 will be

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ultimately disposed of with the Court's ruling on the MSJ and this Motion.

Finally, the third condition is satisfied because the Court expressly determines that there is no just reason for delay. Kurtin's argument against certification under FRCP 54(b) is based on the argument that Plaintiffs' § 510(c) claims are inextricably intertwined with their § 510(b) claims and litigation will continue with regards to the § 510(c) claims. See, Opp'n, p. 19-21. This argument is no longer persuasive because the Court will be rendering a final order on the § 510(b) claim by granting the MSJ. See, Reply, p. 9.

Further, taking into account the judicial administrative interests and equities of this case, there is no just reason for delay because (assuming the MSJ is also appealed with the Court's ruling on the (c)(2) dismissal) the appellate court will be hearing all issues related to § 510 at the same time, so there is no possibility of piecemeal appellate litigation regarding the § 510 claims. See, Reply, p. 9:17-10:2. Moreover, certifying the May 7 Order will streamline the AP and the § 510(c) claims are "sufficiently severable factually and legally from the remaining matters" regarding avoidance actions. See, *Cont'l Airlines, Inc. v. Goodyear Tire & Rubber Co.*, 819 F.2d 1519, 1525 (9th Cir. 1987)(holding that FRCP 54(b) certification was proper because, in part, "the matters disposed of by the partial summary judgments were sufficiently severable factually and legally from the remaining matters[.]"). Plaintiffs also concede that a favorable ruling on the § 510(b) and (c) claims will likely streamline the AP because it will moot out the need for the estate to incur further fees litigating the avoidance claims. See, Reply, p. 10:3-9.

Finally, while Trustee has moved to convert the case to chapter 7, resolution of the § 510 claims will still be relevant for chapter 7 purposes. Indeed, Kurtin's Liens are clearly a barrier to any potential distribution to general unsecured creditors in chapter 7 (or 11). Indeed, this matter would already be an "asset" chapter 7 case since several of Debtor's real properties have been sold, and the status of Kurtin's Liens will need to be resolved in chapter 7 to determine whether there can be a distribution to general unsecured creditors. See also, Opp'n, p. 21:20-22:5; Reply, p. 10:10-26.

In sum, the Court grants certification of the May 7 Order under FRCP

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54(b) to allow immediate appeal of the Court's dismissal of the § 510(c)(2) claims without leave to amend.

The Court will also, *sua sponte*, certify the order granting the MSJ under FRCP 54(b). "The court notes that a court may also issue a Rule 54(b) certification *sua sponte*." *In re Hughes*, 2008 WL 597276, at \*2 (Bankr. E.D. Cal. Mar. 3, 2008)(citing 10 MOORE'S FEDERAL PRACTICE, § 54.21[1][a] (Matthew Bender 3d ed.)(construing defendant's opposition as a counter-motion for certification under FRCP 54(b)); *In re New Bern Riverfront Dev., LLC*, 2015 WL 2358464, at \*3 (Bankr. E.D.N.C. May 14, 2015) (certifying orders that were listed in exhibits under FRCP 54(b) *sua sponte*). As discussed above with regards to the § 510(c) claims, taken together, the May 7 Order and the forthcoming MSJ order are an ultimate disposition of the § 510 claims and there is no just reason for delaying the appeal of the Court's rulings on the § 510 claims.

Alternative Certification under 28 U.S.C. § 1292

Because the Court will certify the May 7 Order under FRCP 54(b), the Court declines to certify the May 7 Order under 28 U.S.C. § 1292(b) a the May 7 Order, after the Court rules on the MSJ, will be a final order as discussed above. The May 7 Order, together with the MSJ order, will be an ultimate disposition on the § 510 claims. The Court need not determine whether the May 7 Order alone should be certified as an interlocutory order. Also, as explained above, the Court will also immediately certify the MSJ order once entered under FRCP 54(b) so that the appellate court may hear the appeals of the § 510(b) and (c) claims together.

Plaintiffs' Request for Prospective Relief

The Motion requests that the Court certify that, "in the event of a reversal, the Court will transfer the Kurtin Liens to the Bankruptcy Estates pursuant to Section 510(c)(2)." See, Mot., p. 18:17-19. The Court denies this request for prospective relief and will follow the mandate of the appellate court.

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**CONT... Bruce Elieff**

**Chapter 11**

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot

**Defendant(s):**

Todd Kurtin

Represented By  
Lewis R Landau

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot

**United States Bankruptcy Court  
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**Wednesday, August 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:20-11184 Rachel Norton**

**Chapter 7**

**#1.00** Hearing RE: Pro se Reaffirmation Agreement Between Debtor and American Honda Finance Corporation (RE: 2017 Honda Civic - \$15,466.37)

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Rachel Norton

Represented By  
Tina H Trinh

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Wednesday, August 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:20-11228 Paul Stanchfield Perry and Isabel Jesus Carlos**

**Chapter 7**

**#2.00** Hearing RE: Pro se Reaffirmation Agreement Between Debtor and American Honda Finance Corporation (RE: 2019 Honda Civic - \$10,564.48)

Docket 19

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 8/19/2020 AT 10:00 A.M.,  
COURTROOM 6C BEFORE JUDGE WALLACE (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 8/19/2020 at 10:00 a.m., Courtroom  
6C before Judge Wallace (XX) - td (7/31/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

Paul Stanchfield Perry	Pro Se
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**Joint Debtor(s):**

Isabel Jesus Carlos	Pro Se
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**Trustee(s):**

Jeffrey I Golden (TR)	Pro Se
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**Wednesday, August 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:20-11365 Michael Arnoldi and Renee Arnoldi**

**Chapter 7**

**#3.00** Hearing RE: Reaffirmation Agreement Between Debtor and ACAR Leasing LTD  
(RE: 2018 GMC Trucks Terrain 2WD - \$4,346.10)

Docket 15

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Arnoldi

Represented By  
Andy C Warshaw

**Joint Debtor(s):**

Renee Arnoldi

Represented By  
Andy C Warshaw

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

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**Wednesday, August 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:20-11535 William Henry Bickford, Jr.**

**Chapter 7**

**#4.00 Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Mechanics  
(RE: 2016 Nissan Frontier - \$17,126.03)**

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

William Henry Bickford Jr.

Represented By  
Norma Duenas

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
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**Wednesday, August 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:20-11553 Carlos Gonzales and Beatriz Adriana Gonzales**

**Chapter 7**

**#5.00 Hearing RE: Pro se Reaffirmation Agreement Between Debtor and American Honda Finance Corporation (RE: 2019 Odyssey – \$25,175.00)**

Docket 11

**Courtroom Deputy:**

**August 19, 2020**

*Appearances:*

**NOTES:**

**RULING:**

**SPECIAL NOTE TO COURTROOM DEPUTY/JA :**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Carlos Gonzales

Represented By  
Marlin Branstetter

**Joint Debtor(s):**

Beatriz Adriana Gonzales

Represented By  
Marlin Branstetter

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

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**Wednesday, August 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:20-11657 Cristin Marie Sequoia**

**Chapter 7**

**#6.00** Hearing RE: Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (RE: 2018 Toyota Prius - \$20,689.53)

Docket 7

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Cristin Marie Sequoia

Represented By  
Julie J Villalobos

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

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**Wednesday, August 19, 2020**

**Hearing Room 5A**

9:30 AM

**8:20-11782 Atanacio S Santiago and Romana W Panaligan**

**Chapter 7**

**#7.00** Hearing RE: Reaffirmation Agreement Between Debtor and Orange County's Credit Union (RE: 2015 Toyota Corolla)  
**(TA CASE)**

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

Atanacio S Santiago	Pro Se
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**Joint Debtor(s):**

Romana W Panaligan	Pro Se
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**Trustee(s):**

Thomas H Casey (TR)	Pro Se
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**United States Bankruptcy Court  
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**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01216 Marshack v. Hyundai Steel Company

**#1.00** CON'TD STATUS CONFERENCE RE: Complaint For: 1. Breach of Contract; 2. Breach of Implied Covenant of Good Faith and Fair Dealing; 3. Avoidance and Recovery of Intentional Fraudulent Transfers; 4. Avoidance and Recovery of Constructive Fraudulent Transfers; 5. Avoidance and Recovery of Property of the Bankruptcy Estate; 6. Temporary Restraining Order and Preliminary Injunction; 7. Avoidance of Preferential Transfers; 8. Recovery of Avoided Transfers; 9. Substantive Consolidation; 10. Declaratory Judgment: Alter Ego

FR: 2-6-20; 4-2-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 20, 2020**

Continue Status Conference to October 1, 2020 at 2:00 p.m., same date/time as hearing on pending motion to dismiss. An updated Joint Status Report is not required.

***Note: Appearances at today's hearing are not required.***

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Hyundai Steel Company

Pro Se

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**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
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**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:18-12322 Tung Phuong Nguyen-Phuc**

**Chapter 7**

Adv#: 8:20-01054 MedPro Group Inc. v. Borges et al

**#2.00** CONT'D STATUS CONFERENCE RE: Adversary Complaint In The Nature Of Interpleader

FR: 7-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Voluntary Dismissal of an Adversary Proceeding that Does Not Involve Claims Under 11 U.S.C. Section 727 filed 7/1/2020; No Answer Filed**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Voluntary Dismissal of an Adversary Proceeding that Does Not Involve Claims Under 11 U.S.C. Section 727 filed 7/1/2020; No Answer Filed - td (7/1/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tung Phuong Nguyen-Phuc

Represented By  
Leslie K Kaufman

**Defendant(s):**

Emma Borges

Pro Se

Jeffrey Golden

Pro Se

**Plaintiff(s):**

MedPro Group Inc.

Represented By  
Paul L Gale

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By  
Richard A Marshack



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**Thursday, August 20, 2020**

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**CONT...**

**Tung Phuong Nguyen-Phuc**

Jerome Ringler  
Neil Macy Howard  
David Wood

**Chapter 7**

**United States Bankruptcy Court  
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**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:18-13296 Roman Gabriel Machutt**

**Chapter 7**

Adv#: 8:20-01073 Weneta M.A. Kosmala v. Machutt

**#3.00** CON'TD STATUS CONFERENCE RE: Complaint for Revocation of the Debtor's Discharge Pursuant to 11 U.S.C. Section 727(d) and Rule 7001(4) of the Federal Rules of Bankruptcy Procedure

FR: 7-23-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Default Judgment  
Entered 8/7/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Default Judgment Entered 8/7/2020 - td (8/7/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 23, 2020**

In light of the pending motion for default judgment, continue the status conference to August 20, 2020 at 9:30 a.m. An updated status report is not required if a default judgment has been entered on or prior to August 6, 2020.  
(XX)

***Note: As Defendant has not made an appearance in this adversary, appearance at this status conference is not required and Plaintiff shall***

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**CONT... Roman Gabriel Machutt**

**Chapter 7**

***give notice of the continued hearing date/time.***

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

**Debtor(s):**

Roman Gabriel Machutt

Represented By  
Brian J Soo-Hoo

**Defendant(s):**

Roman Gabriel Machutt

Pro Se

**Plaintiff(s):**

Weneta M.A. Kosmala

Represented By  
Faye C Rasch

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Reem J Bello

**United States Bankruptcy Court  
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**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-10917 Alice L. Madonna Zimmerman**

**Chapter 7**

Adv#: 8:19-01123 Will v. Madonna Zimmerman

**#4.00** CON'TD STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt Pursuant to 11 U.S.C. §§523(a)(20, 523(a)(4), and 523 (a)(6)

FR: 9-19-19; 12-19-19; 4-16-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**September 19, 2019**

Continue status conference to December 19, 2019 at 9:30 a.m.; updated joint status report must be filed by December 5, 2019. (XX)

Basis for Tentative Ruling:

Relief from stay was granted to permit the probate matter to proceed on all issues other than a determination regarding ownership of the subject property. See Plaintiffs Reply to Defendant's Opposition to the RFS Motion at p. 2, lines 27-28. In order to award "damages" the probate court must necessarily determine whether Defendant's alleged conduct warrants a judgment of damages in Plaintiff's favor. Accordingly, Defendant's

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9:30 AM

CONT... Alice L. Madonna Zimmerman

Chapter 7

interpretation of the scope of the stay relief granted is flawed.

**Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required.**

-----  
**December 19, 2019**

In light of pending probate action, continue this status conference to April 16, 2020 at 9:30 a.m.; updated joint status report must be filed by April 2, 2020.  
(XX)

**Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall serve notice of the continued hearing date/time.**

-----  
**April 16, 2020**

Based upon the request of the parties, continue the status conference to August 20, 2020 at 9:30 a.m.; updated joint status report must be filed no later than August 6, 2020. (XX)

**Note: Appearances at this status conference are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling. Plaintiff shall serve notice of the continued hearing date/time.**

-----  
**August 20, 2020**

In light of court ordered mediation, continue Status Conference to November 5, 2020 at 9:30 a.m.; updated Joint Status Report must be filed by October 22, 2020.

**Note: Appearances at today's hearing are not required.**

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**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

CONT... Alice L. Madonna Zimmerman

Chapter 7

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

**Debtor(s):**

Alice L. Madonna Zimmerman

Represented By  
Leslie K Kaufman

**Defendant(s):**

Alice L. Madonna Zimmerman

Pro Se

**Plaintiff(s):**

Lisa Will

Represented By  
Bert Briones

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Reem J Bello

**United States Bankruptcy Court  
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**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-11551 Richard Allen Rietveld**

**Chapter 7**

Adv#: 8:19-01162 Becharoff Capital Corporation v. Rietveld

**#5.00** CONTD PRE-TRIAL CONFERENCE RE: Complaint Objecting To Debtor's Discharge Under 11 U.S.C. Section 727(a)(2), 727(a)(3), 727 (a)(4) and 727(a)(5)

FR: 11-7-19; 5-21-20

Docket 1

**Courtroom Deputy:**

**SPECIAL NOTE: Stipulation to Continue Pre-trial Conerence filed 8/19/2020; Order Approving Stipulation to Continue Pre-trial Conference to 10/1/2020 at 9:30 am Lodged in LOU on 8/19/2020, Order #10285630 - td (8/19/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**November 7, 2019**

Discovery Cut-off Date:	April 1, 2020
Pretrial Conference Date:	May 21, 2020 at 9:30 a.m.
(XX)	
Deadline to File Joint Pretrial Stipulation:	May 7, 2020

**Note: If all parties agree with the foregoing schedule, appearances at**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, August 20, 2020

Hearing Room 5A

9:30 AM

CONT... Richard Allen Rietveld

Chapter 7

*today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.*

-----

**August 20, 2020**

If more time is needed for settlement discussions, continue the pretrial conference to October 1, 2020 at 9:30 a.m. Plaintiff must file either a joint pretrial stipulation (if no settlement) or a status report (settlement reached or pending) by no later than September 22, 2020 or monetary sanctions may be imposed.

***Note: If all parties accept the foregoing tentative ruling, appearances at today's hearing are not required and Plaintiff shall serve notice of the continued hearing date/time.***

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

**Debtor(s):**

Richard Allen Rietveld

Represented By  
Alon Darvish

**Defendant(s):**

Richard Allen Rietveld

Pro Se

**Plaintiff(s):**

Becharoff Capital Corporation

Represented By  
Fritz J Firman

**Trustee(s):**

Richard A Marshack (TR)

Pro Se



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 20, 2020

Hearing Room 5A

9:30 AM

8:19-13441 Alpha Floors, Inc.

Chapter 7

Adv#: 8:20-01064 Kosmala v. H-DRAGON INTERNATIONAL CO., LTD.

#6.00 CON'TD Hearing RE: Motion for entry of default judgment against Defendant, H-  
Dragon International Co., LTD

FR: 8-4-20, Rm 5D

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Grant motion for default judgment at the federal legal rate.

*Special note: Neither the Complaint or the Motion prays for a specific judgment amount -- the Judgment needs to do so.*

**Note: This matter appears to be uncontested. Accordingly, appearance at the hearing is not required; Plaintiff shall lodge an order and judgment consistent with the same.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Alpha Floors, Inc.**

**Chapter 7**

**Debtor(s):**

Alpha Floors, Inc.

Represented By  
Eric J Fromme

**Defendant(s):**

H-DRAGON INTERNATIONAL

Pro Se

**Plaintiff(s):**

Weneta M.A. Kosmala

Represented By  
Jeffrey I Golden  
Reem J Bello  
Ryan W Beall

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Reem J Bello

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 20, 2020

Hearing Room 5A

9:30 AM

**8:19-13441 Alpha Floors, Inc.**

**Chapter 7**

Adv#: 8:20-01064 Kosmala v. H-DRAGON INTERNATIONAL CO., LTD.

**#7.00** CONT STATUS CONFERENCE RE: Complaint: (1) To Avoid preferential transfer pursuant 11 U.S.C. section 547; (2) For recovery of avoided transfer under 11 U.S.C. section 550; (3) To preserve transfer for the benefit of the Estate pursuant to 11 U.S.C. section 551; (4) Turnover of the property of the Estate pursuant to 11 U.S.C. section 542

[fr: 7/7/20]  
FR: 8-4-20, Rm 5D

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Take matter off calendar in light of granting of motion for default judgment.

**Note: Appearance at this hearing is not required.**

**Party Information**

**Debtor(s):**

Alpha Floors, Inc.

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

CONT...      **Alpha Floors, Inc.**

**Chapter 7**

Eric J Fromme

**Defendant(s):**

H-DRAGON INTERNATIONAL

Pro Se

**Plaintiff(s):**

Weneta M.A. Kosmala

Represented By  
Jeffrey I Golden

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Reem J Bello

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

Adv#: 8:19-01205 Elieff et al v. Kurtin

**#8.00** CONT'D STATUS CONFERENCE RE: Second Amended Complaint for Mandatory Subordination and Recovery of Liens Pursuant to 11 U.S.C. §§ 510(b) and 510(c)(2), Avoidance and Recovery of Preferential and Fraudulent Transfers, and Disallowance of Claims Pursuant to 11 U.S.C. §502(d)

FR: 3-5-20; 4-9-20; 4-23-20

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**April 23, 2020**

Continue Status Conference to August 20, 2020 at 9:30 a.m.; joint status report due August 6, 2020. (XX)

-----  
**August 20, 2020**

Continue Status Conference to November 19, 2020 at 9:30 a.m.; updated Joint Status Report to be filed by November 5, 2020.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

CONT... Bruce Elieff

Chapter 11

***Note: If all parties accept the foregoing tentative ruling, appearances at today's hearing is not required. Plaintiffs to serve notice of the continued hearing date/time.***

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

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot  
Lisa Nelson

**Defendant(s):**

Todd Kurtin

Represented By  
Lewis R Landau  
Edward O Morales

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Alan G Tippie  
Daniel A Lev

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:20-10436 Chandra Marie Adam**

**Chapter 7**

Adv#: 8:20-01096 Adam v. Wells Fargo Bank, N A et al

**#9.00** STATUS CONFERENCE RE: Complaint for: 1) Quiet Title; 2) Cancellation of Real Property Instruments; 3) Declaratory Relief; 4) Breach of Settlement Agreement; 5) Fraud & Deceit; 6) Injunctive Relief

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Continue Status Conference to October 8, 2020 at 2:00 p.m., same date/time as hearing on Wells Fargo's pending motion to dismiss; updated Joint Status Report not required for the October 8, 2020 hearing.

***Note: If all parties accept the foregoing tentative ruling, appearances at today's hearing are not required.***

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

**Debtor(s):**

Chandra Marie Adam

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Chandra Marie Adam**

**Chapter 7**

**Defendant(s):**

Wells Fargo Bank, N A

Represented By  
J. Barrett Marum  
Zi Chao Lin

Dino Adam

Pro Se

Trina A Adam

Pro Se

Luke Daniel Adam

Pro Se

Anthony Pietrosanto Jr

Pro Se

UFO Funding LLC

Pro Se

**Plaintiff(s):**

Chandra Marie Adam

Pro Se

**Trustee(s):**

Thomas H Casey (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:20-10730 Turner Lee Kimball, III**

**Chapter 7**

Adv#: 8:20-01094 SchoolsFirst Federal Credit Union v. Villicana

**#10.00 STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt**

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing  
Adversary Proceeding Entered 7/13/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Adversary Proceeding Entered  
7/13/2020 - td (7/13/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Turner Lee Kimball III

Represented By  
Steven A Alpert

**Defendant(s):**

Vanessa Elizabeth Villicana

Pro Se

**Joint Debtor(s):**

Vanessa Elizabeth Villicana

Represented By  
Steven A Alpert

**Plaintiff(s):**

SchoolsFirst Federal Credit Union

Represented By  
Paul V Reza

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:00 AM

**8:16-15061 Kenneth Robert Brook**

**Chapter 13**

**#11.00** Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

SCHOOLSFIRST FEDERAL CREDIT UNION

VS.

DEBTOR

Docket 37

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Kenneth Robert Brook

Represented By  
Joseph A Weber

**Movant(s):**

SCHOOLSFIRST FCU

Represented By  
Laura Johnston  
Maria L Gray  
Dioselin Hernandez  
Paul V Reza

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 20, 2020

Hearing Room 5A

10:00 AM

8:19-11449 Jill Allyn Rosoff

Chapter 13

#12.00 CON'TD Hearing RE: Motion for relief from the automatic stay  
[REAL PROPERTY]

SERVIS ONE, INC.

VS.

DEBTOR

FR: 7-23-20

Docket 48

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9/17/2020 AT 10:00 A.M.,  
Per Order Entered 8/19/2020 (XX)

Courtroom Deputy:

**CONTINUED: Hearing Continued to 9/17/2020 at 10:00 a.m., Per Order  
Entered 8/19/2020 (XX) - td (8/19/2020)**

Tentative Ruling:

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the  
COVID-19 virus, notice is hereby given that ALL hearings before Judge  
Smith will be by TELEPHONE APPEARANCE ONLY until further notice.  
The courtroom will be locked. Any party who wishes to appear must  
register in advance by contacting CourtCall at (866) 582-6878. It is  
suggested that parties register with CourtCall at least 30 minutes prior  
to the hearing. Through September 30, 2020, CourtCall is offering  
discounted registration for attorneys and free registration for parties  
without an attorney.

**August 20, 2020**

Movant to advise the court regarding the status of this matter. If additional  
time is needed by the parties, Movant may request an additional continuance  
during the clerk's calendar roll call prior to the hearing. Available continued

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Jill Allyn Rosoff**

**Chapter 13**

hearing dates: 9/3/20, 9/10/20, 9/17/20 and 10/1/20 at 10:00 a.m.

***Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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

**Debtor(s):**

Jill Allyn Rosoff

Represented By  
Kelly H. Zinser

**Movant(s):**

Servis One Inc, DBA BSI Financial

Represented By  
Reilly D Wilkinson  
Lemuel Bryant Jaquez

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 20, 2020

Hearing Room 5A

10:00 AM

8:20-10828 Hank Ku

Chapter 7

#13.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]  
FINANCIAL SERVICES VEHICLE TRUST  
VS.  
DEBTOR

Docket 22

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Grant with 4001(a)(3) waiver.

**Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Hank Ku**

**Chapter 7**

**Debtor(s):**

Hank Ku

Represented By  
Jonathan J. Lo

**Movant(s):**

Financial Services Vehicle Trust

Represented By  
Marjorie M Johnson

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-11725 Helen Weatherby**

**Chapter 11**

**#14.00** Hearing RE: Motion for Relief from the Automatic Stay [Real Property]

DAHJILING LLC

VS.

DEBTOR

Docket 32

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Grant the Motion under 362(d)(1), except that no trust deed sale may take place prior to December 18, 2020 and no physical eviction prior to January 18, 2021.

Basis for Tentative Ruling:

1. Although Movant is currently adequately protected by an equity cushion of at least 17%, interest continues to accrue on its matured note and unpaid payments continue to accrue on the senior secured debt. According to

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, August 20, 2020

Hearing Room 5A

10:00 AM

CONT... **Helen Weatherby** **Chapter 11**

Debtor's Schedule J and her Chapter 11 Status Report filed August 6, 2020, Debtor has insufficient income to make postpetition mortgage payments on the senior debt, let alone adequate protection payments on Movant's junior lien.

2. Though Debtor states in her Chapter 11 Status Report that if the property doesn't sell in 120 days, she will propose a plan of reorganization, the reality is that liquidation of the property is the only feasible option as she lacks sufficient income to make any adequate protection payments under a plan.

3. Granting relief from stay while deferring the date of any foreclosure sale by 120 days provides protection to Movant while permitting Debtor a reasonable opportunity to sell the property. The court notes parenthetically that Debtor waited nearly 60 days following the bankruptcy filing (and after the RFS motion was filed) to file an application for the employment of a broker. Accordingly, Debtor will have had nearly 180 days to sell the property from the date of the filing.

***Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required.***

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

**Debtor(s):**

Helen Weatherby

Represented By  
Bert Briones

**Movant(s):**

Dahjiling LLC

Represented By  
William D Coffee



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 20, 2020

Hearing Room 5A

10:00 AM

8:20-11774 Nicole S Barrick-Christoff

Chapter 7

#15.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

DAIMLER TRUST

VS.

DEBTOR

Docket 8

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Grant with 4001(a)(3) waiver.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Nicole S Barrick-Christoff**

**Chapter 7**

**Debtor(s):**

Nicole S Barrick-Christoff

Represented By  
Darren G Smith

**Movant(s):**

Daimler Trust

Represented By  
Sheryl K Ith

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, August 20, 2020

Hearing Room 5A

10:00 AM

8:20-11799 Heather Leigh Tolson

Chapter 13

#16.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]

RONALD L. PETERMAN

VS.

DEBTOR

Docket 27

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Continue hearing to September 10, 2020 at 10:00 a.m., to allow Movant to submit supplemental pleading re the circumstances surrounding the recordation of the *In Rem* Order; Movant must file supplemental pleading by August 27, 2020; any response by Debtor to the supplemental pleading must be filed by September 3, 2020.

Basis for Tentative Ruling:

1. The court needs to know the date on which the *In Rem* Order was first

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Heather Leigh Tolson Chapter 13**

filed with the OC county clerk for recordation and, if it was filed for the first time on June 24, 2020, why it wasn't filed earlier than June 24, 2020.

2. Debtor's evidentiary objections are overruled. This court has already made findings of lack of good faith in the filing of this case as well as the coordinated efforts of Debtor and her finance in "tag" team bankruptcy filings.

3. The court is leaning in favor of granting annulment relief but needs to resolving the timing of the *In Rem* Order first.

***Note: If both parties agree to foregoing tentative ruling, appearances at this hearing are not required.***

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

**Debtor(s):**

Heather Leigh Tolson

Represented By  
Joseph A Weber  
Fritz J Firman

**Movant(s):**

Ronald L. Peterman, a Single Man to

Represented By  
Edward T Weber

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 20, 2020

Hearing Room 5A

10:00 AM

8:20-11907 Robert Medina-Gonzales

Chapter 7

#17.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

U.S. BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL  
CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR LEGACY MORTGAGE  
ASSET TRUST 2017-RPL2

VS.

DEBTOR

Docket 7

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Grant with 4001(a)(3) waiver, including 362(d)(4) relief.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Robert Medina-Gonzales**

**Chapter 7**

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

**Debtor(s):**

Robert Medina-Gonzales

Represented By  
Peter Recchia

**Movant(s):**

U.S. Bank Trust National

Represented By  
Erin M McCartney

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-12010 Victoria Walters**

**Chapter 7**

**#18.00** Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]  
SIFU QI  
VS.  
DEBTOR

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Grant Motion with all relief requested except Relief Request #s 10 and 11. Overrule Debtor's objections.

Basis for Tentative Ruling

1. This subject lease expired by its terms on 2/2/20, prior to the filing of this bankruptcy case on 7/17/20. Movant has also served a three-day notice to quit and an unlawful detainer action. While Debtor may or may not have a month-to-month tenancy under the lease is a matter of California state law

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Victoria Walters**

**Chapter 7**

(and not bankruptcy law) and must be determined in state court.

2. The hardships of moving expressed in Debtor's opposition does not present a basis for denial of the Motion.

3. This is the second bankruptcy case filed by Debtor for the purpose of stopping the unlawful detainer proceedings. Case no. 20-10632ES was filed on 2/21/20 and dismissed on 5/28/20 based on Debtor's failure to attend the mandatory Rule 341(a) meeting of creditors. Also, in that case, the Court granted Movant's motion for relief from stay over Debtor's objections and explained that the matter needed to be resolved in California state court.

4. Under Section 362(d)(3)(C), if a debtor has had case dismissed within one year of the filing of the current case, the automatic stay only lasts for thirty days, unless the debtor files a motion to extend the stay beyond 30 days and the hearing on such a motion to extend is completed within the first 30 days of the current case. Here, Debtor's prior case was dismissed on 5/28/20 and the current case was filed less than 60 days later on 7/17/20. Accordingly, under Section 362(d)(3)(C), the automatic stay expired on 8/16/20. As Debtor did not timely file a motion to extend the stay, there is no stay in effect at this point. Now that the time has expired, no motion to extend the stay can be filed. Indeed, the court has no authority to extend the stay once the thirty-period has expired.

4. Due to the multiple bankruptcies filed, Movant is entitled to the extraordinary relief allowed by Section 362(d)(4), meaning the stay is effective for two years.

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

**Debtor(s):**

Victoria Walters

Pro Se

**Movant(s):**

Sifu Qi

Represented By  
Luke P Daniels



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Victoria Walters**

**Chapter 7**

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**8:17-10706 John Jean Bral**

**Chapter 11**

**#19.00** CON'TD Post-Confirmation Status Conference RE: Fourth Amended Chapter 11 Plan

(Set at Conf. Hrg. Held 6-26-19)  
FR: 11-21-19; 2-20-20

Docket 761

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**November 21, 2019**

Continue status conference to February 20, 2020 at 10:30 a.m.; an updated status report must be filed by February 6, 2020. (XX)

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**February 20, 2020**

Debtor to advise the court as to the specific form of "court intervention" Debtor seeks. See Status report at p. 3:12-14.

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**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... John Jean Bral  
August 20, 2020**

**Chapter 11**

No updated status report was filed by August 6, 2020 as ordered by the court. Debtor to appear and advise the court re the status of this case -- in particular the status of the pending arbitration.

If the arbitration is still pending, the status conference may be continued to October 15, 2020 at 10:30 a.m. by requesting a continuance during the court clerk's calendar roll call prior to the hearing. If the status conference is continued, an updated status report must be filed no later than October 1, 2020 or monetary sanctions of not less than \$100 will be imposed on Debtor's counsel.

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

**Debtor(s):**

John Jean Bral

Represented By  
Beth Gaschen  
Alan J Friedman  
William N Lobel  
Babak Samini  
Dean A Ziehl

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:18-10548 Lenore LuAnn Albert-Sheridan

Chapter 7

#20.00 Hearing RE: Chapter 7 Trustee's Objection to Debtor's Amended Claims of Exemption

Docket 607

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Continue hearing to December 17, 2020 at 10:30 a.m. in light of the pending appeal before the 9th Circuit on many, if not all, of the substantive issues raised in the Objection and Opposition. If the Circuit has not ruled by December 17, 2020, the hearing will be further continued from time to time until a decision is rendered. The pendency of the 9th Circuit appeal divests this court of jurisdiction to adjudicate the Objection.

Basis for Tentative Ruling

Trustee moves for an order disallowing Debtor's Second Amended Exemptions (defined below) which seeks to exempt Debtor's interests in certain causes of action and account receivables (the "Objection")[dkt. 607]. Debtor timely filed opposition to the Objection (the "Opposition")[dkt 610] to which Trustee timely replied (the "Reply")[dkt. 611].

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

CONT... Lenore LuAnn Albert-Sheridan

Chapter 7

In sum, this court lacks jurisdiction to adjudicate the merits of the Objection to the Second Amended Exemptions while the Ninth Circuit appeal of the First Amended Exemption Order remains pending.

When a bankruptcy court order is appealed, the bankruptcy court is divested of jurisdiction over the appealed order and it may not "vacate or modify an order while on appeal." *In re Bialac*, 694 F.2d 625, 627 (9th Cir. 1982); *In re Padilla*, 222 F.3d 1884, 1190 (9th Cir. 2000). "Once an appellate court renders its decision on the appealed order, jurisdiction remains with the appellate court until that court issues its mandate pursuant to Fed.R.App.P. 41." *In re Marino*, 234 B.R. 767, 770 (9th Cir. BAP 1999).

The timely filing of an appellate order from the BAP, however, confers jurisdiction on the Ninth Circuit and divests "both the BAP and the bankruptcy court of *control over those aspects of the case involved in the appeal.*" See, *Padilla*, 222 F.3d at 1189-90 (emphasis added); *Marino*, 234 B.R. at 770 (stating that even if mandate is issued, timely appeal re-divests the lower court of jurisdiction). "The rule divesting lower courts of jurisdiction of aspects of a case involved in an appeal is [sic] judge-made doctrine designed to avoid the confusion and waste of time that might flow from putting the *same issues before two courts at the same time.*" *Padilla*, 222 F.3d. at 1190 (emphasis added). The rule is "not absolute" though, because the lower court retains jurisdiction to "take actions that preserve the status quo during the pendency of an appeal...but 'may not finally adjudicate substantial rights directly involved in the appeal.'" *Id.*

In this case, the court defers any ruling on the Objection because the court lacks jurisdiction to adjudicate issues that are currently pending on appeal that could impact this court's adjudication of the same, e.g., the validity of Debtor's exemptions of the "Claims Against 3P," "Other Contingency," and Account Receivables. See, Mot., Ex. 12 (the First Amended Exemption Order) and Ex. 13 (the BAP Memorandum).

Per the First Amended Exemption Order, the court previously ruled on the substance of these issues. Debtor timely appealed these matters to the BAP thereby divesting this court of jurisdiction over these exemptions claims.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Lenore LuAnn Albert-Sheridan**

**Chapter 7**

And while the BAP affirmed the First Amended Exemption Order, Debtor timely appealed the BAP's decision to the Ninth Circuit Court of Appeals, case no. 20-60006, and this appeal remains currently pending. See, Obj., p. 2, n. 1; Opp'n, p. 11:15-16. Thus, this court has again been divested of jurisdiction over these specific exemptions per the First Amended Exemption Order which is on appeal.

That the appeal before the Ninth Circuit currently involves the same issues is demonstrated by a comparison of Debtor's opposition and Debtor's Opening Br. [case. no. 20-60006, dkt. 9], p. 11-13; Opp'n, p. 5:25-6:6 and Opening Br., p. 14-15; Opp'n, p. 7:14-8:4 and Opening Br., p. 19-21. "A court may take judicial notice of a document filed in another court 'not for the truth of the matters asserted in the other litigation, but rather to establish the fact of such litigation and related filings.'" § 201:5 Judicial Notice of Bankruptcy Court's Own Records, Bankr. Evid. Manual § 201:5 (2019 ed.)(citations omitted). And while Debtor's issue on appeal does not formally mention the Account Receivables, Debtor directly addresses the Account Receivables in her opening brief to the Ninth Circuit also. See, e.g., Opening Br., at p. 26.

The divesting of this court's jurisdiction to adjudicate the Objection further promotes the goal of avoiding putting the same issues before two courts at the same time and risking confusion and the waste of judicial resources.

That Debtor added further citations in support of the Second Amended Exemptions [CCP §§ 695.030 and 688.1, *Law v. Siegel*, 571 U.S. 415 (2014), *Baum v. Duckor, Spradling & Metzger*, 72 Cal. App. 4th 54 (1999) and *Murphy v. Allstate Ins. Co.*, 17 Cal. 3d 937 (1976)] does not change this result. Importantly, Debtor discusses all three cases at length in her opening brief to the Circuit. See, Opening Br. at pp. 9-11, 15, 19-22, 25, 30 and 34.

In *In re Bialac*, 694 F.2d 625, 626-27 (9th Cir. 1982) the Ninth Circuit affirmed the BAP's vacating an injunction obtained by the debtor from a second bankruptcy court after the first bankruptcy court granted relief from stay for creditor to foreclose on a note. The Ninth Circuit reasoned that the second bankruptcy court lacked jurisdiction because the order granting relief from stay had been timely appealed and the issues before both courts were

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Lenore LuAnn Albert-Sheridan**

**Chapter 7**

the same. See id. at 627. The Ninth Circuit found that the only difference between the proceedings was that the debtor was trying to further develop the argument that the note was necessary for reorganization, but even this further argument was insufficient to convey jurisdiction on the second bankruptcy court. See id.

Similarly here, by filing the Second Amended Exemptions with the new supporting citations, Debtor is attempting to add further argument to her contention that First Amended Exemptions are valid. However, as discussed above, those issues are already on appeal after Debtor timely appealed the First Amended Exemption Order to the Ninth Circuit. The court therefore only retains limited jurisdiction to "take actions that preserve the status quo during the pendency of an appeal...but 'may not finally adjudicate substantial rights directly involved in the appeal.'" *Padilla*, 222 F3d. at 1190.

***Note: If both parties accept the foregoing tentative ruling, appearances at today's hearing are not required.***

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

**Debtor(s):**

Lenore LuAnn Albert-Sheridan

Pro Se

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By

Jonathan A. Michaels

Eric P Israel

Aaron E de Leest

Sonia Singh

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#21.00 Hearing RE: Trustee's Sixth Motion for Order to Continue Business Operations (Manage Real Property ) Through and Including February 28, 2021, by Continuing to: (1) Collect Rents; and (2) Pay Operating Expenses

Docket 426

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Grant Motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Friendly Village MHP Associates LP

Represented By  
Howard Camhi



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Friendly Village MHP Associates LP**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Kristine A Thagard  
Arthur Grebow  
David Wood  
Tinho Mang

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#22.00 Hearing RE: Chapter 7 Trustee's Motion for Order Authorizing the Trustee to Assume (1) Insurance Contracts; and (2) Escrow Agreement and buyback Agreement

Docket 428

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Grant Motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Friendly Village MHP Associates LP

Represented By  
Howard Camhi

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Friendly Village MHP Associates LP**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Kristine A Thagard  
Arthur Grebow  
David Wood  
Tinho Mang

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#23.00 Hearing RE: Trustee's Seventh Motion for Order Extending Time to Assume or Reject Executory Contracts or, in the Alternative, Authorizing the Trustee to Assume Certain Unexpired Leases Pursuant to 11 U.S.C. Section 365(A),

Docket 430

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Grant Motion to extend time to assume/reject executory contracts/unexpired leases.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Friendly Village MHP Associates LP

Represented By  
Howard Camhi

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Friendly Village MHP Associates LP**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Kristine A Thagard  
Arthur Grebow  
David Wood  
Tinho Mang

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:18-13864 Friendly Village GP, LLC

Chapter 7

#24.00 Hearing RE: Chapter 7 Trustee's Motion for Order Authorizing the Trustee to Assume (1) Insurance Contracts; and (2) Escrow Agreement and Buyback Agreement

Docket 242

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Grant Motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Friendly Village GP, LLC

Represented By  
Howard Camhi

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... Friendly Village GP, LLC**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
David Wood  
Kristine A Thagard

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5C Calendar

Thursday, August 20, 2020

Hearing Room 5C

10:30 AM

8:18-13864 Friendly Village GP, LLC

Chapter 7

#25.00 Hearing RE: Trustee's Seventh Motion for Order Extending Time to Assume or Reject Executory Contracts or, in the Alternative, Authorizing the Trustee to Assume Certain Unexpired Leases Pursuant to 11 U.S.C. Section 365(A)

Docket 244

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Grant Motion to assume/reject executory contracts/unexpired leases.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Friendly Village GP, LLC

Represented By  
Howard Camhi



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5C Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5C**

10:30 AM

**CONT... Friendly Village GP, LLC**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
David Wood  
Kristine A Thagard

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:19-11546 Joseph Ra

Chapter 7

#26.00 Hearing RE: Chapter 7 Trustee's Notice of Motion for Order to Further Extend the Time to File Complaint Under 11 U.S.C. Section 727 RE: Objection to Debtor's Discharge

Docket 238

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Grant Motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Joseph Ra

Represented By  
David B Golubchik  
Jaenam J Coe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

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10:30 AM

**CONT... Joseph Ra**

**Chapter 7**

**Movant(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector  
Thomas J Polis

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector  
Thomas J Polis

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:19-13441 Alpha Floors, Inc.

Chapter 7

#27.00 CONT'D Hearing RE: Application of the Chapter 7 Trustee for order authorizing employment of Collection Agent (JNR Adgustment Company, Inc.) pursuant to 11 U.S.C. §§ 327(a) and 328(a)

FR: 8-4-20, Rm 5D

Docket 79

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Grant Motion.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

**Party Information**

**Debtor(s):**

Alpha Floors, Inc.

Represented By  
Eric J Fromme

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

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10:30 AM

**CONT... Alpha Floors, Inc.**

**Chapter 7**

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Reem J Bello

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#28.00** CONT'D Hearing RE: Order to Show Cause as to Why Jeffery S. Benice Should Not Be Held in Contempt of Court for Violation of the Court's March 20,, 2020 Order Granting Amended Stipulation (Dkt. Nos. 331; 333) (OSC Issued 4/27/2020)

FR: 5-21-20; 6-25-20; 7-16-20

Docket 476

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 21, 2020**

Continue hearing to June 25, 2020 at 10:00 a.m.

***Note: Appearances at this hearing are not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.***

-----

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

Participants may connect to the videoconference through an Internet browser by entering the Videoconference URL shown below, as well as the meeting ID and password, when prompted. Alternatively, participants may dial in by telephone at the

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Bruce Elieff**

**Chapter 11**

number indicated below.

Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

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**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

No opposition to this matter has been filed. Based on the evidence presented, the court finds Mr. Benice to be in contempt of its March 20, 2020 Order. As no evidence (such as time records) have been presented in

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

CONT...

**Bruce Elieff**

**Chapter 11**

support attorneys fees requested, no such fees will be awarded at this time.

***Note: Appearance at this hearing is not required.***

-----  
**August 20, 2020**

Grant attorneys fees in the amount of \$20,000.00, payable by Mr. Benice within 60 days of entry of the order granting such fees.

Basis for Tentative Ruling:

1. The court has already found Mr. Benice to be in contempt of its March 20, 2020 order. The only issue for this hearing is the amount of attorneys fee.
2. Reasonable attorneys fees are appropriate. After reviewing the time records submitted as well as the actual pleadings filed and Mr. Benice's efforts to purge the contempt, the court believes an award of \$20,000 to be reasonable.

***Note: If both parties accept the foregoing tentative ruling, appearances at today's hearing are not required.***

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

Debtor(s):

Bruce Elieff

Represented By  
Paul J Couchot



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar

Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:20-10328 Juan Carlos Valdez

Chapter 13

#29.00 Hearing RE: Debtor's Objection to Proof of Claim #10 Filed by on Deck Capital, Inc. in the Amount of \$69,466.45

Docket 24

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Sustain Objection.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by Debtor is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Debtor's counsel will be so notified.***

**Party Information**

**Debtor(s):**

Juan Carlos Valdez

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Juan Carlos Valdez**

**Chapter 13**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:20-11026 Little John's Antique Arms, Inc.

Chapter 11

#30.00 Hearing RE: Debtor and Debtor-in-Possession's Motion for Order Authorizing Sale of Real Property Located at 31602 Crystal Sands Drive, Laguna Niguel, CA; (A) Outside the Ordinary Course of Business; (B) Free and Clear of Liens, Claims, and Encumbrances; (C) Subject to Overbid; and (D) For Determination of Good Faith Purchaser Under 11 U.S.C. Section 363(M)

Docket 85

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Grant Motion subject to overbid. If the Trustee has received no overbids, such representation may be made during the court clerk's calendar roll call and the Motion will be deemed granted in favor of the existing buyer. The court has reviewed the declarations of the buyer filed on August 18, 2020.

**Party Information**

**Debtor(s):**

Little John's Antique Arms, Inc.

Represented By  
Richard A Marshack  
Chad V Haes  
D Edward Hays

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Little John's Antique Arms, Inc.**

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:20-11725 Helen Weatherby

Chapter 11

#31.00 STATUS CONFERENCE Hearing RE: (1) Status of Chapter 11 Case; and (2) Requiring Report on Status of Chapter 11 Case

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 20, 2020**

Claims bar date: Oct. 28, 2020 (notice to creditors by 8/28/20)

Deadline to file plan/DS: Dec. 18, 2020

Continued Status Conference: Nov. 19, 2020 at 10:30 a.m.

Deadline to file Updated Status Report: Nov. 5, 2020

***Note: If Debtor is in substantial compliance with the requirements of the U.S. Trustee, appearance at this Status Conference is not required. It is Debtor's responsibility to confirm compliance with the U.S. Trustee. The court will issue its own order re the foregoing schedule/deadlines.***

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 20, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... Helen Weatherby**

**Chapter 11**

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

**Debtor(s):**

Helen Weatherby

Represented By  
Bert Briones

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10566 Eric C. Bryant and Gina K Bryant**

**Chapter 7**

**#31.10** Hearing RE: Motion of Creditor Oregon Pacific Bank as Trustee of the Pedigo Living Trust to Extend Deadline to File Complaint to Determine Dischargeability of Debt Under 11 U.S.C. Section 523 and/or For Denial of Discharge Under 11 U.S.C. Section 727 **(OST Entered 8/7/2020)**

Docket 46

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 20, 2020**

Grant Motion. Overrule Debtors' objections.

Basis for Tentative Ruling

Under FRBP 4004(b)(1), a "court may for cause extend the time to object to discharge." Failure to attend an examination and to produce documents may constitute cause. See, *In re McCormack*, 244 B.R. 203, 208 (Bankr. D. Conn. 2000) (concluding that the creditor has demonstrated "cause" since he had not yet obtained pre-filing discovery—via 2004 Examination—necessary to a fairly consideration of whether to commence a § 523 and/or 727 adversary proceeding against the debtors). "The moving party has the burden of proof to show cause to extend the time for matters relating to the debtor's discharge." *In re Bomarito*, 448 B.R. 242, 248 (Bankr. E.D. Cal. 2011).

Debtors argue the following factors should be considered in denying the request for an extension as the Trust: "(1) whether the creditor has received sufficient notice of the deadline and the information to file an objection; (2) the complexity of the case; (3) whether the creditor has exercised diligence; (4) whether the debtor has refused in bad faith to

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CONT... **Eric C. Bryant and Gina K Bryant**

**Chapter 7**

cooperate with the creditor; and (5) the possibility that proceedings pending in another forum will result in collateral estoppel of the relevant issues." *In re Bressler*, 2007 WL 98493, at \*2 (Bankr. S.D.N.Y. Jan. 12, 2007)(relying on the factors set forth in *In re Nowinsky*, 291 B.R. 302 (Bankr.S.D.N.Y.2003)); *Bomarito*, 448 B.R. at 249 (applying the *Nowinsky* factors); Opp'n, p. 3-5.

In this matter, a number of important factors weigh in favor of extending the 523/727 Deadline: (1) while the Trust received notice of the 523/727 Deadline, the Trust has some documents but not all the documents and information necessary to determine whether filing a 523/727 complaint is warranted, see, Mot., p. 13, ¶¶8-14 (Slocomb Decl.); (2) the case is made complex in that the information required for the Trust to determine whether to file the 523/727 complaint is in possession of Debtors so no determination can be made until those documents are received, Mot., p. 11:8-12; (3) the Trust has been exercising due diligence by entering into a stipulation once with Debtors, filing the Rule 2004 Motions, and this is the Trust's first request for a court order; (4) Debtors have failed to produce all requested documents, such as tax returns; and (5) there is not the possibility that another forum will result in collateral estoppel of the same issues because the Elder Abuse Lawsuit has been stayed and the Trust has not moved for relief from the automatic stay.

Finally, the Court notes parenthetically that Debtors do not oppose an extension of the 727 Deadline for Trustee or U.S. Trustee. See, Opp'n, p. 2:12-14

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

**Debtor(s):**

Eric C. Bryant

Represented By  
Christine A Kingston

**Joint Debtor(s):**

Gina K Bryant

Represented By  
Christine A Kingston

**Trustee(s):**

Karen S Naylor (TR)

Represented By



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Eric C. Bryant and Gina K Bryant**

Thomas H Casey

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10566 Eric C. Bryant and Gina K Bryant**

**Chapter 7**

**#31.20** Hearing RE: Debtors' Motion to Quash or Modify Oregon Pacific Bank, as Trustee of The Pedigo Living Trust's Notice Of Examination Under Rule 2004 and Subpoena to Produce the Documents Under Rule 9016  
**(OST Entered 8/10/2020)**

Docket 54

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 20, 2020**

Deny Motion. Movant has not met burden of proof.

Basis for Tentative Ruling:

Eric Bryan ("Eric") and Gina Bryant ("Gina")(collectively, "Debtors") filed a voluntary chapter 7 petition on February 19, 2020. Karen Naylor was appointed chapter 7 trustee ("Trustee").

Oregon Pacific Bank (the "Bank"), trustee of the Pedigo Living Trust for the benefit of Angel D. Pedigo (the "Trust") has filed motions for Rule 2004 examination of Debtors [dkt. 37 and 38]. Gina's examination is set for August 24, 2020, and Eric's examination is set for August 25, 2020.

Debtors now move to quash or modify the notices of Rule 2004 (collectively, the "2004 Notice") and the related subpoenas to produce documents (collectively, the "Document Subpoena")(the 2004 Notice and the Document Subpoena, collectively, the "Notices") under FRCP 45, incorporated herein by FRBP 9016.

1. Background facts

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Central District of California  
Santa Ana  
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10:30 AM

**CONT...**

**Eric C. Bryant and Gina K Bryant**

**Chapter 7**

Between October 2015 and April 2019, Gina was a co-trustee of the Trust, which was created by James and Angela Pedigo. During her tenure, she transferred Trust real property located in San Juan Capistrano to Debtors personally, took out a home equity loan and deposited the funds in her own account, gave herself two loans totaling \$305,000 that did not require repayment for 24 years, purchased three mobile homes in Newport Beach with the Trust funds and Gina and her two daughters live in each one without paying rent to the Trust, transferred \$204,036 between October 2015 and August 2018 from the Trust to Gina's personal account at Chase (Debtors' have admitted the Chase account is theirs but refuse to turnover bank statement to show subsequent distributions of the transfers), settled a medical malpractice suit on behalf of Angela Pedigo for \$114,000 but failed to deposit those funds to the Trust.

After learning of the transfers, James Pedigo initiated the an action against Gina in Oregon state court (the "State Court Action") for elder abuse, conversion, breach of fiduciary duty, fraud, and other claims. On April 16, 2019, Gina was removed as co-trustee. On May 6, 2019, Jim Pedigo was appointed as Angela Pedigo's guardian and conservator. On September 3, 2019, Jim Pedigo died. Rogue Valley Fiduciary Services, LLC is currently the guardian and conservator for Angela Pedigo.

On July 13, 2020, Debtors' and the Trust's attorneys met and conferred regarding 2004 examinations of Debtors. Debtors' counsel indicated that Debtors would oppose the request but would produce some responsive documents. On July 31, 2020, Debtors produced some documents, including tax returns, but did not produce personal bank statements and the narratives and explanations provided to Trustee.

2. The Motion is denied for failure to prepare a written stipulation of disputed issues in accordance with LBR 7026-1(c)

Per LBR 2004-1(g), any dispute arising under LBR 2004 must be resolved in accordance with LBR 7026-1(c). See, LBR 7026-1(c)(1). Under LBR 7026-1(c)(2), prior to the filing of any motion, the parties must meet and confer "in a good faith effort to resolve a discovery dispute." If the parties are unable to resolve their dispute, the parties must file a written stipulation that in

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CONT... **Eric C. Bryant and Gina K Bryant**

Chapter 7

one document, identifies separately and "with particularity, each disputed issue that remains to be determined at the hearing and the contentions and points and authorities of each party as to each issue." LBR 7026-1(c)(3)(A). This written stipulation "must not simply refer the court to the document containing the discovery request forming the basis of the dispute." LBR 7026-1(c)(3)(B). "In the absence of such stipulation or a declaration of counsel of noncooperation by the opposing party, the court will not consider the discovery motion." LBR 7026-1(c)(3)(C).

In this case, while Debtors state that they have met and conferred with the Trust, see, Mot., p. 2, ¶1, Debtors have failed to provide a written stipulation that in one document, identifies separately and "with particularity, each disputed issue that remains to be determined at the hearing and the contentions and points and authorities of each party as to each issue" as required in LBR 7026-1(c)(2). The Local Bankruptcy Rules state unequivocally that, "In the absence of such stipulation or a declaration of counsel of noncooperation by the opposing party, the court will not consider the discovery motion." Both LBR 2004-1(g) and 7026-1(a) clarify that the requirements of LBR 7026-1(c)(1) are applicable to *any* dispute arising under Rule 2004 and LBR 2004-1. The Motion is denied because Debtors have failed to comply with LBR 7026-1(c)(2).

3. The Motion is denied on the merits because Debtors have failed to carry their burden under FRCP 45

Under Rule 9016, FRCP 45 is applicable to any case under the Code. Debtors move to quash the Notices under FRCP 45. See, Mot., p. 1:21-22. Debtors have not specified under which subsection of FRCP 45(d)(3) they are seeking relief- either subsection (A) or (B).

Turning to FRCP 45(d)(3)(B) first, under FRCP 45(d)(3)(B), "To protect a person subject to or affected by a subpoena, the court for the district where compliance is required *may*, on motion, quash or modify the subpoena if it requires: (i) disclosing a trade secret or other confidential research, development, or commercial information; or (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party."

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**CONT... Eric C. Bryant and Gina K Bryant**  
(emphasis added).

**Chapter 7**

The Motion makes no mention of trade secrets, commercial information, nor disclosure of expert opinions. See generally, the Mot, p. 1-6. The court therefore does not construe the Motion as seeking relief under FRCP 45(d)(3)(B).

Under FRCP 45(d)(3)(A), "On timely motion, the court for the district where compliance is required *must* quash or modify a subpoena that: (i) fails to allow a reasonable time to comply; (ii) requires a person to comply beyond the geographical limits specified in [Rule 45\(c\)](#); (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or (iv) subjects a person to undue burden." (emphasis added).

The Motion makes no argument that there has not been sufficient time to comply, or that Debtors are required to travel more than 100 miles from where they reside for their examination, or that the 204 examinations will require the disclosure of privileged information. See generally, Mot., p. 1-6; see also, Opp'n, p. 11:22-23 (while not privileged, the Trust states that it will not be seeking copies of drivers licenses or social security numbers).

The court therefore construes the Motion as seeking relief under FRCP 45(d)(3)(A)(iv)- undue burden.

A party moving to quash on the grounds of undue burden pursuant to FRCP 45(c)(3)(A)(iv) bears the burden of proof. *In re Yassai*, 225 B.R. 478, 483–84 (Bankr. C.D. Cal. 1998). "The burden is a heavy one... Movant must meet the burden 'of establishing that compliance with the subpoena would be unreasonable and oppressive'... Common examples of undue burden include: 'untimely service, inability to appear, inability to produce requested documents or things, failure to identify items requested, or excessive costs.'" *Id.* at 484 (finding that movants failed to demonstrate that the subpoenas imposed an undue burden because "no evidence pertaining to the time, cost, or inconvenience entailed in responding" was presented).

In this case, the court construes Debtors' argument to be that the 2004 Notice and the Document Subpoena cause an undue burden on Debtors

**United States Bankruptcy Court  
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Santa Ana  
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**CONT... Eric C. Bryant and Gina K Bryant Chapter 7**

because, in sum, the Rule 2004 examinations are unnecessary. See, Mot., p. 3-6. Debtors, however, have failed to carry their heavy burden to quash the 2004 Notice and Document Subpoena under FRCP 45(d)(3)(A)(iv).

First, there is no currently pending litigation in Oregon state court because that litigation was stayed by Debtors' filing of this bankruptcy petition. See, Opp'n p. 9-10. "When litigation is stayed as a result of a debtor-defendant's election to file for bankruptcy, Rule 2004 examinations are available to the plaintiff-creditor." Id. at 10 (citing *In re Int'l Fibercom, Inc.*, 283 B.R. 290, 293 (Bankr. D.Ariz. 2002)(explaining that "discovery is not presently available in any of the other pending litigation, due to the automatic stay" and holding that a Rule 2004 should be allowed)). There is also no currently pending contested matter. Id. at 10. While Debtors' argument that the Trust could seek relief from stay to continue litigation in Oregon state court may technically be correct, Debtors have provided no legal authority that compels the Trust to do so. As noted by the Trust, seeking relief from stay is only one option the Trust is considering and examining Debtors will provide the Trust with the necessary information to determine whether to seek relief from stay or file a nondischargeability complaint. See, Opp'n, p. 10:18-24. In either event, there is no currently pending litigation, adversary proceeding, or contest matter in which discovery can be taken.

Next, the information the Trust is seeking is necessary because it will allow the Trust to trace funds that may belong to the Trust, or conversely, belong to estate. Moreover, the Trust is seeking information that may lead to "the unearthing of frauds that will directly affect the administration of the bankruptcy estate." See, Opp'n, p. 12:14-23. "The scope of a Bankruptcy Rule 2004 examination is 'unfettered and broad...It's purpose is to facilitate the discovery of assets and the unearthing of frauds and has been likened to a quick 'fishing expedition' into general matters and issues regarding the administration of the bankruptcy case." *In re Bakalis*, 199 B.R. 443, 447-48 (Bankr. E.D.N.Y. 1996)(citations omitted). As noted above, the information will also allow the Trust to decide whether to file a nondischargeability complaint.

Third, Debtors' argument that the Rule 2004 examinations are an attempt by the Trust to bypass the Oregon state court orders limiting

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Central District of California  
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**CONT... Eric C. Bryant and Gina K Bryant**

**Chapter 7**

discovery is unpersuasive because: (1) Debtors themselves opted for this forum by filing their voluntary petition thereby subjecting their financial condition to greater scrutiny, see, Opp'n, p. 12:7-8, (2) no copy of the alleged state court order limiting discovery is attached to the Motion, (3) in any event, Debtors have not provided any authority that such prepetition state court discovery order is binding on this court's discretion to order a Rule 2004 examination. See, Mot., p. 4:5-9; Opp'n, p. 6, ¶13.

In addition, the 2004 examinations will not be a waste of resources. Debtors make three sub-arguments in an attempt to support this point. Debtors argue that it will be a waste of resources because Debtors have already substantially complied, the Trust's resources are being wasted on unnecessary litigation, and Angela Pedigo cannot be relocated to live with Gina until this matter is resolved. Mot., p. 5:17-6:10.

Debtors have not substantially complied with the document production requests because they have failed to produce receipts for how the \$200,000 that was transferred to her personal bank account were used, bank statements, and they have failed to answer the Trust's questions regarding Debtors' use, possession, or control of Trust assets. See, Opp'n, p. 7:14-27 and p. 12:14-23.

Finally, Debtor's arguments that Trust resources are being unnecessarily spent and Angela Pedigo's medical care cannot be changed until this matter is resolved are unpersuasive because Debtors have failed to show how, even if those arguments are true, that will cause undue burden on Debtors. The court also notes that the current trustee of the Trust, the Bank, and Angela Pedigo's current guardian and conservator both support the requests for Rule 2004 examinations because finding Trust assets will ensure there are sufficient funds to care for Angela Pedigo. See, Opp'n, p. 4-5, ¶¶ 3-10 and p. 15 (Decl. of Susan Calzaretta).

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

**Debtor(s):**

Eric C. Bryant

Represented By  
Christine A Kingston

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... Eric C. Bryant and Gina K Bryant**

**Chapter 7**

**Joint Debtor(s):**

Gina K Bryant

Represented By  
Christine A Kingston

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Thomas H Casey



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

2:00 PM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01214 Marshack v. Chang Ding Metal Co., Ltd. et al

**#32.00** CON'TD Hearing RE: Defendant Chang Ding Metal Co., Ltd.'s Motion to Dismiss Adversary Proceeding Pursuant to Federal Rule of Civil Procedure 12(B)

FR: 4-30-20; 6-4-20

Docket 10

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9/10/2020 AT 9:30 A.M.  
AS A STATUS CONFERENCE ONLY, Per Order Entered 8/7/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Hearing Continued to 9/10/2020 at 9:30 a.m. as a Status  
Conference Only, Per Order Entered 8/7/2020 (XX) - td (8/7/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Chang Ding Metal Co., Ltd.

Represented By  
Mohammad Tehrani  
Jeff D Kahane

Hoa Phat Steel Co., Ltd.

Pro Se

Pomina 2 Steel Corporation

Pro Se

**Movant(s):**

Chang Ding Metal Co., Ltd.

Represented By  
Mohammad Tehrani  
Jeff D Kahane

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, August 20, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Prime Metals U.S.A., Inc.**

**Chapter 7**

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, August 20, 2020**

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2:00 PM

**8:17-14535 Prime Metals U.S.A., Inc.**

**Chapter 7**

Adv#: 8:19-01214 Marshack v. Chang Ding Metal Co., Ltd. et al

**#33.00** CON'TD STATUS CONFERENCE RE: Complaint for: 1. Breach of Contract Against Chang Ding; 2. Breach of Contract Against Hoa Phat; 3. Breach of Contract Against Pomina; 4. Avoidance and Recovery of Constructive Fraudulent Transfers Pursuant to 11 USC Sections 544, 548, 550, 551; California Civil Code Section 3439.04, 3439.05, 3439.07, 3439.08, 3439.09 Against Chang Ding; 5. Avoidance and Recovery of Constructive Fraudulent Transfers Pursuant to 11 USC Sections 544, 548, 550, 551; California Civil Code Section 3439.04, 3439.05, 3439.07, 3439.08, 3439.09 Against Hoa Phat; and 6. Avoidance and Recovery of Constructive Fraudulent Transfers Pursuant to 11 USC Sections 544, 548, 550, 551; California Civil Code Section 3439.04, 3439.05, 3439.07, 3439.08, 3439.09 Against Pomina

(Another Summons Issued 4/15/2020)  
FR: 7-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9/10/2020 AT 9:30 A.M.,  
Per Order Entered 8/7/2020 (XX)**

**Courtroom Deputy:**

**CONTINUED: Status Conference Continued to 9/10/2020 at 9:30 a.m., Per  
Order Entered 8/7/2020 (XX) - td (8/7/2020)**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Chang Ding Metal Co., Ltd.

Pro Se

Hoa Phat Steel Co., Ltd.

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 20, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Prime Metals U.S.A., Inc.**  
Pomina 2 Steel Corporation

Pro Se

**Chapter 7**

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Laila Masud  
David M Goodrich  
Robert P Goe

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 20, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-11507 Hytera Communications America (West) Inc**

**Chapter 11**

**#34.00** Hearing RE: Motion of Motorola Solutions, Inc. to Dismiss Chapter 11 Case Pursuant to 11 U.S.C. Section 1112 or Alternatively to Suspend Case Pending Resolution of District Court Matters Pursuant to 11 U.S.C. Section 305

Docket 111

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 20, 2020**

Continue hearing to August 27, 2020 at 10:00 a.m., same date/time as the Sale Motion.

***Note: Appearances at today's hearing are not required.***

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

**Debtor(s):**

Hytera Communications America

Represented By  
John W Lucas  
Jason H Rosell  
Victoria Newmark  
Steptoe & Johnson

**United States Bankruptcy Court  
Central District of California  
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**Thursday, August 20, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-11507 Hytera Communications America (West) Inc**

**Chapter 11**

**#35.00** Hearing RE: Motion for Relief from Stay Under 11 USC Section 362  
[ACTION IN NONBANKRUPTCY FORUM]

MOTOROLA SOLUTIONS, INC.

VS.

DEBTOR

Docket 112

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 20, 2020**

Continue hearing to August 27, 2020 at 10:00 a.m., same date/time as the  
Sale Motion.

***Note: Appearances at today's hearing are not required.***

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

**Debtor(s):**

Hytera Communications America

Represented By  
John W Lucas  
Jason H Rosell  
Victoria Newmark  
Steptoe & Johnson

**Movant(s):**

Motorola Solutions, Inc.

Represented By  
Mark E McKane

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room**

**5A**

10:00 AM

**8:20-11507 Hytera Communications America (West) Inc**

**Chapter 11**

**#1.00** Hearing RE: Motion to Compel Further Responses to Discovery; Stipulation RE Disputed Issues (Local Bankruptcy Rule 7026-1(C)(3))

Docket 210

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**August 25, 2020**

Based upon the emergency motion and attached stipulation, the court is inclined to deny the motion in its entirety for the reasons stated in Debtors' position statements therein.

As for the specific reference to non-binding case *In re Mense*, 509 BR 269 (Bankr.C.D.Cal.2014), the case is distinguishable on its facts (solvent debtor with no business operations with net worth sufficient to post an appeal bond who filed bankruptcy for the purpose of having continued access to approximately \$1.4M in cash to pay personal expense and who had no reorganization strategy). Moreover, this court does not believe that the filing of a bankruptcy case to avoid posting an appeal bond is, in and of itself, *per se* bad faith. Further, Movant has stated no legal authority for ignoring what appear to be legitimate claims of attorney client privilege.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Hytera Communications America (West) Inc**

**Chapter 11**

**Debtor(s):**

Hytera Communications America

Represented By  
John W Lucas  
Jason H Rosell  
Victoria Newmark



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11840 DeWayne A. Normand and Maria Acosta De Normand**

**Chapter 13**

**#1.00 Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

Docket 24

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

DeWayne A. Normand

Represented By  
Michael E Plotkin

**Joint Debtor(s):**

Maria Acosta De Normand

Represented By  
Michael E Plotkin

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11832 Irene Louise Leos**

**Chapter 13**

**#2.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Irene Louise Leos

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11799 Heather Leigh Tolson**

**Chapter 13**

**#3.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 12

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 25, 2020**

Continue confirmation hearing to September 22, 2020 at 1:30 p.m. in light of pending relief from stay hearing scheduled for September 10, 2020.

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

**Debtor(s):**

Heather Leigh Tolson

Represented By  
Joseph A Weber  
Fritz J Firman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11737 Angelica Figueroa**

**Chapter 13**

**#4.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Angelica Figueroa

Represented By  
Brian J Soo-Hoo

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11582 Natsue Ichikawa and Takaaki Ichikawa**

**Chapter 13**

**#5.00 Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

Docket 16

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Natsue Ichikawa

Represented By  
Julie J Villalobos

**Joint Debtor(s):**

Takaaki Ichikawa

Represented By  
Julie J Villalobos

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11566 DeWayne A. Normand and Maria Acosta De Normand**

**Chapter 13**

**#6.00 Hearing RE: Confirmation of Chapter 13 Plan**

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing Case  
for Failure to File Schedules, Statements and/or Plan Entered 6/19/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,  
Statements and/or Plan Entered 6/19/2020 - td (8/7/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

DeWayne A. Normand

Represented By  
Michael E Plotkin

**Joint Debtor(s):**

Maria Acosta De Normand

Represented By  
Michael E Plotkin

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11541 Oscar A Banuelos**

**Chapter 13**

**#7.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 7-21-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Oscar A Banuelos

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11515 Samuel Michelson**

**Chapter 13**

**#8.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 7-21-20

Docket 4

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Samuel Michelson

Represented By  
Douglas A Crowder

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11135 Martha Bahena de Marin**

**Chapter 13**

**#9.00 CON'TD Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

FR: 7-21-20

Docket 18

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Martha Bahena de Marin

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-11010 Rolando Marquez**

**Chapter 13**

**#10.00 CONT'D Hearing RE: Confirmation of Chapter 13 Plan**

FR: 7-21-20

Docket 16

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Rolando Marquez

Represented By  
Stephen L Burton

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10682 Kim-Lan T Nguyen**

**Chapter 13**

**#11.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 5-26-20; 7-21-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Kim-Lan T Nguyen

Represented By  
Thinh V Doan

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10553 Heather Jane Andruss**

**Chapter 13**

**#12.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

(Re-set from 4/28/2020)

FR: 5-26-20; 7-21-20

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Heather Jane Andruss

Represented By  
Kevin Tang

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10518 John C Crismon and Rhonda L Crismon**

**Chapter 13**

**#13.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan**

FR: 5-26-20; 7-21-20

Docket 17

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

John C Crismon

Represented By  
Anerio V Altman

**Joint Debtor(s):**

Rhonda L Crismon

Represented By  
Anerio V Altman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10328 Juan Carlos Valdez**

**Chapter 13**

**#14.00** CONT'D Hearing RE: Confirmation of Chapter 13 Plan

FR: 4-28-20; 5-26-20; 7-21-20

Docket 2

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Juan Carlos Valdez

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

1:30 PM

**8:20-10069 Lauren Lizbeth Witek**

**Chapter 13**

**#15.00 CON'TD Hearing RE: Confirmation of 1st Amended Chapter 13 Plan**

FR: 4-28-20; 7-21-20

Docket 29

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Lauren Lizbeth Witek

Represented By  
Dana M Douglas

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:20-10518 John C Crismon and Rhonda L Crismon**

**Chapter 13**

**#16.00 CON'TD Hearing RE: Debtors' Objection to the Claim of Strategic Funding Source, Inc. dba "Kapitus" filed as Claim #5 in the Sum of \$27,959.65**

FR: 7-23-20

Docket 42

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 23, 2020**

Continue the hearing to September 3, 2020 at 10:30 a.m. to allow Debtors to provide additional notice to claimant at the addresses and to the attention of the person identified on p.7 of the addendum to the proof of claim.

Basis for Tentative Ruling:

LBR 3007-1(b)(2) requires that notice be given at the address set forth in the proof of claim. In this case multiple notices appear on the proof of claim and addendum thereto. Though the objection was served at the address indicated on the first page of the proof of claim, the addendum at p. 7 adds additional instructions for service of notices, to wit:



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

2:30 PM

**CONT... John C Crismon and Rhonda L Crismon**

**Chapter 13**

Kapitus  
Attn: Bankruptcy Correspondence Center  
2500 Discovery Lane, Suite 200  
Rockwell, TX 75032

Kapitus  
Attn: Carolina Baez  
120 West 45th Street, 4th Floor  
New York, NY 10036

Tentative ruling for 9/3/20 hearing (if unopposed): Sustain objection.

***Note: If Debtors accept the foregoing tentative ruling, appearance at this hearing is not required.***

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**August 25, 2020**

Notice issue not corrected. Counsel needs to address this issue.

The court continued this matter to allow Debtors to correct notice by serving notice on the two additional persons/addresses that were listed in the July 23, 2020 tentative ruling. Debtors failed to correct notice because Debtor's did not serve their Notice of Continued Hearing on those two additional persons/addresses. See, Notice of Continued hearing [dkt. 59] filed July 29, 2020 (proof of service on the last two pages).

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

John C Crismon

Represented By  
Anerio V Altman

**Joint Debtor(s):**

Rhonda L Crismon

Represented By  
Anerio V Altman

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

---

2:30 PM

**CONT... John C Crismon and Rhonda L Crismon**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Tuesday, August 25, 2020**

**Hearing Room 5A**

2:30 PM

**8:19-14426 Michael Alan Kohn**

**Chapter 13**

**#17.00** Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding (11 USC 1307(c)(6))

Docket 57

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 25, 2020**

Grant motion unless Debtor is postpetition current OR the Trustee agrees to a continuance, in which case the matter will be continued to September 22, 2020 at 2;30pm

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

**Debtor(s):**

Michael Alan Kohn

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

Thursday, August 27, 2020

Hearing Room 5A

10:00 AM

**8:20-11507 Hytera Communications America (West) Inc**

**Chapter 11**

**#1.00** CON'TD Hearing RE: Motion of Debtors Requesting (A) the Scheduling of an Auction and Sale Hearing in Connection with the Sale of the Specified Assets of the Debtors, (B) Approval of Bidding Procedures for Such Assets, (C) Approval of Purchase Agreement with Stalking Horse Bidder, (D) Approval of the Form and Scope of Notice of Auction and Sale Hearing, (E) Approval of Procedures for the Assumption, Assignment and Sale of Contracts and Leases to the Purchaser, and (F) Approval of Sale of the Debtors' Assets to the Purchaser  
**(Re: Sale Approval Portion of the Motion)**

FR: 7-23-20

Docket 118

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 27, 2020**

The court is inclined to grant the Motion but is concerned about the possible transfer of inventory that may be include intellectual property of Motorola. Debtors need to address whether there is a way of excluding any such inventory. If not, this hearing may need to be postponed until a decision on the TRO/preliminary matter is adjudicated in District Court in Illinois.

The court notes that it does not share the UST's or Motorola's concerns about the independence of the Independent Director or the marketing efforts of Imperial.

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

**Debtor(s):**

Hytera Communications America

Represented By

John W Lucas

Jason H Rosell

Victoria Newmark

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 27, 2020**

**Hearing Room 5A**

10:00 AM

**CONT...**

**Hytera Communications America (West) Inc  
Step toe & Johnson**

**Chapter 11**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 27, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-11507 Hytera Communications America (West) Inc**

**Chapter 11**

**#2.00** CON'TD Hearing RE: Motion of Motorola Solutions, Inc. to Dismiss Chapter 11 Case Pursuant to 11 U.S.C. Section 1112 or Alternatively to Suspend Case Pending Resolution of District Court Matters Pursuant to 11 U.S.C. Section 305

FR:8-20-20

Docket 111

**Courtroom Deputy:**

**Tentative Ruling:**

**August 20, 2020**

Continue hearing to August 27, 2020 at 10:00 a.m., same date/time as the Sale Motion. (XX)

***Note: Appearances at today's hearing are not required.***

**August 27, 2020**

The court is inclined to continue the hearing on the Motion for six months until the disposition of the pending TRO/Preliminary Injunction matter is ruled on by the District Court in Illinois.

Basis for Continuance:

1. The court is not persuaded that Debtors' failure to seek or obtain an appeal bond for a \$700M+ judgment is a basis for dismissal of the case as there is no evidence that Debtors had the ability to post such a bond and the fact that its parent (or indirect) parent may have had the ability to do so is, in the court's view, irrelevant as such entity had no legal duty to post such an appeal bond on behalf of Debtors.

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 27, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Hytera Communications America (West) Inc**

**Chapter 11**

2. The court is concerned, however, with the fact that Debtors may have continued to distribute products containing Motorola's source code or other protected intellectual property in the absence of the issuance of an injunction by the District Court. See Ms. Huang's 341a testimony. The court is not aware of any declaration testimony by Debtors directly addressing this issue.

3. The scope of any injunction, if granted, could directly impact the viability of Debtors' reorganization.

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

**Debtor(s):**

Hytera Communications America

Represented By  
John W Lucas  
Jason H Rosell  
Victoria Newmark  
Steptoe & Johnson

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 27, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-11507 Hytera Communications America (West) Inc**

**Chapter 11**

**#3.00** CONT'D Hearing RE: Motion for Relief from Stay Under 11 USC Section 362  
[ACTION IN NONBANKRUPTCY FORUM]

MOTOROLA SOLUTIONS, INC.

VS.

DEBTOR

FR: 8-20-20

Docket 112

**\*\*\* VACATED \*\*\* REASON: Order approving stipulation resolving relief  
from stay entered 8/27/20**

**Courtroom Deputy:**

**OFF CALENDAR: Order approving stipulation resolving relief from stay  
entered 8/27/20- mp(8/27/20)/td**

**Tentative Ruling:**

**August 20, 2020**

Continue hearing to August 27, 2020 at 10:00 a.m., same date/time as the  
Sale Motion. (XX)

***Note: Appearances at today's hearing are not required.***

**Party Information**

**Debtor(s):**

Hytera Communications America

Represented By  
John W Lucas  
Jason H Rosell  
Victoria Newmark  
Steptoe & Johnson



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
Courtroom 5A Calendar**

**Thursday, August 27, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Hytera Communications America (West) Inc**

**Chapter 11**

**Movant(s):**

Motorola Solutions, Inc.

Represented By  
Mark E McKane