

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

Thursday, January 7, 2021

Hearing Room 5A

9:30 AM

8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address:

<https://cacb.zoomgov.com/j/1602411927>

ZoomGov meeting number: 160 241 1927

Password: 538707

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Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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- NONE LISTED -

Chapter

United States Bankruptcy Court
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9:30 AM

8:19-14336 Maxwell Shack

Chapter 7

Adv#: 8:20-01018 Tustin Buick GMC v. Shack

#1.00 CON'TD PRE-TRIAL CONFERENCE RE: Complaint for Non-Dischargeability of Debt

FR: 4-30-20; 9-17-20; 11-19-20

Docket 1

Courtroom Deputy:

SPECIAL NOTE: Stipulation to Continue to 2/18/2021 at 9:30 a.m. to be Filed and Order to be Lodged; Working on Settlement, per Jiwon Shin, Attorney for Plaintiff - td (1/4/2021)

Tentative Ruling:

April 30, 2020

Discovery Cut-off Date: July 31, 2020
Pretrial Conference Date: Sept. 17, 2020 at 9:30 a.m.
(XX)
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.

November 19, 2020

As no pretrial stipulation or status report has been timely filed, the parties must appear at this hearing and advise the court of its status.

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CONT... **Maxwell Shack**
Basis for Tentative Ruling

Chapter 7

On Sept. 8, 2020, the parties filed a Stipulation [docket #11] indicating that the parties were close to reaching a settlement. An order approving the Settlement was entered on the same date [docket #13] continuing the Pretrial Conference to this hearing date. There is no indication on the docket that a settlement has been reached.

Note: Appearances at this hearing are required.

January 7, 2021

Continue Pretrial Conference one final time to February 18, 2021 at 9:30 a.m.; a Joint Pretrial Stipulation must be filed by February 4, 2021 if settlement pleadings have not been filed by such time.

Note: If all parties accept the tentative ruling, appearances at this hearing are not required and Plaintiff shall serve notice of the continued hearing date.

Party Information

Debtor(s):

Maxwell Shack

Represented By
Stephen M Goodman

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
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9:30 AM

8:20-11977 SC Development Fund, LLC

Chapter 7

Adv#: 8:20-01135 Zhang et al v. SC Development Fund, LLC et al

#2.00 STATUS CONFERENCE RE: First Amended Adversary Complaint For 1. Equitable Subordination under 11 USC Section 510 (c) ; 2. Preliminary Injunctive Relief; 3. Injunctive Relief; 4. Declaratory Relief; 5. Fraud; 6. Conspiracy To Commit Fraud; 7. Disallowance Of Claims under 11 USC Section 502(a), (d), (e); 8. Fraudulent Transfer under 11 USC Section 548; 9. Constructive Fraudulent Transfer under 11 USC Sections 544, 550, 551 California Civil Code Sections 3439.05 and 3439.07

(Another Summons Issued 10-14-20)

Docket 5

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 7, 2021

Continue Status Conference to April 8, 2021 at 9:30 a.m.; an updated Joint Status Report must be filed by March 25, 2021.

Note: If the 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):

SC Development Fund, LLC

Represented By
Keith S Dobbins

Defendant(s):

SC Development Fund, LLC

Pro Se

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CONT... SC Development Fund, LLC

Chapter 7

Weneta M Kosmala

Pro Se

Plaintiff(s):

Hui Xiu Zhang

Represented By
Elan Darvish

Jumbo Investment, Inc.

Represented By
Elan Darvish

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Beth Gaschen
Jeffrey I Golden

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9:30 AM

8:20-12390 Frank Hinojosa Castro

Chapter 13

Adv#: 8:20-01145 ESIRF, LLC v. Castro

#3.00 STATUS CONFERENCE RE: Complaint to Determine Non-Dischargeability of Debt Pursuant to 11 U.S.C. §§523(a)(3)(A), 523(a)(4), and 1328(a)(2)

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 7, 2021

Continue Status Conference to April 8, 2021 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).

Additional notes:

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

Debtor(s):

Frank Hinojosa Castro

Represented By
Christopher P Walker

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CONT... Frank Hinojosa Castro

Chapter 13

Defendant(s):

Frank Hinojosa Castro

Pro Se

Plaintiff(s):

ESIRF, LLC

Represented By
Aaron D. Burden

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
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9:30 AM

8:19-12411 Orange County Bail Bonds, Inc.

Chapter 11

#4.00 Hearing RE: Debtor and Debtor-in-Possession's Motion For Order: 1) Authorizing Sale of Real Property Free and Clear of Liens, Claims, and Interests Pursuant to 11 U.S.C. Sections 363(b) and (f); 2) Approving Overbid Procedures; 3) Authorizing Distribution of Sale Proceeds; 4) Waiver of Federal Rule of Bankruptcy Procedure 6004(h); and 5) Finding Buyer to be a Good Faith Purchaser Pursuant to 11 U.S.C. Section 363(m)

Docket 230

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 7, 2021

Grant motion, subject to overbid.

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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10:00 AM

8:18-14035 William Raymond Harvey and Akram Naieharvey

Chapter 13

#5.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]
NISSAN MOTOR ACCEPTANCE CORPORATION
VS.
DEBTORS

Docket 105

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 7, 2021

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):

William Raymond Harvey

Represented By
Farbood Majd

Joint Debtor(s):

Akram Naieharvey

Represented By
Farbood Majd

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CONT... William Raymond Harvey and Akram Naieharvey

Chapter 13

Movant(s):

Nissan Motor Acceptance

Represented By
Kirsten Martinez

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

8:20-10250 Leticia Rubio

Chapter 13

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

WELLS FARGO BANK, NA

VS.

DEBTOR

FR: 12-3-20

Docket 41

***** VACATED *** REASON: OFF CALENDAR: Stipulation for Adequate Protection Re: Section 362 Stay filed 1/4/21, Order approving Stipulation ENTERED on 1/4/21**

Courtroom Deputy:

OFF CALENDAR: Stipulation for Adequate Protection Re: Section 362 Stay filed 1/4/21, Order approving Stipulation ENTERED on 1/4/21 --eas / td (1/4/2021)

Tentative Ruling:

December 3, 2020

Grant motion with 4001(a)(3) waiver unless Debtor is current by the time of the hearing, in which case an adequate protection order will be granted. If the parties require additional time to discuss a resolution, a continuance may be requested during the calendar roll call by the courtroom clerk just prior to the hearing. Available continued dates are: 12/10, 12/17/20, 1/7/21 and 1/14/21 at 10:00 a.m.

Party Information

Debtor(s):

Leticia Rubio

Represented By
Michael D Franco

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CONT... Leticia Rubio

Chapter 13

Movant(s):

Wells Fargo Bank, NA, as Trustee,

Represented By
Daniel K Fujimoto
Caren J Castle

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

8:20-11978 SC Development Fund IV, LLC

Chapter 7

#7.00 CON'TD Hearing RE: Motion for Relief from the Automatic Stay Under 11 U.S.C. Section 362 (Real Property: 3515 Ocean View Avenue, Los Angeles, CA 90066)

GOLDMAN SACHS BANK USA

VS.

DEBTOR

FR: 12-3-20

Docket 55

Courtroom Deputy:

SPECIAL NOTE: This motion going forward per Bryan Moldo, Attorney for Movant - td (11/16/2020)

Tentative Ruling:

December 3, 2020

Deny motion without prejudice.

Basis for Tentative Ruling:

Service issue:

Debtor was not served in accordance with FRBP 7004(b)(3) as required by FRBP 9014(b) for contested matters such as motions for relief from stay.

Rule 7004(b)(3) of the Fed.R.Bankr.P. requires that corporate entities be served "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of

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CONT... SC Development Fund IV, LLC
process."

Chapter 7

Merits:

362(d)(1): Movant is protected by a 26% equity cushion by its own calculation and has not demonstrated that the property has declined in value since the filing of the case or any other "cause" for relief from stay at this time.

362(d)(2): Movant's valuation establishes equity for this debtor's security interest in the property of at least \$650,000 (even after deducting costs of sale).

January 7, 2021

Grant motion.

Basis for Tentative Ruling:

1. Service issue corrected
2. Supplemental brief (including revised appraisal) filed 12/10/21 [docket # 72]
3. No opposition filed to supplemental brief.

Party Information

Debtor(s):

SC Development Fund IV, LLC

Represented By
Keith S Dobbins

Movant(s):

Goldman Sachs Bank c/o Genesis

Represented By
Byron Z Moldo

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Beth Gaschen
Jeffrey I Golden

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CONT... SC Development Fund IV, LLC

Chapter 7

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10:00 AM

8:20-11978 SC Development Fund IV, LLC

Chapter 7

#8.00 CON'TD Hearing RE: Motion for Relief from the Automatic Stay Under 11 U.S.C. Section 362 (Real Property: 15625 High Knoll Road, Encino, CA 91436)

GOLDMAN SACHS BANK USA

VS.

DEBTOR

FR: 12-3-20

Docket 57

Courtroom Deputy:

SPECIAL NOTE: This motion going forward per Bryan Moldo, Attorney for Movant - td (11/16/2020)

Tentative Ruling:

December 3, 2020

Continue hearing to January 7, 2021 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)(i). Per FRBP 9014, service on Debtor must be made in accordance with FRBP 7004(b)(3). (XX)

Tentative ruling for 1/7/21 hearing (if unopposed): Grant the Motion.

Note: If Movant accepts the tentative ruling, appearance at today's hearing is not required.

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CONT... SC Development Fund IV, LLC

Chapter 7

Grant the motion. Service issue corrected.

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):

SC Development Fund IV, LLC

Represented By
Keith S Dobbins

Movant(s):

Goldman Sachs Bank c/o Genesis

Represented By
Byron Z Moldo

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Beth Gaschen
Jeffrey I Golden

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10:00 AM

8:20-12645 Arnulfo Alatorre

Chapter 7

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

WILMINGTON TRUST, NA

VS.

DEBTOR

FR: 12-3-20

Docket 15

*** VACATED *** REASON: OFF CALENDAR: Notice of Voluntary Dismissal of Motion for Relief from the Automatic Stay filed 1/6/2021

Courtroom Deputy:

OFF CALENDAR: Notice of Voluntary Dismissal of Motion for Relief from the Automatic Stay filed 1/6/2021 - td (1/6/2021)

Tentative Ruling:

December 3, 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.

January 7, 2021

Deny motion without prejudice to Movant filing a new motion.

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CONT... Arnulfo Alatorre

Chapter 7

Basis for Tentative Ruling:

In the current Motion, Movant based the value of the property solely on Debtor's statement of value in his Schedules, i.s., \$480,000. Debtor has, by his opposition, refuted that value and asserts a value of \$610,000. Though Movant was provided an opportunity to file a reply to Debtor's opposition, it has elected not to do so. Accordingly, Movant has not met its burden of proof regarding Debtor's lack of equity in the property, or that the value of the property has declined since the bankruptcy filing.

Special note: The U.S. Trustee has filed a motion to dismiss this case (scheduled for hearing on January 14, 2021 at 10:30 a.m.) due to Debtor's failure to attend multiple scheduled 341a creditors' meetings.

Party Information

Debtor(s):

Arnulfo Alatorre

Pro Se

Movant(s):

Wilmington Trust, National

Represented By
Darlene C Vigil

Trustee(s):

Thomas H Casey (TR)

Pro Se

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10:00 AM

8:20-13265 Christopher Samuel Smit and Theresa Christine Smit

Chapter 7

#10.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]
AMERICAN HONDA FINANCE CORPORATION
VS.
DEBTORS; AND KAREN S. NAYLOR, CHAPTER 7 TRUSTEE

Docket 8

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 7, 2021

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):

Christopher Samuel Smit

Represented By
Kevin J Kunde

Joint Debtor(s):

Theresa Christine Smit

Represented By
Kevin J Kunde

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CONT... Christopher Samuel Smit and Theresa Christine Smit

Chapter 7

Movant(s):

American Honda Finance

Represented By
Vincent V Frounjian

Trustee(s):

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court
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10:30 AM

8:19-13547 Luis Alberto Rodriguez, Jr.

Chapter 11

#11.00 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 113

***** VACATED *** REASON: OFF CALENDAR: Voluntary Dismissal of U.S. Trustee's Motion, filed 12/8/2020**

Courtroom Deputy:

OFF CALENDAR: Voluntary Dismissal of U.S. Trustee's Motion, filed 12/8/2020 - td (12/8/2020)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luis Alberto Rodriguez Jr.

Represented By
Michael Jones
Sara Tidd

Movant(s):

United States Trustee (SA)

Represented By
Michael J Hauser
Frank Cadigan

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8:19-13944 John Julian Norman and Ashley Marie Norman

Chapter 7

#12.00 Hearing RE: Motion of U.S. Trustee For Order Reopening Chapter 7 Case to Administer Assets and to Appoint Chapter 7 Trustee; Pursuant to 11 U.S.C. Section 350(b)

Docket 20

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 7, 2021

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):

John Julian Norman

Represented By
Michael Jones

Joint Debtor(s):

Ashley Marie Norman

Represented By
Michael Jones

Trustee(s):

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court
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10:30 AM

8:20-11026 Little John's Antique Arms, Inc.

Chapter 11

#13.00 Hearing RE: Debtor and Debtor-in-Possession's Omnibus Motion for Order to Disallow Claims:

Cl. #2	Southern California Edison	\$1,164.87
Cl. #10	Robert Huntington	Unknown
Cl. #11	Manuel Ruben Solarzano	\$104,476.00
Cl. #16	Raymond P. Tenold Trust	Unknown
Cl. #17	James F. Burke	\$1,705.00
Cl. #19	Estate of Charles Abshire	\$500.00

Docket 135

***** VACATED *** REASON: OFF CALENDAR: Notice fo Withdrawal
RE: Omnibus Motion filed 12/16/2020**

Courtroom Deputy:

**OFF CALENDAR: Notice fo Withdrawal RE: Omnibus Motion filed
12/16/2020 - td (12/16/2020)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Little John's Antique Arms, Inc.

Represented By
Richard A Marshack
Chad V Haes
D Edward Hays

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8:20-11026 Little John's Antique Arms, Inc.

Chapter 11

#14.00 Hearing RE: Debtor and Debtor-in-Possession's Second Omnibus Motion
Objecting to Claims:

Cl. #1	Paul Grisanti	\$1,467.00
Cl. #4	Theodore Lauriano	\$2,400.00
Cl. #5	Dale/Eileen Strong	\$199,650.00
Cl. #7	Estate of Charles Porter	\$47,533.00
Cl. #8	Charles Schuber	\$30,561.75
Cl. #12	Gene Kan	\$84,000.00
Cl. #13	Ron/Nicki Chambers	\$129,357.00
Cl. #14	Clair Emerson	\$14,445.75
Cl. #15	Sam Pistoresi Living Trust	\$109,019.00
Cl. #16	Rosalva Garcia	\$45,000.00

Docket 136

***** VACATED *** REASON: OFF CALENDAR: Notice fo Withdrawal
RE: Second Omnibus Motion filed 12/16/2020**

Courtroom Deputy:

**OFF CALENDAR: Notice fo Withdrawal RE: Second Omnibus Motion
filed 12/16/2020 - td (12/16/2020)**

Tentative Ruling:

- NONE LISTED -

Party Information

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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
D Edward Hays

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8:20-11026 Little John's Antique Arms, Inc.

Chapter 11

#15.00 Hearing RE: Debtor-in-Possession's Motion for Authority to Disburse Funds

Docket 126

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 7, 2021

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):

Little John's Antique Arms, Inc.

Represented By
Richard A Marshack
Chad V Haes
D Edward Hays

Movant(s):

Little John's Antique Arms, Inc.

Represented By
Richard A Marshack
Chad V Haes
D Edward Hays

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8:20-12724 Julie Barela

Chapter 11

#16.00 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); Request for Any Quarterly Fees Due and Payable to the U.S. Trustee at the time of the Hearing

Docket 36

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 7, 2021

Grant motion -- dismiss case.

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):

Julie Barela

Represented By
Thomas B Ure

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8:20-12724 Julie Barela

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: 12-3-20

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 3, 2020

Continue the Status Conference to January 7, 2021 at 10:30 a.m., same date/time as hearing on the motion of the US Trustee to dismiss or convert the case. (XX)

Note: Appearance at this hearing is not required.

January 7, 2021

Take status conference off calendar in light of granting of motion to dismiss case.

Party Information

Debtor(s):

Julie Barela

Represented By
Thomas B Ure

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

Thursday, January 7, 2021

Hearing Room 5A

10:30 AM

8:20-13201 American Sterling Corporation

Chapter 11

#18.00 STATUS CONFERENCE Hearing on Status of Subchapter V Case; (2)
Requiring Report on Status of Subchapter V Case by Debtor and Subchapter V
Trustee

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 7, 2021

Deadline to file plan*: Feb. 16, 2021

Plan Confirmation Hearing/
Continued Status Conference: Apr. 15, 2021 at 10:30 a.m.

Deadline to serve plan/
deadline notices/ballot: Feb. 23, 2021

Deadline for return of ballots/
filing objections to plan: Mar. 23, 2021

Deadline to file confirmation
brief/ballots/ tally analysis Apr. 6, 2021

*The court will not require a disclosure statement. However, the plan must include a brief statement discussing the circumstances precipitating the filing and the purpose of the plan. An updated chapter 11 status report is not required if a plan is timely filed by February 16, 2021.

Special Note: The court does not typically set a deadline for the filing of proofs of claim unless a deadline is specifically requested.

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, January 7, 2021

Hearing Room 5A

10:30 AM

CONT... American Sterling Corporation

Chapter 11

Note: If Debtor is in substantial compliance with the requirements of the U.S. Trustee, accepts the confirmation schedule proposed above, and there have been no significant developments in the case since the status report was filed, appearances at this hearing will not be required. It is Debtor's responsibility to confirm substantial compliance with the U.S. Trustee in advance of the hearing. The Court will issue its own order re the continuance of the Status Conference.

Party Information

Debtor(s):

American Sterling Corporation

Represented By
Nanette D Sanders

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, January 7, 2021

Hearing Room 5A

10:30 AM

8:20-11507 Hytera Communications America (West) Inc

Chapter 11

#19.00 Hearing RE: First Interim Application for Approval of Fees and Reimbursement of Expenses

**[LEVENE, NEALE, BENDER, YOO & BRILL L.L.P., ATTORNEYS FOR THE
JOINT COMMITTEE OF CREDITORS HOLDING UNSECURED CLAIMS]**

Docket 334

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 7, 2021

Approve fees and expenses on an interim basis 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):

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, January 7, 2021

Hearing Room 5A

10:30 AM

8:20-11507 Hytera Communications America (West) Inc

Chapter 11

#20.00 Hearing RE: First Interim Application for Compensation and Reimbursement of Expenses for the Period May 26, 2020 through August 31, 2020

**[PACHULSKI STANG ZIEHL & JONES LLP, GENERAL BANKRUPTCY
COUNSEL FOR THE DEBTORS AND DEBTORS IN POSSESSION]**

Docket 340

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 7, 2021

Approve fees and expenses on an interim basis 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):

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, January 7, 2021

Hearing Room 5A

10:30 AM

8:20-11507 Hytera Communications America (West) Inc

Chapter 11

#21.00 Hearing RE: First Interim Application for Compensation and Reimbursement of Expenses for the Debtors and the Debtors in Possession for the Period May 26, 2020 through August 31, 2020

[STEPTOE & JOHNSON LLP AS CORPORATE AND SPECIAL COUNSEL FOR THE DEBTORS AND THE DEBTORS IN POSSESSION]

Docket 341

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 7, 2021

Approve fees and expenses on an interim basis 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):

Hytera Communications America

Represented By

John W Lucas

Jason H Rosell

Victoria Newmark

Movant(s):

StepToe & Johnson LLP

Represented By

John W Lucas

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

Thursday, January 7, 2021

Hearing Room 5A

10:30 AM

8:20-11507 Hytera Communications America (West) Inc

Chapter 11

#22.00 Hearing RE: First Interim Application for Compensation and Reimbursement of Expenses for the Period May 26, 2020 through August 31, 2020

**[IMPERIAL CREDIT CAPITAL, LLC, INVESTMENT BANKER AND FINANCIAL
ADVISOR TO THE DEBTORS AND DEBTORS IN POSSESSION]**

Docket 342

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 7, 2021

Approve fees and expenses on an interim basis 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):

Hytera Communications America

Represented By
John W Lucas
Jason H Rosell
Victoria Newmark

Movant(s):

Imperial Capital, LLC

Represented By
John W Lucas

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

Thursday, January 7, 2021

Hearing Room 5A

10:30 AM

8:20-11507 Hytera Communications America (West) Inc

Chapter 11

#23.00 Hearing RE: First Interim Application for Compensation and Reimbursement of Expenses for the Period May 26, 2020 through July 31, 2020

**[OMNI AGENT SOLUTIONS, CASE ADMINISTRATIVE CONSULTANT TO
THE DEBTORS AND DEBTORS IN POSSESSION]**

Docket 343

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 7, 2021

Approve fees and expenses on an interim basis 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):

Hytera Communications America

Represented By
John W Lucas
Jason H Rosell
Victoria Newmark

Movant(s):

Omni Agent Solutions

Represented By
John W Lucas

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

Thursday, January 14, 2021

Hearing Room 5A

9:30 AM

8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address:

<https://cacb.zoomgov.com/j/1619902969>

ZoomGov meeting number: 161 990 2969

Password: 602983

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Thursday, January 14, 2021

Hearing Room 5A

9:30 AM
CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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

Thursday, January 14, 2021

Hearing Room 5A

9:30 AM

CONT...

- NONE LISTED -

Chapter

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

Thursday, January 14, 2021

Hearing Room 5A

9:30 AM

8:17-12213 Solid Landings Behavioral Health, Inc.

Chapter 11

Adv#: 8:20-01151 Bristol SL Holdings, Inc v. HOWARD B. GROBSTEIN

#1.00 STATUS CONFERENCE RE:Complaint For Declaratory Relief

Docket 1

Courtroom Deputy:

SPECIAL NOTE: Stipulation for Judgment filed 10/29/2020; Judgment Lodged in LOU on 10/29/2020, Order #10292351 - td (10/30/2020)

Tentative Ruling:

January 14, 2021

In light of pending settlement, continue the Status Conference to February 18, 2021 at 9:30 a.m.; an updated Status Report must be filed by February 4, 2021 if a Rule 9019 motion has not been filed by such date.

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

Party Information

Debtor(s):

Solid Landings Behavioral Health,

Represented By
David L. Neale
Juliet Y Oh
Jeffrey S Kwong
David M Samuels

Defendant(s):

HOWARD B. GROBSTEIN

Pro Se

Plaintiff(s):

Bristol SL Holdings, Inc

Represented By
Nathan Fransen

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

Thursday, January 14, 2021

Hearing Room 5A

9:30 AM

CONT... Solid Landings Behavioral Health, Inc.

Chapter 11

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

Thursday, January 14, 2021

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

**#2.00 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; 1-16-20; 5-7-20; 6-4-20; 7-9-20

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.

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, January 14, 2021

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, January 14, 2021

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. 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
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Thursday, January 14, 2021

Hearing Room 5A

9:30 AM

CONT... Peter Woo Sik Kim

Chapter 7

Note: Appearances at this hearing are required.

January 14, 2021

Continue this Trial Procedures Conference to March 11, 2021 at 9:30 a.m.; postpone the Trial Dates to May 26, 2021 and May 27, 2021 starting each day at **9:30 a.m.**

Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing dates/times.

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

Plaintiff(s):

Kang Family 2007 Revocable Trust

Represented By
Edmond Richard McGuire

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Lynda T Bui

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

Thursday, January 14, 2021

Hearing Room 5A

9:30 AM

CONT...

Peter Woo Sik Kim

Rika Kido

Chapter 7

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

Thursday, January 14, 2021

Hearing Room 5A

9:30 AM

8:19-11546 Joseph Ra

Chapter 7

Adv#: 8:20-01154 Marshack v. Ra

#3.00 STATUS CONFERENCE RE: Chapter 7 Trustee's Complaint RE: Objection to Debtor's Discharge Under Section 727 of the Bankruptcy Code

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 14, 2021

Continue Status Conference to April 1, 2021 at 9:30 a.m.; an updated Status Report must be filed by March 18, 2021 if a motion for default judgement has not been filed by such date.

Special Note:

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 today's hearing is 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, January 14, 2021

Hearing Room 5A

9:30 AM

CONT... Joseph Ra

Chapter 7

Debtor(s):

Joseph Ra

Represented By
David B Golubchik
Jaenam J Coe

Defendant(s):

Joseph Ra

Pro Se

Plaintiff(s):

Richard A. Marshack

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, January 14, 2021

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

#4.00 CON'TD PRE-TRIAL CONFERENCE RE: Complaint Seeking Non-Dischargeability of Debt in Core Adversary Proceeding.

FR: 4-2-20; 6-11-20; 11-5-20

Docket 1

***** VACATED *** REASON: CONTINUED TO 4/1/2021 AT 9:30 A.M.,
PER ORDER ENTERED 12/29/2020 (XX)**

Courtroom Deputy:

**CONTINUED: Pre-Trial Conference Continued to 4/1/2021 at 9:30 a.m.,
Per Order Entered 12/29/2020 (XX) - td (12/29/2020)**

Tentative Ruling:

April 2, 2020

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.

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

**United States Bankruptcy Court
Central District of California
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Judge Erithe Smith, Presiding
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Thursday, January 14, 2021

Hearing Room 5A

9:30 AM

CONT... Catherine Melissa-Ann Guinto

Chapter 7

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

November 5, 2020

Continue the Pretrial Conference to December 10, 2020 to allow Defendant one final opportunity to participate in the drafting of the Pretrial Stipulation. Defendant must advise Plaintiff's counsel of her suggested revisions to the Pretrial Stipulation no later than November 19, 2020 and Plaintiff will provide Defendant with a copy of the revised Pretrial Stipulation no later than November 30, 2020. The final version of the Joint Pretrial Stipulation must be filed no later than December 3, 2020.

Court's Comments

1. It is Defendant's best interest to participate in the drafting of the Joint Pretrial Stipulation ("Stipulation") because the Stipulation establishes all issues that will be decided at trial as well as the exhibits and witness that may be presented. Defendant is advised to review Local Bankruptcy Rule 7016-1 re the preparation of joint pretrial stipulations. Unless Defendant participates in the process, the unilateral Joint Pretrial Stipulation (except as noted below) will stand. Defendant is strongly advised to communicate with Plaintiff's counsel regarding the Stipulation.

2. On pages 2 and 3 of the Stipulation, Plaintiff lists all facts it believes are not in dispute. See paragraphs 1 (a) through (j). If Defendant disagrees with any of those facts, she needs to advise Plaintiff's counsel so that the disputed fact(s) can be included in paragraph 2 (starting at p.3, lines 15-27 to p. 4, lines 1-4). For example, if Defendant agrees that she filed a chapter 7 bankruptcy case on September 26, 2019, that is an "agreed" fact that need not be determined at trial. It is Defendant's responsibility to identify any facts

**United States Bankruptcy Court
Central District of California
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Thursday, January 14, 2021

Hearing Room

5A

9:30 AM

CONT... Catherine Melissa-Ann Guinto

Chapter 7

in paragraph 1 that genuinely disputes and communicate that to Defendant.

3. Paragraph 2 includes facts that the parties do not agree on that must be decided by the court at trial, such as whether Defendant made false statements regarding the loan, etc.

4. Plaintiff states as an undisputed fact on p. 3 at lines 3-7 that a "default judgment for *fraud* was entered." However, though the complaint attaches several exhibits, a copy of the actual judgment (showing fraud) was not attached. This is important because the state court complaint also includes a cause of action for breach of contract (which is dischargeable) and there is at least a possibility that the judgment could be solely for breach of contract. The court notes that the judgment is not included on Plaintiff's list of exhibits.

5. Defendant needs to provide to Plaintiff's counsel by November 19, 2020 a) her list of witnesses (even if its just herself) and a short summary of what the witnesses will testify to; and b) her list of exhibits that she will present in her defense. If Defendant does not provide a list of witnesses or exhibits by November 19, 2020, she will not be allowed to present them at trial.

6. The trial date will be provided at the December 10, 2020 hearing.

Note: If the both parties accept the tentative ruling, appearances at this hearing are not required and Plaintiff shall serve notice of the continued hearing date and deadlines. Plaintiff is also encouraged to provide Defendant with a copy of the the tentative ruling prior to the hearing.

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, January 14, 2021

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, January 14, 2021

Hearing Room 5A

9:30 AM

8:20-11898 Louis Sandoval

Chapter 7

Adv#: 8:20-01110 Myers v. Sandoval

- #5.00** STATUS CONFERENCE RE: Complaint to Object to Debtor's Discharge and Complaint to Determine Non-Dischargeability of Debt Under Section 523(A) (2) of The Bankruptcy Code and For Denial of Discharge Under Section 727(A)(4) of The Bankruptcy Code
(Another Summons Issued 10/30/2020)

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 14, 2021

No answer or other response to the Complaint has been filed by the defendant, Louis Sandoval. Accordingly, this Status Conference will be continued to April 15, 2021 at 9:30 a.m. to allow Plaintiff to file a motion for entry of a default judgment against the defendant which provides evidence to support the required elements of fraud under Bankruptcy Code Section 523(a)(2)(A).

Special Note:

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.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, January 14, 2021

Hearing Room 5A

9:30 AM

CONT... Louis Sandoval

Chapter 7

The court strongly suggests that Plaintiff seek legal counsel regarding the preparation of a motion for default judgment.

Note: If Plaintiff accepts the foregoing tentative ruling, appearance at today's hearing is not required; Plaintiff to serve the defendant by mail with notice of the continued hearing date/time.

Party Information

Debtor(s):

Louis Sandoval

Represented By
Steven B Lever

Defendant(s):

Louis Sandoval

Pro Se

Plaintiff(s):

Charlotte Cysner Myers

Pro Se

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 14, 2021

Hearing Room 5A

9:30 AM

8:20-11224 Mazin M. Yehia

Chapter 7

Adv#: 8:20-01113 Dawam v. Yehia

#6.00 Hearing RE: Plaintiff's Motion for Order Abstaining and Abating Adversary Proceeding Pending Trial of State Court Proceeding After Grant of Relief from Automatic Stay

Docket 27

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 14, 2021

Grant motion for the reasons stated in the Motion and Reply ; overrule opposition.

Basis for Tentative Ruling:

Over the past 26 years, this court has routinely stayed or abated nondischargeability adversary proceedings when state court actions were pending involving fraud and other torts such as conversion. If the state action results in a judgment in favor of the plaintiff, this court then determines if preclusion doctrines apply for purposes of dischargeability. For example, if the state judgment is entered against Debtor on the basis of fraud, such finding of fraud is likely to have preclusive effect in the nondischargeability trial. Conversely, if the state court judgment is based on "oppression," preclusion is not a certainty as "oppression" under California law does not rise to the level of "fraud" or other intentional tort for which discharge can be denied under either 523(a)(2)(A) or 523(a)(6). Finally, the court need not abstain in order to allow the state court action to proceed.

Deference Under the Colorado River Doctrine

Under the Colorado River Doctrine, the bankruptcy court has discretion

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9:30 AM

CONT...

Mazin M. Yehia

Chapter 7

to invoke a stay of bankruptcy proceedings, in favor of state court proceedings, and "that such power is distinct from, and not preempted by, the statutory bankruptcy abstention provisions [11 U.S.C. § 305](#); [28 U.S.C. § 1334\(c\)](#). *In re Bellucci*, 119 B.R. 763, 767 (Bankr. E.D. Cal. 1990)

A Colorado River stay is a form of deference to state court jurisdiction rather than a recognized form of abstention, an exercise of such deference is subject to abstention analysis. *Id.* Citing [Coopers & Lybrand v. Sun-Diamond Growers](#), 912 F.2d 1135, 1137 (9th Cir.1990). Under the *Colorado River* doctrine, a federal trial court has discretion, in "exceptional circumstances" and despite the general obligation to exercise jurisdiction, to stay or dismiss an action for reasons of wise judicial administration solely because of the existence of parallel litigation in state court. The doctrine applies in bankruptcy. See [Wilkey v. Sutton \(In re Sutton\)](#), 109 B.R. 238 (Bankr.W.D.Ky.1989); [Tidwell Indus., Inc.](#), 87 B.R. at 345. The determination is guided by an exceptional circumstances test based upon six factors that emerge from the Supreme Court's decisions in *Colorado River* and its progeny:

1. The assumption of jurisdiction over any res or property in question.
2. The relative convenience of the state and federal forums.
3. The danger of unnecessarily piecemeal litigation.
4. The order in which concurrent tribunals obtained and exercised jurisdiction.
5. Whether federal or state law provides the rule of decision on the merits.

6. The adequacy of the state proceeding to protect the parties' rights. These factors are "to be applied in a pragmatic, flexible manner with a view to the realities of the case at hand." *Id.* at 775, citing [Moses H. Cone Hospital](#), 460 U.S. at 21, 103 S.Ct. at 940. Mechanical applications are disfavored. *Id.*

The Motion cites *Qingdao Tang-Buy Int'l Import & Export Co*, No. 15-cv-00624-LB at 6 (N.D. Cal. Nov. 3, 2016) for a list of eight factors to be consider under the Colorado River Doctrine. I have located that case under the citation 2016 WL 6524396 with the same case number and date, however, this case has no relation to the Colorado River Doctrine or the relevant factors thereunder. The proper case appears to be *R.R. St. & Co.*

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Inc. v. Transp. Ins. Co., 656 F.3d 966, 978–79 (9th Cir. 2011), which provides that:

Drawing from *Colorado River*, *Moses H. Cone* and subsequent Ninth Circuit cases, we have recognized eight factors for assessing the appropriateness of a *Colorado River* stay or dismissal: (1) which court first assumed jurisdiction over any property at stake; (2) the inconvenience of the federal forum; (3) the desire to avoid piecemeal litigation; (4) the order in which the forums obtained jurisdiction; (5) whether federal law or state law provides the rule of decision on the merits; (6) whether the state court proceedings can adequately protect the rights of the federal litigants; (7) the desire to avoid forum shopping; and (8) whether the state court proceedings will resolve all issues before the federal court. *Holder*, 305 F.3d at 870.

1. Assumption of Jurisdiction Over Property in Question

This case revolves around a failed business arrangement between Plaintiff and Defendant in the investment of a Farmers Insurance Agency in Huntington Beach (the "Agency") and the share of profits from the Agency. See FAC. There is no physical property at issue (which this factor seems to refer to). However, the dispute was first raised in the State Court Proceedings, more than two years before the bankruptcy was filed. Therefore, the state court first assumed jurisdiction.

2. Inconvenience of the Federal Court

This factor does not really weigh either way. Defendant filed bankruptcy so she is subject to federal court. Plaintiff filed this adversary in bankruptcy court and does not allege that bankruptcy court is inconvenient. Plaintiff's argument is more that underlying proceeding has been litigated for over 2 years in state court and has just passed the motion to dismiss and Answer stage in our court.

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Chapter 7

3. Piecemeal Litigation

The danger of unnecessary piecemeal litigation favors allowing the state court to rule. The action is ready to proceed to trial in state court and this court has granted RFS. If this court were to go forward with the adversary, it would be some time until a pretrial conference is set, pre trial motions are heard and the matter is set for trial.

4. Order in which Tribunals Obtained and Exercised Jurisdiction.

The order in which the state and federal courts obtained jurisdiction over Plaintiff's claims weigh in favor of a stay. The focus is on the relative progress of the cases in the state and federal forums—how the courts have "exercised" their jurisdiction. In *Swift v. Bellucci*, was filed nearly nine years before the Bellucci bankruptcy. While the State Court Proceeding is not that far along in our case. It is over two years progressed and is ready to proceed to trial. Conversely, Defendant only recently filed an Answer in this case.

5. Whether Federal or State Law Provides the Rule of Decision on the Merits

The underlying causes of action were filed in the State Court, based upon state court allegations of fraud and breach of contract. Once the state court has rendered a final judgment on the fraud claims, this court may rule whether the fraud claims are dischargeable based upon the doctrine of collateral estoppel. Conversely, the breach of contract claims are dischargeable, therefore, as this court has already ruled, Plaintiff may not pursue breach of contract in state court. This was the order of the Court pursuant to the RFS entered December 17, 2020 as docket #25, which was unopposed by Defendant.

6. Adequacy of the State Court Proceeding to Protect the Parties' Rights

As indicated in the previous factor, this court has already granted RFS to proceeding with all but two claims for relief in the state court action.

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Defendant did not file an opposition to the relief from stay. The underlying claims for relief are under state law and are best determined in the State Court Proceeding. Even if Plaintiff receives a positive outcome in the State Court Proceedings, he is not guaranteed a judgment in this court. As such, Defendant's rights are protected. The issue of nondischargeability will be determined in bankruptcy court, but can be done more expeditiously if this court has a final judgment with findings from the that allow the application of collateral estoppel.

7. Desire to Avoid Forum Shopping

The State Court Proceeding has been ongoing for over two years. It wasn't until shortly before trial that Defendant filed bankruptcy. The bankruptcy appears to have been filed to quickly stop the trial and bring the claims in front of this court, i.e. forum shop. This factor weighs in favor of deference.

8. Whether State Court Proceedings Will Resolve All Issues

All issues will not be resolved by the State Court Proceedings because this Court will ultimately decide the issue of nondischargeability. However, a final judgment with findings by the stat court will short circuit the litigation in this court when a proper motion for summary judgment (collateral estoppel) is brought. This factor weighs in favor of deference.

Stay Under §105(a)

Pursuant to section 105(a), the court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. 11 U.S.C. §105(a). Moreover, the ability to stay a proceeding is incidental to the court's inherent powers. "The inherent powers of federal courts are those which are necessary to the exercise of all others." *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 764 (1980). Such inherent powers are ones governed not by rule or statute but "which a judge must have and exercise in protecting the due and orderly administration of justice and in maintaining the authority and dignity of the court..." *Id.* at 764-65. Thus, "[i]t is well-established that district courts have inherent power to control their dockets and may impose sanctions ... in the exercise of that discretion."

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Atchison, Topeka & Sante Fe Ry. Co. v. Hercules, Inc., 146 F.3d 1071, 1074 (9th Cir. 1988).

Staying this proceeding will conserve time and resources for the court and the parties. This adversary proceeding seeks a determination that a debt is nondischargeable under §523(a)(2) and (a)(4) for fraud. There is already a parallel action in state court to determine fraud based on the same allegations. The State Court Proceeding is ready to go to trial and should be permitted to do so. Once a final judgment has been entered, this court can determine whether the judgment, if any, is nondischargeable under §523(a) pursuant to a motion for summary judgment under the doctrine of collateral estoppel instead of a lengthy trial. Pursuant to §105, the court's inherent power, and the status conference order, this adversary proceeding should be stayed.

Party Information

Debtor(s):

Mazin M. Yehia

Represented By
Christine A Kingston

Defendant(s):

Mazin M. Yehia

Represented By
Christine A Kingston

Movant(s):

Naeel Hamdy Dawam

Represented By
Benjamin R Heston
Richard G Heston

Plaintiff(s):

Naeel Hamdy Dawam

Represented By
Benjamin R Heston
Richard G Heston

Trustee(s):

Jeffrey I Golden (TR)

Pro Se

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8:20-11224 Mazin M. Yehia

Chapter 7

Adv#: 8:20-01113 Dawam v. Yehia

#7.00 CON'TD STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt Pursuant to 11 U.S.C. §523(a)(2)(A), (a)(2)(B), and (a)(4)

FR: 10-22-20; 11-5-20

Docket 1

Courtroom Deputy:

SPECIAL NOTE: Main Case Closed 8/11/2020 - td (8/25/2020)

Tentative Ruling:

October 22, 2020

Continue Status Conference to November 5, 2020 at 2:00 p.m., same date/time as hearing on Defendant's motion to dismiss. Updated Status Report not required for the November 5, 2020 hearing. (XX)

Note: If all parties accept the foregoing tentative ruling, appearances at today's hearing are not required.

January 14, 2021

Continue Status Conference to May 20, 2021 at 9:30 a.m.; updated Joint Status Report must be filed by May 6, 2021.

Note: If all parties accept the foregoing tentative ruling, appearances at today's hearing are not required.

Party Information

Debtor(s):

Mazin M. Yehia

Represented By

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CONT... Mazin M. Yehia

Chapter 7

Christine A Kingston

Defendant(s):

Mazin M. Yehia

Pro Se

Plaintiff(s):

Naeel Hamdy Dawam

Represented By
Benjamin R Heston

Trustee(s):

Jeffrey I Golden (TR)

Pro Se

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10:00 AM

8:15-15096 Darshan Upadhyaya

Chapter 7

Adv#: 8:16-01024 Floorit Financial, Inc. v. Upadhyaya

#8.00 CONT'D Examination of Third Person Amanda Upadhyaya aka Amanda C. Ramos Upadhyaya Re: Enforcement of Judgment

FR: 4-9-20; 6-4-20; 9-10-20; 11-19-20

Docket 20

***** VACATED *** REASON: CONTINUED TO 5/20/2021 AT 10:00 A.M.,
PER ORDER ENTERED 1/11/2021 (XX)**

Courtroom Deputy:

CONTINUED: Hearing on Examination Continued to 5/20/2021 at 10:00 a.m., Per Order Entered 1/11/2021 (XX) - td (1/11/2021)

Tentative Ruling:

June 4, 2020

Continue the examination to September 10, 2020 at 10:00 a.m. (XX)

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.

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.

September 10, 2020

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CONT... Darshan Upadhyaya

Chapter 7

Continue the examination to November 19, 2020 at 10:00 a.m. (XX)

Basis for Tentative Ruling

The courthouse is currently 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 November 19, 2020. Depending on the status of pandemic-related rules and policies in place on November 19, 2020, the examination 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.

November 19, 2020

This tentative ruling applies to #s 15 and 16 on today's calendar:

The courthouse is currently closed to in-person court appearances and on-site in-person judgment debtor examinations. However, as this court now conducts hearings on the Zoom platform, the examination may be accommodated by placing the parties in a separate private Zoom "room" after the examinees are sworn in by the courtroom clerk. It will be the responsibility of the Judgment Creditor to either have the court reporter call into the Zoom hearing at the commencement of the hearing or to make other arrangements for the participation of the court reporter. Alternatively, the Judgment Creditor is free to schedule an examination outside the courthouse, including by video conference, in which case this hearing will be continued to January 14, 2021 at 10:00 a.m.

The Judgment Creditor shall advise the courtroom clerk of its choice at the time of the calendar roll call.

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CONT... Darshan Upadhyaya

Chapter 7

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

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8:15-15096 Darshan Upadhyaya

Chapter 7

Adv#: 8:16-01024 Floorit Financial, Inc. v. Upadhyaya

#9.00 CONT'D Examination of Judgment Debtor Darshan Upadhyaya Re:
Enforcement of Judgment

FR: 4-2-20; 6-4-20; 9-10-20; 11-19-20

Docket 23

***** VACATED *** REASON: CONTINUED TO 5/20/2021 AT 10:00 A.M.,
PER ORDER ENTERED 1/11/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing on Examination Continued to 5/20/2021 at 10:00
a.m., Per Order Entered 1/11/2021 (XX) - td (1/11/2021)**

Tentative Ruling:

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.

June 4, 2020

Continue the examination to September 10, 2020 at 10:00 a.m. (XX)

Basis for Tentative Ruling

The courthouse remains closed to in-person court appearances and on-site

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CONT... Darshan Upadhyaya

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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.

September 10, 2020

Continue the examination to November 19, 2020 at 10:00 a.m. (XX)

Basis for Tentative Ruling

The courthouse is currently 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 November 19, 2020. Depending on the status of pandemic-related rules and policies in place on November 19, 2020, the examination 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.

November 19, 2020

This tentative ruling applies to #s 15 and 16 on today's calendar:

The courthouse is currently closed to in-person court appearances and on-

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CONT... Darshan Upadhyaya

Chapter 7

site in-person judgment debtor examinations. However, as this court now conducts hearings on the Zoom platform, the examination may be accommodated by placing the parties in a separate private Zoom "room" after the examinees are sworn in by the courtroom clerk. It will be the responsibility of the Judgment Creditor to either have the court reporter call into the Zoom hearing at the commencement of the hearing or to make other arrangements for the participation of the court reporter. Alternatively, the Judgment Creditor is free to schedule an examination outside the courthouse, including by video conference, in which case this hearing will be continued to January 14, 2021 at 10:00 a.m.

The Judgment Creditor shall advise the courtroom clerk of its choice at the time of the calendar roll call.

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

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10:00 AM

8:20-11893 Peter Ornelas and Rebecca B Ornelas

Chapter 13

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

DEUTSCHE BANK NATIONAL TRUST COMPANY

VS.

DEBTORS

Docket 33

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 14, 2021

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):

Peter Ornelas

Represented By
Kevin Tang

Joint Debtor(s):

Rebecca B Ornelas

Represented By
Kevin Tang

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CONT... Peter Ornelas and Rebecca B Ornelas

Chapter 13

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
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Hearing Room 5A

10:00 AM

8:20-11977 SC Development Fund, LLC

Chapter 7

#11.00 CON'TD Hearing RE: Motion for relief from the automatic stay
[REAL PROPERTY]
(RE: 11411 Ayrshire Road, Los Angeles, CA 90049)

GOLDMAN SACHS BANK USA

VS.

DEBTOR

FR: 12-10-20

Docket 89

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 10, 2020

Continue hearing to February 11, 2021 at 10:00 a.m. to allow Movant to complete timely and adequate service to Debtor and to submit evidence that the subject property has declined in value since the bankruptcy filing. Movant must file any supplemental pleading(s) no later than January 21, 2021; any opposition must be filed no later than January 28, 2021; and any reply must be filed no later than February 4, 2021.

Basis for Tentative Ruling:

Service:

Debtor was not timely served with the Motion or notice of the hearing in accordance with FRBP 7004(b)(3) as required by FRBP 9014. The supplemental proof of service filed on December 3, 2020 shows untimely

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CONT... SC Development Fund, LLC
service.

Chapter 7

Merits:

Movant needs to provide evidence (not supposition) that the subject property has declined in value during the term of the automatic stay. See, e.g., *United Sav. Ass'n of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 370 (1998) ("It is common ground that the 'interest in property' referred to by §362(d)(1) includes the right of a secured creditor to have the security applied in payment of the debt upon completion of reorganization; and that that interest is not adequately protected if the security is depreciating during the term of the stay.") and *In re Cambridge Woodbridge Apartments, LLC*, 292 B.R. 832, 841 (Bankr. N.D. Ohio 2003) (stating that, to prevail under § 362(d)(1), a creditor must establish, among other things, "a decline in the value of the collateral securing the debt . . .").

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.

January 14, 2021

In light of the unrefuted supplemental evidence filed on December 14 [docket #127], grant the Motion.

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

SC Development Fund, LLC

Represented By
Keith S Dobbins

Movant(s):

Goldman Sachs Bank c/o Genesis

Represented By
Byron Z Moldo

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CONT... SC Development Fund, LLC

Chapter 7

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Beth Gaschen
Jeffrey I Golden

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8:20-11977 SC Development Fund, LLC

Chapter 7

**#12.00 CON'TD Hearing RE: Motion for relief from the automatic stay
[REAL PROPERTY]
(RE: 3415, 3417, 3417 West Bellevue Avenue, Los Angeles, CA 90026)**

GOLDMAN SACHS BANK USA

VS.

DEBTOR

FR: 12-10-20

Docket 91

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 10, 2020

Continue hearing to January 14, 2021 at 10:00 a.m. to allow Movant to complete timely and adequate service to Debtor and to junior lienholder Jumbo Investments. (XX)

Basis for Tentative Ruling:

Service:

Debtor was not timely served with the Motion or notice of the hearing in accordance with FRBP 7004(b)(3) as required by FRBP 9014. The supplemental proof of service filed on December 3, 2020 shows untimely service.

The court will require notice to junior lienholder Jumbo Investments as well in light of the fact that Jumbo has been very active in the case.

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CONT... SC Development Fund, LLC

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Tentative ruling for 1/14/21 hearing (if unopposed): Grant motion.

Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required.

January 14, 2021

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):

SC Development Fund, LLC

Represented By
Keith S Dobbins

Movant(s):

Goldman Sachs Bank c/o Genesis

Represented By
Byron Z Moldo

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Beth Gaschen
Jeffrey I Golden

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Chapter 7

#13.00 CON'TD Hearing RE: Motion for relief from the automatic stay
[REAL PROPERTY]
(RE: 2850 Delaware Avenue, Santa Monica, CA 90404)

GOLDMAN SACHS BANK USA

VS.

DEBTOR

FR: 12-10-20

Docket 93

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 10, 2020

Continue hearing to February 11, 2021 at 10:00 a.m. to allow Movant to complete timely and adequate service to Debtor and to submit evidence that the subject property has declined in value since the bankruptcy filing. Movant must file any supplemental pleading(s) no later than January 21, 2021; any opposition must be filed no later than January 28, 2021; and any reply must be filed no later than February 4, 2021.

Basis for Tentative Ruling:

Service:

Debtor was not timely served with the Motion or notice of the hearing in accordance with FRBP 7004(b)(3) as required by FRBP 9014. The supplemental proof of service filed on December 3, 2020 shows untimely service.

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CONT... SC Development Fund, LLC

Chapter 7

Merits:

Movant needs to provide evidence (not supposition) that the subject property has declined in value during the term of the automatic stay. See, e.g., *United Sav. Ass'n of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 370 (1998) ("It is common ground that the 'interest in property' referred to by §362(d)(1) includes the right of a secured creditor to have the security applied in payment of the debt upon completion of reorganization; and that that interest is not adequately protected if the security is depreciating during the term of the stay.") and *In re Cambridge Woodbridge Apartments, LLC*, 292 B.R. 832, 841 (Bankr. N.D. Ohio 2003) (stating that, to prevail under § 362(d)(1), a creditor must establish, among other things, "a decline in the value of the collateral securing the debt . . .").

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.

January 14, 2021

In light of the unrefuted supplemental evidence filed on December 14 [docket #127], grant the Motion.

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

SC Development Fund, LLC

Represented By
Keith S Dobbins

Movant(s):

Goldman Sachs Bank c/o Genesis

Represented By
Byron Z Moldo

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

Thursday, January 14, 2021

Hearing Room 5A

10:00 AM

CONT... SC Development Fund, LLC

Chapter 7

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, January 14, 2021

Hearing Room 5A

10:00 AM

8:20-11977 SC Development Fund, LLC

Chapter 7

**#14.00 CON'TD Hearing RE: Motion for relief from the automatic stay
[REAL PROPERTY]
(RE: 1532 Hi Point Street, Los Angeles, CA 90035)**

GOLDMAN SACHS BANK USA

VS.

DEBTOR

FR: 12-10-20

Docket 95

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 10, 2020

Continue hearing to January 14, 2021 at 10:00 a.m. to allow Movant to complete timely and adequate service to Debtor and to junior lienholder Jumbo Investments. (XX)

Basis for Tentative Ruling:

Service:

Debtor was not timely served with the Motion or notice of the hearing in accordance with FRBP 7004(b)(3) as required by FRBP 9014. The supplemental proof of service filed on December 3, 2020 shows untimely service.

The court will require notice to junior lienholder Jumbo Investments as well in

United States Bankruptcy Court
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10:00 AM

CONT... SC Development Fund, LLC

Chapter 7

light of the fact that Jumbo has been very active in the case.

Tentative ruling for 1/14/21 hearing (if unopposed): Grant motion.

Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required.

January 14, 2021

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):

SC Development Fund, LLC

Represented By
Keith S Dobbins

Movant(s):

Goldman Sachs Bank c/o Genesis

Represented By
Byron Z Moldo

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, January 14, 2021

Hearing Room 5A

10:00 AM

8:20-11977 SC Development Fund, LLC

Chapter 7

#15.00 CON'TD Hearing RE: Motion for relief from the automatic stay
[REAL PROPERTY]
(RE: 3515 Ocean View Avenue, Los Angeles, CA 90066)

GOLDMAN SACHS BANK USA

VS.

DEBTOR

FR: 12-10-20

Docket 97

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 10, 2020

Continue hearing to February 11, 2021 at 10:00 a.m. to allow Movant to complete timely and adequate service to Debtor and to submit evidence that the subject property has declined in value since the bankruptcy filing. Movant must file any supplemental pleading(s) no later than January 21, 2021; any opposition must be filed no later than January 28, 2021; and any reply must be filed no later than February 4, 2021.

Basis for Tentative Ruling:

Service:

Debtor was not timely served with the Motion or notice of the hearing in accordance with FRBP 7004(b)(3) as required by FRBP 9014. The supplemental proof of service filed on December 3, 2020 shows untimely

**United States Bankruptcy Court
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CONT... SC Development Fund, LLC
service.

Chapter 7

Merits:

Movant needs to provide evidence (not supposition) that the subject property has declined in value during the term of the automatic stay. See, e.g., *United Sav. Ass'n of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 370 (1998) ("It is common ground that the 'interest in property' referred to by §362(d)(1) includes the right of a secured creditor to have the security applied in payment of the debt upon completion of reorganization; and that that interest is not adequately protected if the security is depreciating during the term of the stay.") and *In re Cambridge Woodbridge Apartments, LLC*, 292 B.R. 832, 841 (Bankr. N.D. Ohio 2003) (stating that, to prevail under § 362(d)(1), a creditor must establish, among other things, "a decline in the value of the collateral securing the debt . . .").

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.

January 14, 2021

In light of the unrefuted supplemental evidence filed on December 14 [docket #127], grant the Motion.

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

SC Development Fund, LLC

Represented By
Keith S Dobbins

Movant(s):

Goldman Sachs Bank c/o Genesis

Represented By

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, January 14, 2021

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10:00 AM

CONT... SC Development Fund, LLC

Chapter 7

Byron Z Moldo

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
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Thursday, January 14, 2021

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10:00 AM

8:20-11977 SC Development Fund, LLC

Chapter 7

**#16.00 CON'TD Hearing RE: Motion for relief from the automatic stay
[REAL PROPERTY]
(RE: 15625 High Knoll Road, Encino, CA 91436)**

GOLDMAN SACHS BANK USA

VS.

DEBTOR

FR: 12-10-20

Docket 99

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 10, 2020

Continue hearing to January 14, 2021 at 10:00 a.m. to allow Movant to complete timely and adequate service to Debtor. (XX)

Basis for Tentative Ruling:

Service:

Debtor was not timely served with the Motion or notice of the hearing in accordance with FRBP 7004(b)(3) as required by FRBP 9014. The supplemental proof of service filed on December 3, 2020 shows untimely service.

Tentative ruling for 1/14/21 hearing (if unopposed): Grant motion

**United States Bankruptcy Court
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CONT... SC Development Fund, LLC

Chapter 7

Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required.

January 14, 2021

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):

SC Development Fund, LLC

Represented By
Keith S Dobbins

Movant(s):

Goldman Sachs Bank c/o Genesis

Represented By
Byron Z Moldo

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, January 14, 2021

Hearing Room

5A

10:30 AM

8:09-20845 Commercial Services Building Inc

Chapter 7

#17.00 CON'TD Hearing RE: Creditor Douglas J. Patrick's Objection to Proof of Claim No. 3-2 Filed by Pro Painting

FR: 11-12-20

Docket 434

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

November 12, 2020:

If Claimant is an active corporation in good standing with the state of California, continue hearing date to January 14, 2021 at 10:30 a.m., with Patrick permitted to file supplemental pleadings by December 14, 2020; any supplemental response by Claimant to be filed by Dec. 23, 2020; and any reply to be filed by January 7, 2021. Discovery may be conducted in the interim in accordance with the adversary rules as permitted by FRBP 9014 for contested matters. Claimant is required to be represented by legal counsel re the filing of pleadings and appearance in court. (XX)

Basis for Tentative Ruling:

Background:

Creditor ProPainting ("Claimant") filed proof of claim no. 3 (the "Claim") in the general unsecured amount of \$273,000 for goods and services as painting sub-contractor for two separate projects" related to the Renaissance Apartments (the "Renaissance Project") and the Stonebridge Apartments (the "Stonebridge Apartments").

Creditor Douglas Patrick ("Patrick") objects to the Claim and argues that it should be allowed in the reduced amount of \$103,900 (the "Objection")

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CONT... **Commercial Services Building Inc**

Chapter 7

[dkt. 434], (the "Reply")[dkt. 453]. Claimant opposes the Objection (the "Response")[dkt. 450]

Standing

The status of Claimant is critical for the following reasons:

1. Under Local Bankruptcy Rule 9011-2(a), a business entity such as a corporation, LLC or partnership, may only appear and file pleadings (other than a proof of claim) through legal counsel. According to the California State Bar website, the author of the response filed on behalf of Claimant, Kwang Ho An ("An"), is not an attorney licensed to practice law in California. If that is the case, the Response is not properly before the court.

b. The fact that An is the president of Claimant suggests that the entity is a corporation and not a sole proprietorship and, therefore, must be represented by an attorney.

c. There is no evidence that Claimant is a business entity in good standing in the state of California. If it is not an active corporation or LLC, it may not appear to defend itself in any court proceeding as pointed out in the Reply.

d. Assuming that Claimant can establish good standing, it will need to employ legal counsel to represent it in this matter.

Standard

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

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CONT... **Commercial Services Building Inc**

Chapter 7

"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, 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).

Merits

The Claim is entitled to presumptive validity for the claim amount of \$273,000 (the Response asserts a claim in the increased amount of \$278,300). See, Response, p. 7:23. To date, Claimant has not amended its Claim to the increased amount of \$278,300.

As the Claim is entitled to *prima facie* validity, Patrick must present affirmative evidence to overcome the Claim's presumption of validity. Patrick argues that the Claim should be reduced to \$103,900 in the Objection, and later argues that it should be reduced to \$48,900 in the Reply. See, Obj., p. 7; Reply, p. 7. In support of his argument, based on evidence introduced for the first time in his Reply, Patrick argues that least \$60,122 was paid by Debtor to Claimant for the Renaissance Project, and at least \$112,470 was paid by Debtor to Claimant for the Stonebridge Project, leaving only \$48,900 due under the Claim. Reply, p. 4-6. Patrick also argues that Claimant either was paid in full or voluntarily released its lien against the Renaissance Project which was sold in September 2013. Reply, p. 4. Claimant on the other hand, argues that no amounts were paid on account of the Renaissance Project (\$109,200) and only \$48,900 for the Stonebridge Project was previously paid leaving an unpaid balance of \$169,100, plus interest, for the Stonebridge Project. Response, p. 2-4.

There appears to be a disputed question of fact regarding the amounts that were previously paid to Claimant by Debtor. Assuming Claimant has standing to assert the Claim, the court is inclined to continue the hearing to allow discovery pursuant to FRBP 9014 as requested by Patrick in his reply. See, Reply, p. 7. A continuance will also allow Claimant to address the

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CONT... **Commercial Services Building Inc**

Chapter 7

evidence that was presented by Patrick for the first time in its Reply.

January 14, 2021

No tentative ruling. Debtor will be permitted up to 10 minutes to make key arguments in support of the Objection. Claimant Mr. An, will be permitted up to 10 minutes to respond and summarize his opposition to the Objection. Debtor will be permitted up to 5 minutes to reply. Both parties should include the following issue as part their presentation: whether Pro Painting was a dba of Bonaview it entered into the contract with Debtor. At the conclusion of the oral argument, the hearing will be continued to February 11, 2021 at 10:30 a.m. for the Court's oral ruling on the objection.

Party Information

Debtor(s):

Commercial Services Building Inc

Represented By
Phillip B Greer

Trustee(s):

Karl T Anderson (TR)

Represented By
Misty A Perry Isaacson
Misty A Perry Isaacson
Thomas J Polis
Robert M Dato
Jason E Goldstein

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

Thursday, January 14, 2021

Hearing Room 5A

10:30 AM

8:09-20845 Commercial Services Building Inc

Chapter 7

#18.00 Hearing RE: Creditor Cunningham Builders, LLC's Motion for Reconsideration of Order Disallowing Claim 7-1

Docket 474

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 14, 2021

Deny motion for reconsideration for the reasons stated in the Opposition, except as to the issue of standing.

Basis for Tentative Ruling

1. The court has visited the Georgia Secretary of State website set forth in Debtor's opposition and determined that as of 1/13/21, Creditor Cunningham Builders has been reinstated and, therefore has standing to prosecute the Motion.
2. The claim objection was properly and timely served and Creditor's receipt of the same is unrefuted.
3. As pointed out by Debtor in the opposition, the notice of the objection states in clear and plain language that a written response was required to be filed 14 days prior to the hearing and that the failure to file a response could result in disallowance of the claim. Here, Creditor filed no response whatsoever. Not even a response requesting additional time to gather information.
4. The Court is not persuaded by Creditor's argument that it was not aware that it could submit evidence in support of its claim. The Claim Objection states on the last page that "CBL must come forward with evidence that it has

**United States Bankruptcy Court
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CONT... **Commercial Services Building Inc**

Chapter 7

an actual and valid claim against [Debtor]"

6. The declaration in support of the Claim Objection was sufficient to shift the burden of proof to Creditor. The standard of "sufficiency" applies in this Circuit.

7. The ultimate burden of proof rests with Creditor as a matter of law.

8. Pursuant to 11 U.S.C. § 502(j), "[a] claim that has been allowed or disallowed may be reconsidered for cause. A reconsidered claim may be allowed or disallowed according to the equities of the case." FRBP 3008 provides that, "A party in interest may move for reconsideration of an order allowing or disallowing a claim against the estate. The court after a hearing on notice shall enter an appropriate order." Since Rule 3008 "is silent as to the standard applicable to a motion seeking to reconsider the allowance or disallowance of claims," courts apply the standards of either FRCP 59 or FRCP 60. See *In re Wylie*, 349 B.R. 204, 209 (BAP 9th Cir. 2006).

9. "Under Rule 59(e), a motion for reconsideration should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law." *389 Orange Street Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999). "A motion brought under F.R.C.P. 59 involves reconsideration on the merits and should not be granted unless it is based on one or all of the following grounds: (1) to correct manifest errors of law or fact upon which the judgment is based; (2) to allow the moving party the opportunity to present newly discovered or previously unavailable evidence; (3) to prevent manifest injustice; or (4) to reflect an intervening change in controlling law." *In re Oak Park Calabasas Condo. Ass'n*, 302 B.R. 682, 683 (Bankr. C.D. Cal. 2003)(citing *McDowell v. Calderon*, 197 F.3d 1253, 1255 (9th Cir.1999), cert. denied, 529 U.S. 1082 (2000)).

10. Creditor has failed to demonstrate that the merits of the Disallowance Order should be reconsidered to correct manifest errors of law or fact, due to newly discovered evidence, necessary to prevent manifest injustice, or due to an intervening change in controlling law. Contrary to Creditor's assertion that there was "no affirmative declaration that the declarant actually knew for sure

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CONT... **Commercial Services Building Inc**

Chapter 7

that no money was owed or that the Creditor was paid" and that it was "simply one aging summary statement showed no money owed," see Mot., pl. 4:27-5:2, Patrick unequivocally stated that no money was owed per the aging summary *and* that his search of Debtor's records did not produce any record to support the Claim. See Obj., p. 8, ¶¶5-6. This testimony was unrefuted because (setting aside why Creditor failed to respond since FRCP 59 looks at the underlying merits of the Disallowance Order) Creditor failed to file any opposition or appear at the hearing. Thus, based on the record before the court at the Objection hearing, the Disallowance Order was not based on any manifest error of fact. And Creditor's argument that its principal "was not allowed any chance to rebut or respond to the Objection and was unaware of what was required to file or response with such limited to prepare" is inaccurate because Creditor was given an opportunity to file opposition by 14 days before the filing deadline

9. The BAP's decision in *Wylie*, 349 B.R. 204, 207-08 (BAP 9th Cir. 2006) is instructive. In *Wylie*, the creditor received notice of the objection but failed to file opposition or appear at the hearing. The creditor filed a motion for reconsideration relying on FRCP 60(b)(1). *Id.* at 210-211. The BAP held that the focus should first be on determining whether the creditor's failure to appear at the claim objection hearing was the "result of its mistake, surprise, or neglect?" *Id.* at 210. "If so, was its failure to appear excusable?" *Id.* The BAP affirmed the bankruptcy court's determination that the creditor's failure to appear was not the result of a mistake, surprise, or neglect because the creditor received proper notice of the hearing. *Id.* at 211-12. The BAP thus found that the bankruptcy court did not abuse its discretion by refusing to reconsider the disallowance of the claim under FRCP 60(b)(1). *Id.* at 212. Here, as in *Wylie*, Creditor received proper notice but elected not to heed the warning in the notice regarding the filing of a response.

8. The court notes that Mr. Cunningham would not have been permitted to argue on behalf of Creditor at the hearing because business entities may not appear before the court without legal counsel.

Party Information

Debtor(s):

Commercial Services Building Inc

Represented By

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, January 14, 2021

Hearing Room 5A

10:30 AM

CONT... Commercial Services Building Inc

Chapter 7

Phillip B Greer

Trustee(s):

Karl T Anderson (TR)

Represented By

Misty A Perry Isaacson

Misty A Perry Isaacson

Thomas J Polis

Robert M Dato

Jason E Goldstein

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

Thursday, January 14, 2021

Hearing Room 5A

10:30 AM

8:13-11037 Lawrence Keith Dodge

Chapter 7

#19.00 Hearing RE: First and Final Application for Chapter 11 Fees and Reimbursement of Costs (**September 12, 2014 through January 19, 2016**)

**[BROWN RUDNICK LLP, ATTORNEYS FOR CHAPTER 7 TRUSTEE,
THOMAS H. CASEY]**

Docket 678

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 14, 2021

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):

Lawrence Keith Dodge

Represented By
Mike D Neue
Derrick Talerico
Alan J Friedman
William N Lobel

Trustee(s):

Thomas H Casey (TR)

Represented By
Cathrine M Castaldi

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

Thursday, January 14, 2021

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10:30 AM

CONT... Lawrence Keith Dodge

Thomas H Casey
Bruce A Hughes

Chapter 7

United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, January 14, 2021

Hearing Room 5A

10:30 AM

8:13-11037 Lawrence Keith Dodge

Chapter 7

#20.00 Hearing RE: Fourth Interim Application for Chapter 7 Fees and reimbursement of **Costs (December 1, 2018 through November 30, 2020)**

**[BROWN RUDNICK LLP, ATTORNEYS FOR CHAPTER 7 TRUSTEE,
THOMAS H. CASEY]**

Docket 679

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 14, 2021

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):

Lawrence Keith Dodge

Represented By
Mike D Neue
Derrick Talerico
Alan J Friedman
William N Lobel

Trustee(s):

Thomas H Casey (TR)

Represented By
Cathrine M Castaldi
Thomas H Casey

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

Thursday, January 14, 2021

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CONT... Lawrence Keith Dodge

Bruce A Hughes

Chapter 7

United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, January 14, 2021

Hearing Room 5A

10:30 AM

8:16-11882 Stephen J Haythorne

Chapter 7

Adv#: 8:16-01247 Damon v. Haythorne

#21.00 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; 6-11-20; 9-10-20;
11-19-20

Docket 128

*** VACATED *** REASON: CONTINUED TO 3/11/2021 AT 10:30 A.M.,
PER ORDER ENTERED 1/13/2021 (XX)

Courtroom Deputy:

**CONTINUED: Judgment Debtor Examination is Continued to 3/11/2021 at
10:30 a.m., Per Order Entered 1/13/2021 (XX) - td (1/13/2021)**

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, 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

**United States Bankruptcy Court
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Santa Ana
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CONT... Stephen J Haythorne

Chapter 7

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 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 10:00 a.m.

Basis for Tentative Ruling

The courthouse remains closed to in-person court appearances and on-site

**United States Bankruptcy Court
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10:30 AM

CONT... Stephen J Haythorne

Chapter 7

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.

September 10, 2020

Continue the examination to November 19, 2020 at 10:00 a.m. (XX)

Basis for Tentative Ruling

The courthouse is currently 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 November 19, 2020. Depending on the status of pandemic-related rules and policies in place on November 19, 2020, the examination 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.

Party Information

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

Thursday, January 14, 2021

Hearing Room 5A

10:30 AM

CONT... Stephen J Haythorne

Chapter 7

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
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Judge Erithe Smith, Presiding
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Thursday, January 14, 2021

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/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; 6-11-20; 9-10-20;
11-19-20

Docket 130

*** VACATED *** REASON: CONTINUED TO 3/11/2021 AT 10:30 A.M.,
PER ORDER ENTERED 1/13/2021 (XX)

Courtroom Deputy:

**CONTINUED: Judgment Debtor Examination is Continued to 3/11/2021 at
10:30 a.m., Per Order Entered 1/13/2021 (XX) - td (1/13/2021)**

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, 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

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CONT... Stephen J Haythorne

Chapter 7

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 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).

June 4, 2020

Continue the examination to September 10, 2020 at 10:00 a.m.

Basis for Tentative Ruling

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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.

September 10, 2020

Continue the examination to November 19, 2020 at 10:00 a.m. (XX)

Basis for Tentative Ruling

The courthouse is currently 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 November 19, 2020. Depending on the status of pandemic-related rules and policies in place on November 19, 2020, the examination 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.

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CONT... Stephen J Haythorne

Chapter 7

Party Information

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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10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#23.00 Hearing RE: Chapter 7 Trustee's Objection to Claim No. 15-1 of Highland Springs Conference and Training Center (Claim Amount: \$881,398.89)

Docket 1043

*** VACATED *** REASON: CONTINUED TO 5/6/2021 AT 10:30 A.M.,
PER ORDER ENTERED 1/5/2021 (XX)

Courtroom Deputy:

**CONTINUED: Hearing Continued to 5/6/2021 at 10:30 a.m., Per Order
Entered 1/5/2021 (XX) - td (1/5/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

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10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#24.00 Hearing RE: Chapter 7 Trustee's Objection to Claim No 17-1 of City of Banning
(Claim Amount: \$700,000)

Docket 1044

***** VACATED *** REASON: CONTINUED TO 5/6/2021 AT 10:30 A.M.,
PER ORDER ENTERED 1/5/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 5/6/2021 at 10:30 a.m., Per Order
Entered 1/5/2021 (XX) - td (1/5/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

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Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#25.00 Hearing RE: Chapter 7 Trustee's Objection to Claim No. 19-1 of Banning Bench Community of Interest Association (Claim Amount: \$747,360.09)

Docket 1045

***** VACATED *** REASON: CONTINUED TO 5/6/2021 AT 10:30 A.M.,
PER ORDER ENTERED 1/5/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 5/6/2021 at 10:30 a.m., Per Order
Entered 1/5/2021 (XX) - td (1/5/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

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Hearing Room 5A

10:30 AM

8:20-11507 Hytera Communications America (West) Inc

Chapter 11

#26.00 CONT'D Hearing RE: Debtors and Debtors-in-Possession's Motion for Order Approving the Assumption of Unexpired Lease of Non-residential Real Property (Affects Hytera Communications America (West), Inc. Only)

FR: 12-17-20

Docket 293

*** VACATED *** REASON: OFF CALENDAR: Notice of Withdrawal of Motion, filed 1/13/2021

Courtroom Deputy:

OFF CALENDAR: Notice of Withdrawal of Motion, filed 1/13/2021 - td (1/13/2021)

Tentative Ruling:

December 17, 2020

Continue hearing to January 14, 2021 at 10:30 a.m to allow Movant to correct service issue: affected landlords were not served in accordance with FRBP 7004(b)(3) as required by FRBP 9014 for contested matters. (XX)

Service was made by email simply to : '*clin@president-llc.com*' and '*achen@president-llc.com*'

Tentative ruling for 1/14/21 hearing (if unopposed): Grant

Party Information

Debtor(s):

Hytera Communications America

Represented By
John W Lucas
Jason H Rosell
Victoria Newmark

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10:30 AM

8:20-11507 Hytera Communications America (West) Inc

Chapter 11

#27.00 Hearing RE: Sunbeam Properties, Inc's Motion to Compel Debtor to Immediately Surrender Premises in Accordance with Bankruptcy Code Section 365(D)(4), and For Attorneys' Fees and Costs

Docket 327

***** VACATED *** REASON: OFF CALENDAR: Joint Stipulation to Dismiss Motion, filed 1/6/2021**

Courtroom Deputy:

OFF CALENDAR: Joint Stipulation to Dismiss Motion, filed 1/6/2021 - td (1/7/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hytera Communications America

Represented By

John W Lucas

Jason H Rosell

Victoria Newmark

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Hearing Room 5A

10:30 AM

8:20-11725 Helen Weatherby

Chapter 11

#28.00 CON'TD STATUS CONFERENCE Hearing RE: (1) Status of Chapter 11 Case; and (2) Requiring Report on Status of Chapter 11 Case

FR: 8-20-20; 11-19-20; 12-3-20

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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. (XX)

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.

November 19, 2020

Continue this Status Conference to December 3, 2020 at 10:30 a.m., same date/time as hearing on Debtor's motion to sell real property; updated Status Report not required for that hearing. (XX)

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CONT... Helen Weatherby

Chapter 11

Note: Appearance at this hearing is not required.

December 3, 2020

Continue Status Conference to January 14, 2021 at 10:30 a.m.; updated Status Report must be filed by January 7, 2021 if the case is still pending as of that date.(XX)

Note: Appearance at this hearing is not required.

January 14, 2021

Continue Status Conference to February 18, 2021 at 10:30 a.m., same date/time as hearing on motion filed by Debtor on 1/6/21; updated Status Report not required.

Note: Appearance at this hearing is not required.

Party Information

Debtor(s):

Helen Weatherby

Represented By
Bert Briones

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10:30 AM

8:20-12328 Chase Merritt Global Fund LLC

Chapter 11

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

GREEN ROCK II, LLC

VS.

DEBTOR

FR: 12-10-20

Docket 43

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 10, 2020

Continue hearing to January 14, 2021 at 10:00 a.m. to allow Movant to complete timely and adequate service to Debtor.

Basis for Tentative Ruling:

Service:

Debtor was not timely served with the Motion or notice of the hearing in accordance with FRBP 7004(b)(3) as required by FRBP 9014 for contested matters such as motions for relief from the stay.

Tentative ruling for 1/14/21 hearing (if unopposed): Grant motion with 4001(a)(3) waiver; deny request for prospective relief. Movant has not demonstrated evidence sufficient to support a bad faith finding. The court notes that a "duplicate" case that was filed in error was immediately closed.

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10:30 AM

CONT... Chase Merritt Global Fund LLC

Chapter 11

Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required.

January 14, 2021

Deny motion in light of granting of motion to dismiss the case.

Party Information

Debtor(s):

Chase Merritt Global Fund LLC

Represented By
Thomas C Nguyen

Movant(s):

Green Rock II, LLC Wyoming

Represented By
Tinho Mang

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10:30 AM

8:20-12328 Chase Merritt Global Fund LLC

Chapter 11

#30.00 CON'TD 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)

FR: 12-10-20

Docket 34

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 10, 2020

Grant motion -- Dismissal

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.

January 14, 2021

Grant the Motion -- dismiss the case.

Basis for Tentative Ruling

1. The Court has no confidence that this case can be administered properly, either as a Chapter 11 or a Subchapter V 11. During the hearing held on December 10, 2020, it became apparent that Debtor's attorney of record, has no experience in representing a business chapter 11 debtor and has proven not to be a quick study in coming up to speed on such representation. Among other things, counsel has been unable to navigate the Court's electronic filing system on multiple occasions resulting in several pleadings

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CONT... Chase Merritt Global Fund LLC

Chapter 11

being filed improperly, failed to timely file an application to be employed as counsel for Debtor, and failed to timely file an opposition to either of the two motions to dismiss filed by the U.S. Trustee and creditor Green Rock II ("Creditor").

2. By its order entered on December 18, 2020, the Court ordered any opposition by Debtor be filed by December 31, 2020. Debtor failed to file any opposition by such date. Instead, Debtor did not file an opposition to this Motion until January 12, 2021, just two days prior to today's hearing. The late pleading will not be considered.

3. Though the late opposition will not be considered on its merits, the Court observes one statement in the opposition at page 3 " While the debtor did not file a quarterly report, he did serve on the Trustee *copies of the Bankruptcy Estate's checking account, believing this to be sufficient.*" This one statement illuminates counsel's profound lack of understanding of what is required to properly administer a chapter 11 case.

4. Counsel represented to the Court at the December 10, 2020 hearing that he would seek substitute counsel with chapter 11 experience to represent Debtor. This did not happen. Instead, counsel filed an application to employ him as general bankruptcy counsel for Debtor. The Court is not inclined to approve such an application. Debtor cannot appear in this case without legal counsel.

5. On or about December 30, 2020, Debtor elected to convert the case to one under Subchapter V. Such filing did not excuse Debtor from filing a timely opposition to the motions to dismiss, nor does it cleanse Debtor of its prior missteps in the case.

6. The Application to Employ Real Estate Agent ("Application") is fraught with inconsistencies. For example, Debtor states in the application that the property at 19362 Fisher Lane ("Fisher Property"), that it believes the value of the property to be \$2M - \$2.3M and that the proposed broker, Christopher Kwon ("Kwon") believes it to be worth \$1.9M. See Application at p.2:15-20. Yet, the Listing Agreement attached to the Application dated 10/20/20 indicates a list price of only \$1.775M. Further, as pointed out by Creditor in its opposition to the Application, Kwon's website for the Fisher Property

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CONT... Chase Merritt Global Fund LLC
indicates a list price as of 1/13/21 of \$1.599M.

Chapter 11

5. This is essentially a two-party dispute. Creditor (Green Rock) is one of two listed creditors with a secured debt of \$1.35 million . The only other creditor, Dung No, is scheduled as an unsecured creditor in the amount of \$65,000.

Party Information

Debtor(s):

Chase Merritt Global Fund LLC

Represented By
Thomas C Nguyen

Movant(s):

United States Trustee (SA)

Represented By
Michael J Hauser

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10:30 AM

8:20-12328 Chase Merritt Global Fund LLC

Chapter 11

#31.00 CON'TD Hearing RE: Motion of Secured Creditor, Green Rock II, LLC, to Dismiss or Convert Bankruptcy Case for Cause Pursuant to 11 USC Section 1112; Demand for Adequate Protection Pursuant to 11 USC Section 363(e)

FR: 12-10-20

Docket 38

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 10, 2020

Deny motion as moot in light if the US Trustee' motion to dismiss/convert case is granted.

Special note: Even if the US Trustee's motion is not granted, this hearing would need to be continued because Debtor was not served in accordance with FRBP 7004(b)(3) as required by FRBP 9014 for contested matters such as a motion to dismiss or convert a case brought against a debtor.

January 14, 2021

Grant the Motion if the Court denies the US Trustee's Motion to Dismiss or Convert the Case, also scheduled to be heard on this date; Deny the Motion if the Court grants the US Trustee's Motion to Dismiss or Convert the Case.

Basis for Tentative Ruling -- See Court's comments re #30 on today's calendar

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CONT... Chase Merritt Global Fund LLC

Chapter 11

Debtor(s):

Chase Merritt Global Fund LLC

Represented By
Thomas C Nguyen

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8:20-12645 Arnulfo Alatorre

Chapter 7

#32.00 Hearing RE: United States Trustee's Motion to Dismiss Chapter 7 Case,
Pursuant to 11 U.S.C. Section 707(b)(3)(A)

Docket 21

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 14, 2021

Grant the Motion to dismiss this case due to Debtor Arnulfo Alatorre's failure attend two scheduled Rule 341(a) creditors' meetings.

No opposition or response has been filed by Debtor.

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):

Arnulfo Alatorre

Pro Se

Trustee(s):

Thomas H Casey (TR)

Pro Se

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2:00 PM

8:17-12213 Solid Landings Behavioral Health, Inc.

Chapter 11

Adv#: 8:20-01010 Grobstein v. Degner

#33.00 Hearing RE: Plaintiff's Motion for Partial Summary Judgment on Defendant Gerik M. Degner's Thirty-Second Affirmative Defense

Docket 58

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 14, 2021

Grant the Motion.

Basis for Tentative Ruling

All evidentiary objections are overruled.

Solid Landings Behavioral Health, Inc. and Sure Haven, Inc. ("Debtors") filed voluntary chapter 11 petitions on June 1, 2017. An order authorizing joint administration with several related debtors was entered on June 7, 2017. The order confirming the jointly administered liquidation plan was entered March 22, 2018, and Howard Grobstein was appointed liquidating trustee ("Plaintiff").

On January 30, 2020, Plaintiff commenced this adversary proceeding by filing his Complaint for Breach of Fiduciary Duty ("Complaint"). The Complaint alleges a single cause of action for breach of fiduciary duty against defendant, Gerik M. Degner ("Defendant"). Defendant filed an answer to the Complaint on April 21, 2020 ("Answer"), demanding a jury trial. Defendant also filed a third-party complaint (the "Third Party Complaint") against Starr Indemnity & Liability Company ("Starr") on April 22, 2020, and Starr filed its answer on May 26, 2020.

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CONT...

Solid Landings Behavioral Health, Inc.

Chapter 11

Plaintiff now moves for partial summary judgment on Defendant's 32nd affirmative defense, which defense alleges that Plaintiff's claim for breach of fiduciary duty is barred by the business judgment rule under California Corporations Code § 309 and under California common law. By his Motion for Partial Summary Judgment on Defendant Gerek M. Degner's Thirty-Second Affirmative Defense ("Motion"), Plaintiff argues that as Defendant was an officer and not a director of Debtors, California's business judgment rule does not apply to him. Defendant opposes the Motion (the "Opposition") [AP dkt. 65].

A. Legal 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.* "[I]f direct evidence produced by the moving party conflicts with direct evidence produced by the nonmoving party, the judge must assume the truth of the evidence set forth by the nonmoving party with respect to that fact." *T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors Ass'n*, 809 F.2d 626, 630–31 (9th Cir. 1987)(internal citations omitted).

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CONT...

Solid Landings Behavioral Health, Inc.

Chapter 11

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). The shifting of burden within the context of motion for summary judgment is different, however, if the nonmoving party bears the burden of proof on a specific claim or defense:

Under Rule 56(c), the moving party bears the initial burden to establish that there are no genuine issues of material fact to be decided at trial. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322–23, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986); *Anderson*, 477 U.S. at 248–50. Where the nonmoving party will bear the burden of proof on a specific claim or defense at trial, the moving party may move for summary judgment based solely on the "pleadings, depositions, answers to interrogatories, and admissions on file." *Celotex Corp.*, 477 U.S. at 324. There is no requirement "that the moving party support its motion with affidavits or other similar materials negating the opponent's claim." *Id.* at 323 (emphasis in original). The burden then shifts to the nonmoving party to produce "significantly probative evidence" of specific facts showing that there is a genuine issue of material fact requiring a trial. *T.W. Elec. Serv.*, 809 F.2d at 630 (citing Fed.R.Civ.P. 56(e)).

The nonmoving party cannot "withstand a motion for summary judgment merely by making allegations; rather, the party opposing the motion must go beyond its pleadings and designate specific facts by use of affidavits, depositions, admissions, or answers to interrogatories showing there is a genuine issue for trial." *In re Ikon Office Solutions, Inc., Sec. Lit.*, 277 F.3d 658, 666 (3d Cir.2002). If the nonmoving party fails to establish a triable issue on an essential element of its case and upon which it will bear the burden of proof at trial, the moving party is entitled to judgment as a matter of law.

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CONT... **Solid Landings Behavioral Health, Inc.**
Celotex Corp., 477 U.S. at 322–23

Chapter 11

In re Wellman, 2007 WL 4105275, *1, 3-4 (B.A.P. 9th Cir. 2007)(internal citations omitted).

A. Undisputed facts

Debtors are California corporations. Plaintiff's Statement of Uncontroverted Facts ("SUF")[AP dkt. 59], 1, 4; Defendant's Response to SUF ("SGI")[AP dkt. 68], 1, 4. Defendant was an officer (namely, the president) of Debtors. SUF 2, 5; SGI 2, 5.

B. Because the Business Judgment Rule (the "BJR") does not apply to Defendant, Plaintiff is entitled to partial summary adjudication as a matter of law

The parties agree that California law is applicable in this case. See Opp'n, 5:22-26. The parties also agree that the BJR exists in both statutory and common-law form under California law. See Mot., p. 6-8; Opp'n, 7:5-18 and 8:9-9:4; *FDIC v. Van Dellen*, 2012 U.S. Dist. LEXIS 146648, at *17-*18 (C.D. Cal. Oct. 5, 2012) ("California's business judgment rule . . . has two components— immunization from liability that is codified at Corporations Code Section 309 and a judicial policy of deference to the exercise of good-faith business judgment in management decisions.") (internal quotation marks and citation omitted).

California's statutory BJR is codified in Corporations Code § 309(c) which provides that "[a] person who performs the duties of a director in accordance with subdivisions (a) and (b) shall have no liability based upon any alleged failure to discharge the person's obligations as a director." California's BJR is applicable only to corporate directors, however, and not corporate officers. See *FDIC v. Perry*, 2011 U.S. Dist. LEXIS 143222, at *10 (C.D. Cal. Dec. 13, 2011) ("California's statutory BJR does not extend its protection to corporate officers. California Corporations Code 309, which

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CONT... **Solid Landings Behavioral Health, Inc.**

Chapter 11

codifies California's common law BJR, expressly pertains to directors' duties and liabilities and does not mention 'officer' anywhere in its text. Consequently, the California legislature, without mistake, omitted officers in codifying BJR, and this Court cannot infer otherwise.") (internal citations omitted).

Likewise, California's common law BJR only applies to corporate directors and not corporate officers. See *FDIC v. Reis*, 2013 U.S. Dist. LEXIS 197664, at *9 (C.D. Cal. Sep. 5, 2013) ("[T]he Court does not find persuasive Defendants' arguments that the common law business judgment rule has been extended to officers The Court . . . finds that the business judgment rule does not protect officers' corporate decisions."); Mot., p. 6-9. Defendant is correct that only corporate directors are protected by the BJR. Opp'n, 7:6-8.

As discussed above, because Defendant will bear the burden of proof to prove his 32nd affirmative defense at trial, Plaintiff "may move for summary judgment based solely on the "pleadings, depositions, answers to interrogatories, and admissions on file," *Wellman*, 2007 WL 4105275 at 3 (citing *Celotex Corp.*, 477 U.S. at 324) and the burden will be shifted "to the nonmoving party to produce 'significantly probative evidence' of specific facts showing that there is a genuine issue of material fact requiring a trial." *Wellman*, 2007 WL 4105275, *4 (citing *T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors Ass'n*, 809 F.2d 626, 630-31 (9th Cir. 1987)). The burden is therefore on Defendant to provide "significantly probative evidence" showing that Defendant was a director of Debtors, and not on Plaintiff as stated by Defendant. See Opp'n, 4:24.

To meet that burden, Defendant has submitted his own declaration in which he testifies, in summary, that:

Shortly after taking over as Debtors' President, its owners requested that Defendant also act as a de facto director due to the leave of absence of Stephen Fennelly, Debtors' director and CEO" and that for "almost a year, Defendant fulfilled his role as an officer while also

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CONT...

Solid Landings Behavioral Health, Inc.

Chapter 11

acting as a director. While Defendant's work as President emphasized increasing cash flow and reducing expenses – i.e. making the Debtor's profitable – as a director, he renegotiated the terms of the Debtor's existing line of credit while trying to obtain long-term financing and the sale of non-core assets.

Opp'n, 2:14-2; Declaration of Gerick Denger (the "Denger Declaration") [AP dkt. 66], 4-7, ¶¶13-24. Accordingly, Defendant's position is that a material triable issue of fact exists such that the Motion cannot be granted because Defendant acted as *de facto* director which was allowed under Debtors' bylaws pertaining to "advisory" directors. See Opp'n, 5:27-7:3 and 7:19-8:4.

The Denger Declaration, however, cannot be used to create a triable issue of fact because it contradicts Defendant's own prior testimony. See Reply, 2:8-3:18. "The general rule in the Ninth Circuit is that a party cannot create an issue of fact by an affidavit contradicting his prior deposition testimony." *Kennedy v. Allied Mut. Ins. Co.*, 952 F.2d 262, 266 (9th Cir. 1991) (citing *Radobenko v. Automated Equip. Corp.*, 520 F.2d 540, 544 (9th Cir. 1975)). The Ninth Circuit has reasoned that if a party could raise "raise an issue of fact simply by submitting an affidavit contradicting his own prior testimony, this would greatly diminish the utility of summary judgment as a procedure for screening out sham issues of fact." *Kennedy*, 925 F.2d at 266 (citations omitted). Thus, the Ninth Circuit has concluded that:

"[T]hat the Foster–Radobenko rule does not automatically dispose of every case in which a contradictory affidavit is introduced to explain portions of earlier deposition testimony. Rather, the Radobenko court was concerned with "sham" testimony that flatly contradicts earlier testimony in an attempt to "create" an issue of fact and avoid summary judgment. Therefore, before applying the Radobenko sanction, the district court must make a factual determination that the contradiction was actually a "sham."

Kennedy, 925 F.2d at 266 (citations omitted). In this case, the court can make the determination that the Denger Declaration contradicts his prior testimony in an attempt to "create" an issue of fact to avoid summary judgment.

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CONT... Solid Landings Behavioral Health, Inc.

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Defendant's testimony in the Denger Declaration that he performed certain duties within his capacity as a de facto director contradicts he previous sworn statements that he performed these very same duties within his capacity as CEO and president of Debtors. See Reply, 3:19-7:21. For example, Defendant now testifies that, as a director, he brought in Insuperity as a new human resources provider, worked with Debtors' lender, Capstar to ensure liquidity and refinance Debtors' debts, and brought back Brentwood to market the sale of Debtors' facilities in Texas and Nevada. See Denger Decl., 4-5, ¶¶14-16. Yet, Defendant previously testified in his sworn responses to Plaintiff's interrogatories that he performed these very same duties within his capacity as CEO and president:

Beginning in April 2016, Defendant, in his role as President, began to make operational changes and improvements to Solid Landings...

Human Resources...

- Implemented Insuperity....

Supplemental M. Reider Decl. [AP dkt. 72], Ex. S, 6:8-20. "In his role as CEO and President, Mr. Degner...worked with Capstar Bank...to be sure the Company had proper liquidity to finance its obligations as the operational changes were taking effect" and Brentwood was brought back to sell Debtors' facilities in Nevada and Texas because Capstar had a prior relationship with Brentwood *Id.*, Ex. S, 7:5-7 and 7:16-20. This testimony was signed under penalty of perjury. *Id.*, Ex. S, p. 32.

During his sworn testimony before the court on July 26, 2017, Defendant also characterized his work with Capstar regarding Debtors' financing and to bring back Brentwood to sell Debtors' Nevada and Texas facilities to be part of his duties as president. See M. Reider Decl., Ex. U, 161:13-18, 166:25-167:14, 169:22-170:17 (page numbers referenced our at the bottom of the page). Thus, the Denger Declaration contradicts

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CONT... **Solid Landings Behavioral Health, Inc.**

Chapter 11

Defendant's prior sworn testimony. See Supp. Reply, 3-8.

A finding that Defendant is now attempting to "create" a triable issue of fact by way of the Denger Declaration is further supported by Defendant's failure to allege that he was a director of Debtors in his Third Party Complaint against Starr. See Supp. Reply, 7:23-8:25. In the Third Party Complaint, Defendant had every incentive to allege all potential causes of action against Starr for indemnification under the applicable D&O policy, but is only now alleging that he acted as a director for the first time- after the instant Motion was filed. Thus, the timing of this new, contradictory testimony leads the court to conclude that Defendant is attempting to "create" a triable issue of fact in defense against the Motion.

The court finds that the Denger Declaration is a "sham" declaration (as described by the Ninth Circuit) intended to create a triable issue of fact over whether Defendant performed certain duties within his capacity as an officer or director of Debtors. The Denger Declaration contradicts Defendant's earlier sworn testimony that he performed those same duties within his capacity as CEO and president of Debtors. Under applicable Ninth Circuit law, "The general rule in the Ninth Circuit is that a party cannot create an issue of fact by an affidavit contradicting his prior deposition testimony." *Kennedy*, 952 F.2d 262 at 266.

Notably, Defendant submitted three pieces of documentary evidence: a client service agreement with Insperity, a marketing agreement, and a bill of sale, all of which were signed by him as "president." Denger Decl., Ex. A-C.

In sum, because Defendant bears the burden of proof regarding his BJR affirmative defense at trial, the burden is Defendant to defeat the Motion by producing "'significantly probative evidence' of specific facts showing that there is a genuine issue of material fact requiring a trial." *Wellman*, 2007 WL 4105275 *4. Defendant's offer of a self-serving declaration (and the exhibits attached thereto) is not "significantly probative evidence" establishing a triable issue of material fact.

Even viewing the evidence in the light most favorable to Defendant, Plaintiff is

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CONT... **Solid Landings Behavioral Health, Inc.** **Chapter 11**
entitled to partial summary adjudication on the 32nd affirmative defense as a
matter of law.

EVIDENTIARY OBJECTIONS

Defendant's Evidentiary Objection to Declaration of Stephen Fennelly

<u>Objection #</u>	<u>Ruling</u>
1	Overruled
2	Overruled
3	Overruled
4	Overruled

Party Information

Debtor(s):

Solid Landings Behavioral Health,

Represented By
David L. Neale
Juliet Y Oh
Jeffrey S Kwong
David M Samuels

Defendant(s):

Gerik M. Degner

Represented By
Ismail Amin

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CONT... Solid Landings Behavioral Health, Inc.

Chapter 11

Plaintiff(s):

Howard B Grobstein

Represented By
Rodger M. Landau
Monica Rieder

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9:30 AM

8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

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Video/audio web address:

<https://cacb.zoomgov.com/j/1601560759>

ZoomGov meeting number: 160 156 0759

Password: 166519

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

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Judge Erithe A. Smith's Cases" on the Court's website at:
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"Telephonic Instructions" section.

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- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

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9:30 AM

8:20-12449 Bonita J Vecchio

Chapter 7

#1.00 Hearing RE: Pro se Reaffirmation Agreement Between Debtor and SchoolsFirst
Federal Credit Union (2011 BMW 3-Series Sedan - \$8,570.23)
[SC CASE]

Docket 10

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Bonita J Vecchio

Represented By
Sean S Vahdat

Trustee(s):

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, January 20, 2021

Hearing Room 5A

9:30 AM

8:20-12504 John E. Cusack and Kathryn Cusack

Chapter 7

#2.00 Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (RE: 2017 Toyota Tacoma - \$34,425.75)
[TA CASE]

Docket 24

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

John E. Cusack

Represented By
Christine A Kingston

Joint Debtor(s):

Kathryn Cusack

Represented By
Christine A Kingston

Trustee(s):

Thomas H Casey (TR)

Pro Se

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Hearing Room 5A

9:30 AM

8:20-12504 John E. Cusack and Kathryn Cusack

Chapter 7

#3.00 Hearing RE: Reaffirmation Agreement Between Debtor and Ally Financial
(RE: 2014 Fiat 500 - \$1,500.85)
[TA CASE]

Docket 27

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

John E. Cusack

Represented By
Christine A Kingston

Joint Debtor(s):

Kathryn Cusack

Represented By
Christine A Kingston

Trustee(s):

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court
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9:30 AM

8:20-12642 Thuan Le

Chapter 7

#4.00 Hearing RE: Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (2017 Toyota Camry - \$9,396.91)

Docket 7

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Thuan Le

Represented By
Krystina T Tran

Trustee(s):

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 5A

9:30 AM

8:20-12832 Monique R Runge

Chapter 7

#5.00 Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Ally Bank
(RE 2014 Toyota Prius - \$13,210.08)

Docket 8

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Monique R Runge Pro Se

Trustee(s):

Karen S Naylor (TR) Pro Se

**United States Bankruptcy Court
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Wednesday, January 20, 2021

Hearing Room 5A

9:30 AM

8:20-12901 Carla Joana Perez Perez

Chapter 7

#6.00 Hearing RE: Pro se Reaffirmation Agreement Between Debtor and American Honda Finance Corporation (RE: 2019 Honda Civic - \$24,247.99)

Docket 9

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Carla Joana Perez Perez

Represented By
Marlin Branstetter

Trustee(s):

Jeffrey I Golden (TR)

Pro Se

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9:30 AM

8:20-13001 Luis Armenta and Maria Teresa Armenta

Chapter 7

**#7.00 Hearing RE: Reaffirmation Agreement Between Debtor and ONEMAIN
FINANCIAL GROUP, LLC (RE: 2003 Yukon - \$3,000.00)
[TA CASE]**

Docket 16

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Luis Armenta

Represented By
Arlene M Tokarz

Joint Debtor(s):

Maria Teresa Armenta

Represented By
Arlene M Tokarz

Trustee(s):

Weneta M Kosmala (TR)

Pro Se

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Hearing Room 5A

9:30 AM

8:20-13231 Matthew S. Cutler and Kristina H. M. Cutler

Chapter 7

#8.00 Hearing RE Pro se Reaffirmation Agreement Between Debtor and Americredit Financial Services, Inc. Db a GM Financial (RE: 2021 Chevrolet Trailblazer - \$31,689.00)
[TA CASE]

Docket 10

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Matthew S. Cutler

Represented By
R Grace Rodriguez

Joint Debtor(s):

Kristina H. M. Cutler

Represented By
R Grace Rodriguez

Trustee(s):

Jeffrey I Golden (TR)

Pro Se

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8:00-00000

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#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

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Video/audio web address:

<https://cacb.zoomgov.com/j/1616644207>

ZoomGov meeting number: 161 664 4207

Password: 050046

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

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Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
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"Telephonic Instructions" section.

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Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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Thursday, January 21, 2021

Hearing Room 5A

9:30 AM

8:15-14788 Daniel Baskin

Chapter 7

Adv#: 8:20-01160 Brazil v. Baskin

#1.00 STATUS CONFERENCE RE: Complaint for Declaratory Relief

Docket 1

*** VACATED *** REASON: OFF CALENDAR: Order Approving
Settlement and Judgment Entered 1/19/2021

Courtroom Deputy:

OFF CALENDAR: Order Approving Settlement and Judgment Entered
1/19/2021 - td (1/19/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Baskin

Represented By
Michael Jones
Sara Tidd

Defendant(s):

Daniel Baskin

Pro Se

Plaintiff(s):

Nicole Moraitis Brazil

Represented By
Michael Jones

Trustee(s):

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court
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9:30 AM

8:17-10706 John Jean Bral

Chapter 11

Adv#: 8:17-01071 Bral v. Beitler

#2.00 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; 5-21-20; 9-17-20

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)

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

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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. (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. (XX)

Note: Appearance at this hearing is not required; non appearance at today's hearing shall be deemed acceptance of the tentative ruling.

September 17, 2020

Continue Status Conference to January 21, 2021; updated joint status report must be filed by January 7, 2021. (XX)

Special note: Starting 10/8/20 all hearings before Judge Smith will be by Zoom. See Court's website for details.

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

January 21, 2021

Continue the Status Conference to May 20, 2021 at 9:30 a.m.; updated

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Thursday, January 21, 2021

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9:30 AM

CONT... **John Jean Bral**

Chapter 11

Status Report must be filed by May 6, 2021. (XX)

Note: Appearances at this hearing are not required; 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

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9:30 AM

8:17-10706 John Jean Bral

Chapter 11

Adv#: 8:17-01071 Bral v. Beitler

#3.00 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; 5-21-20; 9-17-20

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 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)

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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. (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. (XX)

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.

September 17, 2020

Continue Status Conference to January 21, 2021 at 9:30 am; updated joint status report must be filed by January 7, 2021. (XX)

Special note: Starting 10/8/20 all hearings before Judge Smith will be by Zoom. See Court's website for details.

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

January 21, 2021

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CONT... John Jean Bral

Chapter 11

Continue the Status Conference to May 20, 2021 at 9:30 a.m.; updated Status Report must be filed by May 6, 2021. (XX)

Note: Appearances at this hearing are not required; 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

**United States Bankruptcy Court
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Santa Ana
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CONT...

John Jean Bral

Chapter 11

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9:30 AM

8:17-10706 John Jean Bral

Chapter 11

Adv#: 8:17-01092 Beitler 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; 5-21-20; 9-17-20

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

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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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. (XX)

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.

September 17, 2020

Continue Status Conference to January 21, 2021 at 9:30 am; updated joint status report must be filed by January 7, 2021.(XX)

Special note: Starting 10/8/20 all hearings before Judge Smith will be by Zoom. See Court's website for details.

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

January 21, 2021

Continue the Status Conference to May 20, 2021 at 9:30 a.m.; updated Status Report must be filed by May 6, 2021. (XX)

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9:30 AM

CONT... John Jean Bral

Chapter 11

Special Note: Re the comments of the parties in Section G of the Status Report, it is not clear what relief from the Court is sought. The court will entertain any properly filed motion.

Note: Appearances at this hearing are not required; 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

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 21, 2021

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

#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; 1-30-20; 5-21-20; 9-17-20

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, January 21, 2021

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. (XX)

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.

September 17, 2020

Continue Status Conference to January 21, 2021 at 9:30 am; updated joint status report must be filed by January 7, 2021. (XX)

Special note: Starting 10/8/20 all hearings before Judge Smith will be by Zoom. See Court's website for details.

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

January 21, 2021

Continue the Status Conference to May 20, 2021 at 9:30 a.m.; updated Status Report must be filed by May 6, 2021. (XX)

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

Thursday, January 21, 2021

Hearing Room 5A

9:30 AM

CONT... **John Jean Bral**

Chapter 11

Special Note: Re the comments of the parties in Section G of the Status Report, it is not clear what relief from the Court is sought. The court will entertain any properly filed motion.

Note: Appearances at this hearing are not required; 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

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 21, 2021

Hearing Room

5A

9:30 AM

8:17-12213 Solid Landings Behavioral Health, Inc.

Chapter 11

Adv#: 8:20-01007 Grobstein v. Alpine Pacific Capital, LLC et al

#6.00 PRE-TRIAL CONFERENCE RE: Complaint for avoidance and recovery of preferential and fraudulent transfers

[fr: 3/25/20, 6/24/20, 7/22/20]; 9-2-20, Rm 5D; 9-3-20

Docket 1

***** VACATED *** REASON: CONTINUED TO 12/2/2021 AT 9:30 A.M.,
Per Order Entered 9/14/2020 (XX)**

Courtroom Deputy:

**CONTINUED: Pre-trial Conference Continued to 12/2/2021 at 9:30 a.m.,
Per Order Entered 9/14/2020 (XX)- td (9/14/2020)**

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. Any party who wishes to appear must register in advance 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 3, 2020

Discovery Cut-off Date: Dec. 15, 2020
Pretrial Conference Date: Jan. 21, 2021 at 9:30 a.m. (XX)
Deadline to File Join Pretrial Stipulation: Jan. 7, 2021

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, January 21, 2021

Hearing Room 5A

9:30 AM

CONT... Solid Landings Behavioral Health, Inc.

Chapter 11

Party Information

Debtor(s):

Solid Landings Behavioral Health,

Represented By
David L. Neale
Juliet Y Oh
Jeffrey S Kwong
David M Samuels

Defendant(s):

Alpine Pacific Capital, LLC

Pro Se

Gerik M. Degner

Pro Se

Plaintiff(s):

Howard B Grobstein

Represented By
Rodger M. Landau

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

Thursday, January 21, 2021

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

#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; 5-21-20; 7-23-20; 10-22-20

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.

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.

January 21, 2021

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

Thursday, January 21, 2021

Hearing Room 5A

9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

Continue status conference to April 8, 2021 at 9:30 a.m.; updated status report must be filed by March 25, 2021 if the adversary is still pending by such date. (XX)

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

Party Information

Debtor(s):

Prime Metals U.S.A., Inc.

Represented By
Steven Werth

Defendant(s):

Minho An

Represented By
Michael H Yi

Byungwhan Chung

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, January 21, 2021

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

#8.00 CONTD PRE-TRIAL CONFERENCE RE: Complaint for: 1. Breach of Fiduciary Duty; 2. Accounting; and 3. Defalcation of Trust

FR: 2-6-20; 10-8-20

Docket 1

***** VACATED *** REASON: CONTINUED TO 4/22/2021 AT 9:30 A.M.,
Per Order Entered 7/31/2020 (XX)**

Courtroom Deputy:

SPECIAL NOTE: Status Conference Scheduled for 11/5/2020 at 9:30 a.m. - td (7/31/2020)

**CONTINUED: Pre-trial Conference Continued to 4/22/2021 at 9:30 a.m.,
Per Order Entered 7/31/2020 (XX) - td (7/31/2020)**

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, Minho 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

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

Thursday, January 21, 2021

Hearing Room 5A

9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

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
Steven Werth

Defendant(s):

Minho An

Pro Se

Gill Su Sun

Pro Se

Ik Dong Kim

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, January 21, 2021

Hearing Room 5A

9:30 AM

8:18-11594 George Carl Natzic

Chapter 7

Adv#: 8:18-01170 Add2Net, Inc. v. Natzic et al

#9.00 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; 7-16-20; 9-17-20; 11-5-20

Docket 1

***** VACATED *** REASON: CONTINUED TO 4/1/2021 AT 9:30 A.M.,
PER ORDER ENTERED 1/8/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 4/1/2021 at 9:30 a.m., Per
Order Entered 1/8/2021 (XX) - td (1/8/2021)**

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

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, January 21, 2021

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):

Cheri Lynn Natzic

Pro Se

George Carl 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, January 21, 2021

Hearing Room 5A

9:30 AM

8:18-13001 Mohsen Masoudfar

Chapter 7

Adv#: 8:18-01206 Sakhai v. Masoudfar

#10.00 CONT STATUS CONFERENCE RE: Complaint to determine dischargeability of debt and for denial of discharge (11 U.S.C. section 523(a)(15); 727(a)(2)(A) & (B);(a)(3) & (a)(4)(A))

[fr: 2/12/19, 7/23/19, 10/22/19, 1/21/20, 3/24/20, 6/30/20]; 9/29/20, Rm 5D; 10-1-20

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 1, 2020

In light of pending settlement negotiations, continue this Status Conference to January 21, 2021 at 9:30 a.m.; an updated Status Report must be filed by January 7, 2021. (XX)

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

January 21, 2021

Continue the Status Conference one final time to May 20, 2021 at 9:30 a.m.; updated Status Report must be filed by May 6, 2021. (XX)

Special Note: An updated Status Report was not filed by January 7, 2021 as ordered by the Court. If an updated Status Report is not filed by May 6, 2021, monetary sanctions of not less than \$100 will be imposed against Plaintiff's counsel.

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, January 21, 2021

Hearing Room 5A

9:30 AM

CONT... Mohsen Masoudfar

Chapter 7

notice of the continued hearing date/time.

Party Information

Debtor(s):

Mohsen Masoudfar

Represented By
D Edward Hays

Defendant(s):

Mohsen Masoudfar

Pro Se

Plaintiff(s):

Parastou Sakhai

Represented By
Jeffrey S Shinbrot

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, January 21, 2021

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

#11.00 CON'TD 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; 6-11-20; 9-17-20; 12-17-20

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, January 21, 2021

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.

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.

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 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

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

Thursday, January 21, 2021

Hearing Room 5A

9:30 AM

CONT... Cassandra Dean Duerscheidt

Chapter 7

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.

December 17, 2020

The Joint Pretrial Stipulation filed on 12/12/20 is approved. Unless a party requests otherwise, the court's ordinary procedures requiring direct testimony by declaraton (exclusive of adverse or rebuttal testimony) will apply.

January 21, 2021 (Modified since original posting)

Set trial for June 23-25, 2021 at 9:00 a.m.; direct testimony by declaration (see the court's trial procedures re direct testimony set forth on the court's website). Set Trial Procedures Conference for May 6, 2021 at 9:30 a.m.

Comments:

The parties are to appear and advise the court of any stipulations re the

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

Thursday, January 21, 2021

Hearing Room 5A

9:30 AM

CONT... **Cassandra Dean Duerscheidt** **Chapter 7**

authentication and/or admission of certain exhibits, particularly those requiring testimony by a custodian or records.

The purpose of the Trial Procedures Conference is to go over trial logistics in a remote, Zoom environment. The court will issue its own Order Establishing Remote Trial Procedures in advance of the Trial Procedures Conference.

Note: Appearances at this hearing are required.

Party Information

Debtor(s):

Cassandra Dean Duerscheidt

Represented By
Brian J Soo-Hoo

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, January 21, 2021

Hearing Room 5A

9:30 AM

8:19-13441 Alpha Floors, Inc.

Chapter 7

Adv#: 8:20-01156 Kosmala v. Xia

#12.00 STATUS CONFERENCE RE: Complaint: (1) To Avoid Preferential Transfer Pursuant To 11 U.S.C. § 547; (2) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. § 548(A)(1)(A); (3) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. § 548(A)(1)(B); (4) For Recovery Of Avoided Transfers Under 11 U.S.C. § 550; (5) To Preserve Transfer For The Benefit Of The Estate Pursuant To 11 U.S.C. § 551; (6) Turnover Of The Property Of The Estate Pursuant To 11 U.S.C. § 542
Nature of Suit: (11 (Recovery of money/property - 542 turnover of property))

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 21, 2021

Continue status conference to March 11, 2021 at 9:30 a.m. to allow Plaintiff to either file a proof of service showing proper service of the summons and complaint or to obtain another summons. (XX)

Comments:

The docket does not reflect that the summons and complaint were served and no status report has been filed. Failure to file a proof of service or to file a status report for the March 11, 2021 hearing will result in the imposition of sanctions against Plaintiff's in the amount of \$100 and the issuance of an order to show cause why the adversary proceeding should not be dismissed for failure to prosecute.

Note: If Plaintiff accepts the 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, January 21, 2021

Hearing Room 5A

9:30 AM

CONT... Alpha Floors, Inc.

Chapter 7

Debtor(s):

Alpha Floors, Inc.

Represented By
Eric J Fromme

Defendant(s):

Feiyu Xia

Pro Se

Plaintiff(s):

Weneta Kosmala

Represented By
Reem J Bello

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, January 21, 2021

Hearing Room 5A

9:30 AM

8:19-13858 Bruce Elieff

Chapter 7

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

#13.00 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; 8-20-20; 11-19-20; 12-17-20

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 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. (XX)

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.

November 19, 2020

Continue the hearing to December 17, 2020 at 9:30 a.m.; the court's order re the SJ Motion will be issued in the near future. (XX)

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

Thursday, January 21, 2021

Hearing Room 5A

9:30 AM

CONT... Bruce Elieff

Chapter 7

Note: Appearances at this hearing are not required.

December 17, 2020

Continue Status Conference one final time to January 21, 2021 at 9:30 a.m.
(XX)

Note: Appearances at this hearing are not required.

January 21, 2021

Continue the hearing to February 18, 2021 at 9:30 a.m.; the court's order re
SJ will be issued on January 25, 2021. (XX)

Note: Appearances at this hearing are not required.

Party Information

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

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

Thursday, January 21, 2021

Hearing Room 5A

9:30 AM

CONT... **Bruce Elieff**
4627 Camden, LLC

Chapter 7

Represented By
Paul J Couchot

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe

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

Thursday, January 21, 2021

Hearing Room 5A

9:30 AM

8:20-10566 Eric C. Bryant

Chapter 7

Adv#: 8:20-01157 Oregon Pacific Bank v. Bryant et al

#14.00 STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt Pursuant to 11 U.S.C. Section 523

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 21, 2021

Deadline for Rule 26 Compliance: February 28, 2021
Discovery Cutoff Date: March 31, 2021
Pretrial Conference Date: May 6, 2021 at 9:30 a.m. (XX)
Deadline to File Pretrial Stipulation: April 22, 2021

Note: If all parties accept the tentative ruling, appearances at this hearing are not required and Plaintiff shall lodge a scheduling order consistent with the same.

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):

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, January 21, 2021

Hearing Room 5A

9:30 AM

CONT... Eric C. Bryant

Chapter 7

Defendant(s):

Eric C. Bryant

Pro Se

Gina K Bryant

Pro Se

Joint Debtor(s):

Gina K Bryant

Represented By
Christine A Kingston

Plaintiff(s):

Oregon Pacific Bank

Represented By
Michael N Nicaastro

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, January 21, 2021

Hearing Room 5A

10:00 AM

8:12-18188 Luis Savastano

Chapter 7

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

#15.00 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; 7-23-20; 10-22-20

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.

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

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.

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

Thursday, January 21, 2021

Hearing Room 5A

10:00 AM

CONT... Luis Savastano

Chapter 7

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.

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. (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.

October 22, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Once the witness has been sworn in by the Court Clerk, the parties will be placed in a separate Zoom break-out room for the examination scheduled for today.

January 21, 2021

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

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10:00 AM

CONT...

Luis Savastano

Chapter 7

Continue the third party judgment debtor examination **one final time** to April 15, 2021 at 10:00 a.m.; if Judgment Creditor intends to pursue an Order to Show Cause, then she must file and serve a proper motion in accordance with Local Bankruptcy Rule 9020-1; she must also serve the examinees with proper Zoom notice of the continued hearing. (XX)

Additional Comments:

1. Judgment Creditor was advised by the court's courtroom deputy on 1/5/21 that a proper motion had not been filed and, to date, no motion has been filed.
2. Judgment Creditor did not serve the examinees with Zoom notice of the hearing.
3. This matter will be taken off calendar if Judgment Creditor continues to failure to properly prosecute this matter.

Note: If Judgment Creditor accepts the foregoing tentative ruling, appearance at this hearing is not required.

Party Information

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
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Thursday, January 21, 2021

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10:00 AM

CONT... Luis Savastano

Chapter 7

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, January 21, 2021

Hearing Room 5A

10:00 AM

8:12-18188 Luis Savastano

Chapter 7

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

#16.00 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; 7-23-20; 10-22-20

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

November 19, 2019

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

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.

April 30, 2020

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

10:00 AM

CONT... Luis Savastano

Chapter 7

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.

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. (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.

October 22, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Once the witness has been sworn in by the Court Clerk, the parties will be placed in a separate Zoom break-out room for the examination scheduled for today.

January 21, 2021

Continue the third party judgment debtor examination **one final time** to April

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

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10:00 AM

CONT... Luis Savastano

Chapter 7

15, 2021 at 10:00 a.m.; if Judgment Creditor intends to pursue an Order to Show Cause, then she must file and serve a proper motion in accordance with Local Bankruptcy Rule 9020-1; she must also serve the examinees with proper Zoom notice of the continued hearing. (XX)

Additional Comments:

1. Judgment Creditor was advised by the court's courtroom deputy on 1/5/21 that a proper motion had not been filed and, to date, no motion has been filed.
2. Judgment Creditor did not serve the examinees with Zoom notice of the hearing.
3. This matter will be taken off calendar if Judgment Creditor continues to failure to properly prosecute this matter.

Note: If Judgment Creditor accepts the foregoing tentative ruling, appearance at this hearing is not required.

Party Information

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

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

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10:00 AM

CONT... Luis Savastano

Crystal Bergstrom

Chapter 7

Trustee(s):

Karen S Naylor (TR)

Represented By
Karen S Naylor (TR)

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

Hearing Room 5A

10:00 AM

8:19-10275 Michael J Duff

Chapter 7

Adv#: 8:19-01084 Constantin et al v. Duff

#16.10 Trial Procedures Conference RE: Complaint to Deny Debtor's Discharge

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 21, 2021

Issues to be discussed at today's hearing:

1 Exhibits:

a. Submission of exhibit binders to the court, opposing counsel, and all witnesses 7 days before trial

b. Emailing of exhibits to the chambers email and all witnesses, opposing counsel and all witnesses 7 days before trial. Each exhibit to be saved as a separate .pdf file.

c. Emailing of rebuttal and impeachment documents in password-protected file

d. Share screen capability

e. Limitation of exhibits (exclusive of rebuttal/impeachment documents) to those listed in the Pretrial Stipulation.

2. Declarations

a. Plaintiff's only witnesses are adverse witnesses. Accordingly, Plaintiff will not be required to file direct testimony declarations in advance of

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10:00 AM

CONT... Michael J Duff
trial.

Chapter 7

b. Defendant to advise if he will be filing direct testimony declarations for himself and Dory Berenguel

3. Witness Protocol

a. Witness must be located in a quiet room alone with a laptop, computer or other electronic device that is capable of accessing Zoom, and opening/enlarging .pdf files

b. Witness may not be engage in communications with his/her lawyer or another witness during testimony.

4. Optional Final Pretrial Conference to test technology, presentation of exhibits, etc.

5. Adequacy of Captioning System

Party Information

Debtor(s):

Michael J Duff

Pro Se

Defendant(s):

Michael J. Duff

Represented By
David Brian Lally

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
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Thursday, January 21, 2021

Hearing Room 5A

10:30 AM

8:10-19712 Nathan Michael Donahue

Chapter 7

Adv#: 8:10-01386 Donahue v. Donahue et al

#17.00 CONT'D Hearing RE: Motion to Attach Spousal Wages

FR:12-17-20

Docket 126

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 17, 2020

Continue hearing to January 21, 2021 at 10:30 a.m. to allow Movant to correct service issue: (XX)

Basis for Tentative Ruling:

The notice of motion fails to advise of the 14-day opposition deadline as required by LBR 9013(c)(2) ("...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. "). The notice also fails to advise that hearing is only being conducted by Zoom and Movant did not serve the supplemental notice form, "ZoomGov Hearing Notice_ES_BK." See <https://www.cacb.uscourts.gov/judges/self-calendaring/smith-e>.

Note: If Movant accepts the tentative ruling, appearance at this hearing is not required.

January 21, 2021

Grant motion. Service issue corrected.

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10:30 AM

CONT... Nathan Michael Donahue

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):

Nathan Michael Donahue

Represented By
Stephen Hosford

Defendant(s):

Nathan Michael Donahue

Represented By
Stephen Hosford

Torey Eden Donahue

Represented By
Stephen Hosford

Joint Debtor(s):

Torey Eden Donahue

Represented By
Stephen Hosford

Plaintiff(s):

Nancy Donahue

Represented By
Jerry D Hemme
Michael C Rogers

Trustee(s):

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court
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10:30 AM

8:13-14701 William George Weiler, Jr

Chapter 7

#18.00 Hearing RE: Motion of U.S. Trustee for Order Reopening Chapter 7 Case to Administer Assets and to Appoint Chapter 7 Trustee; Pursuant to 11 U.S.C. Section 350(b)

Docket 192

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 21, 2021

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):

William George Weiler Jr

Represented By
Robert C English

Trustee(s):

Richard A Marshack (TR)

Represented By
Leonard M Shulman
Melissa Davis Lowe
Ryan D O'Dea

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Thursday, January 21, 2021

Hearing Room

5A

10:30 AM

8:15-14803 Orlando Martinez

Chapter 13

#19.00 CON'TD Hearing RE: Debtor's Motion Objecting to Proof of Claim by Tustin Village Community Association, Claim No. 1

FR: 12-3-20

Docket 70

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 3, 2020

Allow the claim as a secured claim in the reduced amount of \$27,792.53.

Basis for Tentative Ruling

Tustin Village Community Association ("Claimant") filed proof of claim no. 1 in the secured amount of \$30,593.91 for "homeowner assessments." ("Claim") Debtor now moves to reduce the Claim amount to \$23,585.40 (the "Motion")[dkt. 70] and (the "Reply")[dkt. 84]. Claimant opposes the Motion and requests that the Claim be reduced to only \$27,792.53 (the "Opposition") [dkt. 79].

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, meaning that a proof of claim will be deemed allowed unless a party in interest objects. See Rule 3001(f); *In re Lundell*, 223 F.3d 1035, 1039 (9th Cir. 2000). Once an objection is filed, 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.* Indeed, 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,

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CONT... **Orlando Martinez**

Chapter 13

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).

In this case, Claimant filed the Claim in accordance with Rule 3001. The Claim was filed with Official Form 410 and included supporting documentation. See, Opp'n, Ex. A. As Claimant has complied with Rule 3001, the Claim is entitled to *prima facie* validity under Rule 3001(f) and it is, therefore, incumbent upon Debtor to present affirmative evidence to overcome the Claim's presumed validity. In this case, Debtor has successfully rebutted the *prima facie validity* of the Claim because Claimant admits that Claim amount is inaccurate because it includes \$2,801.38 of post-petition charges that should have not been added to the Claim amount. See Opp'n, p. 4. The now shifts onto Claimant to prove the ultimate validity of the Claim.

Claimant contends that its Claim amount of \$27,792.53 (comprised of claimed amount of \$30,593.94 minus postpetition charges of \$2,801.38 and additional \$71.38) consists of unpaid homeowner assessments that are fully by two components: (i) the Notice of Delinquent Assessment recorded on April 28, 2015 comprised of delinquent assessments, late fees, and legal expenses incurred from December 16, 2009 to March 1, 2015 totaling \$23,860.40 (the "2015 Delinquency Notice"), (ii) the Abstract of Judgment recorded on August 18, 2011 in the amount of, after credit for a small payment, \$6,733.51 (the "Abstract of Judgment"). See Opp'n, p. 1-2.

Debtor maintains that the judgment amount of \$5,087.13 underlying the Abstract of Judgment is being double billed by being included in the amount of \$20,855.40 listed on the Notice of Default and Election to Sell recorded July 23, 2015, and the amount of \$24,115.40 listed on the Trustee's Notice of Sale recorded November 5, 2015. See Mot., p. 3-5 and Ex. 1-2; Reply, p. 2.

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CONT...

Orlando Martinez

Chapter 13

The exhibits attached to the Declaration of Jeffrey Speights demonstrate that there has been no double billing. The court has carefully reviewed the same line by line and concludes that the accountings substantiate Claimant's argument that the judgment amount of \$6,733.51 (after an additional credit of \$71.38) is not included in the CLA Ledger amount. Stated otherwise, the CLA ledger includes a deduction for the entire amount of the outstanding judgment, except \$71.38, which is later credited in the Opposition.

January 21, 2021

Grant motion in part to allow a secured claim in the amount of \$27,792.53.

Basis for Tentative Ruling:

Background:

Tustin Village Community Association ("Claimant") filed proof of claim no. 1 (the "Claim") in the secured amount of \$30,593.91 for "homeowner assessments." Debtor now moves to reduce the Claim amount to \$23,585.40 (the "Motion")[dkt. 70] and (the "Reply")[dkt. 84]. Claimant opposes the Motion and requests that the Claim be reduced to only \$27,792.53 (the "Opposition")[dkt. 79]. Trustee took no position on the Motion. Since Trustee has already disbursed \$22,510.94 to Claimant pursuant to the confirmed plan, however, Trustee requests that the order include a provision excusing Trustee from any obligation to seek a return of the \$22,510.94 to the extent the Claim is allowed at an amount less than \$22,510.94 [dkt. 81].

The court incorporates the comments in its Tentative Ruling for December 3, 2020 herein (see above). At the conclusion of oral argument at the December 3, 2020 hearing, the hearing was continued to this date to allow Claimant to file a supplemental pleading addressing the discrepancy between the amount in the Notice of Trustee's Sale filed in November 2015 and the amount set forth in the Proof of Claim ("POC").

Claimant has adequately addressed the discrepancy between the

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CONT...

Orlando Martinez

Chapter 13

Notice of Delinquent Assessment Lien and the Notice of Trustee's Sale
by a preponderance of the evidence

To address the discrepancy between the amount in the Notice of Trustee's Sale filed in November 2015 and the Claim amount, Claimant explained that the Claim amount is higher because it consists of two parts: (1) the abstract of judgment recorded on August 18, 2011 in the amount of, after credit for a small payment, \$6,733.51 (the "Abstract of Judgment"), and (2) the Notice of Delinquent Assessment recorded on April 28, 2015 plus delinquent assessments that came due afterwards (the "Notice of Delinquent Assessment Lien"). See Supp. Opp'n, 1-2. Further, the Notice of Trustee's Sale recorded in November 2015 in the amount of \$24,115.40 is based only upon the amounts owed under the Notice of Delinquent Assessment Lien. And while the underlying ledgers on which the Notice of Delinquent Assessment Lien is based upon initially included the Abstract of Judgment amounts, the Abstract of Judgment amounts were deleted from the underlying ledger on March 10, 2015 before the Delinquent Assessment Lien was recorded on April 28, 2015. See Supp. Opp'n, 3-4 and Ex. C.

Debtor argues that the Abstract of Judgment was already included in the Delinquent Assessment Lien. In Exhibit B attached to the Notice of Delinquent Assessment Lien, the judgment amounts were included in the line item dated February 6, 2011, and the outstanding amount listed on the Notice of Trustee's Sale recorded November 5, 2015 listed the amount owed as only \$24,115.40. Debtor contends that Claimant's explanation is not credible because its conclusion is based on ledgers created after the recorded notice. See Supp. Reply, 2-4.

While it is true that the Abstract of Judgment amounts were initially included in the underlying ledgers for the Notice of Delinquent Assessment Lien, but Debtor's (based on the line items dated 2011 and 2012), the amounts were later deleted on March 10, 2015 -- before the Notice of Delinquent Assessment Lien was recorded on April 28, 2015. Moreover, the ledgers were included as Exhibit B to the recorded Notice of Delinquent Assessment Lien and the ledgers' ending balance of \$19,225.40 matches the amount listed on page 1 of the Notice of the Delinquent Assessment Lien. See Supp., Opp'n, Ex. C, (p. 1 and last page of the exhibit). Thus,

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10:30 AM

CONT... **Orlando Martinez**

Chapter 13

Claimant's ledgers appear to be part of the recorded Notice of Delinquent Assessment Lien; there is no persuasive evidence that the ledgers were created after the Notice of Delinquent Assessment Lien was recorded.

Importantly, taking into account the amount set forth in the ledgers attached to the Notice of Delinquent Assessment Lien, if the Abstract of Judgment amounts (\$5,087.13 + \$1,575) are not deleted from the running balance, as Claimant explains that it did on March 10, 2015, the amounts owed under the Notice of Delinquent Assessment Lien would actually be \$25,887.53 (\$19,225.40 + \$5,087.13 + \$1,575)- an amount that is higher than the \$24,115.10 amount listed on the Notice of Trustee's Sale. See Supp. Opp'n, Ex. C (last page of the exhibit).

It is logical that the \$19,225.40 amount listed in the Notice of Delinquent Assessment Lien increased to \$20,855.40 by the time of the recordation of the Notice of Default and Election to Sell on July 23, 2015, and that the amount subsequently increased to \$24,115.40 as of November 5, 2015 when the Notice of Trustee's Sale was recorded, exclusive of the Abstract of Judgment amounts. See Supp. Opp'n, Ex. C-E.

In sum, because Abstract of Judgment amounts were deleted from the Notice of Delinquent Assessment Lien (upon which the Notice of Trustee's Sale is based), it makes sense that the Claim amount would be higher than the Notice of Trustee's Sale because the Claim includes the Abstract of Judgment plus the Delinquent Assessment Lien amounts. The court concludes that Claimant has met its ultimate burden of proof establishing entitlement to a secured claim in the amount of \$27,792.53.

Note: If both parties accept the tentative ruling, appearances at this hearing is not required.

Party Information

Debtor(s):

Orlando Martinez

Represented By
Mark S Martinez

**United States Bankruptcy Court
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10:30 AM

CONT... Orlando Martinez

Chapter 13

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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

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10:30 AM

8:17-10706 John Jean Bral

Chapter 11

#20.00 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; 8-20-20

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)

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.

August 20, 2020

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,

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Thursday, January 21, 2021

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10:30 AM

CONT... John Jean Bral Chapter 11

2020 or monetary sanctions of not less than \$100 will be imposed on Debtor's counsel.

January 21, 2021

Continue the status conference to May 20, 2021 at 10:30 a.m.; updated Status Report must be filed by May 6, 2021. (XX)

Note: Appearances at this status conference are not required.

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
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Thursday, January 21, 2021

Hearing Room 5A

10:30 AM

8:17-11370 David Tudor Chamberlain

Chapter 11

Adv#: 8:17-01101 Martin D. Fern, individually and as Trustee of the v. Chamberlain et al

#21.00 CONT Hearing RE: Plaintiffs Martin D. Fern and Linda Taylor-Fern's Motion to Strike Defendants' Answer to Complaint

[fr: 9/26/17, 3/7/18, 9/26/18, 1/9/19, 6/12/19, 12/11/19, 3/4/20]; 9/30/20, Rm 5D; 10-1-20

Docket 20

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 1, 2020

In light of pending state court litigation, continue this matter to January 21, 2021 at 10:30 a.m. (XX)

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

January 21, 2021

In light of pending state court litigation, continue this matter to April 22, 2021 at 9:30 a.m.; updated Joint Status Report must be filed no later than April 8, 2021 and must include a copy of the Superior Court order or notice re the suspension of civil trials. (XX)

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

Party Information

**United States Bankruptcy Court
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Hearing Room 5A

10:30 AM

CONT... David Tudor Chamberlain

Chapter 11

Debtor(s):

David Tudor Chamberlain

Represented By
Jeffrey I Golden
Alan J Friedman
Beth Gaschen

Defendant(s):

David Tudor Chamberlain

Represented By
Gregory S Page

Linda Chamberlain, an individual

Represented By
Gregory S Page

Plaintiff(s):

Martin D. Fern, individually and as

Represented By
Eric P Israel
Sonia Singh

Linda Taylor-Fern, individually and

Represented By
Eric P Israel
Sonia Singh

**United States Bankruptcy Court
Central District of California
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10:30 AM

8:17-11370 David Tudor Chamberlain

Chapter 11

Adv#: 8:17-01101 Martin D. Fern, individually and as Trustee of the v. Chamberlain et al

#22.00 CONT STATUS CONFERENCE RE: Complaint to determine nondischargeability of debts pursuant to 11 U.S.C. Sections 523(a) and 524(a) (3)

[fr: 8/22/17, 9/26/17, 3/7/18, 9/26/18, 1/9/19, 6/12/19, 12/11/19, 3/4/20]; 9-30-20, Rm 5D; 10-1-20

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 1, 2020

In light of pending state court litigation, continue this matter to January 21, 2021 at 10:30 a.m. Plaintiff shall file a status report regarding the status of the state court trial by or before January 7, 2021.(XX)

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiffs shall serve Defendants with notice of the continued hearing date/time.

January 21, 2021

In light of pending state court litigation, continue this matter to April 22, 2021 at 9:30 a.m.; updated Joint Status Report must be filed no later than April 8, 2021 and must include a copy of the Superior Court order or notice re the suspension of civil trials. (XX)

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

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10:30 AM

CONT... David Tudor Chamberlain

Chapter 11

Party Information

Debtor(s):

David Tudor Chamberlain

Represented By
Jeffrey I Golden
Alan J Friedman
Beth Gaschen

Defendant(s):

David Tudor Chamberlain

Pro Se

Linda Chamberlain, an individual

Pro Se

Plaintiff(s):

Martin D. Fern, individually and as

Represented By
Eric P Israel

Linda Taylor-Fern, individually and

Represented By
Eric P Israel

**United States Bankruptcy Court
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8:18-10548 Lenore LuAnn Albert-Sheridan

Chapter 7

#23.00 CON'TD Hearing RE: Chapter 7 Trustee's Objection to Debtor's Amended Claims of Exemption

FR: 8-20-20

Docket 607

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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].

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

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Chapter 7

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 lowers 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 F3d. 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. 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.

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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 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

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CONT... Lenore LuAnn Albert-Sheridan

Chapter 7

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.

January 21, 2021

Continue hearing to May 20, 2021 at 10:30 a.m.; status report regarding the status of the pending appeal before the Ninth Circuit must be filed by the Trustee on or before May 6, 2021 or sanctions in the amount of \$400 will be imposed on Trustee's counsel. (XX)

Basis for Tentative Ruling:

The court previously ordered the Trustee to file a status report by January 14, 2021. No status report was timely filed by such date.

Note: If the parties accept the tentative ruling, appearances will not be required and the Trustee shall serve notice of the continued hearing date/time.

Party Information

Debtor(s):

Lenore LuAnn Albert-Sheridan	Pro Se
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Trustee(s):

Jeffrey I Golden (TR)	Represented By Jonathan A. Michaels Eric P Israel Aaron E de Leest
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CONT...

Lenore LuAnn Albert-Sheridan

Sonia Singh

Chapter 7

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10:30 AM

8:19-11771 Gustavo Bautista Ortiz and Amparo Hernandez Castro

Chapter 11

#24.00 Post Confirmation Status Conference RE: Debtors and Debtors-In-Possessions'
First Amended Chapter 11 Plan of Reorganization

(Set at Plan Conf. Hrg. Held 7/16/20)

Docket 152

*** VACATED *** REASON: OFF CALENDAR: Final Decree and Order
Granting Motion for Entry of Final Decree, Discharge, and Order Closing
Debtor's Chapter 11 Case Entered 10/9/2020

Courtroom Deputy:

**OFF CALENDAR: Final Decree and Order Granting Motion for Entry of
Final Decree, Discharge, and Order Closing Debtor's Chapter 11 Case
Entered 10/9/2020 - td (10/9/2020)**

Tentative Ruling:

- NONE LISTED -

Party Information

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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10:30 AM

8:19-13587 Trent Tyrell Berglin and Adrienne Lynn Berglin

Chapter 7

#25.00 Post Confirmation Status Conference RE: Second Amended Chapter 11 Plan of Reorganization

(Set at Plan Conf. hrg. held 7-16-20)

Docket 85

***** VACATED *** REASON: OFF CALENDAR: Order on Debtor's Motion to Convert Case Under 11 U.S.C. Sections 706(a) or 1112(a) Entered 9/29/2020; Case Converted from Chapter 11 to Chapter 7**

Courtroom Deputy:

OFF CALENDAR: Order on Debtor's Motion to Convert Case Under 11 U.S.C. Sections 706(a) or 1112(a) Entered 9/29/2020; Case Converted from Chapter 11 to Chapter 7 - td (9/29/2020)

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

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8:19-13858 Bruce Elieff

Chapter 7

#26.00 Hearing RE: Creditor Todd Kurtin's Objection to Homestead Exemption Claim

Docket 1077

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 21, 2021

Grant motion in part to reduce the homestead exemption to \$75,000.

Note: If the parties accept the tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

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10:30 AM

8:19-14171 KOSEP USA, Inc.

Chapter 7

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

[THOMAS H. CASEY, CHAPTER 7 TRUSTEE]

Docket 49

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 21, 2021

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):

KOSEP USA, Inc.

Represented By
James C Bastian Jr

Trustee(s):

Thomas H Casey (TR)

Represented By
James C Bastian Jr
Jai H Kim

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8:19-14171 KOSEP USA, Inc.

Chapter 7

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

[SHULMAN BASTIAN FRIEDMAN & BUI LLP, ATTORNEY FOR THOMAS H. CASEY, CHAPTER 7 TRUSTEE]

Docket 45

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 21, 2021

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):

KOSEP USA, Inc.

Represented By
James C Bastian Jr

Trustee(s):

Thomas H Casey (TR)

Represented By
James C Bastian Jr
Jai H Kim

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8:19-14171 KOSEP USA, Inc.

Chapter 7

#29.00 Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses From April 24, 2020 Through September 6, 2020

[HAHN FIFE & COMPANY, LLP, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]

Docket 46

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 21, 2021

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):

KOSEP USA, Inc.

Represented By
James C Bastian Jr

Trustee(s):

Thomas H Casey (TR)

Represented By
James C Bastian Jr
Jai H Kim

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8:20-11026 Little John's Antique Arms, Inc.

Chapter 11

#30.00 Hearing RE: Debtor and Debtor-in-Possession's Omnibus Motion for Order to Disallow Claims:

Cl. #2	Southern California Edison	\$1,164.87
Cl. #10	Robert Huntington	\$Unknown
Cl. #11	Manuel Ruben Solarzano	\$104,476.00
Cl. #16	Raymond P. Tenold Trust	\$Unknown
Cl. #17	James F. Burke	\$1,705.00
Cl. #19	Estate of Charles Abshire	\$500,000.00

Docket 147

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 21, 2021

Grant the Motion in its entirety.

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):

Little John's Antique Arms, Inc.

Represented By

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CONT... Little John's Antique Arms, Inc.

Chapter 11

Richard A Marshack
Chad V Haes
D Edward Hays

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Hearing Room 5A

10:30 AM

8:20-11026 Little John's Antique Arms, Inc.

Chapter 11

#31.00 Hearing RE: Debtor and Debtor-in-Possession's Second Omnibus Motion Objecting to Claims:

Cl. #4	Theodore Lauriano	\$2,400.00
Cl. #5	Dale/Eileen Strong	\$199,650.00
Cl. #7	Estate of Charles Porter	\$47,533.00
Cl. #12	Gene Kan	\$84,000.00
Cl. #13	Ron/Nicki Chambers	\$129,357.00
Cl. #16	Rosalva Garcia	\$45,000.00

Docket 149

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 21, 2021

Grant Motion as to Claim #5 (Dale & Eileen Strong), Claim #7 (Estate of Charles Porter) in the reduced amount of \$19,474.25, Claim #12 (Gene Kan), Claim #13 (Ron & Nicki Chambers), and Claim #18 [erroneously identified as Claim #16 in the Motion (Rosalva Garcia)]. Continue hearing as to Claim #4 (Theodore Lauriano) to March 4, 2021 at 10:30 a.m. to allow Debtor to correct service [served at incorrect address]. (XX)

Basis for Tentative Ruling:

1. According to the Claims Register, the claim of Rosalva

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CONT... Little John's Antique Arms, Inc.
Garcia is Claim #18, not #16.

Chapter 11

2. The proof of service attached to the Motion indicates that claimant Theodore Lauriano was served at "13723 Canyon Crest Way, **Corona**, CA 92880". However, the proof of claim shows the address as "13723 Canyon Crest Way, **Eastvale** CA 92880." Tentative ruling for 3/4/21 hearing (if unopposed): Grant.

Note: If Debtor accepts the tentative ruling, appearance at this hearing is not required.

Party Information

Debtor(s):

Little John's Antique Arms, Inc.

Represented By
Richard A Marshack
Chad V Haes
D Edward Hays

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Hearing Room 5A

10:30 AM

8:20-12328 Chase Merritt Global Fund LLC

Chapter 11

#32.00 CON'TD STATUS CONFERENCE Hearing RE: (1) Status of Chapter 11 Case;
and (2) Requiring Report on Status of Chapter 11 Case

FR: 10-22-20

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Order Dismissing Case
Pursuant to Motion by United States Trustee to Dismiss or Convert Case to
One Under Chapter 7 Pursuant to 11 U.S.C. Section 1112(b) Entered
1/19/2021**

Courtroom Deputy:

**OFF CALENDAR: Order Dismissing Case Pursuant to Motion by United
States Trustee to Dismiss or Convert Case to One Under Chapter 7
Pursuant to 11 U.S.C. Section 1112(b) Entered 1/19/2021 - td (1/19/2021)**

Tentative Ruling:

October 22, 2020

**[Special Notice: This hearing is being conducted by Zoomgov. See the
first page of the calendar for today's hearings for participation details.]**

Claims Bar Date:	12/23/20 (notice to creditors by 10/23/20)
Deadline to file plan/DS:	1/11/21
Continued Ch 11 Status Conf:	1/21/21 at 10:30 a.m. (XX)
Updated Status Report due:	1/14/21 (waived if DS is filed by 1/11/20)

In addition to the foregoing, Debtor's counsel must file an employment application by or before **October 30, 2020**.

Note: If Debtor accepts the tentative ruling and 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 substantial compliance with the US Trustee prior to the hearing. The court will issue its own order re the tentative ruling.

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CONT... Chase Merritt Global Fund LLC

Chapter 11

Party Information

Debtor(s):

Chase Merritt Global Fund LLC

Represented By
Thomas C Nguyen

United States Bankruptcy Court
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Thursday, January 21, 2021

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10:30 AM

8:20-12985 Geoff Owen Delabar

Chapter 13

#33.00 Hearing RE: Chapter 13 Trustee's Objection to Claims of Exemption

Docket 15

*** VACATED *** REASON: OFF CALENDAR: Notice of Voluntary
Dismissal of Motion, filed 1/13/2021

Courtroom Deputy:

**OFF CALENDAR: Notice of Voluntary Dismissal of Motion, filed
1/13/2021 - td (1/13/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Geoff Owen Delabar

Represented By
Christopher J Langley

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#33.10 Hearing RE: Trustee's Motion for Order Approving Overbid Procedures for the Sale of Property

Docket 524

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 21, 2021

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):

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
Stefan Perovich

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2:00 PM

8:17-10706 John Jean Bral

Chapter 11

#34.00 Hearing RE: Reorganized Debtor John Bral's Objection to Beitler & Associates, Inc.'s Amended Proof of Claim [Amended Claim No. 9]

Docket 938

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 21, 2021

Sustain the Objections to Claim Nos. 9, and 11 subject to Claimants' rights under 11 U.S.C. 502(j) and Fed.R.Bankr.P. 3008. [This Tentative Ruling applies to Calendar #s 34 and 35]

Basis for Tentative Ruling:

Short Answer: Though Claimant has posed a number of procedural suggestions to the court, e.g., permitting Claimant to withdraw the Claim without prejudice to the nondischargeability action, postponing the hearing to a time after the Arbitration matter is resolved, or consolidating the Objection with the the nondischargeability action. However, Claimant has not presented a substantive response to the Objection on the merits of the same. Debtor has raised substantive objections sufficient to shift the ultimate burden of proof to Claimant; Claimant has not satisfied that burden of proof.

Long Answer:

On February 24, 2017, John Jean Bral ("Debtor") filed a voluntary chapter 11 petition. The claims bar date was June 16, 2017. 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 next post-confirmation status conference is set for January 21, 2021.

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CONT... **John Jean Bral**

Chapter 11

Debtor moves for an order disallowing proof of claim no. 9 and 11 in their entirety (collectively, the "Objections")[dkt. 938, as to claim 9][dkt. 939- as to claim 11][dkt. 970- Omnibus Reply]. Debtor also filed his declaration in support of the Objections (the "Bral Declaration")[dkt. 163]. Alternatively, Debtor requests an order determining the amount of such claims. The claimants are Beitler & Associates, Inc. dba Beitler Commercial Realty Services ("BCRS") and Barry Beitler ("Beitler"), (hereafter, collectively, "Claimants."). Proof of claims nos. 9 and 11 are hereinafter referred to sometimes collectively as the "Claims."

Claimants oppose the Objections and request that the court either: (1) authorize Claimants to withdraw the Claims without prejudice to the pending dischargeability actions currently pending against Debtor, or (2) continue this hearing to a date after the completion of the judicial reference proceedings pending before Bankruptcy Judge Zive, scheduled for February 23 and 24, 2021 regarding the "Final Purchase Price" for the Debtor's membership interests in Mission and Westcliff, or (3) consolidate the Objections with the dischargeability proceedings and treat the January 21, 2021 hearing on the Objections as a status and scheduling conference ("Omnibus Opposition")[dkt. 958].

A. The Claims' Background Facts

Prior to 2007, Debtor and Beitler formed six single purpose entities as a series of limited liability companies to acquire and manage commercial real estate projects in Southern California. These limited liability companies include Westcliff Investors, LLC ("Westcliff"), Ocean View Medical Investors, LLC ("Ocean View"), Harbor Medical Investors, LLC ("Harbor") and Mission Medical Investors, LLC ("Mission"). Debtor manages and partially owns Westcliff, Ocean View, Mission, and Harbor.

Debtor also formed Javaher Investors, LLC ("Javaher") and Eyestreet Medical Investors, LLC ("Eyestreet") which also own and manage commercial real estate projects. Debtor is the co-manager of Javaher and Eyestreet, and Beitler is not a co-manager of either. Debtor and Beitler own indirect interests in Javaher and Eyestreet through their respective membership interests in

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CONT...

John Jean Bral

Chapter 11

Westcliff. Westcliff, Ocean View, Harbor, Mission, Javaher and Eyestreet are collectively referred to herein as the "SPEs." After the SPEs' formation, they required management and certain brokerage services such as leasing and lease renewal. In 2006, Debtor formed Venture RE Group ("VREG") which for a period of time performed these services for the SPEs. VREG is owned 50% by Debtor and (contrary to the allegations in the Claim) 50% by Beitler. In October 2013, Debtor formed Bral Realty Advisors, Inc. ("BRAI"). On April 21, 2014, BCRS and Beitler filed a complaint against Debtor in LA Superior Court, case no. BC543410 (the "State Court Complaint"). BCRS and Beitler allege that Debtor breached several oral and implied agreements regarding the split of each of the SPEs property management fees between them and that the property management would be conducted through an entity owned and controlled by both of them. BCRS and Beitler also alleged that Debtor and Beitler entered into several oral agreements relating to VREG, including ownership, property management services, brokerage services, and deferred repayments of draws from VREG. See Obj., 9-12 (for ease of reference, citations to the Objections will be to the objection to Claim 9, dkt. 938).

- B. The Objections are sustained because Debtor has rebutted the *prima facie* validity of the Claims and Claimants have failed to carry their ultimate burden of proof

A proof of claim executed and filed in accordance with FRBP 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, 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*, 223 F.3d at 1039. The

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CONT...

John Jean Bral

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ultimate burden of persuasion remains at all times upon the claimant. *Id.*; *Holm*, 931 F.2d 620 (9th Cir. 1991).

In this case, Debtor alleges that the Claims should not be afforded the presumption of *prima facie* validity because Claimants both assert damages for the same actions but fail to allege the amount of damages, and Claimants fail to allege whether the SPE Management Agreements were in writing or oral agreements. See Obj., 13-15. The Claims, however, were filed on the official proof of claim form, included an attachment explaining that the Claims were based on the State Court Complaint and included a copy of the State Court Complaint. See Obj., Ex. 2. Moreover, Debtor's argument that the underlying agreements are not attached to the Claims is not persuasive because there exists a fine distinction here- the Claims are not based on those agreements but rather on the state law causes of action alleged in the State Court Complaint (which is attached) that are bases on the alleged breaches of the underlying agreements. "There is an evidentiary presumption that a correctly prepared proof of claim is valid as to liability and amount....The rules add that a proof of claim executed and filed in accordance with the Federal Rules of Bankruptcy Procedure constitutes prima facie evidence of the validity and amount of the claim." *In re Garner*, 246 B.R. 617, 620-21 (B.A.P. 9th Cir. 2000)(internal citations omitted). Accordingly, the Claims are entitled to the *prima facie* presumption of validity because the Claims explain the underlying basis of the Claim and provided more than sufficient notice to Debtor regarding the alleged basis. Thus, Debtor must overcome this presumptive validity by negating one or more of the sworn facts in the Claims.

1. Debtor has rebutted the *prima facie* validity of the Claims.

Debtor has presented his declaration, with supporting documentation, refuting the underlying allegations in the State Court Complaint upon which the Claims are based, including that Beitler currently holds a 50% ownership in VREG. See Bral Decl. [dkt 163], 2-9; Obj., 22:21-23:11. Debtor has also presented several arguments that could make the Claims unenforceable against Debtor. For example, the causes of action in the State Court Complaint appear to be, at least partially, time-barred by the statute of limitations since the State Court Complaint was filed in 2014 but the alleged

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breaches occurred before 2012 or 2010 (Cal Code of Civ. Proc. § 339- 2 year statute of limitations for breach of oral contract & 4 year statute of limitations for breach of written contract) and the alleged intentional and negligent misrepresentations also occurred before 2012 or 2011 (Cal Code of Civ. Proc. § 338(d)-- 3 year statute of limitations for intentional misrepresentation, and § 335.1- 2 year statute of limitations for negligent misrepresentation). See Obj., 15-17 and 19-22. Accordingly, Debtor has presented sufficient evidence to negate one or more of the sworn facts in the Claims to rebut the *prima facie* validity of the Claims.

2. Claimants have failed to carry their burden to prove the ultimate validity of the Claims

Having rebutted the *prima facie* validity of the Claims, Debtor has shifted the burden onto Claimants to prove the ultimate validity of the Claims. In their Omnibus Opposition though, Claimants failed to provide any substantive arguments against the Objections. See Omnibus Reply, 6:4-11; see *generally*, Omnibus Opp'n, 8-11. Instead, Claimants proposed three alternatives to a ruling on the Objection which are addressed separately below.

- a. Relief under FRBP 3006 is denied

First, pursuant to FRBP 3006, Claimants request that the court authorize Claimants to withdraw their Claims without prejudice to their pending dischargeability actions against Debtor. See Omnibus Opp'n, 8-9.

FRBP 3006 states, in relevant part, that, "If after a creditor has filed a proof of claim an objection is filed thereto... the creditor may not withdraw the claim except on order of the court after a hearing on notice to the trustee or debtor in possession, and any creditors' committee elected pursuant to § 705(a) or appointed pursuant to §1102 of the Code." FRBP 3006 is akin to a voluntary dismissal under FRCP 41(a)(2). See *Resorts International, Inc. v. Lowenschuss (In re Lowenschuss)*, 67 F.3d 1394, 1399 (9th Cir. 1995) (holding that bankruptcy court erred in not permitting conditional withdrawal of proof of claim by creditor). A "bankruptcy court's exercise of discretion over a creditor's voluntary withdrawal of claims" is reviewed for abuse of discretion.

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Id.

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In this case, relief under FRBP 3006 is denied because, as noted by Debtor, such relief requires a motion and no noticed motion was filed even though Claimants have had notice since October 2020 (and the Objections were filed on October 1, 2020) that Debtor was not agreeable to allowing Claimants to withdraw the Claims. See Omnibus Reply, 3-6; FRBP 3006 ("If after a creditor has filed a proof of claim an objection is filed thereto... the creditor may not withdraw the claim except on order of the court *after a hearing on notice...*")(emphasis added).

- b. The Final Purchase Price has mostly been determined

Claimants request a continuance of the hearing on the Objections until the Final Purchase Price is determined in the arbitration. See Omnibus Opp'n, 5-6 and 10. However, according to the Arbitration Order entered on October 27, 2020, a Final Purchase has already been effectively determined and the only limited issue to be decided is the validity and amount of the "Avalon Trust Deed" against Mission- "No other issues remains to be adjudicated to determine the Final Purchase Price." See Arbitration Order, 2, ¶4; Omnibus Reply, 12, ¶6 and Ex. 3; see also, FRE 201; *In re Blumer*, 95 B.R. 143, 146 (BAP 9th Cir. 1988)("It is well established that a court may take judicial notice of its own records..."). As such, Claimants' argument that the court should defer ruling on the Objections until it can be determined whether general unsecured creditors will receive a distribution after the Final Purchase Price is adjudicated rings hollow. See Omnibus Opp'n, 9:25-10:17.

It is more likely, as presented by Debtor, that Claimants, who hold over 90% of the general unsecured claims in this case, have already determined that further litigation over the Claims does not make economic sense since further litigation over the Claims would only increase administrative expenses resulting in further decreased distributions to general unsecured creditors. See Omnibus Reply, 11-13, ¶¶4-10; Omnibus Opp'n, 3:9-10.

- c. Consolidation of the Objections with the pending adversary proceedings is denied

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Claimants last request is that the Objections be consolidated with the related, pending dischargeability actions and the court treat this hearing as a status conference in the dischargeability actions. See Omnibus Opp'n, 10-11. Related to this request is Claimants' argument that, because the Plan has become effective yet, the estate continues to exist and Debtor is using estate resources to defend against the dischargeability actions. *Id.* In short, Claimants argue that issues of liability and dischargeability cannot be bifurcated.

First, as noted by Debtor, this request to consolidate the Objections with the adversary proceedings was not requested in a noticed motion, so the request is procedurally defective. See Omnibus Reply, 9.

Next, Debtor litigating the issue of Debtor's liability within the context of claim objections is exactly what the court previously told the parties could occur. As noted by Claimants, a similar issue arose at the outset of adversary proceeding no. 17-01092. See Omnibus Opp'n, 7, n. 3. Debtor, at that time, had filed a motion to bifurcate the issues which was subsequently withdrawn at the hearing. However, unlike Claimants characterization that Debtor "is now attempting to do what was previously told he cannot do," see *id.*, Debtor is doing exactly what Judge Clarkson said Debtor could do- which is to litigate the issue of liability within the context of the claim objection process *and* use estate resources to do so.

Reviewing the transcript of the October 19, 2017 hearing on Debtor's motion to bifurcate the liability and dischargeability issues within the adversary proceedings (which was not cited by the parties), Judge Scott C. Clarkson determined that the motion was premature because Debtor's counsel had not requested to be employed by the estate to defend the dischargeability actions- and show that the services would benefit to the estate. See Tr. of Oct. 19, 2017 Hr'g [AP dkt. 23], 17:21-19:2, 20:9, 38:16-21 (page references are to transcript page numbers at top right). Judge Clarkson then went on to advise, however, that litigating the liability portion could be compensable from the estate if done within the context of the claim objection process. See *id.*, 20:11-17 and 38:23-39:8 ("I can actually say—I do have the discretion to say that you can be compensated, or Mr. Bral's

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attorney can be compensated, for matters that would arise under claim objections...").

Judge Clarkson also advised that Debtor could also do what is occurring here now: Debtor litigating the issue of liability within the context of claims process which may affect the resolution of the dischargeability actions. See Tr. of Oct. 19, 2017 Hr'g [AP dkt. 23], 39:3-8 ("[Debtor] is going to have to decide maybe I want to give up on those dischargeability cases. But, I'll still proceed under liability. Because if there's no liability... then what is he worried about discharge for."). Accordingly, there is no basis for denying Debtor the opportunity to use the claims process to determine liability of Debtor's estate for the Claims and requiring the consolidation of the Objections with the dischargeability actions.

In sum, Claimants' three request are denied, and having presented no substantive opposition to the Objections, Claimants have failed to carry their burden to prove the ultimate validity of the Claims.

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
Shane M Biornstad

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8:17-10706 John Jean Bral

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#35.00 Hearing RE: Reorganized Debtor John Bral's Objection to Barry Beitler's Amended Proof of Claim [Amended Claim No. 11]

Docket 939

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 21, 2021

Same tentative ruling as for #34 on today's calendar.

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
Shane M Biornstad

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8:17-10706 John Jean Bral

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#36.00 Hearing RE: Reorganized Debtor John Bral's Objection to Barry Beitler's Proof of Claim [Amended Claim No. 14]

Docket 940

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 21, 2021

Sustain the Objections to Claim No. 14 subject to Claimant's rights under 11 U.S.C. 502(j) and Fed.R.Bankr.P. 3008.

Basis for Tentative Ruling:

Short Answer: Though Claimant has posed a number of procedural suggestions to the court, e.g., permitting Claimant to withdraw the Claim without prejudice to the nondischargeability action, postponing the hearing to a time after the Arbitration matter is resolved, or consolidating the Objection with the the nondischargeability action. However, Claimant has not presented a substantive response to the Objection on the merits of the same. Debtor has raised substantive objections sufficient to shift the ultimate burden of proof to Claimant; Claimant has not satisfied that burden of proof.

Long Answer

1. Debtor has rebutted the *prima facie* validity of the Claims.

Here, Debtor has presented his declaration, with supporting documentation, that refutes the allegations in the Claim, including that the parties never agreed that Claimant would receive 50% of the top line revenues generated by VREG, the payments to BREG and BRAI by the SPEs were ordinary course payments, and the parties agreed that VREG would

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received 100% of the commissions generated from leasing activity performed on behalf of the SPEs. See Bral Decl. [dkt 163], 4-5, ¶¶14-22; Obj., 12:21-13:20. Debtor also presented his testimony refuting the Claim's allegations regarding capital contributions because the parties were sophisticated investors who knowingly entered into the OPAs, which are attached and reflect the ownership split between Debtor and Claimant. See Bral Decl. [dkt 163], 5-7, ¶¶24-39; Obj., 22:12-23:8. Debtor has explained how Claim 14 is duplicative of Claim 11 because it vaguely references allegations regarding the "other SPEs" but does not provide any additional details regarding them. See Obj., 10-11 and 19-22.

Debtor has also presented several arguments that the Claim is unenforceable against Debtor as a matter of law. For example, with regard to the Mission and Westcliff allegations, Debtor has argued that the Claim is time-barred since the OPA were signed in 2007 and 2007 (Code of Civil Procedure ("CCP") § 338(d)- 3 year statute of limitation for reformation), and barred by the parol evidence rule, promissory estoppel, and waiver. See, Obj., 16-19. With regard to the allegations regarding the SPEs, the Claim is also time-barred since the alleged breaches occurred before 2012 or 2010 (CCP § 339- 2 year statute of limitations for breach of oral contract & 4 year statute of limitations for breach of written contract), Claimant lacks standing since BCRS is the party who holds the Claim, and laches. See Obj., 19-22. Accordingly, Debtor has presented sufficient evidence to negate one or more of the sworn facts in the Claims to rebut the *prima facie* validity of the Claims.

2. Claimants have failed to carry their burden to prove the ultimate validity of the Claims

Having rebutted the *prima facie* validity of the Claims, Debtor has shifted the burden onto Claimants to prove the ultimate validity of the Claims. In their Omnibus Opposition though, Claimants failed to provide any substantive arguments against the Objections. See Omnibus Reply, 6:4-11; see *generally*, Omnibus Opp'n, 8-11. Instead, Claimants proposed three alternatives to a ruling on the Objection which are addressed separately below.

- a. Relief under FRBP 3006 is denied

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First, pursuant to FRBP 3006, Claimants request that the court authorize Claimants to withdraw their Claims without prejudice to their pending dischargeability actions against Debtor. See Omnibus Opp'n, 8-9.

FRBP 3006 states, in relevant part, that, "If after a creditor has filed a proof of claim an objection is filed thereto... the creditor may not withdraw the claim except on order of the court after a hearing on notice to the trustee or debtor in possession, and any creditors' committee elected pursuant to § 705(a) or appointed pursuant to §1102 of the Code." FRBP 3006 is akin to a voluntary dismissal under FRCP 41(a)(2). See *Resorts International, Inc. v. Lowenschuss (In re Lowenschuss)*, 67 F.3d 1394, 1399 (9th Cir. 1995) (holding that bankruptcy court erred in not permitting conditional withdrawal of proof of claim by creditor). A "bankruptcy court's exercise of discretion over a creditor's voluntary withdrawal of claims" is reviewed for abuse of discretion. *Id.*

In this case, relief under FRBP 3006 is denied because, as noted by Debtor, such relief requires a motion and no noticed motion was filed even though Claimants have had notice since October 2020 (and the Objections were filed on October 1, 2020) that Debtor was not agreeable to allowing Claimants to withdraw the Claims. See Omnibus Reply, 3-6; FRBP 3006 ("If after a creditor has filed a proof of claim an objection is filed thereto... the creditor may not withdraw the claim except on order of the court *after a hearing on notice...*")(emphasis added).

- b. The Final Purchase Price has effectively already been determined

Second, Claimants request a continuance of the Objections until the Final Purchase Price is determined in the arbitration. See Omnibus Opp'n, 5-6 and 10. Yet, pursuant to the Arbitration Order entered on October 27, 2020, a Final Purchase has already been effectively determined and the only limited issue to be decided is the and what remains to be decided is the validity and amount, if valid, of the "Avalon Trust Deed" against Mission- "No other issues remains to be adjudicated to determine the Final Purchase Price." See Arbitration Order, 2, ¶4; Omnibus Reply, 12, ¶6 and Ex. 3; see

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also, FRE 201; *In re Blumer*, 95 B.R. 143, 146 (BAP 9th Cir. 1988)("It is well established that a court may take judicial notice of its own records..."). As such, Claimants' argument that the court should defer ruling on the Objections until it can be determined whether general unsecured creditors will receive a distribution after the Final Purchase Price is adjudicated rings hollow. See Omnibus Opp'n, 9:25-10:17.

It is more likely, as presented by Debtor, that Claimants, who hold over 90% of the general unsecured claims in this case, have already determined that further litigation over the Claims does not make economic sense since further litigation over the Claims would only increase administrative expenses resulting in further decreased distributions to general unsecured creditors. See Omnibus Reply, 11-13, ¶¶4-10; Omnibus Opp'n, 3:9-10.

- c. Consolidation of the Objections with the pending adversary proceedings is denied

Claimants last request is that the Objections be consolidated with the related, pending dischargeability actions and the court treat this hearing as a status conference in the dischargeability actions. See Omnibus Opp'n, 10-11. Related to this request is Claimants' argument that, because the Plan has become effective yet, the estate continues to exist and Debtor is using estate resources to defend against the dischargeability actions. *Id.* In short, Claimants argue that issues of liability and dischargeability cannot be bifurcated.

First, as noted by Debtor, this request to consolidate the Objections with the adversary proceedings was not requested in a noticed motion, so the request is procedurally defective. See Omnibus Reply, 9. Next, Debtor is litigating the issue of Debtor's liability within the context of claim objections is exactly what the court previously told the parties could occur. As noted by Claimants, a similar issue arose at the outset of adversary proceeding no. 17-01092. See Omnibus Opp'n, 7, n. 3. Debtor, at that time, had filed a motion to bifurcate the issues which was subsequently withdrawn at the hearing. However, unlike Claimants characterization that Debtor "is now attempting to do what was previously told he cannot do," see *id.*, Debtor is doing exactly what Judge Clarkson said Debtor could do- which is to litigate

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the issue of liability within the context of the claim objection process *and* use estate resources to do so.

Reviewing the transcript of the October 19, 2017 hearing on Debtor's motion to bifurcate the liability and dischargeability issues within the adversary proceedings (which was not cited by the parties), Judge Scott C. Clarkson determined that the motion was premature because Debtor's counsel had not requested to be employed by the estate to defend the dischargeability actions- and show that the services would benefit to the estate. See Tr. of Oct. 19, 2017 Hr'g [AP dkt. 23], 17:21-19:2, 20:9, 38:16-21 (page references are to transcript page numbers at top right). Judge Clarkson then went on to advise, however, that litigating the liability portion could be compensable from the estate if done within the context of the claim objection process. See *id.*, 20:11-17 and 38:23-39:8 ("I can actually say—I do have the discretion to say that you can be compensated, or Mr. Bral's attorney can be compensated, for matters that would arise under claim objections...").

Judge Clarkson also advised that Debtor could also do what is occurring here now: Debtor litigating the issue of liability within the context of claims process which may affect the resolution of the dischargeability actions. See Tr. of Oct. 19, 2017 Hr'g [AP dkt. 23], 39:3-8 ("[Debtor] is going to have to decide maybe I want to give up on those dischargeability cases. But, I'll still proceed under liability. Because if there's no liability... then what is he worried about discharge for."). Accordingly, there is no basis for denying Debtor the opportunity to use the claims process to determine liability of Debtor's estate for the Claims and requiring the consolidation of the Objections with the dischargeability actions.

In sum, Claimants' three request are denied, and having presented no substantive opposition to the Objections, Claimants have failed to carry their burden to prove the ultimate validity of the Claims.

Party Information

Debtor(s):

John Jean Bral

Represented By
Beth Gaschen

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Alan J Friedman
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#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1611579022>

Meeting ID: 161 157 9022

Password: 927496

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.

Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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8:20-11507 Hytera Communications America (West) Inc

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#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 of Inventory Portion of the Motion)

FR: 7-23-20; 8-27-20; 12-17-20

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.

December 17, 2020

Continue this hearing one final time to January 22, 2021 at 2:00 p.m.. By or before January 5, 2021, Debtors, Motorola, the Committee (and the UST at

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his option) shall meet and confer regarding a possible resolution of this motion with a focus on identifying agreed non-accused assets that may be sold. By or before January 7, 2021, Motorola shall file with the court a statement identifying all of the accused assets that are scheduled to be sold pursuant to the APA (Third Amended) and to which it objects as being within the scope of the pending Injunction Motion. By or before January 14, 2021, Debtors shall file a pleading in reply to Motorola's statement. In the event that an injunction order is entered by district court in Illinois prior to the continued hearing, Motorola shall file such order with this court within 24 hours of its issuance.

Basis for Tentative Ruling

1. This hearing was continue for the express purpose of allowing Motorola to obtain a ruling on its pending Injunction Motion. Nearly four months later, that has not happened and it is apparent to this court that a ruling may not be forthcoming any time soon, which is Judge Norgle's prerogative. Motorola's assertion that a ruling will be issued soon is not based on evidence or facts upon which this court can rely. Meanwhile, this chapter 11 case hangs in the balance.
2. Any injunction order will necessarily have to specifically identify the items that Debtors would be enjoined from selling or otherwise exploiting. Why can't Motorola identify such items *now*?
3. Debtors initially represented that the original APA did not include any accused items but has subsequently excluded many additional items. Absent some consensus with Motorola, Debtors will have to convince the court that the APA (Third Amended) is now "cleansed" of accused items.
4. Motorola complains that Debtors have included a caveat in the Third Amended APA as a precaution. Why? Such a caveat is for its benefit.
5. Any APA ultimately approved by this court must include a provision that the Buyer agrees to be bound by any injunction order issued by Judge Norgle.

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6. The bottom line is that the court is not 100% impressed with either Motorola or Debtors, but less so by Motorola. Debtors have at least made an effort to exclude potential accused items; Motorola just says no to everything.

January 22, 2021

Pursuant to the Notice of Agreed Proposed Order Regarding Sale of Non-Accused Inventory Pursuant to Initial Asset Purchase Agreement [dkt. 418], the agreed proposed order is approved. The hearing is off calendar. No appearances are necessary.

Party Information

Debtor(s):

Hytera Communications America

Represented By
John W Lucas
Jason H Rosell
Victoria Newmark
Steptoe & Johnson

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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; 8-27-20; 12-17-20

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.

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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.

December 17, 2020

Continue the hearing to January 22, 2021 at 2:00 p.m. (XX)

Special note: The court's comments above for the August 27, 2020 hearing stand

January 22, 2021

In light of the court's approval of Debtors' sale motion (see cal. no. 1), the Motion to Dismiss is denied. The hearing is off calendar. No appearances are necessary.

Party Information

Debtor(s):

Hytera Communications America

Represented By
John W Lucas
Jason H Rosell
Victoria Newmark
Steptoe & Johnson

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Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Monday, January 25, 2021

Hearing Room 5A

10:00 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address:

<https://cacb.zoomgov.com/j/1607800256>

ZoomGov meeting number: 160 780 0256

Password: 085565

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Monday, January 25, 2021

Hearing Room 5A

10:00 AM

CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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

Monday, January 25, 2021

Hearing Room 5A

10:00 AM

CONT...

- NONE LISTED -

Chapter

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

Monday, January 25, 2021

Hearing Room 5A

10:00 AM

:

Chapter 0

Misc#: 1:20-00103

#1.00 CON'TD Disciplinary Hearing Involving Dana M. Douglas

FR: 12-14-20

Docket 9

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 25, 2021

Notice to Discipline; Consent to Terms of Reinstatement filed on January 22, 2021 as docket #19 approved. Counsel to lodge order approving Notice.

Disciplinary hearing is off calendar.

No appearance necessary.

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

Tuesday, January 26, 2021

Hearing Room 5A

1:30 PM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

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Video/audio web address:

<https://cacb.zoomgov.com/j/1610732294>

ZoomGov meeting number: 161 073 2294

Password: 624924

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Tuesday, January 26, 2021

Hearing Room 5A

1:30 PM
CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

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- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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

Tuesday, January 26, 2021

Hearing Room 5A

1:30 PM

CONT...

- NONE LISTED -

Chapter

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

Tuesday, January 26, 2021

Hearing Room 5A

1:30 PM

8:20-13345 Daniel L. Bassett

Chapter 13

#1.00 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 12/28/2020**

Courtroom Deputy:

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,
Statements, and/or Plan Entered 12/28/2020 - td (1/5/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel L. Bassett

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, January 26, 2021

Hearing Room 5A

1:30 PM

8:20-13332 Manuel Mancenido

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):

Manuel Mancenido

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 26, 2021

Hearing Room 5A

1:30 PM

8:20-13305 Marissa L. Chery

Chapter 13

#3.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marissa L. Chery

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 26, 2021

Hearing Room 5A

1:30 PM

8:20-13288 Shannon Jauch and Nami Nitta

Chapter 13

#4.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 16

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Shannon Jauch

Represented By
Richard L. Sturdevant

Joint Debtor(s):

Nami Nitta

Represented By
Richard L. Sturdevant

Trustee(s):

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 26, 2021

Hearing Room 5A

1:30 PM

8:20-13254 Darrell Derane Powell

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 12/28/2020**

Courtroom Deputy:

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,
Statements, and/or Plan Entered 12/28/2020 - td (1/5/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Darrell Derane Powell

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 26, 2021

Hearing Room 5A

1:30 PM

8:20-13210 Rose Mary Fausto

Chapter 13

#6.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Case Reassigned to
Judge Wallace; Order Dismissing Case with Restriction Entered 1/4/2021**

Courtroom Deputy:

**OFF CALENDAR: Case Reassigned to Judge Wallace; Order Dismissing
Case with Restriction Entered 1/4/2021 - td (1/5/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rose Mary Fausto

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 26, 2021

Hearing Room 5A

1:30 PM

8:20-13087 Peter P. Tamarat

Chapter 13

#7.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

*** VACATED *** REASON: OFF CALENDAR: Order of Dismissal
Arising from Debtor's Request for Voluntary Dismissal of Chapter 13
Entered 1/13/2021

Courtroom Deputy:

**OFF CALENDAR: Order of Dismissal Arising from Debtor's Request for
Voluntary Dismissal of Chapter 13 Entered 1/13/2021 - td (1/13/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Peter P. Tamarat

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 26, 2021

Hearing Room 5A

1:30 PM

8:20-13067 Juan Francisco Llamas

Chapter 13

#8.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Juan Francisco Llamas

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, January 26, 2021

Hearing Room 5A

1:30 PM

8:20-12985 Geoff Owen Delabar

Chapter 13

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

FR: 12-18-20

Docket 2

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Geoff Owen Delabar

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 26, 2021

Hearing Room 5A

1:30 PM

8:20-12960 Derek P. Dunton

Chapter 13

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

FR: 12-18-20

Docket 11

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Derek P. Dunton

Represented By
Ahren A Tiller

Trustee(s):

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 26, 2021

Hearing Room 5A

1:30 PM

8:20-12859 Ronald Paguel Salgado and Arlyn David Salgado

Chapter 13

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

FR: 11-24-20

Docket 2

*** VACATED *** REASON: OFF CALENDAR: Debtors' Notice of Conversion of Bankruptcy Case from Chapter 13 to Chapter 7 filed 1/6/2021; Case Converted to Chapter 7

Courtroom Deputy:

OFF CALENDAR: Debtors' Notice of Conversion of Bankruptcy Case from Chapter 13 to Chapter 7 filed 1/6/2021; Case Converted to Chapter 7 - td (1/6/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ronald Paguel Salgado

Represented By
Steven A Alpert

Joint Debtor(s):

Arlyn David Salgado

Represented By
Steven A Alpert

Trustee(s):

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 26, 2021

Hearing Room 5A

1:30 PM

8:20-12789 David R Johnson and Gail L Johnson

Chapter 13

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

FR: 11-24-20; 12-18-20

Docket 2

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

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, January 26, 2021

Hearing Room 5A

1:30 PM

8:20-12564 Bryce Allen McGall

Chapter 13

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

FR: 11-24-20

Docket 16

*** VACATED *** REASON: OFF CALENDAR: Debtor's Notice of Conversion of Bankruptcy Case from Chapter 13 to Chapter 7 filed 1/25/2021; Case Converted to Chapter 7

Courtroom Deputy:

OFF CALENDAR: Debtor's Notice of Conversion of Bankruptcy Case from Chapter 13 to Chapter 7 filed 1/25/2021; Case Converted to Chapter 7 - td (1/25/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bryce Allen McGall

Represented By
Edmond Richard McGuire

Trustee(s):

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 26, 2021

Hearing Room 5A

1:30 PM

8:20-12562 Michael Gregory Franco

Chapter 13

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

FR: 10-27-20; 12-18-20

Docket 13

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Gregory Franco

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 26, 2021

Hearing Room 5A

2:30 PM

8:20-10620 Nelson D. Randin

Chapter 13

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

Docket 84

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 26, 2021

Grant the motion to dismiss if Debtor is not current by the time of the hearing.
No motion to modify has been filed as of 12:00 pm this date.

Party Information

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**

Tuesday, January 26, 2021

Hearing Room 5A

2:30 PM

8:20-10620 Nelson D. Randin

Chapter 13

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

Docket 88

***** VACATED *** REASON: OFF CALENDAR: Notice of Voluntary Dismissal of Motion, Docket No. 88, filed 1/12/2021**

Courtroom Deputy:

OFF CALENDAR: Notice of Voluntary Dismissal of Motion, Docket No. 88, filed 1/12/2021 - td (1/12/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

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

Tuesday, January 26, 2021

Hearing Room 5A

2:30 PM

8:20-10294 German A Gutierrez

Chapter 7

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

Docket 45

*** VACATED *** REASON: OFF CALENDAR: Debtor's Notice of Conversion of Bankruptcy Case from Chapter 13 to Chapter 7 filed 1/26/2021; Case Converted to Chapter 7

Courtroom Deputy:

OFF CALENDAR: Debtor voluntarily converted to ch 7 on 1/26/21 --es

Tentative Ruling:

Party Information

Debtor(s):

German A Gutierrez

Represented By
Christopher J Langley

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**

Tuesday, January 26, 2021

Hearing Room 5A

2:30 PM

8:19-14950 Lonnie M Tee

Chapter 13

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

FR: 10-27-20; 11-24-20; 12-18-20

Docket 52

***** VACATED *** REASON: OFF CALENDAR: Trustee's Notice of Voluntary Dismissal of Motion, filed 1/25/2021**

Courtroom Deputy:

OFF CALENDAR: Trustee's Notice of Voluntary Dismissal of Motion, filed 1/25/2021 - td (1/25/2021)

Tentative Ruling:

November 24, 2020

Continue hearing to December 18, 2020 at 10:30 a.m., same date/time as hearing on approval of Debtor's pending motion to modify/suspend plan payments. (XX)

Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required.

December 18, 2020

Continue hearing one final time to January 26, 2021 at 2:30 p.m. to allow Trustee to review new motion to modify/suspend payments filed 12/16/20 [Docket #70] (XX)

Basis for Tentative Ruling

Debtor withdrew the prior motion and a filed a new one on December 16, 2020.

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

Tuesday, January 26, 2021

Hearing Room 5A

2:30 PM

CONT... Lonnie M Tee

Chapter 13

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, January 26, 2021

Hearing Room 5A

2:30 PM

8:19-11870 Darlene Futrel

Chapter 13

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

FR: 10-27-20; 11-24-20; 12-18-20

Docket 58

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

November 24, 2020

Continue hearing to December 18, 2020 at 10:30 a.m., same date/time as hearing on approval of Debtor's pending motion to modify/suspend plan payments. (XX)

Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required.

December 18, 2020

Grant the Motion to dismiss the case.

January 26, 2021

New motion to modify filed 1/19/21. Trustee to advise if he approves of it.

Party Information

Debtor(s):

Darlene Futrel

Represented By

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

Tuesday, January 26, 2021

Hearing Room 5A

2:30 PM

CONT...

Darlene Futrel

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, January 26, 2021

Hearing Room 5A

2:30 PM

8:19-10044 Gregory Bettison

Chapter 13

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

Docket 68

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 26, 2021

Grant motion to dismiss. Debtor is more than \$14,000 in arrears and there is no motion to modify pending.

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, January 26, 2021

Hearing Room 5A

2:30 PM

8:18-14641 Richard Thomas McPhee

Chapter 13

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

Docket 50

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 26, 2021

Grant motion to dismiss unless Debtor is postpetition current by the time of the hearing.

Basis for Tentative Ruling

Despite the fact that the motion was filed more than two months ago, to date no motion to modify 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, January 26, 2021

Hearing Room 5A

2:30 PM

8:18-14383 Jennifer Mary Turunen Johnson

Chapter 13

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

Docket 29

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 26, 2021

Grant motion to dismiss unless Debtor is postpetition current by the time of the hearing.

Party Information

Debtor(s):

Jennifer Mary Turunen Johnson

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, January 26, 2021

Hearing Room 5A

2:30 PM

8:18-13073 Bonifacio A. Baquiran and Virginia Prenda Baquiran

Chapter 13

#23.00 Hearing RE: Debtors' Motion Under LBR 3015-1(n) and (w) to Modify Plan or Suspend Plan Payments

Docket 40

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 26, 2021

Grant the Motion.

Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required.

Party Information

Debtor(s):

Bonifacio A. Baquiran

Represented By
Tina H Trinh

Joint Debtor(s):

Virginia Prenda Baquiran

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 26, 2021

Hearing Room 5A

2:30 PM

8:18-13073 Bonifacio A. Baquiran and Virginia Prenda Baquiran

Chapter 13

#24.00 Hearing RE: Trustee's Motion to Modify a Confirmed Plan

Docket 38

***** VACATED *** REASON: OFF CALENDAR: Notice of Voluntary
Dismissal of Motion filed 12/17/2020**

Courtroom Deputy:

**OFF CALENDAR: Notice of Voluntary Dismissal of Motion filed
12/17/2020 - td (12/17/2020)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bonifacio A. Baquiran

Represented By
Tina H Trinh

Joint Debtor(s):

Virginia Prenda Baquiran

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 26, 2021

Hearing Room 5A

2:30 PM

8:18-12499 Katrina Barrientos and James Wee

Chapter 13

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

Docket 64

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 26, 2021

Deny motion to disms in light of Trustee's approval of Debtors' motion to modify filed on 1/20/21.

Debtors' counsel to lodge order re motion to modify.

Party Information

Debtor(s):

Katrina Barrientos

Represented By
Amanda G Billyard
Andy C Warshaw

Joint Debtor(s):

James Wee

Represented By
Amanda G Billyard
Andy C Warshaw

Trustee(s):

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 26, 2021

Hearing Room 5A

2:30 PM

8:18-11942 Maureen T. Todd

Chapter 13

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

FR: 12-18-20

Docket 98

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 18, 2020

Grant motion to dismiss unless Debtor is current with plan payments.

January 26, 2021

Deny motion in light of Trustee's approval of Debtor's pending motion to refinance residence filed 1/29/21.

Party Information

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 26, 2021

Hearing Room 5A

2:30 PM

8:17-14768 Edgar Guzman

Chapter 13

#27.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding

FR: 12-18-20

Docket 75

***** VACATED *** REASON: OFF CALENDAR: Notice of Voluntary Dismissal of Motion, filed 1/14/2021**

Courtroom Deputy:

OFF CALENDAR: Notice of Voluntary Dismissal of Motion, filed 1/14/2021 - td (1/14/2021)

Tentative Ruling:

December 18, 2020

Grant motion to dismiss case

Basis for Tentative Ruling:

Debtor filed a motion to modify or suspend on 12/1/20, for which the Trustee filed no comments. However, Debtor seeks to extend the term of the plan from 60 to 84 months. Though the court is amenable to a small extension past 60 months, two years beyond the statutory period will not be approved.

Party Information

Debtor(s):

Edgar Guzman

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, January 26, 2021

Hearing Room 5A

2:30 PM

8:17-13650 Giuseppe Galietta and Heldia F. De Galietta

Chapter 13

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

FR: 10-27-20; 11-24-20; 12-18-20

Docket 148

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

November 24, 2020

Continue hearing to December 18, 2020 at 10:30 a.m. in light of motion to modify/suspend plan payments filed November 19, 2020. (XX)

Note: Appearances at this hearing are not required

December 18, 2020

Grant motion to dismiss case

January 26, 2021

Grant motion to dismiss in light of Debtors' withdrawal of motion to modify filed 1/20/21.

Party Information

Debtor(s):

Giuseppe Galietta

Represented By
Joseph A Weber
Fritz J Firman

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

Tuesday, January 26, 2021

Hearing Room 5A

2:30 PM

CONT... Giuseppe Galietta and Heldia F. De Galietta

Chapter 13

Joint Debtor(s):

Heldia F. De Galietta

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 26, 2021

Hearing Room 5A

2:30 PM

8:17-10986 Mian K. Taufique

Chapter 13

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

FR: 10-27-20; 11-24-20; 12-18-20

Docket 80

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

November 24, 2020

No tentative ruling; disposition will depend on outcome of calendar #36.

December 18, 2020

Grant motion to dismiss. No new pleadings filed since the last hearing.

January 26, 2021

Grant motion to dismiss.

No new pleadings filed since the last hearing.

Party Information

Debtor(s):

Mian K. Taufique

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 26, 2021

Hearing Room 5A

2:30 PM

CONT... Mian K. Taufique

Chapter 13

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

Tuesday, January 26, 2021

Hearing Room 5A

2:30 PM

8:16-10509 Douglas Allen Dawson and Jennifer Ann Dawson

Chapter 13

#30.00 Hearing RE: Debtors' Motion Under LBR 3015-1(n) and (w) to Modify Plan or Suspend Plan Payments

Docket 144

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 26, 2021

The court is not inclined to approve the motion to modify. Debtor's counsel needs to explain why the dramatic decrease in distributions creditors warranted and how Debtors' declaration supports the same.

Party Information

Debtor(s):

Douglas Allen Dawson

Represented By
Christine A Kingston

Joint Debtor(s):

Jennifer Ann Dawson

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 26, 2021

Hearing Room 5A

2:30 PM

8:15-14997 Romeo Torrecampo Tariman

Chapter 13

#31.00 CON'TD Hearing RE: Trustee's Verified Motion For Order Dismissing Chapter 13 Proceeding for Failure to Complete the Plan Within its Terms

FR: 12-18-20

Docket 49

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 18, 2020

Debtor's counsel to advise the court re the status of this matter. Debtor indicated in opposition that a motion to modify would be filed. As of today, no such motion has been filed.

January 26, 2021

Grant motion to dismiss case.

No motion to modify filed.

Party Information

Debtor(s):

Romeo Torrecampo Tariman

Represented By
Jaime G Monteclaro

Trustee(s):

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 26, 2021

Hearing Room 5A

2:30 PM

8:15-14803 Orlando Martinez

Chapter 13

#32.00 CON'TD Hearing RE: Debtor's Motion Under LBR 3015-1(n) and (w) to Modify Plan or Suspend Plan Payments

FR: 12-18-20

Docket 76

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 18, 2020

Continue hearing to January 26, 2021 at 2:30 p.m. in light of pending objection to claim which has been continued to January 21, 2021. (XX)

Party Information

Debtor(s):

Orlando Martinez

Represented By
Mark S 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**

Tuesday, January 26, 2021

Hearing Room 5A

2:30 PM

8:15-14803 Orlando Martinez

Chapter 13

#33.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Complete the Plan Within its Terms

FR: 10-27-20; 11-24-20; 12-18-20

Docket 59

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

p
November 24, 2020

Continue hearing to Dec. 18, 2020 at 10:30 a.m., same date/time as hearing on motion to modify/suspend payments

December 18, 2020

Continue hearing to January 26, 2021 at 2:30 p.m. (XX)

January 26, 2021

No tentative ruling.

Special note: At the January 21, 2021 objection to claim hearing, the claim of the Tustin Village Community Association was allowed in the amount of \$27,792.53.

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**

Tuesday, January 26, 2021

Hearing Room 5A

2:30 PM

CONT... Orlando Martinez

Mark S Martinez

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, January 26, 2021

Hearing Room 5A

2:30 PM

8:15-14425 Jose P. Hurtado

Chapter 13

#34.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding

FR: 12-18-20

Docket 66

Courtroom Deputy:

SPECIAL NOTE: Debtor's Notice of Withdrawal of Opposition to Trustee's Motion to Dismiss Chapter 13 Proceeding, filed 1/20/2021 - td (1/20/2021)

Tentative Ruling:

December 18, 2020

Trustee to advise the court re the status of this matter -- whether all tax returns have been submitted and whether the delinquency has been cured. As of today, no motion to modify has been filed.

January 26, 2021

No tentative ruling.

Special note: At the January 21, 2021 objection to claim hearing, the claim of the Tustin Village Community Association was allowed in the amount of \$27,792.53.

Party Information

Debtor(s):

Jose P. Hurtado

Represented By
Richard G Heston

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

Tuesday, January 26, 2021

Hearing Room 5A

2:30 PM

CONT... Jose P. Hurtado

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 28, 2021

Hearing Room 5A

2:00 PM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address:

<https://cacb.zoomgov.com/j/1606818603>

ZoomGov meeting number: 160 681 8603

Password: 624206

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM
CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT...

- NONE LISTED -

Chapter

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

Thursday, January 28, 2021

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 Hearing RE: Defendant Suncal Management, LLC's Motion For Partial Summary Judgment Of Plaintiffs Claims For Actual And Constructive Fraudulent Transfer; And for Summary Adjudication Of Issues

Docket 496

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 28, 2021

The following tentative ruling applies to matters 1, 3, 5 and 7 on today's Calendar:

The parties will be allowed to present oral argument regarding the Motion for Partial Summary Adjudication ("Main Motion") and the Motion to Strike the Singer Report ("Motion to Strike") as follows:

Defendants will be allowed up to 30 minutes to address both the Main Motion and the Motion to Strike. Plaintiff will then be allowed up to 30 minutes to respond. Defendants will be allowed up to 15 minutes to reply.

The parties should assume that the Court has read the pleadings and use oral argument to highlight key points.

At the conclusion of the oral argument, the matter will be taken under submission and a hearing on the Court's oral ruling will be set for March 11, 2021 at 2:00 p.m.. It is possible that a written ruling may be issued prior to March 11, 2021, in which case the parties will be notified.

Additional Comments:

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

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

Chapter 11

Plaintiff to address the issue of fraudulent transfer (either actual or constructive) as to Argent. Notably, the court previously denied the parties' cross motions for summary judgment on the alter ego and successor liability claims [AP dkt. 451 and 458]. To the extent that SCM is found liable for any fraudulent transfer claims, the court's granting of partial adjudication as to Argent would not impact Argent's potential liability under Plaintiff's yet to be adjudicated alter ego and successor liability claims.

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
Tara Castro Narayanan

Defendant(s):

SunCal Management LLC

Represented By
Craig H Averch

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

Argent Management, LLC

Aalok Sharma

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
Robert P Goe

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

Thursday, January 28, 2021

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; 5-28-20; 5-29-20; 12-17-20

Docket 95

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 28, 2020

Continue status conference to May 29, 2020 at 2:00 p.m.

January 28, 2021

The following tentative ruling applies to matters 2, 4, 6, 9, 10, 11,

Continue Status Conference to November 4, 2021 at 2:00 p.m., same date/time set for Motion for Partial Summary Adjudication

Party Information

Debtor(s):

Palmdale Hills Property, LLC

Represented By
Paul J Couchot
Peter W Lianides
Richard W Esterkin
Asa S Hami

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

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
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 28, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

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

Thursday, January 28, 2021

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 Hearing RE: Defendant Suncal Management, LLC's Motion For Partial Summary Judgment Of Plaintiffs Claims For Actual And Constructive Fraudulent Transfer; And for Summary Adjudication of Issues

Docket 443

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
R Grace Rodriguez

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

Lei Lei Wang Ekvall
Mike D Neue
Tara Castro Narayanan

Defendant(s):

SunCal Management LLC

Represented By
Craig H Averch
Aalok Sharma

Argent Management, LLC

Represented By
Craig H Averch
Aalok Sharma

Movant(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
Robert P Goe

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

Thursday, January 28, 2021

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; 5-28-20; 5-29-20; 12-17-20

Docket 327

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

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

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

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 28, 2021

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 Hearing RE: Defendant Suncal Management LL'C's Motion for Partial Summary Judgment of Plaintiff's Claims for Actual and Constructive Fraudulent Transfer; And for Summary Adjudication of Issues

Docket 445

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
R Grace Rodriguez

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

Lei Lei Wang Ekvall
Mike D Neue
Tara Castro Narayanan

Defendant(s):

SunCal Management LLC

Represented By
Craig H Averch
Aalok Sharma

Argent Management, LLC

Represented By
Craig H Averch
Aalok Sharma

Movant(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
Robert P Goe

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

Thursday, January 28, 2021

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; 5-28-20; 5-29-20; 12-17-20

Docket 329

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

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

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

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

Thursday, January 28, 2021

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 Hearing RE: Defendant Suncal Management, LLC's Motion for Partial Summary Judgment Of Plaintiffs Claims For Actual And Constructive Fraudulent Transfer; And for Summary Adjudication of Issues

Docket 391

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
R Grace Rodriguez

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

Lei Lei Wang Ekvall
Mike D Neue
Tara Castro Narayanan

Defendant(s):

SUNCAL MANAGEMENT, LLC

Represented By
Craig H Averch
Aalok Sharma

Argent Management LLC

Represented By
Craig H Averch
Aalok Sharma

Movant(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
Evan C Borges
Mike D Neue
William N Lobel
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
Robert P Goe

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

Thursday, January 28, 2021

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

#8.00 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; 5-29-20; 12-17-20

Docket 298

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

Continue status conference to May 29, 2020 at 2:00 p.m.

January 28, 2021

Continue Status Conference to November 4, 2021 at 2:00 p.m.

Party Information

Debtor(s):

Palmdale Hills Property, LLC

Represented By

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

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
Brianna L Frazier

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

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 28, 2021

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

#9.00 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; 5-29-20; 12-17-20

Docket 68

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

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

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

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

Thursday, January 28, 2021

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

#10.00 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; 5-29-20; 12-17-20

Docket 77

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

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

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

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

Thursday, January 28, 2021

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

#11.00 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; 5-29-20; 12-17-20

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

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

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

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 28, 2021

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

#12.00 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; 5-28-20; 5-29-20; 12-17-20

Docket 105

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 28, 2020

Continue status conference to May 29, 2020 at 2:00 p.m.

January 28, 2021

Continue Status Conference to November 4, 2021 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

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

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
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

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT...

Palmdale Hills Property, LLC

Lei Lei Wang Ekvall

Chapter 11

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

Thursday, January 28, 2021

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; 5-28-20; 5-29-20; 12-17-20

Docket 99

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 28, 2020

Continue status conference to May 29, 2020 at 2:00 p.m.

January 28, 2021

Continue Status Conference to November 4, 2021 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

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

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

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 28, 2021

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 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; 5-29-20; 12-17-20

Docket 98

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 28, 2020

Continue status conference to May 29, 2020 at 2:00 p.m.

January 28, 2021

Continue Status Conference to November 4, 2021 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

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

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

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 28, 2021

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

#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; 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; 5-29-20; 12-17-20

Docket 98

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 28, 2020

Continue status conference to May 29, 2020 at 2:00 p.m.

January 28, 2021

Continue Status Conference to November 4, 2021 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

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

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

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 28, 2021

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

#16.00 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; 5-29-20; 12-17-20

Docket 100

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 28, 2020

Continue status conference to May 29, 2020 at 2:00 p.m.

January 28, 2021

Continue Status Conference to November 4, 2021 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

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

Thursday, January 28, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

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

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, February 4, 2021

Hearing Room 5A

9:30 AM

8:00-00000

Chapter

#1.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address:

<https://cacb.zoomgov.com/j/1607701260>

ZoomGov meeting number: 160 770 1260

Password: 674292

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Thursday, February 4, 2021

Hearing Room 5A

9:30 AM

CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.

Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

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

Thursday, February 4, 2021

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 Hearing RE: Order to Show Cause Why Adversary Proceeding Should Not Be Dismiss for Lack of Prosecution (OSC Issued 11/19/2020)

Docket 53

***** VACATED *** REASON: OFF CALENDAR: Order Granting Application of Chapter 7 Trustee to Dismiss Remaining Claims in Adversary Proceeding Entered 1/22/2021**

Courtroom Deputy:

OFF CALENDAR: Order Granting Application of Chapter 7 Trustee to Dismiss Remaining Claims in Adversary Proceeding Entered 1/22/2021 - td (1/22/2021)

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

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, February 4, 2021

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, February 4, 2021

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

#3.00 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; 8-20-20; 9-10-20; 10-22-20; 11-19-20

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Order Granting
Application of Chapter 7 Trustee to Dismiss Remaining Claims in Adversary
Proceeding Entered 1/22/2021**

Courtroom Deputy:

**OFF CALENDAR: Order Granting Application of Chapter 7 Trustee to
Dismiss Remaining Claims in Adversary Proceeding Entered 1/22/2021 -
td (1/22/2021)**

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
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, February 4, 2021

Hearing Room 5A

9:30 AM

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, February 4, 2021

Hearing Room 5A

9:30 AM

8:19-11546 Joseph Ra

Chapter 7

Adv#: 8:19-01157 Caraveo et al v. Ra

#4.00 CON'TD PRE-TRIAL CONFERENCE RE: Complaint to Determine Dischargeability of Debt

FR: 10-17-19; 4-16-20; 7-16-20; 10-22-20

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/10/2021 AT 9:30 A.M.,
Per Order Entered 12/14/2020 (XX)**

Courtroom Deputy:

**CONTINUED: Pre-trial Conference Continued to 6/10/2021 at 9:30
a.m.,Per Order Entered 12/14/2020 (XX) - td (12/14/2020)**

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):

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

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

Thursday, February 4, 2021

Hearing Room 5A

9:30 AM

CONT...

Joseph Ra

Michael G Spector
Thomas J Polis

Chapter 7

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

Thursday, February 4, 2021

Hearing Room 5A

9:30 AM

8:19-13858 Bruce Elieff

Chapter 7

Adv#: 8:20-01161 Kurtin v. Elieff

#5.00 STATUS CONFERENCE RE: Complaint To Determine Dischargeability of Debt and Denial of Discharg 11 U.S.C. Section 523(a)(2)(A); 11 U.S.C.Section 727(a)

Docket 1

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Defendant(s):

Bruce Elieff

Pro Se

Plaintiff(s):

Todd Kurtin

Represented By
Lewis R Landau

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

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

Thursday, February 4, 2021

Hearing Room 5A

10:00 AM

8:15-14803 Orlando Martinez

Chapter 13

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

DEUTSCHE BANK NATIONAL ASSOCIATION

VS.

DEBTOR

FR: 8-6-20; 10-22-20; 12-17-20

Docket 54

***** VACATED *** REASON: CONTINUED TO 3/4/2021 AT 10:00 A.M.,
PER ORDER ENTERED 1/27/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 3/4/2021 at 10:00 a.m., Per Order
Entered 1/27/2021 (XX) - td (1/27/2021)**

Party Information

Debtor(s):

Orlando Martinez

Represented By
Mark S Martinez

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, February 4, 2021

Hearing Room 5A

10:00 AM

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

Chapter 13

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

U.S. BANK NATIONAL ASSOCIATION

VS.

DEBTORS

FR: 12-17-20

Docket 54

***** VACATED *** REASON: Order Approving Adequate Protection
Agreement Entered 12/17/20**

Courtroom Deputy:

**OFF CALENDAR: Order Approving Adequate Protection Agreement
Entered 12/17/20- mp(1/26/21)**

Party Information

Debtor(s):

William H Waller

Represented By
Christopher J Langley
Michael Smith

Joint Debtor(s):

Sandra M Waller

Represented By
Christopher J Langley
Michael Smith

Movant(s):

U.S. Bank National Association

Represented By
Sean C Ferry

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

Thursday, February 4, 2021

Hearing Room 5A

10:00 AM

CONT... William H Waller and Sandra M Waller

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 4, 2021

Hearing Room 5A

10:30 AM

8:09-20845 Commercial Services Building Inc

Chapter 7

#8.00 CONT'D Hearing RE: Creditor Douglas J. Patrick's Objection to Proof of Claim No. 8-1 Filed by State Fund in the Amount of \$1,350,389.47

FR: 11-19-20

Docket 441

***** VACATED *** REASON: CONTINUED TO 4/1/2021 AT 10:30 A.M.,
PER ORDER ENTERED 12/29/2020 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 4/1/2021 at 10:30 am, Per Order
Entered 12/29/2020 (XX) - td (12/29/2020)**

Party Information

Debtor(s):

Commercial Services Building Inc

Represented By
Phillip B Greer

Trustee(s):

Karl T Anderson (TR)

Represented By
Misty A Perry Isaacson
Misty A Perry Isaacson
Thomas J Polis
Robert M Dato
Jason E Goldstein

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

Thursday, February 4, 2021

Hearing Room 5A

10:30 AM

8:11-17453 Raul Pacheco-Escutia and Alicia Pacheco

Chapter 7

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

[JEFFREY I. GOLDEN, CHAPTER 7 TRUSTEE]

Docket 29

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Raul Pacheco-Escutia

Represented By
Michael H Colmenares

Joint Debtor(s):

Alicia Pacheco

Represented By
Michael H Colmenares

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 4, 2021

Hearing Room 5A

10:30 AM

8:17-12213 Solid Landings Behavioral Health, Inc.

Chapter 11

#10.00 Hearing RE: Liquidating Trustee's Motion for Order Pursuant to FRBP 9019
Approving Consensual Resolution of Bristol SL Holdings, Inc. v. Howard B.
Grobstein, Liquidating Trustee (Adv. No. 8:20-1151-ES)
[Affects All Debtors]

Docket 618

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Solid Landings Behavioral Health,

Represented By
David L. Neale
Juliet Y Oh
Jeffrey S Kwong
David M Samuels

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

Thursday, February 4, 2021

Hearing Room 5A

10:30 AM

8:17-12213 Solid Landings Behavioral Health, Inc.

Chapter 11

**#11.00 CONT'D Post Confirmation Status Conference
(Set at s/c held 2/28/18)**

[fr: 6/21/17, 6/28/17, 6/30/17, 7/20/17, 7/26/17, 7/28/17, 10/25/17, 2/7/18,
2/28/18, 8/29/18, 1/9/19, 6/12/19, 10/2/19, 1/29/20, 6/24/20, 7/22/20]; 9/2/20,
Rm 5D; 9-3-20

Docket 1

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Solid Landings Behavioral Health,

Represented By
David L. Neale
Juliet Y Oh

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

Thursday, February 4, 2021

Hearing Room 5A

10:30 AM

8:17-13051 Scott David Carlton

Chapter 7

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

[JEFFREY I. GOLDEN, CHAPTER 7 TRUSTEE]

Docket 169

Courtroom Deputy:

- NONE LISTED -

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, February 4, 2021

Hearing Room 5A

10:30 AM

8:17-13051 Scott David Carlton

Chapter 7

#13.00 Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses From January 16, 2020 through October 5, 2020

[HAHN FIFE & COMPANY, LLP, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]

Docket 168

Courtroom Deputy:

- NONE LISTED -

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, February 4, 2021

Hearing Room 5A

10:30 AM

8:18-11942 Maureen T. Todd

Chapter 13

#14.00 Hearing RE: Debtor's Motion for Order to Disallow Claim No. 6 of Pacific Premier Bank Pursuant to F.R.B.P. 3001(c)(1)

Docket 118

***** VACATED *** REASON: OFF CALENDAR: Notice of Voluntary Dismissal of Objection to Claim #6 by Claimant Pacific Premier Bank, Docket No. 118, filed 1/11/2021**

Courtroom Deputy:

OFF CALENDAR: Notice of Voluntary Dismissal of Objection to Claim #6 by Claimant Pacific Premier Bank, Docket No. 118, filed 1/11/2021 - td (1/11/2021)

Party Information

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**

Thursday, February 4, 2021

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#15.00 Hearing RE: Second Interim Fee Application of Force Ten Partners, LLC for Allowance and Payment of Fees and Reimbursement of Expenses Incurred as Financial Advisor to Richard Marshack, Chapter 7 Trustee

[FORCE TEN PARTNERS, LLC, FINANCIAL ADVISOR TO RICHARD A. MARSHACK, CHAPTER 7 TRUSTEE]

Docket 527

Courtroom Deputy:

- NONE LISTED -

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
Stefan Perovich

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

Thursday, February 4, 2021

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#16.00 Hearing RE: Trustee's Motion for Order (1) Authorizing sale (A) outside the ordinary course of business; (B) free and clear of liens, claims, and encumbrances; (C) subject to overbid; (D) for determination of good faith purchaser under 11 U.S.C. Section 363(M); and (E) authorizing the assumption and assignment of leases pursuant to 11 U.S.C. Section 365; (F) authorizing the assignment of the Admiral Insurance policy, current insurance policies and rent reduction and release agreements

Docket 530

Courtroom Deputy:

- NONE LISTED -

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
Stefan Perovich

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

Thursday, February 4, 2021

Hearing Room 5A

10:30 AM

8:18-13864 Friendly Village GP, LLC

Chapter 7

#17.00 Hearing RE: Trustee's Motion for Order: (1) Authorizing sale (A) outside the ordinary course of business; (B) free and clear of liens, claims, and encumbrances; (C) subject to overbid; (D) for determination of good faith purchaser under 11 U.S.C. Section 363(M); and (E) authorizing the assumption and assignment of leases pursuant to 11 U.S.C. Section 365; (F) authorizing the assignment of the Admiral Insurance policy, current insurance policies and rent reduction and release agreements

Docket 262

Courtroom Deputy:

- 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, February 4, 2021

Hearing Room 5A

10:30 AM

8:20-11026 Little John's Antique Arms, Inc.

Chapter 11

#18.00 CONT'D Hearing RE: Debtor-in-Possession's Motion for Authority to Disburse Funds

FR: 1-7-21 (Continued from 1-7-21 per Order Entered 1-14-21)

Docket 126

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Little John's Antique Arms, Inc.

Represented By
Richard A Marshack
Chad V Haes
D Edward Hays

Movant(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, February 4, 2021

Hearing Room 5A

10:30 AM

8:20-11507 Hytera Communications America (West) Inc

Chapter 11

#19.00 Hearing RE: Motion of the Debtors for an Administrative Order Changing Dockets to Reflect the Debtors' Current Names and Mailing Address and Revising Case Caption

Docket 396

Courtroom Deputy:

- NONE LISTED -

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, February 4, 2021

Hearing Room 5A

10:30 AM

8:20-11837 Golden Communications Inc.

Chapter 11

#20.00 Hearing RE: Debtor's Objection to Partners Bank of California, Its Successors and/or Assignees---Proof of Claim No. 6

Docket 83

Courtroom Deputy:

- NONE LISTED -

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, February 4, 2021

Hearing Room 5A

10:30 AM

8:20-12488 Christopher Summers

Chapter 11

#21.00 CON'TD STATUS CONFERENCE Hearing RE: (1) Status of Chapter 11 Case;
and (2) Requiring Report on Status of Chapter 11 Case

FR: 11-5-20

Docket 1

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Christopher Summers

Represented By
J Scott Williams

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

Thursday, February 4, 2021

Hearing Room 5A

10:30 AM

8:20-12802 Thomas M. Dickson, Jr.

Chapter 13

#22.00 Hearing RE: Debtor's Objection to Claim LVNV Funding LLC, Claim Number 8-1

Docket 33

*** VACATED *** REASON: OFF CALENDAR: Notice of Withdrawal of
Objection to Claim of LVNV Funding, LLC, Claim No. 8-1; Docket Number
33, filed 1/20/2021

Courtroom Deputy:

**OFF CALENDAR: Notice of Withdrawal of Objection to Claim of LVNV
Funding, LLC, Claim No. 8-1; Docket Number 33, filed 1/20/2021 - td
(1/20/2021)**

Party Information

Debtor(s):

Thomas M. Dickson Jr.

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, February 4, 2021

Hearing Room 5A

10:30 AM

8:20-12881 Stonewood Homes LLC

Chapter 7

#23.00 Hearing RE: Creditor Civic Financial Services, LLC's Motion to Expunge Lis Pendens, and Request for Attorneys' Fees and Costs in the Amount of \$3,410.00

Docket 56

*** VACATED *** REASON: OFF CALENDAR: Creditor Civic Financial Services, LLC's Notice of Withdrawal of Motion, filed 1/29/2021

Courtroom Deputy:

OFF CALENDAR: Creditor Civic Financial Services, LLC's Notice of Withdrawal of Motion, filed 1/29/2021 - td (1/29/2021)

Party Information

Debtor(s):

Stonewood Homes LLC

Represented By
William J King

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 4, 2021

Hearing Room 5A

10:30 AM

8:20-13247 Jose Lopez and Martha Alicia Lopez

Chapter 7

#24.00 Hearing RE: Motion by United States Trustee to Determine Whether Compensation Paid to Counsel Was Excessive Under 11 U.S.C. Section 329 and F.R.B.P. 2017

Docket 17

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Jose Lopez

Represented By
James T Spratt

Joint Debtor(s):

Martha Alicia Lopez

Represented By
James T Spratt

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 4, 2021

Hearing Room 5A

10:30 AM

8:20-13518 Bryan Brenes-Rios

Chapter 7

#25.00 Hearing RE: Order to Show Cause RE: Dismissal For Failure to Comply with Rule 1006(b) (\$84.50 Due on 1/5/2021)
(OSC Issued 1/11/2021)

Docket 10

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Bryan Brenes-Rios	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**

Thursday, February 4, 2021

Hearing Room 5A

2:00 PM

8:19-13858 Bruce Elieff

Chapter 7

#26.00 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; 7-16-20; 10-22-20

Docket 360

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Paul J Couchot
Lisa Nelson

Movant(s):

Todd Kurtin

Represented By
Lewis R Landau
Edward O Morales

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe

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

Thursday, February 4, 2021

Hearing Room 5A

2:00 PM

8:19-13858 Bruce Elieff

Chapter 7

#27.00 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; 7-16-20; 10-22-20

Docket 362

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Paul J Couchot
Lisa Nelson

Movant(s):

Todd Kurtin

Represented By
Lewis R Landau
Edward O Morales

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe

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

Thursday, February 4, 2021

Hearing Room 5A

2:00 PM

8:19-13858 Bruce Elieff

Chapter 7

#28.00 CON'TD STATUS CONFERENCE Hearing RE: Creditor Todd Kurtin's Objection to Claim #27 by Stephan Z. Elieff - \$4,464,870.00

FR: 5-7-20; 7-23-20; 10-22-20

Docket 375

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Paul J Couchot
Lisa Nelson

Movant(s):

Todd Kurtin

Represented By
Lewis R Landau
Edward O Morales

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe

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

Thursday, February 4, 2021

Hearing Room 5A

2:00 PM

8:19-13858 Bruce Elieff

Chapter 7

#29.00 CON'TD STATUS CONFERENCE 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; 7-23-20; 10-22-20

Docket 376

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Paul J Couchot
Lisa Nelson

Movant(s):

Todd Kurtin

Represented By
Lewis R Landau
Edward O Morales

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe

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

Thursday, February 4, 2021

Hearing Room 5A

2:00 PM

8:20-10372 Broadband Nation LLC

Chapter 11

#30.00 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; 7-16-20; 10-22-20

Docket 36

Courtroom Deputy:

- 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**

Thursday, February 4, 2021

Hearing Room 5A

2:00 PM

8:20-10372 Broadband Nation LLC

Chapter 11

#31.00 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; 7-16-20; 10-22-20

Docket 35

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

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

Thursday, February 4, 2021

Hearing Room 5A

2:00 PM

8:20-10373 Heritage Colorado LLC

Chapter 11

#32.00 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; 7-16-20; 10-22-20

Docket 36

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

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

Thursday, February 4, 2021

Hearing Room 5A

2:00 PM

8:20-10373 Heritage Colorado LLC

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; 6-25-20; 7-16-20; 10-22-20

Docket 35

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

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

Thursday, February 4, 2021

Hearing Room 5A

2:00 PM

8:20-10374 TDV Development Corporation

Chapter 11

#34.00 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; 7-16-20; 10-22-20

Docket 36

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
Courtroom 5A Calendar**

Thursday, February 4, 2021

Hearing Room 5A

2:00 PM

8:20-10374 TDV Development Corporation

Chapter 11

#35.00 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; 7-16-20; 10-22-20

Docket 35

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
Courtroom 5A Calendar**

Thursday, February 11, 2021

Hearing Room 5A

10:30 AM

8:09-20845 Commercial Services Building Inc

Chapter 7

#5.00 CON'TD Hearing RE: Creditor Douglas J. Patrick's Objection to Proof of Claim No. 3-2 Filed by Pro Painting (Court's Oral Ruling)

FR: 11-12-20; 1-14-21

Docket 434

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

November 12, 2020:

If Claimant is an active corporation in good standing with the state of California, continue hearing date to January 14, 2021 at 10:30 a.m., with Patrick permitted to file supplemental pleadings by December 14, 2020; any supplemental response by Claimant to be filed by Dec. 23, 2020; and any reply to be filed by January 7, 2021. Discovery may be conducted in the interim in accordance with the adversary rules as permitted by FRBP 9014 for contested matters. Claimant is required to be represented by legal counsel re the filing of pleadings and appearance in court. (XX)

Basis for Tentative Ruling:

Background:

Creditor ProPainting ("Claimant") filed proof of claim no. 3 (the "Claim") in the general unsecured amount of \$273,000 for goods and services as painting sub-contractor for two separate projects" related to the Renaissance Apartments (the "Renaissance Project") and the Stonebridge Apartments (the "Stonebridge Apartments").

Creditor Douglas Patrick ("Patrick") objects to the Claim and argues that it should be allowed in the reduced amount of \$103,900 (the "Objection")

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[dkt. 434], (the "Reply")[dkt. 453]. Claimant opposes the Objection (the "Response")[dkt. 450]

Standing

The status of Claimant is critical for the following reasons:

1. Under Local Bankruptcy Rule 9011-2(a), a business entity such as a corporation, LLC or partnership, may only appear and file pleadings (other than a proof of claim) through legal counsel. According to the California State Bar website, the author of the response filed on behalf of Claimant, Kwang Ho An ("An"), is not an attorney licensed to practice law in California. If that is the case, the Response is not properly before the court.

b. The fact that An is the president of Claimant suggests that the entity is a corporation and not a sole proprietorship and, therefore, must be represented by an attorney.

c. There is no evidence that Claimant is a business entity in good standing in the state of California. If it is not an active corporation or LLC, it may not appear to defend itself in any court proceeding as pointed out in the Reply.

d. Assuming that Claimant can establish good standing, it will need to employ legal counsel to represent it in this matter.

Standard

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

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"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, 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).

Merits

The Claim is entitled to presumptive validity for the claim amount of \$273,000 (the Response asserts a claim in the increased amount of \$278,300). See, Response, p. 7:23. To date, Claimant has not amended its Claim to the increased amount of \$278,300.

As the Claim is entitled to *prima facie* validity, Patrick must present affirmative evidence to overcome the Claim's presumption of validity. Patrick argues that the Claim should be reduced to \$103,900 in the Objection, and later argues that it should be reduced to \$48,900 in the Reply. See, Obj., p. 7; Reply, p. 7. In support of his argument, based on evidence introduced for the first time in his Reply, Patrick argues that least \$60,122 was paid by Debtor to Claimant for the Renaissance Project, and at least \$112,470 was paid by Debtor to Claimant for the Stonebridge Project, leaving only \$48,900 due under the Claim. Reply, p. 4-6. Patrick also argues that Claimant either was paid in full or voluntarily released its lien against the Renaissance Project which was sold in September 2013. Reply, p. 4. Claimant on the other hand, argues that no amounts were paid on account of the Renaissance Project (\$109,200) and only \$48,900 for the Stonebridge Project was previously paid leaving an unpaid balance of \$169,100, plus interest, for the Stonebridge Project. Response, p. 2-4.

There appears to be a disputed question of fact regarding the amounts that were previously paid to Claimant by Debtor. Assuming Claimant has standing to assert the Claim, the court is inclined to continue the hearing to allow discovery pursuant to FRBP 9014 as requested by Patrick in his reply. See, Reply, p. 7. A continuance will also allow Claimant to address the

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evidence that was presented by Patrick for the first time in its Reply.

January 14, 2021

No tentative ruling. Debtor will be permitted up to 10 minutes to make key arguments in support of the Objection. Claimant Mr. An, will be permitted up to 10 minutes to respond and summarize his opposition to the Objection. Debtor will be permitted up to 5 minutes to reply. Both parties should include the following issue as part their presentation: whether Pro Painting was a dba of Bonaview it entered into the contract with Debtor. At the conclusion of the oral argument, the hearing will be continued to February 11, 2021 at 10:30 a.m. for the Court's oral ruling on the objection. (XX)

February 11, 2021

In lieu of an Oral Ruling, the following is the ruling of the court regarding the Objection to Claim #3-2 filled on behalf of Claimant Pro Painting. The Objecting Party, Douglas Patrick, shall lodge an order Sustaining the Objection and Disallowing the Claim in its entirety and shall attach a copy of the following as an exhibit to the order.

Standard

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

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allegations of the proofs of claims." *Id.* (citing *In re Holm*, 931 F.2d 620, 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).

Merits

- A. Patrick has successfully rebutted the *prima facie* validity of the Claim, and Claimant has failed to carry its ultimate burden to demonstrate that validity of the Claim

As a preliminary matter, because Pro Painting is only a fictitious business name, the real claimant is not Pro Painting but rather the party that owned the fictitious business name during the relevant time periods. As discussed in greater detail below, that party is Bonaview Corporation and all references to "Claimant" hereafter refers to Bonaview Corporation.

Creditor Douglas Patrick ("Patrick") has successfully rebutted the *prima facie* validity of the Claim by demonstrating that Pro Painting was not registered fictitious business name and cannot maintain its Claim, Bonaview Corporation ("Bonaview") held the Claim on the petition date, the Assignment (defined below) is more likely than not invalid, payments of at least \$172,592 were previously paid to Claimant leaving an outstanding balance of, at best, only \$48,900, and to the extent Georgia law is applicable to the Stonebridge Project, Claimant failed to be licensed in Georgia. The burden having shifted, Claimant has failed to carry its ultimate burden of proof to prove the ultimate validity of its Claim.

1. Pro Painting was never registered as a fictitious business name and cannot recover on its Claim under California law

As a further preliminary matter, the dba has been inconsistently spelled the name of its fictitious business, either as "Pro Painting" or "ProPainting." On

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the Claim and various documents (the underlying contractor contracts and invoices attached to the Claim, produced bank records, recorded mechanics lien), Claimant spells its name with two words as "Pro Painting." See, Obj., Ex. 1 (the Claim); Resp., Ex. A-H (invoices, mechanics lien, etc.); Supp. Br., Ex. 3 (produced bank records). Mr. Kwang Ho An ("Mr. An"), Claimant's principal, also testified that that the spelling of Claimant was two words. See, Supp. Br., Ex. 1, p. 35 of 256 (top of page), ln. 17-18 ("Q How do you spell Pro Painting? A This is what I do. P-r-o space Painting."). Yet, in his responses to the Objection, Mr. An, Claimant's president, used the spelling "ProPainting" in his declaration. See, Resp., p. 9, ¶1; Supp. Resp., p. 9 (Mr. An's declarations).

Unfortunately, because this fictitious business name was never officially registered, there is no official version of the Claimant's name. Mr. An testified during his December 8, 2020 deposition that he believed "Pro Painting" was registered but could not name any specific local, state, or federal government agency with whom the name was registered. See, Supp. Br., Ex. 1, p. 38:4-39:11 (top of page)(Mr. An Depo. Tr., Dec. 8, 2020). Instead, Mr. An testified that he believed the bank requested it. See *id.* And when provided with the opportunity to provide evidence of the fictitious business name having been registered, in the Supplemental Response, Claimant continued to argue that the fictitious business name had been registered but failed to provide any evidence of such, including any evidence that it was registered with any country clerk. See, Supp. Resp., p. 7-9.

Under California Business and Professions Code, § 17910, fictitious business names must be registered and under Business & Professions Code § 17918, and the failure to register a fictitious business name is fatal to maintain any action on a contract entered into by the unregistered fictitious business name:

[I]f a corporation enters into contracts in California using a fictitious business name it has not registered, such contracts are not void; rather, the "sole penalty" for a failure to register a fictitious business name "is a bar from maintaining an action on contracts made in the fictitious business name until the statement is filed." See *Templeton Action Committee v. County of San Luis Obispo*, 228 Cal. App. 4th

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427, 432 (2014) (citing Cal. Bus. & Prof. Code § 17918). In other words, an entity, such as AHMC, that fails to register its fictitious business name "may enter into contracts and transactions in the fictitious business name, but may not maintain actions on them," unless and until such failure is corrected. See 9 Witkin, Summary 11th Partn. § 11 (2017) (further observing "lack of compliance merely abates [an] action") (citing cases).

U.S. v. Jacobsen, 2018 WL 9619438, at *2 (N.D. Cal. May 22, 2018). A proof of claim is akin to an "action." See, *In re Moran*, 2012 WL 6645025, at *3 (Bankr. D.Hawaii 2012) ("A proof of claim is the means by which a creditor presents and demands payment of its claim in a bankruptcy case. Thus, filing a proof of claim initiates an action within the common legal meaning of that term."); Supp. Br., p. 3-4. As discussed in greater detail in the section below, during the relevant time period, the fictitious business name was held by Mr. An's corporation, Bonaview; thus, Mr. An's corporation failed to comply with California Business and Professions Code, §§ 17910 and 17918 and cannot maintain an action on the contracts underlying the Claim.

The failure to register the fictitious business name is also fatal to Claimant's attempts to recover under the Stonebridge Project, which was located in Georgia, because even Claimant itself argues that Georgia law does not apply to this matter, the Stonebridge Project contractors contract were entered into in California, and the Stonebridge Contract included a choice of law provision designating California law to be applicable. See, Supp. Response, p. 8:12-17.

In sum, Patrick has rebutted the *prima facie* validity of the Claim by demonstrating that Claimant (i.e., Bonaview) never registered its fictitious business name, and Claimant has failed to carry its ultimate burden to prove otherwise. Claimant is therefore barred from maintaining any action to recover the amount of its alleged debt under California law and the Claim is therefore disallowed in its entirety under 11 U.S.C. § 502(b)(1) because the Claim is unenforceable against Debtor under applicable law.

2. The evidence does not support a finding that the Claim was assigned from Bonaview to Mr. Kwang An

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The business structure of Claimant has been an issue from the outset of the Objection. During the November 20, 2020 initial hearing on the Objection, the court specifically questioned Mr. An on what exactly the business structure of Claimant was, to which Mr. An replied that Claimant was the dba of his sole proprietorship. Supp. Reply, p. 2:12-3:13 (pg. no. at top right of depo. tr.). Mr. An had the benefit of a sworn translator, his daughter, at the time he made this reply. See *id.*, p. 1:18-2:11.

Since Claimant- Pro Painting- is actually a fictitious business name, a crucial issue of the ownership of the dba arose because the owner of the dba is the holder of the Claim. See, Supp. Reply, p. 2:15-22. During his December 8, 2020 deposition Mr. An initially testified that Claimant was his dba. See Supp. Br., p. 12-14 and Ex. 1, p. 38:4-21 (top of page). Later, however, Mr. An changed his testimony, after being questioned about bank records produced by Mr. An listing Pro Painting as the dba of Bonaview and testified that Claimant was the dba of Bonaview. See Supp. Br., p. 58:21-29:15 and p. 63:7-22; Supp. Reply, p. 2-6. Notably, Mr. An, for the first time during this December 8, 2020 deposition, testified that Bonaview assigned all of its claims (which would include the Claim) to Mr. An, individually in March 2010 (the "Assignment"). See, Supp. Br., p. 59:24-61:23 and Ex. 3, p. 241 (top of page)(the Assignment of Claims Agreement). No mention of the Assignment was made by Mr. An in his declaration filed in support of his Response on October 27, 2020. See, Resp., p. 9-11.

Claimant, through Mr. An's later declaration included in the Supplemental Response, has attempted to clarify that Claimant- Pro Painting- was initially his own fictitious business name but it was transferred to Bonaview in 2005 when Bonaview was formed. Later, in 2010 and in anticipation of Bonaview being dissolved, the fictitious name of Pro Painting was transferred to Mr. An via the Assignment. See, Supp. Resp., p. 16, ¶¶2-5. Based on this clarification by Mr. An, it is undisputable that Bonaview held the Claim on the date the order for relief was entered against Debtor. The order for relief was entered on February 19, 2010 [dkt. 6] and the Assignment was allegedly signed in March 2010. Patrick has challenged the validity of the Assignment, arguing that the metadata of the PDF file of the Assignment shows that it was created on December 7, 2020 and Mr. An has failed to produce the original of

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the Assignment. See, Supp. Reply, p. 6-7. More importantly, however, the Assignment is contradictory with Mr. An's own testimony.

In two versions of the Claim and his October 27, 2020 declaration filed in support of the Response, Mr. An testified that was the "President" of Claimant. See, Supp. Reply, p. 8-9; See, Resp., p. 9, ¶1 ("I am the president of creditor ProPainting."). And no mention of the Assignment was made by Mr. An in his earlier declaration. See, Resp., p. 9-11. This earlier testimony contradicts Mr. An's testimony in his December 23, 2020 declaration that, "I am the sole proprietor of creditor ProPainting." See, Supp Resp., p. 16, ¶1. Mr. An's attempt to explain these contradictions is unpersuasive because it focuses on the ambiguity of Patrick's counsel's use of the term "drafted" when questioning Mr. An about the Assignment, but fails to address the contradictions contained in documents that Mr. An prepared himself- the two versions of the Claim and his two declarations.

The fact that two versions of the Claim failed to include a copy of the Attachment also undermines the validity of the Assignment because it was purportedly signed in March 2010- only two months before the initial Claim was filed in May 2010. As a result, Patrick has rebutted the *prima facie* validity of the Claim by providing sufficient evidence that the Assignment is invalid, so Bonaview, and not Mr. An, is the holder of the Claim but Bonaview is a suspended California Corporation. See, Supp. Br., p. 12:25-26, p. 21 (R. Sumera Decl.) and Ex. 3 (CA Secretary of State website printout). The ultimate burden having been shifted to Claimant to demonstrate, by a preponderance of the evidence, that the Assignment is valid, Claimant has failed to carry its burden as discussed above and no evidence is provided that Bonaview is in the process of being reinstated. Thus, Mr. An, individually, lacks standing to prosecute the Claim because he is not the holder of the Claim. And Mr. An, as president of Bonaview, cannot appear because no evidence has been provided that he is an attorney and Bonaview, as a suspended corporation, lacks standing and cannot appear before the Court. The Claim is therefore disallowed in its entirety.

3. Claimant has not persuasively rebutted Patrick's Argument that at least \$172,592 were previously paid to Pro Painting

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Claimant was afforded the opportunity to address the new evidence included in Patrick's Reply showing that at least \$175,592 was paid to Claimant, leaving an unpaid balance of, at best, was previously paid to Claimant leaving an outstanding balance of, at best, only \$48,900.

Claimant, however, has failed to rebut this new evidence because it chose to produced heavily redacted bank records for Mr. An's deposition and has not produced any other bank records with its Supplemental Response. The unredacted bank records are extremely relevant to this matter because these documents could conclusively show what payments were made by Debtor to Claimant during the relevant time period.

There appears to be a disputed question of fact regarding the amounts that were previously paid to Claimant by Debtor. Assuming Claimant has standing to assert the Claim, the court is inclined to continue the hearing to allow discovery pursuant to FRBP 9014 as requested by Patrick in his reply. See, Reply, p. 7. A continuance will also allow Claimant to address the evidence that was presented by Patrick for the first time in its Reply.

The relevance of these bank records is evident further because, it shows that Debtor received \$67,120 from Debtor on November 26, 2008. See, Supp. Br., p. 178 (top of page). This payment was made after the alleged non-payment of invoices sent to Debtor in mid-2008, yet Claimant has not provided any explanation or accounting for this payment in its Supplemental Response. Claimant chose to produce the heavily redacted copies of these highly relevant bank records notwithstanding that it carried the ultimate burden to prove the validity the Claim.

Accordingly, Patrick has rebutted the *prima facie* validity of the Claim by demonstrating that, more likely than not, payments of at least \$172,592 were previously paid to Claimant on account of the debt underlying the Claim. Claimant has failed to carry its ultimate burden of proof by failing to address or explain these payments. This is an alternate ground for disallowing the Claim.

4. Claimant was required to have a business license to conduct

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**CONT... Commercial Services Building Inc
business in Georgia**

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To the extent Georgia law is applicable to the Stonebridge Project, Claimant failed to be licensed in Georgia and the contractors agreement underlying the Stonebridge Project is unenforceable against Debtor. Patrick argues that Claimant, as a contractor, was required to be licensed to conduct business in Georgia, have liability and workers' compensation under Georgia law because the work was performed in Georgia, and Claimant failed to notify Debtor that Claimant would complete the work with subcontractors. See Supp. Br., 6-12; Supp. Reply, p. 9-12. Since Claimant failed to comply with these requirements, Claimant breached the contract for the Stonebridge Project and cannot recover for its work performed under Georgia law. *Id.*

Claimant counters that it was not required to do so because: (1) the contract for the Stonebridge Contract included a choice of law provision stating that California law was applicable, (2) Georgia law in any event includes a provision exempting subcontractors like Claimant from the business license requirement, (3) Debtor, and not Claimant, was not the contractor on the Stonebridge Project per Patrick's own testimony, (4) Claimant that it did not have any employees in Georgia since it used subcontractors, (5) Debtor was aware that Claimant used subcontractors, and (6) these alleged license and insurance requirements are inapplicable to the basic fact that Claimant performed the painting of the Stonebridge Project pursuant to the Stonebridge Project contract, a fact that is not denied by Claimant, and is entitled to payment for its services. See, Supp. Reply, p. 8:23-11:4.

Focusing on only the licensing requirement, the court is persuaded that these requirements were applicable to Claimant. Georgia Code § 43-41-17(b) states:

- (a) As a matter of public policy, any contract entered into on or after July 1, 2008, for the performance of work for which a residential contractor or general contractor license is required by this chapter and not otherwise exempted under this chapter and which is between an owner and a contractor who does not have a valid and current license required for such work in accordance with this

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chapter shall be unenforceable in law or in equity by the unlicensed contractor...

Georgia law requires general contractors to be licensed for the contracts they enter to be valid and enforceable. *Restor-It, Inc. v. Beck*, 352 Ga. App. 613, 618, 835 S.E.2d 398, 403 (2019); *Baja Properties, LLC v. Mattera*, 812 S.E.2d 358, 362 (Ga.App., 2018)("Indeed, the general rule is that "where a statute provides that persons proposing to engage in a certain business shall procure a license before being authorized to do so, ... contracts made in violation of such statute are void and unenforceable.").

Mr. An testified at his deposition that Claimant did not have business license in Georgia. Supp. Br., Ex. 1, p. 45:3-10 (top of page). However, like the contractor in *Restor-It*, Claimant attempts to argue that Georgia Code § 43-41-17 carves out an exemption for "specialty contractors" and that pursuant to Patrick's own testimony, Debtor was the general contractor who entered into the contract "to oversee and supervise" the Stonebridge Project and later contracted Claimant to provide painting services. See, Obj., p. 8, ¶ 4; Supp. Resp., p. 8:25-12 and p. 9:13-26.

The applicable exemption is found in Georgia Code § 43-41-17(f), which states:

"Nothing in this chapter shall preclude a specialty contractor from offering or contracting to perform or undertaking or performing for an owner limited, specialty, or specific trade contractor work. However, nothing in this chapter shall permit a specialty contractor to perform work falling within the licensing requirements of Chapter 14 of this title where such specialty contractor is not duly licensed under such chapter to perform such work. The board shall by rule or policy by January 1, 2008, identify specialty contractors or other criteria to determine eligibility under the exemption of this subsection. The specialty contractor otherwise exempted from license requirements under this chapter may perform work for an owner that would otherwise require a license under this chapter where the total scope of the work to be performed is predominantly of the type for which such specialty contractor is duly recognized as exempt under this subsection by the board, provided that such other work involved is incidental to and an integral part of the exempt work performed by the specialty contractor and does not exceed the greater of \$10,000.00 or 25 percent of the total value at the time of contracting of the work to be performed."

OCGA § 43-41-17 (f) "exempts specialty contractors from securing a general contractor's license to perform work under ...this chapter ... provided

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that such other work involved is incidental to and an integral part of the exempt work performed by the specialty contractor and does not exceed the greater of \$10,000.00 or 25 percent of the total value at the time of contracting of the work to be performed." *Restor-It*, 352 Ga. App. At 619. To fall under the specialty contractor exemption from the licensing requirement, the value of the work performed must not be greater than \$10,000 or 25% of the total value of the work to be performed. *Id.* In this case, because the Claim amount exceeds \$10,000 and there is no evidence on what the total value of the work to be performed on the Stonebridge Project was at the time Claimant entered into the contract with Debtor, it is more likely than not that the specialty contractor exemption is inapplicable to Claimant. As a result, to the extent Georgia law is applicable to the Stonebridge Project, Patrick has rebutted the *prima facie* validity of the Claim by demonstrating that the Stonebridge Project contract is unenforceable against Debtor under Georgia Code § 43-101-1(b), and Claimant has failed to carry its ultimate burden of proof by not demonstrating otherwise. This is an alternate ground for disallowing the Claim because the Claim is unenforceable against Debtor under applicable law.

With regard to Claimant's argument that Debtor knew that Claimant used subcontractors (an argument that was later expanded by Mr. An during oral argument on January 14, 2021 to allege that Debtor knew of Claimant's deficient licensing and registration requirements because Debtor and Claimant had worked together for several years on various projects), the court construes the argument to be a waiver argument. But Claimant has not presented any evidence demonstrating that Debtor waived its rights under any California or Georgia licensing or registration laws, so Claimant's argument is overruled. See *generally*, Resp. [dkt. 450] and Supp. Resp. [dkt. 483].

Finally, Patrick's unclean hands argument to disallow the Claim is denied because it was raised for the first time in its Supplemental Reply. See, Supp. Reply, p. 12. Further, all parties shall bear their own costs.

Party Information

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Chapter 7

Debtor(s):

Commercial Services Building Inc

Represented By
Phillip B Greer

Trustee(s):

Karl T Anderson (TR)

Represented By
Misty A Perry Isaacson
Misty A Perry Isaacson
Thomas J Polis
Robert M Dato
Jason E Goldstein

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8:17-10706 John Jean Bral

Chapter 11

#6.00 Hearing RE: Reorganized Debtor John Bral's Motion to Extend Time to Object to Cannae Financial, LLC's Proof of Claim [Claim No. 17]

Docket 962

*** VACATED *** REASON: CONTINUED TO 2/18/2021 AT 10:30 A.M.,
PER ORDER ENTERED 2/2/2021 (XX)

Courtroom Deputy:

**CONTINUED: Hearing Continued to 2/18/2021 at 10:30 a.m., Per Order
Entered 2/2/2021 (XX) - td (2/2/2021)**

Tentative Ruling:

- NONE LISTED -

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
Shane M Biornstad

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

Thursday, February 11, 2021

Hearing Room 5A

10:30 AM

8:19-12287 Heather K Piper

Chapter 7

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

[JEFFREY I. GOLDEN, CHAPTER 7 TRUSTEE]

Docket 39

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 11, 2021

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):

Heather K Piper

Represented By
Karine Karadjian

Trustee(s):

Jeffrey I Golden (TR)

Represented By
Ryan W Beall

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

Thursday, February 11, 2021

Hearing Room 5A

10:30 AM

8:19-12287 Heather K Piper

Chapter 7

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

[WEILAND GOLDEN GOODRICH LLP, COUNSEL FOR THE CHAPTER 7 TRUSTEE]

Docket 37

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 11, 2021

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):

Heather K Piper

Represented By
Karine Karadjian

Trustee(s):

Jeffrey I Golden (TR)

Represented By
Ryan W Beall

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

Thursday, February 11, 2021

Hearing Room 5A

10:30 AM

8:19-12287 Heather K Piper

Chapter 7

#9.00 Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses From August 20, 2020 through October 13, 2020

[HAHN FIFE & COMPANY LLP, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]

Docket 34

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 11, 2021

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):

Heather K Piper

Represented By
Karine Karadjian

Trustee(s):

Jeffrey I Golden (TR)

Represented By
Ryan W Beall

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

Thursday, February 11, 2021

Hearing Room 5A

10:30 AM

8:20-10262 MESCO, Inc.

Chapter 11

#10.00 CON'TD Hearing RE: Confirmation of Small Business Debtor's Combined First Amended Plan of Reorganization

(Set at DS Hrg Held 11-5-20)
FR: 12-17-20

Docket 104

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 17, 2020

Continue the Confirmation Hearing to to February 11, 2021 at 10:30 a.m.; the parties shall meet and confer no later than January 14, 2021 regarding a possible resolution of this matter. Any further pleadings in support of confirmation must be filed by January 21, 2021; any further responses by January 28, 2021 and any reply February 4, 2021. (XX)

The court has serious concerns regarding the timeline and feasibility of the completion of the construction of the Hazell Bell and Silverado properties and believes that a meet and confer between the parties might be helpful.

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.

February 11, 2021

The court is inclined to deny confirmation.

Basis for Tentative Ruling

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

Thursday, February 11, 2021

Hearing Room 5A

10:30 AM

CONT... **MESCO, Inc.**

Chapter 11

1. There are multiple discrepancies regarding the one accepting creditor, State Compensation/Northern California Collection Service ("State/Northern"):

a. State/Northern is listed on Schedule E/F as an unsecured creditor in the amount of \$108,587.

b. State/Northern is not listed as an unsecured creditor in the List of General Unsecured Claims in Exh. 4 of the Plan/DS at p.46. However, "National Collection" is listed in Exh 4 in the amount of \$108,587 but is not listed in Sch. E/F.

c. State/Northern filed a proof of claim [8-1] on Dec. 22, 2020 in the amount of \$126,994.80 as a secured creditor, asserting a lien on "all assets" and attaching a UCC document to the proof of claim.

d. The proof of claim is presumed valid as of this date. However, the claim is treated as an unsecured claim under the Plan and is not otherwise provided for as a secured creditor under the Plan.

2. Feasibility

a. Debtor has not provided evidence of funds sufficient to make plan payments, \$4,000 in additional payments to Classes 1 and 2, and pay for remaining construction re the Hazel Bell property. The photographs submitted by the Objecting Claimants appear to indicate substantially more work than represented by Debtor, and certainly more than \$26,000.

b. Debtor refers to \$143,000 in receivables. However approx. \$108,00 of such receivables (Riggins and PCG) has been unpaid since August according to the MORs.

Objecting Creditors to advise the court of their position regarding the most recent reply filed by Debtor on 2/4/21 [docket 154].

Party Information

Debtor(s):

MESCO, Inc.

Represented By

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

Thursday, February 11, 2021

Hearing Room 5A

10:30 AM

CONT... MESCO, Inc.

Michael G Spector
Vicki L Schenum

Chapter 11

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

Thursday, February 11, 2021

Hearing Room 5A

10:30 AM

8:20-10262 MESCO, Inc.

Chapter 11

#11.00 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; 9-10-20; 11-5-20; 12-17-20

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 2, 2020

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.

September 10, 2020

Continue the status conference to November 5, 2020 at 10:30 a.m.; updated status report not required. (XX)

Note: Appearance at this hearing is not required.

November 5, 2020

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

Thursday, February 11, 2021

Hearing Room 5A

10:30 AM

CONT... MESCO, Inc.

Chapter 11

Continue status conference to January 21, 2021 at 10:30 a.m.; updated status report not required.

Note: Appearance at this hearing not required.

December 17, 2020

Continue the status conference to February 11, 2021 at 10:30 a.m. (XX)

February 11, 2021

No tentative ruling. Disposition will depend on the outcome of the confirmation hearing.

Party Information

Debtor(s):

MESCO, Inc.

Represented By
Michael G Spector

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM

8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address:

<https://cacb.zoomgov.com/j/1613683898>

ZoomGov meeting number: 161 368 3898

Password: 476244

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM
CONT...

Chapter

Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM
CONT...

Chapter

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

Thursday, February 18, 2021

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 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; 1-30-20; 10-8-20

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. (XX)
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, February 18, 2021

Hearing Room 5A

9:30 AM

CONT... Donald Woo Lee

Chapter 7

October 8, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Continue as a STATUS CONFERENCE to February 18, 2021 at 9:30 a.m.; an updated Joint Status report must be filed by February 4, 2021. A new pretrial conference will be scheduled at the February 18, 2021 Status Conference. In the meantime, Defendants Sammy and Anke Ciling must provide Rule 26 disclosures to Plaintiff no later than November 9, 2020 and the parties must attend mediation no later than December 18, 2020. (XX)

Basis for Tentative Ruling:

1. The continued hearing date, February 18, 2021 takes into account the current January 19, 2021 sentencing date of Plaintiff Donald Lee ("Lee").
2. Defendant Sammy Ciling ("Ciling") has requested dismissal of the adversary proceeding due to the anticipated sentencing of Lee. First, the request is not properly before the court as it was not presented as a noticed motion in accordance with applicable federal and local rules. Second, absent evidence that a plaintiff is unable to participate in litigation while incarcerated, such incarceration alone is not a basis for dismissal of a civil action. Accordingly, the request for dismissal is denied.
3. Defendants Ciling and Mrs. Ciling must comply with Rule 26 disclosure requirements.
4. The attendance at mediation is mandatory. Despite pandemic restrictions, mediations are now routinely conducted by video conference. Therefore, there should be no reason why mediation cannot take place in the timeframe set by the court.

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, February 18, 2021

Hearing Room 5A

9:30 AM

CONT... Donald Woo Lee

Chapter 7

this hearing are not required and Plaintiff shall, within 7 days, lodge an order consistent with the tentative ruling.

February 18, 2021

Discovery Cut-off Date: April 30, 2021
Deadline to Attend Mediation: March 31, 2021
Pretrial Conference Date: June 17, 2021
Deadline to File Pretrial Stipulation: June 3, 2021

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):

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

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM

CONT... Donald Woo Lee Chapter 7

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

Plaintiff(s):

Donald Woo Lee Represented By
Norma Ann Dawson
Robert B Rosenstein

Linda Bae Lee Represented By
Norma Ann Dawson
Robert B Rosenstein

Prime Partners Medical Group, Inc. 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, February 18, 2021

Hearing Room 5A

9:30 AM

CONT... Donald Woo Lee

Chapter 7

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM

8:17-10706 John Jean Bral

Chapter 11

Adv#: 8:17-01095 Steward Financial LLC v. Bral

#2.00 CON'TD STATUS CONFERENCE Hearing regarding the status of any pending appeal

(Set at hrg. held 4-9-20)
FR: 10-8-20

Docket 121

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 8, 2020

Continue Status Conference to February 18, 2021 at 9:30 a.m.; updated Joint Status Report must be filed by February 4, 2021. (XX)

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall notice of the continued hearing date/time.

February 18, 2021

In light of the pending appeal, continue this matter as a status conference to July 22, 2021 at 9:30 a.m.; updated status report must be filed by July 8, 2021.

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall notice of the continued hearing date/time.

Party Information

Debtor(s):

John Jean Bral

Represented By

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM

CONT... John Jean Bral

Chapter 11

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

Movant(s):

Steward Financial LLC

Represented By
Krikor J Meshefejian
Gary E Klausner

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 18, 2021

Hearing Room 5A

9:30 AM

8:17-12213 Solid Landings Behavioral Health, Inc.

Chapter 11

Adv#: 8:20-01151 Bristol SL Holdings, Inc v. HOWARD B. GROBSTEIN

#3.00 CON'TD STATUS CONFERENCE RE:Complaint For Declaratory Relief

FR: 1-14-21

Docket 1

Courtroom Deputy:

SPECIAL NOTE: Stipulation for Judgment filed 10/29/2020; Judgment Lodged in LOU on 10/29/2020, Order #10292351 - td (10/30/2020)

Tentative Ruling:

January 14, 2021

In light of pending settlement, continue the Status Conference to February 18, 2021 at 9:30 a.m.; an updated Status Report must be filed by February 4, 2021 if a Rule 9019 motion has not been filed by such date. (XX)

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

February 18, 2021

Take matter off calendar in light of entry of order approving settlement on February 11, 2021 [docket no. 628]

Note: No appearances at this hearing are required.

Party Information

Debtor(s):

Solid Landings Behavioral Health,

Represented By
David L. Neale

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM

CONT... Solid Landings Behavioral Health, Inc.

Chapter 11

Juliet Y Oh
Jeffrey S Kwong
David M Samuels

Defendant(s):

HOWARD B. GROBSTEIN

Pro Se

Plaintiff(s):

Bristol SL Holdings, Inc

Represented By
Nathan Fransen

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM

8:18-10971 James Christopher Patow

Chapter 7

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

#4.00 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; 7-16-20; 11-19-20

Docket 7

*** VACATED *** REASON: VACATED: Pre-trial Conference Vacated,
Per Order Entered 1/13/2021

Courtroom Deputy:

**VACATED: Pre-trial Conference Vacated, Per Order Entered 1/13/2021 - td
(1/13/2021)**

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

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM

CONT... James Christopher Patow

Kevin J Kunde

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, February 18, 2021

Hearing Room

5A

9:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

Adv#: 8:20-01136 Marshack v. Levy et al

#5.00 CON'TD STATUS CONFERENCE RE: Complaint For: 1) Specific Performance;
and 2) Breach of Contract

FR: 12-10-20

Docket 1

***** VACATED *** REASON: CONTINUED TO 4/8/2021 AT 2:00 P.M.,
PER ORDER ENTERED 2/11/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 4/8/2021 at 2:00 p.m., Per
Order Entered 2/11/2021 (XX) - td (2/11/2021)**

Tentative Ruling:

December 10, 2020

No tentative ruling -- disposition will depend on the outcome of Defendants'
motion to dismiss also set for this date.

Party Information

Debtor(s):

Friendly Village MHP Associates LP

Represented By
Howard Camhi

Defendant(s):

Shaoul J. Levy

Pro Se

Levy Affiliated Holdings LLC

Pro Se

LEVY FRIENDLY VILLAGE, LLC

Pro Se

5450 PARAMOUNT LP

Pro Se

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM

CONT... Friendly Village MHP Associates LP

Chapter 7

Plaintiff(s):

Richard A Marshack

Represented By

Shant Kabateck LLP Karnikian

Joana Fang

Nineli Sarkissian

Brian Kabateck

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, February 18, 2021

Hearing Room 5A

9:30 AM

8:18-14603 Sean Pate

Chapter 7

Adv#: 8:20-01122 Kosmala v. Chandar et al

#6.00 CON'TD STATUS CONFERENCE RE: Complaint for Avoidance of Fraudulent Transfers (11 U.S.C. §544); Breach of Contract Note; and Turnover (11 U.S.C. § 542)

FR: 11-5-20

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 18, 2021

In light of pending mediation, continue this status conference to May 20, 2021 at 9:30 a.m.; updated joint status report must be filed by May 6, 2021.

Note: Appearances at this status conference are not required; Plaintiff shall serve notice of the continued status conference.

Party Information

Debtor(s):

Sean Pate

Represented By
Anerio V Altman

Defendant(s):

Deepak Chandar

Pro Se

Reena A. Shah

Pro Se

Spherebase, LLC

Pro Se

Spherebase, LLC

Pro Se

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM

CONT... Sean Pate

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 18, 2021

Hearing Room 5A

9:30 AM

8:19-13858 Bruce Elieff

Chapter 7

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

#7.00 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; 8-20-20; 11-19-20; 12-17-20; 1-21-21

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 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. (XX)

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.

November 19, 2020

Continue the hearing to December 17, 2020 at 9:30 a.m.; the court's order re the

United States Bankruptcy Court
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Thursday, February 18, 2021

Hearing Room 5A

9:30 AM

CONT... Bruce Elieff

Chapter 7

SJ Motion will be issued in the near future. (XX)

Note: Appearances at this hearing are not required.

December 17, 2020

Continue Status Conference one final time to January 21, 2021 at 9:30 a.m.
(XX)

Note: Appearances at this hearing are not required.

January 21, 2021

Continue the hearing to February 18, 2021 at 9:30 a.m.; the court's order re SJ
will be issued on January 25, 2021. (XX)

Note: Appearances at this hearing are not required.

February 18, 2021

Continue status conference to May 20, 2021 at 9:30 a.m.; updated joint status
report must be filed by May 6, 2021.

***Note: Appearances at this hearing are not required; Plaintiff serve notice
of the continued hearing date/time.***

Party Information

Debtor(s):

Bruce Elieff

Represented By
Paul J Couchot
Lisa Nelson

Defendant(s):

Todd Kurtin

Represented By

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM

CONT...

Bruce Elieff

Chapter 7

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
Sean A OKeefe

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM

8:19-13858 Bruce Elieff

Chapter 7

Adv#: 8:20-01046 Ehrenberg (TR) v. Benice et al

#8.00 CON'TD STATUS CONFERENCE RE: Complaint for Injunctive Relief

FR: 7-16-20; 9-17-20; 11-19-20

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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.

September 17, 2020

[This tentative ruling has been modified since its original posting]

Continue this matter to November 19, 2020 at 9:30 a.m.; updated status report must be filed by November 5, 2020. (XX)

Special note: Starting 10/8/20 all hearings before Judge Smith will be by Zoom. See Court's website for details.

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM

CONT... Bruce Elieff

Chapter 7

Note: Appearances at this hearing are not required.

November 19, 2020

An updated Status Report was not filed as ordered at the September 17, 2020 hearing. Therefore, the parties must appear at the hearing and advise the court re the status of this matter.

February 18, 2021

Continue status conference to May 20, 2021 at 9:30 a.m.; updated joint status report must be filed by May 6, 2021. The Plaintiff's request to consolidate the Disgorgement Motion [docket no. 381] with this adversary proceeding is granted. Plaintiff to lodge an order consistent with the same.

Note: Appearances at this hearing are not required; Plaintiff serve notice of the continued hearing date/time.

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson

Defendant(s):

Jeffrey S. Benice

Represented By
Jeffrey S Benice

Benice Law

Represented By
Jeffrey S Benice

Plaintiff(s):

Howard M Ehrenberg (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM

CONT... Bruce Elieff

Chapter 7

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM

8:19-14169 Gary Clesceri

Chapter 7

Adv#: 8:20-01091 Payday Loan, LLC v. Clesceri

#9.00 PRE-TRIAL CONFERENCE: RE: Complaint to Determine Dischargeability of Debt

FR: 8-6-20

Docket 1

*** VACATED *** REASON: OFF CALENDAR: Pre-trial Conference Set
for 5/20/2021 at 9:30 a.m., Per Order Entered 12/3/2020 (XX)

Courtroom Deputy:

**OFF CALENDAR: Pre-trial Conference Set for 5/20/2021 at 9:30 a.m., Per
Order Entered 12/3/2020 (XX) - td (2/9/2021)**

Tentative Ruling:

August 6, 2020

Discovery Cut-off Date:	Dec. 7, 2020
Deadline to Attend Mediation:	Jan. 22, 2021
Pretrial Conference Date: (XX)	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.***

Party Information

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM

CONT... Gary Clesceri

Chapter 7

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, February 18, 2021

Hearing Room 5A

9:30 AM

8:19-14336 Maxwell Shack

Chapter 7

Adv#: 8:20-01018 Tustin Buick GMC v. Shack

#10.00 CON'TD PRE-TRIAL CONFERENCE RE: Complaint for Non-Dischargeability of Debt

FR: 4-30-20; 9-17-20; 11-19-20; 1-7-21

Docket 1

*** VACATED *** REASON: OFF CALENDAR: Order Granting Stipulation to Dismiss Adversary Case Without Prejudice and for this Court to Retain Jurisdiction Entered 1/19/2021

Courtroom Deputy:

OFF CALENDAR: Order Granting Stipulation to Dismiss Adversary Case Without Prejudice and for this Court to Retain Jurisdiction Entered 1/19/2021 - td (1/19/2021)

Tentative Ruling:

April 30, 2020

Discovery Cut-off Date: July 31, 2020
Pretrial Conference Date: Sept. 17, 2020 at 9:30 a.m.
(XX)
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.

November 19, 2020

As no pretrial stipulation or status report has been timely filed, the parties must appear at this hearing and advise the court of its status.

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM

CONT... Maxwell Shack

Chapter 7

Basis for Tentative Ruling

On Sept. 8, 2020, the parties filed a Stipulation [docket #11] indicating that the parties were close to reaching a settlement. An order approving the Settlement was entered on the same date [docket #13] continuing the Pretrial Conference to this hearing date. There is no indication on the docket that a settlement has been reached.

Note: Appearances at this hearing are required.

January 7, 2021

Continue Pretrial Conference one final time to February 18, 2021 at 9:30 a.m.; a Joint Pretrial Stipulation must be filed by February 4, 2021 if settlement pleadings have not been filed by such time. (XX)

Note: If all parties accept the tentative ruling, appearances at this hearing are not required and Plaintiff shall serve notice of the continued hearing date.

Party Information

Debtor(s):

Maxwell Shack

Represented By
Stephen M Goodman

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, February 18, 2021

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

#11.00 CONT'D STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt [11 U.S.C. Section 523]

FR: 4-16-20; 6-11-20; 7-16-20; 9-17-20; 10-22-20; 12-10-20

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 18, 2021

Continue this status conference to May 20, 2021 at 9:30 a.m.; an updated joint status report must be filed by May 6, 2021.

Note: Appearances at this hearing are not required if all the parties accept the foregoing tentative ruling and Plaintiff shall serve notice of the continued hearing date/time.

Party Information

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

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

Thursday, February 18, 2021

Hearing Room 5A

9:30 AM

CONT... Jason M. Barrette

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, February 18, 2021

Hearing Room 5A

10:00 AM

8:20-11893 Peter Ornelas and Rebecca B Ornelas

Chapter 13

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

DEUTSCHE BANK NATIONAL TRUST COMPANY

VS.

DEBTORS

FR: 1-14-21

Docket 33

*** VACATED *** REASON: OFF CALENDAR: Order Granting Motion
for Relief from the Automatic Stay (Settled by Stipulation) Entered 2/1/2021

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic
Stay (Settled by Stipulation) Entered 2/1/2021 - td (2/1/2021)**

Tentative Ruling:

January 14, 2021

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):

Peter Ornelas

Represented By
Kevin Tang

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

Thursday, February 18, 2021

Hearing Room 5A

10:00 AM

CONT... Peter Ornelas and Rebecca B Ornelas

Chapter 13

Joint Debtor(s):

Rebecca B Ornelas

Represented By
Kevin Tang

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, February 18, 2021

Hearing Room 5A

10:00 AM

8:20-12405 James R. Cochrun and Aurora Christina Carbonara

Chapter 13

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

Docket 42

***** VACATED *** REASON: OFF CALENDAR: Order Granting Motion
for Relief from the Automatic Stay (Settled by Stipulation) Entered 2/4/2021**

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic
Stay (Settled by Stipulation) Entered 2/4/2021 - td (2/4/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James R. Cochrun

Represented By
Holly Roark

Joint Debtor(s):

Aurora Christina Carbonara

Represented By
Holly Roark

Movant(s):

Ford Motor Credit Company LLC

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, February 18, 2021

Hearing Room 5A

10:00 AM

8:21-10115 Lael Gonzales

Chapter 13

#14.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]
CHARLES SULAHIAN
VS.
DEBTOR

Docket 9

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 18, 2021

Grant the motion with all relief requested, except that the order granting relief from stay must be recorded with the County of Orange. Further relief from the automatic stay is subject to any applicable state and/or local eviction moratoriums. The state court shall determine the applicability of any such moratoriums.

Basis for Tentative Ruling:

1. The applicability of any state and/or local eviction moratoriums, as well as Debtor's eligibility for any such moratoriums, is best determined and adjudicated by the Orange County Superior Court.
2. Debtor is not eligible to be a chapter 13 debtor under Bankruptcy Code 109(e) which requires that all chapter 13 debtors have "regular income." According to Debtor's schedules, she is unemployed and has no income with which to fund a chapter 13 plan. Expectation of income sometime in the future is not a substitute for compliance with the income requirement of Section 109(e).

Party Information

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

Thursday, February 18, 2021

Hearing Room 5A

10:00 AM

CONT... Lael Gonzales

Chapter 13

Debtor(s):

Lael Gonzales

Pro Se

Movant(s):

Charles Sulahian

Represented By
Stephen E Ensberg

Trustee(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 18, 2021

Hearing Room 5A

10:00 AM

8:21-10135 Chase Merritt Global Fund LLC

Chapter 11

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

GREEN ROCK II, LLC

VS.

DEBTOR

Docket 20

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 18, 2021

Deny motion for relief from the automatic stay; grant adequate protection payments in the amount of \$10,937.50 per month, commencing March 1, 2021 through plan confirmation or payment of the Green Rock claim in full, whichever occurs first. If Debtor fails to make a payment by the first of the month, Movant shall notify Debtor and its counsel in writing. If the adequate protection default is not cured within 10 days of the date of the notice, Movant may file a declaration re non-payment and lodge an order granting immediate relief from stay with waiver of the FRBP 4001(a)(3), and all other relief requested in the Motion, including prospective relief for 180 days, except that relief under 362(d)(4) is denied as well as the request relief #11.

Basis for Tentative Ruling:

Section 362(n)(1) does not apply in this case

Pursuant to Fed.R.Bankr.P. (FRBP) 1020(a), the status of the case as a small business case shall be in accordance with the debtor's statement under this

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

Thursday, February 18, 2021

Hearing Room 5A

10:00 AM

CONT... Chase Merritt Global Fund LLC

Chapter 11

subdivision, unless and until the court enters an order finding that the debtor's statement is incorrect. FRBP 1020(b) provides that except as provided in subdivision (c), the U.S. Trustee or a party in interest may file an objection to the debtor's statement under subdivision (a) no later than 30 days after the conclusion of the 341a meeting .

The Federal Bankruptcy Rules are clear that a debtor which possesses the financial attributes that fall within those circumscribed by Section 101(51D)(A) for a small business debtor and for which no committee is appointed, but does not designate itself as a small business debtor, and is never designated a small business debtor by the court, may proceed through the case as a non-small business debtor. Rule 1020(b) establishes a specific deadline to object to debtor designation or non-designation at "no later than 30 days after the conclusion of the meeting of creditors held under § 341(a) of the Code, or within 30 days after any amendment to the statement, whichever is later." Absent timely objection, the case proceeds as a non-small business debtor case.

Whether the debtor has the "characteristics" of a small business is irrelevant, absent the affirmative election of the debtor. Finally, the non-binding case cited by Movant, *In re Abundant Life Worship Ctr. of Hinesville GA Inc*, is entirely distinguishable because in that case the debtor elected to be a small business case. Debtor here did not.

Movant has not met its burden of proof under 362(d)(2)(A)

According to Movant's own property values and debt (including default interest, which default interest addendum was not attached to the Motion), there is equity in the property. Notably, the court need not consider the default interest for purposes of the Motion because the addendum was only submitted with the Reply. See LBR 9013-1(g)(4) [matters presented fir the first time in reply documents will not be considered].

Movant has not sufficiently demonstrated bad faith

1. Filing a bankruptcy on the eve of (or even minutes before) a foreclosure sale is not, in and of itself, sufficient to establish bad faith.

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

Thursday, February 18, 2021

Hearing Room 5A

10:00 AM

CONT... Chase Merritt Global Fund LLC

Chapter 11

2. The court can take judicial notice of the fact that Debtor's prior counsel was not competent in bankruptcy matters and made many mistakes in the case that jeopardized the continued administration of the case. The court declines to ascribe prior counsel's shortcomings to Debtor.

Movant has not sufficiently established that the current filing was a "scheme" to delay, hinder or defraud creditors

Entitlement to the extraordinary relief of 362(d)(4) is not established simply by the filing of more than one bankruptcy case. The court must consider the totality of the circumstances. In this case, the court presided over the prior case and is, therefore, of the grounds upon which such case was dismissed.

Movant has established that its the equity cushion is insufficient to protect its interest.

Debtor has offered the payment of \$10,937.50 (non-default interest payment) to be adequate under the circumstances.

Party Information

Debtor(s):

Chase Merritt Global Fund LLC

Represented By
W. Derek May

Movant(s):

Secured Creditor, Green Rock II,

Represented By
Tinho Mang

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 5A

10:30 AM

8:16-12854 Paul Edward Rubio

Chapter 13

#16.00 CON'TD Hearing RE: Debtor's Motion for Order Allowing Creditor to Put Forbearance Payments on Back End of Mortgage Loan

FR: 8-6-20; 9-17-20; 10-22-20; 11-19-20; 12-17-20

Docket 167

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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.

October 22, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Grant the motion. If the parties require a further continuance of the hearing, a request may be made during the calendar roll call by the Court Clerk just prior to the hearing. Available continued hearing dates are: 11/5/20, 11/12/20, and 11/19/20 at 10:30 a.m.

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

Thursday, February 18, 2021

Hearing Room 5A

10:30 AM

CONT... Paul Edward Rubio

Chapter 13

Note: This matter appears to be uncontested. Accordingly, no court appearances are required if the parties accept the tentative ruling to grant the Motion.

November 19, 2020

Grant the Motion, unless the parties require another continued hearing, in which case they may request a final continuance to December 17, 2020 at 10:30 a.m. during the courtroom clerk's calendar roll call just prior to today's hearing. No further continuances beyond December 17, 2020 will be granted unless a supplemental pleading or stipulation is filed explaining the reason(s) for the necessity of a further hearing.

February 18, 2021

Deny motion for failure to prosecute.

Basis for Tentative Ruling:

This matter has been pending for six months with no resolution. The parties were warned that the December 17, 2020 hearing would be the final hearing on the matter. The court, nevertheless, continued the December 17, 2020 hearing for an additional two months to this date. No further continuances will be granted.

Party Information

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, February 18, 2021

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#17.00 Hearing RE: Trustee's Seventh Motion for Order to Continue Business Operations (Manage Real Property) Through and Including June 29, 2021, by Continuing to: (1) Collect Rents; and (2) Pay Operating Expenses

Docket 542

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 18, 2021

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):

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
Stefan Perovich

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

Thursday, February 18, 2021

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#18.00 Hearing RE: Trustee's Eighth 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 539

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 18, 2021

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):

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
Stefan Perovich

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

Thursday, February 18, 2021

Hearing Room 5A

10:30 AM

8:18-13864 Friendly Village GP, LLC

Chapter 7

#19.00 Hearing RE: Trustee's Eighth 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 268

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 18, 2021

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):

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, February 18, 2021

Hearing Room 5A

10:30 AM

8:19-10753 Heather Leigh Tolson

Chapter 7

#20.00 Hearing RE: Debtor's Motion to Compel Trustee to Abandon Lawsuit Pursuant to 11 U.S.C. Section 554(b) and Local Bankruptcy Rule 9013-1

Docket 40

Courtroom Deputy:

SPECIAL NOTE: Catamount Properties 2018, LLC's Notice of Withdrawal of Notice of Opposition and Request for Hearing [Docket Entry No. 42] filed 2/10/2021 - td (2/10/2021)

Tentative Ruling:

February 18, 2021

Grant the motion.

Note: This matter appears to be uncontested as the only objection has been withdrawn. 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):

Heather Leigh Tolson

Represented By
Fritz J Firman

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 18, 2021

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#21.00 CON'TD Hearing RE: Chapter 7 Trustee's Motion for Order Cancelling Alleged Retainer Agreements and Requiring Jeffery S. Benice and Benice Law to Immediately Disgorge \$4,182,244.73
(Chapter 7 Trustee is Substituted in Place of Kurtin as Moving Party in Respect to Motion, Per Order Entered 10/9/2020)

FR: 5-7-20; 5-21-20; 6-25-20; 7-16-20; 9-17-20; 11-19-20

Docket 381

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 25, 2020

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

Note: Appearance at this hearing is not required.

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

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

Thursday, February 18, 2021

Hearing Room 5A

10:30 AM

CONT... **Bruce Elieff**
transfer.

Chapter 7

September 17, 2020

Continue this matter to November 19, 2020 at 10:30 a.m.; updated status report must be filed by November 5, 2020. (XX)

Note: Appearances at this hearing are not required.

November 19, 2020

No new pleadings have been filed in this matter. Trustee shall appear and advise the court regarding the status.

February 18, 2021

Continue hearing to July 22, 2021 at 9:30 a.m. in light of the court's granting of the chapter 7 trustee's request to consolidate this matter with Adversary No. 20-01046, pursuant to FRBP 7042 and FRCP 42.

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson

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, February 18, 2021

Hearing Room 5A

10:30 AM

CONT... Bruce Elieff

Edward O Morales

Chapter 7

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe

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

Thursday, February 18, 2021

Hearing Room 5A

10:30 AM

8:19-14771 Lenore Renee Mallek-Passey

Chapter 13

#22.00 Hearing RE: Debtor's Motion to Disallow Claim of Axos Bank - Claim No 18 filed in the Amount of 19,427.47

Docket 25

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 18, 2021

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):

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**

Thursday, February 18, 2021

Hearing Room 5A

10:30 AM

8:20-10791 Heladio Sanchez

Chapter 7

#23.00 Hearing RE: U.S. Trustee's Motion for Denial of Discharge Pursuant to 11 U.S.C. Section 727(a)(8)

Docket 21

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 18, 2021

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):

Heladio Sanchez 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 18, 2021

Hearing Room 5A

10:30 AM

8:20-10936 Vantage Point Apparel Software, Inc.

Chapter 11

#24.00 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; 7-23-20; 9-3-20; 11-19-20; 12-10-20

Docket 7

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 12, 2020

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 <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.***

Note: Appearances at this hearing are not required if all parties accept the tentative ruling required.

July 23, 2020

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

Thursday, February 18, 2021

Hearing Room

5A

10:30 AM

CONT... **Vantage Point Apparel Software, Inc.**

Chapter 11

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.

September 3, 2020

Continue 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. (XX)

Note: Appearance at today's hearing is not required. The court will issue its own order re the tentative ruling.

November 19, 2020

Continue the Status Conference to December 10, 2020 at 10:30 a.m., the same date/time as hearing on the the approval of Debtor's disclosure statement; updated status report is not required for that hearing. (XX)

Note: Appearances at this hearing are not required.

December 10, 2020

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

Thursday, February 18, 2021

Hearing Room 5A

10:30 AM

CONT... Vantage Point Apparel Software, Inc.

Chapter 11

Continue Status Conference to February 18, 2021 at 10:30 a.m.; updated Status Report must be filed by February 4, 2021 unless an amended disclosure statement has been timely filed, in which case the requirement of a status report will be waived and the Status Conference continued to the same date/time as hearing on such amended disclosure statement. (XX)

Note: If Debtor is in substantial compliance with the requirements of the U.S. Trustee, appearances at this hearing will not be required. It is Debtor's responsibility to confirm substantial compliance in advance of the hearing.

February 18, 2021

Continue status conference to March 11, 2021 at 10:30 a.m., same date/time set for hearing on approval Debtor's disclosure statement.

Special note: The court appreciates the updated status report filed by the Subchapter V Trustee [docket # 70]

Note: Appearances at this hearing are not required.

Party Information

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
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, February 18, 2021

Hearing Room 5A

10:30 AM

8:20-11725 Helen Weatherby

Chapter 11

#25.00 Hearing RE: Motion by Debtor-in-Possession for Order: (1) To Pay Administrative, Priority, and Unsecured Creditors in Full; and (2) Dismiss Bankruptcy Case

Docket 98

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 18, 2021

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):

Helen Weatherby

Represented By
Bert Briones

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

Thursday, February 18, 2021

Hearing Room 5A

10:30 AM

8:20-11725 Helen Weatherby

Chapter 11

#26.00 Hearing RE: First and Final Application for Allowance of Fees and Costs

**[BERT BRIONES (DBA, RED HILL LAW GROUP) AS GENERAL
BANKRUPTCY COUNSEL]**

Docket 108

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 18, 2021

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):

Helen Weatherby

Represented By
Bert Briones

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

Thursday, February 18, 2021

Hearing Room 5A

10:30 AM

8:20-11725 Helen Weatherby

Chapter 11

#27.00 Hearing RE: First and Final Application for Compensation and Reimbursement of Expenses

[GROBSTEIN TEEPLE, LLP AS ACCOUNTANTS FOR THE CHAPTER 11 DEBTOR]

Docket 107

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 18, 2021

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):

Helen Weatherby

Represented By
Bert Briones

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

Thursday, February 18, 2021

Hearing Room 5A

10:30 AM

8:20-11725 Helen Weatherby

Chapter 11

#28.00 CON'TD STATUS CONFERENCE Hearing RE: (1) Status of Chapter 11 Case; and (2) Requiring Report on Status of Chapter 11 Case

FR: 8-20-20; 11-19-20; 12-3-20; 1-14-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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. (XX)

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.

November 19, 2020

Continue this Status Conference to December 3, 2020 at 10:30 a.m., same date/time as hearing on Debtor's motion to sell real property; updated Status Report not required for that hearing. (XX)

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

Thursday, February 18, 2021

Hearing Room 5A

10:30 AM

CONT... Helen Weatherby

Chapter 11

Note: Appearance at this hearing is not required.

December 3, 2020

Continue Status Conference to January 14, 2021 at 10:30 a.m.; updated Status Report must be filed by January 7, 2021 if the case is still pending as of that date.(XX)

Note: Appearance at this hearing is not required.

January 14, 2021

Continue Status Conference to February 18, 2021 at 10:30 a.m., same date/time as hearing on motion filed by Debtor on 1/6/21; updated Status Report not required. (XX)

Note: Appearance at this hearing is not required.

February 18, 2021

Take matter off calendar in light of the court's granting of Debtor's motion to dismiss the case.

Note: Appearances at this hearing are not required.

Party Information

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, February 18, 2021

Hearing Room 5A

10:30 AM

8:20-11837 Golden Communications Inc.

Chapter 11

#29.00 CON'TD STATUS CONFERENCE Hearing RE: (1) Status of Chapter 11 Case;
and (2) Requiring Report on Status of Chapter 11 Case

FR: 9-3-20; 12-17-20

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

September 3, 2020

Claims bar date: Nov. 10, 2020 (notice by 9/10/20)

Deadline to file plan/DS: Dec. 1, 2020

Continued Status Conf: Dec. 17, 2020 at 10:30 a.m. (XX)

Deadline to file Updated
Status Report*: Dec. 3, 2020

*Update report requirement waived if DS is timely filed.

Note: If Debtor is in substantial compliance with the requirements of the U.S. Trustee, appearance at this hearing is not required and the court will issue it's own order re the same. It is Debtor's responsibility to confirm compliance with the UST prior to the hearing.

December 17, 2020

Continue the Status Conference to February 18, 2021 at 10:30 a.m.; updated

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

Thursday, February 18, 2021

Hearing Room 5A

10:30 AM

CONT... Golden Communications Inc.

Chapter 11

Status Report must be filed by February 4, 2021. (XX)

Note: If Debtor is in substantial compliance with the requirements of the U.S. Trustee, appearance at this hearing is not required and the court will issue it's own order re the same. It is Debtor's responsibility to confirm compliance with the UST prior to the hearing.

February 18, 2021

Continue status conference to April 1, 2021 at 10:30 a.m.; an updated status report must be filed by March 18, 2021 unless the case has been dismissed prior to such date.

Basis for Tentative Ruling

Debtor's late-filed status report [docket #94] indicates Debtor's intent to file a motion to dismiss this case.

Note: Appearances at this hearing are not required.

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, February 18, 2021

Hearing Room 5A

10:30 AM

8:20-12881 Stonewood Homes LLC

Chapter 7

#30.00 Hearing RE: Chapter 7 Trustee's Application to Employ Real Estate Agent
(Clarence Yoshikane of Berkshire Hathaway Homeservices California Properties)

Docket 66

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 18, 2021

Approve the application.

Note: This matter appears to be uncontested. Accordingly, no court appearance by the 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):

Stonewood Homes LLC

Represented By
William J King

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 18, 2021

Hearing Room 5A

10:30 AM

8:21-10039 Margie Annette Arrington

Chapter 7

#31.00 Hearing RE: Debtor's Motion for Orders Determining Value of Secured Claim

Docket 16

Courtroom Deputy:

SPECIAL NOTE: Per Voice mail received from Dennis Connolly; he is subbed out as attorney for Debtor on 2/2/2021; new attorney is Krystina Tran. Case was converted to Chapter 7, so Motion is Moot. Hearing can go off calendar; he will not be making an appearance - td (2/16/2021)

Tentative Ruling:

February 18, 2021

Deny motion as moot in light of Debtor's conversion of the case to chapter 7.

Note: Appearance at this hearing is not required.

Party Information

Debtor(s):

Margie Annette Arrington

Represented By
Krystina T Tran

Movant(s):

Margie Annette Arrington

Represented By
Krystina T Tran

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 18, 2021

Hearing Room 5A

10:30 AM

8:21-10135 Chase Merritt Global Fund LLC

Chapter 11

#31.10 Hearing RE: Application of Debtor for Authority to Employ Real Estate Broker
Compass Real Estate and Agent Christopher Kwon

Docket 10

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 18, 2021

Approve the application on condition that the 4.5% commission will be split evenly with any buyer agent; Overrule Creditor's objections as unpersuasive.

Party Information

Debtor(s):

Chase Merritt Global Fund LLC

Represented By
W. Derek May

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 5A

10:30 AM

8:21-10135 Chase Merritt Global Fund LLC

Chapter 11

#32.00 Hearing RE: Secured Creditor's Motion to Dismiss or Convert Bad Faith, Re-filed Bankruptcy Case for Cause Pursuant to 11 U.S.C. Section 1112

Docket 17

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 18, 2021

Deny the motion to dismiss without prejudice due to failure to state sufficient cause for dismissal.

Basis for Tentative Ruling

1. The court agrees with the Opposition filed by the Subchapter V trustee and incorporates his analysis by reference herein.
2. There is insufficient evidence of bad faith. As noted with respect to the court's tentative ruling regarding Movant's motion for relief from stay (#15 on today's calendar), the court is aware of the incompetency of Debtor's prior counsel in the prior chapter 11 cases to assist Debtor in navigating a chapter 11 cases, including his inability to utilize the court's electronic filing system, failure to timely file applications to employ his firm, failure to timely file an employment application for the real estate broker, failure to timely file responses, etc. None of those circumstances exist in the present case.
3. Debtor owns two parcels of real property, at least one of which is ready for marketing (Movant's own appraisal photographs depict a well-maintained high-end property (Fisher). No determination has yet been made by this court regarding the value of the properties -- which could, in theory, be higher than that asserted by Movant's appraiser.

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

Thursday, February 18, 2021

Hearing Room 5A

10:30 AM

CONT... Chase Merritt Global Fund LLC

Chapter 11

4. There is a subchapter V trustee involved in the case whose duty it is to try to facilitate a consensual plan and who will provide the court with a neutral assessment of the viability of the case.

5. Debtor has offered to make adequate protection payments; failure to do so will result in relief from stay.

5. The case was filed less than thirty days ago.

6. The court need not rule on the evidentiary objections as the court's consideration of the appraisal attached to Mr. Nguyen's declaration is not necessary for it to decide the Motion.

Party Information

Debtor(s):

Chase Merritt Global Fund LLC

Represented By
W. Derek May

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, February 18, 2021

Hearing Room 5A

10:30 AM

8:17-10706 John Jean Bral

Chapter 11

#33.00 CON'TD Hearing RE: Reorganized Debtor John Bral's Motion to Extend Time to Object to Cannae Financial, LLC's Proof of Claim [Claim No. 17]

FR: 2-11-21

Docket 962

***** VACATED *** REASON: CONTINUED TO 3/4/2021 AT 10:30 A.M.,
Per Order Entered 2/11/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 3/4/2021 at 10:30 a.m., Per Order
Entered 2/11/2021 (XX) - td (2/11/2021)**

Tentative Ruling:

- NONE LISTED -

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

Shane M Biornstad

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

Tuesday, February 23, 2021

Hearing Room 5A

1:30 PM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address:

<https://cacb.zoomgov.com/j/1613170422>

ZoomGov meeting number: 161 317 0422

Password: 643943

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Tuesday, February 23, 2021

Hearing Room 5A

1:30 PM
CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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

Tuesday, February 23, 2021

Hearing Room 5A

1:30 PM
CONT...

Chapter

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

Tuesday, February 23, 2021

Hearing Room 5A

1:30 PM

8:21-10039 Margie Annette Arrington

Chapter 7

#1.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

***** VACATED *** REASON: OFF CALENDAR: Debtor's Notice of
Conversion of Bankruptcy Case from Chapter 13 to Chapter 7 filed 2/1/2021;
Case Converted to Chapter 7**

Courtroom Deputy:

**OFF CALENDAR: Debtor's Notice of Conversion of Bankruptcy Case
from Chapter 13 to Chapter 7 filed 2/1/2021; Case Converted to Chapter
7 - td (2/9/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Margie Annette Arrington

Represented By
Krystina T Tran

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 23, 2021

Hearing Room 5A

1:30 PM

8:20-13553 Jim Walter Pittman

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):

Jim Walter Pittman

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, February 23, 2021

Hearing Room 5A

1:30 PM

8:20-13332 Manuel Mancenido

Chapter 13

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

FR: 1-26-21

Docket 2

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Manuel Mancenido

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, February 23, 2021

Hearing Room 5A

1:30 PM

8:20-13305 Marissa L. Chery

Chapter 13

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

FR: 1-26-21

Docket 2

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marissa L. Chery

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 23, 2021

Hearing Room 5A

2:30 PM

8:20-10620 Nelson D. Randin

Chapter 13

#6.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding

FR: 1-26-21

Docket 84

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 26, 2021

Grant the motion to dismiss if Debtor is not current by the time of the hearing.
No motion to modify has been filed as of 12:00 pm this date.

February 23, 2021

Grant the motion to dismiss.

Basis for Tentative Ruling:

A motion to modify was not filed by February 16, 2021 as ordered by the Court at the January 26, 2021 hearing.

Party Information

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**

Tuesday, February 23, 2021

Hearing Room 5A

2:30 PM

CONT... Nelson D. Randin

Chapter 13

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

Tuesday, February 23, 2021

Hearing Room 5A

2:30 PM

8:19-14807 Kalani James Robert Green

Chapter 13

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

Docket 32

***** VACATED *** REASON: OFF CALENDAR: Notice of Voluntary Dismissal of Motion, filed 2/16/2021**

Courtroom Deputy:

OFF CALENDAR: Notice of Voluntary Dismissal of Motion, filed 2/16/2021 - td (2/16/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

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 23, 2021

Hearing Room 5A

2:30 PM

8:19-12933 Lisa Nguyen

Chapter 13

#8.00 Hearing RE: Trustee's Verified Motion For Order Dismissing Chapter 13
Proceeding For Failure to Make Plan Payments

Docket 89

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 23, 2021

Grant the motion to dismiss.

Party Information

Debtor(s):

Lisa Nguyen

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 23, 2021

Hearing Room 5A

2:30 PM

8:19-11870 Darlene Futrel

Chapter 13

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

FR: 10-27-20; 11-24-20; 12-18-20; 1-26-21

Docket 58

*** VACATED *** REASON: Voluntary Dismissal of Motion Filed 2/17/21

Courtroom Deputy:

OFF CALENDAR: Voluntary Dismissal of Motion Filed 2/17/21 -mp2/17/21

Tentative Ruling:

November 24, 2020

Continue hearing to December 18, 2020 at 10:30 a.m., same date/time as hearing on approval of Debtor's pending motion to modify/suspend plan payments. (XX)

Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required.

December 18, 2020

Grant the Motion to dismiss the case.

January 26, 2021

New motion to modify filed 1/19/21. Trustee to advise if he approves of it.

Party Information

Debtor(s):

Darlene Futrel

Represented By

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

Tuesday, February 23, 2021

Hearing Room 5A

2:30 PM

CONT...

Darlene Futrel

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, February 23, 2021

Hearing Room 5A

2:30 PM

8:19-10044 Gregory Bettison

Chapter 13

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

FR: 1-26-21

Docket 68

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 26, 2021

Grant motion to dismiss. Debtor is more than \$14,000 in arrears and there is no motion to modify pending.

February 23, 2021

Grant the motion to dismiss.

Basis for Tentative Ruling

No apparent progress since the last hearing. Further, Debtor has defaulted on adequate protection payments to lender. Order granting relief from stay lodged on 2/17/21.

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, February 23, 2021

Hearing Room 5A

2:30 PM

CONT...

Gregory Bettison

Chapter 13

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

Tuesday, February 23, 2021

Hearing Room 5A

2:30 PM

8:18-14641 Richard Thomas McPhee

Chapter 13

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

FR: 1-26-21

Docket 50

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 26, 2021

Grant motion to dismiss unless Debtor is postpetition current by the time of the hearing.

Basis for Tentative Ruling

Despite the fact that the motion was filed more than two months ago, to date no motion to modify has been filed.

February 23, 2021

Motion to modify filed 2/12/21. Deny the motion to dismiss if Trustee has no opposition to the motion to modify.

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, February 23, 2021

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, February 23, 2021

Hearing Room 5A

2:30 PM

8:18-14035 William Raymond Harvey and Akram Naieharvey

Chapter 13

#12.00 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:

February 23, 2021

Continue hearing to April 27, 2021 at 2:30 p.m. in light of pending motion to modify.

Party Information

Debtor(s):

William Raymond Harvey

Represented By
Farbood Majd

Joint Debtor(s):

Akram Naieharvey

Represented By
Farbood Majd

Trustee(s):

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 23, 2021

Hearing Room 5A

2:30 PM

8:18-12606 Michelle Renee Gillespie

Chapter 13

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

Docket 142

***** VACATED *** REASON: OFF CALENDAR - NOTICE OF VOLUNTARY DISMISSAL OF MOTION FILED 2-11-21.**

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michelle Renee Gillespie

Represented By
Andy C Warshaw

Trustee(s):

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 23, 2021

Hearing Room 5A

2:30 PM

8:17-13650 Giuseppe Galietta and Heldia F. De Galietta

Chapter 13

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

FR: 10-27-20; 11-24-20; 12-18-20; 1-26-21

Docket 148

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

November 24, 2020

Continue hearing to December 18, 2020 at 10:30 a.m. in light of motion to modify/suspend plan payments filed November 19, 2020. (XX)

Note: Appearances at this hearing are not required

December 18, 2020

Grant motion to dismiss case

January 26, 2021

Grant motion to dismiss in light of Debtors' withdrawal of motion to modify filed 1/20/21.

February 23, 2021

Continue hearing to April 27, 2021 at 2:30 p.m. in light of pending motion for approval of refinance (opposition and request for hearing filed by a creditor)

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

Tuesday, February 23, 2021

Hearing Room 5A

2:30 PM

CONT... Giuseppe Galietta and Heldia F. De Galietta

Chapter 13

Party Information

Debtor(s):

Giuseppe Galietta

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Heldia F. De Galietta

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 23, 2021

Hearing Room 5A

2:30 PM

8:17-13262 Troy Bernard Jemerson

Chapter 13

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

Docket 141

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 23, 2021

Continue hearing to April 27, 2021 at 2:30 p.m. in light of pending motion to modify filed 2/19/21.

Party Information

Debtor(s):

Troy Bernard Jemerson

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 23, 2021

Hearing Room 5A

2:30 PM

8:16-15074 Katherine Burroughs Heidelman

Chapter 13

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

Docket 107

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 23, 2021

Grant motion to dismiss case if a motion to modify has not been filed by the time of the hearing. If a motion to modify has been filed, continue the hearing to April 27, 2021 at 2:30 p.m.

Party Information

Debtor(s):

Katherine Burroughs Heidelman

Represented By
Steven A Alpert

Trustee(s):

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 23, 2021

Hearing Room 5A

2:30 PM

8:15-14997 Romeo Torrecampo Tariman

Chapter 13

#17.00 CON'TD Hearing RE: Trustee's Verified Motion For Order Dismissing Chapter 13 Proceeding for Failure to Complete the Plan Within its Terms

FR: 12-18-20; 1-26-21

Docket 49

***** VACATED *** REASON: OFF CALENDAR: Order of Dismissal
Arising from Debtor's Request for Voluntary Dismissal of Chapter 13
Entered 2/23/2021**

Courtroom Deputy:

**OFF CALENDAR: Order of Dismissal Arising from Debtor's Request for
Voluntary Dismissal of Chapter 13 Entered 2/23/2021 - td (2/23/2021)**

Tentative Ruling:

December 18, 2020

Debtor's counsel to advise the court re the status of this matter. Debtor indicated in opposition that a motion to modify would be filed. As of today, no such motion has been filed.

January 26, 2021

Grant motion to dismiss case.

No motion to modify filed.

February 23, 2021

No tentative ruling for this matter. Debtor's counsel to appear and advise the court re the status of the case.

Party Information

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

Tuesday, February 23, 2021

Hearing Room 5A

2:30 PM

CONT... Romeo Torrecampo Tariman

Chapter 13

Debtor(s):

Romeo Torrecampo Tariman

Represented By
Jaime G Monteclaro

Trustee(s):

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 23, 2021

Hearing Room 5A

2:30 PM

8:15-14803 Orlando Martinez

Chapter 13

#18.00 CON'TD Hearing RE: Debtor's Motion Under LBR 3015-1(n) and (w) to Modify Plan or Suspend Plan Payments

FR: 12-18-20; 1-26-21

Docket 76

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 18, 2020

Continue hearing to January 26, 2021 at 2:30 p.m. in light of pending objection to claim which has been continued to January 21, 2021. (XX)

February 23, 2021

No tentative ruling. Debtor to advise the court whether he intends to hire a new lawyer or if he will be representing himself. Debtor to also inform the court if he agrees with the comments made in the chapter 13 trustee's comments regarding his motion to modify the plan.

Party Information

Debtor(s):

Orlando Martinez

Represented By
Mark S 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**

Wednesday, February 24, 2021

Hearing Room 5A

9:00 AM

8:19-10275 Michael J Duff

Chapter 7

Adv#: 8:19-01084 Constantin et al v. Duff

#1.00 TRIAL RE: Complaint to Deny Debtor's Discharge

(Set at PTC held 6-18-20)

Docket 1

***** VACATED *** REASON: CONTINUED TO 2/24/2021 & 2/25/2021 AT
9:00 A.M., PER ORDER ENTERED 2/8/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Trial Continued to 6/23/2021 and 6/24/2021 at 9:00 a.m.,
Per Order Entered 2/8/2021 (XX) - td (2/8/2021)**

Party Information

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**

Wednesday, February 24, 2021

Hearing Room

5A

9:00 AM

8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address:

<https://cacb.zoomgov.com/j/1605952245>

ZoomGov meeting number: 160 595 2245

Password: 482376

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Wednesday, February 24, 2021

Hearing Room 5A

9:00 AM
CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

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

Thursday, February 25, 2021

Hearing Room 5A

9:00 AM

8:19-10275 Michael J Duff

Chapter 7

Adv#: 8:19-01084 Constantin et al v. Duff

#1.00 CONT'D TRIAL RE: Complaint to Deny Debtor's Discharge

(Set at PTC held 6-18-20)

FR: 2-24-21

Docket 1

***** VACATED *** REASON: CONTINUED TO 2/24/2021 & 2/25/2021 AT
9:00 A.M., PER ORDER ENTERED 2/8/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Trial Continued to 6/23/2021 and 6/24/2021 at 9:00 a.m.,
Per Order Entered 2/8/2021 (XX) - td (2/8/2021)**

Party Information

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

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

Thursday, February 25, 2021

Hearing Room 5A

9:00 AM

8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address:

<https://cacb.zoomgov.com/j/1600359532>

ZoomGov meeting number: 160 035 9532

Password: 932754

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Thursday, February 25, 2021

Hearing Room 5A

9:00 AM
CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

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

Thursday, March 4, 2021

Hearing Room 5A

9:30 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address:

<https://cacb.zoomgov.com/j/1616868008>

ZoomGov meeting number: 161 686 8008

Password: 299224

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Thursday, March 4, 2021

Hearing Room 5A

9:30 AM
CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
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- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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

Thursday, March 4, 2021

Hearing Room 5A

9:30 AM
CONT...

Chapter

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

Thursday, March 4, 2021

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.

#1.00 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

(Another Summons Issued 12/7/2020)

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Another Summons
Issued 2/16/2021; New Status Conference Set for 5/6/2021 at 9:30 a.m. (xx)**

Courtroom Deputy:

**OFF CALENDAR: Another Summons Issued 2/16/2021; New Status
Conference Set for 5/6/2021 at 9:30 a.m. (xx) - td (2/16/2021)**

Tentative Ruling:

- NONE LISTED -

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

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

Thursday, March 4, 2021

Hearing Room 5A

9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

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 4, 2021

Hearing Room 5A

9:30 AM

8:18-14511 One Source Facility Solution, Inc.

Chapter 7

Adv#: 8:20-01170 Casey v. Joshi et al

**#2.00 STATUS CONFERENCE RE: Chapter 7 Trustee's Adversary Complaint:
1) To Avoid and Recover Fraudulent Transfers; 2) For Recovery of Transfers;
3) For Preservation of Transfers; 4) For Disallowance of Claim**

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 4, 2021

This adversary appears to be a duplicate of Adv No. 20-01171 though no motion to consolidate the adversaries has been filed. Plaintiff to appear and advise the court re the status of this matter as no Status Report has been filed.

Party Information

Debtor(s):

One Source Facility Solution, Inc.

Represented By
James R Selth
Nina Z Javan

Defendant(s):

Dilip Joshi	Pro Se
Nishan Joshi	Pro Se
Vasanti Joshi	Pro Se
JP MORGAN CHASE BANK, NA	Pro Se
WELLS FARGO BANK, N.A.	Pro Se
West One Property Services, Inc.	Pro Se

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

Thursday, March 4, 2021

Hearing Room 5A

9:30 AM

CONT... One Source Facility Solution, Inc. Chapter 7

Loan Care, LLC Pro Se

NewRez LLC Pro Se

Flagstar Mortgage Corp. Pro Se

CITIBANK N.A. Pro Se

Orlando A Molina Pro Se

Plaintiff(s):

Thomas H Casey Represented By
 Brennan Mitch

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 4, 2021

Hearing Room 5A

9:30 AM

8:18-14512 One Source Facility Maintenance, Inc.

Chapter 7

Adv#: 8:20-01171 Casey v. Joshi et al

**#3.00 STATUS CONFERENCE RE: Chapter 7 Trustee's Adversary Complaint:
1) To Avoid and Recover Fraudulent Transfers; 2) For Recovery of Transfers;
3) For Preservation of Transfers; 4) For Disallowance of Claim**

Docket 1

Courtroom Deputy:

**SPECIAL NOTE: Notice of Voluntary Dismissal of All Claims Against
Defendants Nishan Joshi and West One Property Services, Inc. Only,
filed 2/26/2021 - td (2/26/2021)**

Tentative Ruling:

March 4, 2021

Discovery Cut-off Date:	Sept. 3, 2021
Deadline to Attend Mediation:	Aug. 2, 2021
Pretrial Conference Date:	Oct. 14, 2021 at 9:30 a.m.
Deadline to file Joint Pretrial Stipulation:	Sept. 30, 2021:

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):

One Source Facility Maintenance,	Represented By James R Selth
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Defendant(s):

Dilip Joshi	Pro Se
Nishan Joshi	Pro Se

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

Thursday, March 4, 2021

Hearing Room 5A

9:30 AM

CONT... One Source Facility Maintenance, Inc. Chapter 7

Vasanti Joshi	Pro Se
Orlando A Molina	Pro Se
JPMORGAN CHASE BANK N.A.	Pro Se
Citibank, N.A.	Pro Se
WELLS FARGO BANK, N.A.	Pro Se
Flagstar Mortgage Corp.	Pro Se
NewRez LLC	Pro Se
Loan Care, LLC	Pro Se
West One Property Services, Inc.	Pro Se

Plaintiff(s):

Thomas H Casey	Represented By Brennan Mitch
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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, March 4, 2021

Hearing Room 5A

9:30 AM

8:19-13260 Simon Szwachowicz

Chapter 7

Adv#: 8:20-01090 Kosmala v. Szwachowicz

#4.00 CONT'D 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

FR: 8-6-20; 11-19-10

Docket 3

***** VACATED *** REASON: CONTINUED TO 6/17/2021 AT 9:30 A.M.,
PER ORDER ENTERED 2/18/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 6/17/2021 at 9:30 a.m., Per
Order Entered 2/18/2021 (XX) - td (2/18/2021)**

Tentative Ruling:

Party Information

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

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

Thursday, March 4, 2021

Hearing Room 5A

9:30 AM

CONT...

Simon Szwachowicz

Ryan W Beall

Chapter 7

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

Thursday, March 4, 2021

Hearing Room 5A

9:30 AM

8:19-14255 Dana Kim

Chapter 7

Adv#: 8:20-01016 Romex Textiles, Inc. v. Kim

#5.00 PRE-TRIAL CONFERENCE RE: Complaint to Determine Dischargeability of a Debt and Objection to Discharge

FR: 4-30-20; 8-6-20

Docket 1

*** VACATED *** REASON: OFF CALENDAR: Order Approving Stipulation to Dismiss Adversary Proceeding Entered 1/4/2021

Courtroom Deputy:

OFF CALENDAR: Order Approving Stipulation to Dismiss Adversary Proceeding Entered 1/4/2021 - td (1/4/2021)

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. (XX)

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

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

Thursday, March 4, 2021

Hearing Room 5A

9:30 AM

CONT... Dana Kim

Chapter 7

consistent with the same within 7 days of the hearing.

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, March 4, 2021

Hearing Room 5A

9:30 AM

8:20-12420 Lisa Anne Braski

Chapter 7

Adv#: 8:20-01165 Braski v. Ascendium Education Solutions et al

#6.00 STATUS CONFERENCE RE: Debtor's Complaint to Determine Dischargeability of Student Loan Debts Under 11 U.S.C. Section 523(a)(8), Based on Undue Hardship; and/or Alternatively that Each of the Student Loans are not Qualified Educational Loans Excepted from Discharge

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 4, 2021

Discovery Cut-off Date:	June 4, 2021
Deadline to Attend Mediation:	July 30, 2021
Pretrial Conference Date:	Sept. 2, 2021 at 9:30 a.m.
Deadline to file Joint Pretrial Stipulation:	Aug. 19, 2021

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):

Lisa Anne Braski

Represented By
Jeffrey N Wishman

Defendant(s):

Ascendium Education Solutions

Pro Se

Educational Credit Management

Pro Se

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

Thursday, March 4, 2021

Hearing Room 5A

9:30 AM

CONT... Lisa Anne Braski

Chapter 7

Plaintiff(s):

Lisa Anne Braski

Represented By
Marcus G Tiggs
Leon D Bayer

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 4, 2021

Hearing Room 5A

10:00 AM

8:15-13435 Angel Patricio Monico and Margara Elizabeth Monico

Chapter 13

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

ORANGE COUNTY'S CREDIT UNION

VS.

DEBTORS

Docket 106

*** VACATED *** REASON: OFF CALENDAR: Dismissal of Motion for Relief from Automatic Stay filed 2/16/2021

Courtroom Deputy:

**OFF CALENDAR: Dismissal of Motion for Relief from Automatic Stay
filed 2/16/2021 - td (2/16/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Angel Patricio Monico

Represented By
James A Hayes Jr

Joint Debtor(s):

Margara Elizabeth Monico

Represented By
James A Hayes Jr

Movant(s):

Orange County's Credit Union

Represented By
Brett P Ryan
Diana Torres-Brito
Bonni S Mantovani

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

Thursday, March 4, 2021

Hearing Room 5A

10:00 AM

CONT... Angel Patricio Monico and Margara Elizabeth Monico

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 4, 2021

Hearing Room 5A

10:00 AM

8:15-14803 Orlando Martinez

Chapter 13

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

DEUTSCHE BANK NATIONAL ASSOCIATION

VS.

DEBTOR

FR: 8-6-20; 10-22-20; 12-17-20; 2-4-21

Docket 54

***** VACATED *** REASON: OFF CALENDAR: Notice of Withdrawal of
Movant's Motion for Relief from the Automatic Stay filed 2/23/2021**

Courtroom Deputy:

**OFF CALENDAR: Notice of Withdrawal of Movant's Motion for Relief
from the Automatic Stay filed 2/23/2021 - td (2/23/2021)**

Tentative Ruling:

August 6, 2020 [MODIFIED SINCE ORIGINAL POSTING]

Continue hearing to allow parties to meet and confer re possible
forebearance. 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.

December 17, 2020

Movant to advise the court regarding the status of the trial loan modification.
If more time is need to resolve the matter, the hearing may be continued one
final time by requesting a continuance during the clerk's calendar roll call just
prior to the hearing. Available continued hearing dates are January 14, 2021,
January 21, 2021 and February 4, 2021 at 10:00 a.m.

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

Thursday, March 4, 2021

Hearing Room 5A

10:00 AM

CONT... Orlando Martinez

Chapter 13

Party Information

Debtor(s):

Orlando Martinez

Represented By
Mark S Martinez

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, March 4, 2021

Hearing Room 5A

10:00 AM

8:17-14542 Paul E Marshall

Chapter 13

#9.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]
VW CREDIT LEASING, LTD.
VS.
DEBTOR

Docket 48

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 4, 2021

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):

Paul E Marshall

Represented By
James R Selth

Movant(s):

VW Credit Leasing, LTD

Represented By
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 4, 2021

Hearing Room 5A

10:00 AM

CONT... Paul E Marshall

Chapter 13

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

Thursday, March 4, 2021

Hearing Room 5A

10:00 AM

8:20-10017 Almazella Northington

Chapter 13

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

DEUTSCHE BANK NATIONAL TRUST COMPANY

VS.

DEBTOR

Docket 52

*** VACATED *** REASON: OFF CALENDAR: Order Granting Motion
for Relief from the Automatic Stay (Settled by Stipulation) Entered 2/24/2021

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic
Stay (Settled by Stipulation) Entered 2/24/2021 - td (2/24/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Almazella Northington

Represented By
Norma Duenas

Movant(s):

Deutsche Bank National Trust

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, March 4, 2021

Hearing Room 5A

10:00 AM

8:20-12564 Bryce Allen McGall

Chapter 7

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

2ND CHANCE MORTGAGES INC.

VS.

DEBTOR

Docket 47

*** VACATED *** REASON: OFF CALENDAR: Withdrawal of Motion
for Relief from Stay filed 2/22/2021

Courtroom Deputy:

**OFF CALENDAR: Withdrawal of Motion for Relief from Stay filed
2/22/2021 - td (2/23/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bryce Allen McGall

Represented By
Edmond Richard McGuire

Movant(s):

2nd Chance Mortgages Inc.

Represented By
Henry D Paloci

Trustee(s):

Weneta M.A. 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 4, 2021

Hearing Room 5A

10:00 AM

8:20-12607 Jose J Sanchez

Chapter 13

#12.00 CON'TD Hearing RE: Amended Motion for Relief from Stay

VEROS CREDIT, LLC

VS.

DEBTOR

FR: 2-11-21

Docket 35

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 11, 2021

Grant with 4001(a)(3) waiver; deny relief request #7 as Movant has provided no evidence or grounds for extraordinary relief.

Basis for Tentative Ruling:

Movant seeks an order making it effective for two years -- essentially requesting relief under 362(d)(4) without meeting the requirement for such relief as set forth in 362(d)(4) (e.g., multiple filings or transfer of property).

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.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, March 4, 2021

Hearing Room 5A

10:00 AM

**CONT... Jose J Sanchez
March 4, 2021**

Chapter 13

Movant to advise the court re the status of this matter. If more time is needed to finalize the adequate protection order, a further continuance may be requested during the Clerk's calendar roll call prior to the commencement of the hearing. Available continued dates: March 11, 2021, April 1, 2021, April 8, 2021 or April 22, 2021 at 10:00 a.m.

Party Information

Debtor(s):

Jose J Sanchez

Represented By
Gary Polston

Movant(s):

Veros Credit, LLC

Represented By
Robert M Tennant

Trustee(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 4, 2021

Hearing Room 5A

10:00 AM

8:20-13268 Miguel Angel Hernandez and Marlene E Perez

Chapter 7

#13.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]
PARTNERS FEDERAL CREDIT UNION
VS.
DEBTORS

Docket 11

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 4, 2021

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):

Miguel Angel Hernandez

Represented By
Daniel King

Joint Debtor(s):

Marlene E Perez

Represented By
Daniel King

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

Thursday, March 4, 2021

Hearing Room 5A

10:00 AM

CONT... Miguel Angel Hernandez and Marlene E Perez

Chapter 7

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, March 4, 2021

Hearing Room 5A

10:30 AM

8:17-10706 John Jean Bral

Chapter 11

#14.00 CON'TD Hearing RE: Reorganized Debtor John Bral's Motion to Extend Time to Object to Cannae Financial, LLC's Proof of Claim [Claim No. 17]

FR: 2-11-21, 2-18-21

Docket 962

*** VACATED *** REASON: CONTINUED TO 4/1/2021 AT 10:30 AM,
PER ORDER ENTERED 2/24/2021 (XX)

Courtroom Deputy:

CONTINUED: Hearing Continued to 4/1/2021 at 10:30 a.m., Per Order Entered 2/24/2021 (XX) - td (2/24/2021)

Tentative Ruling:

- NONE LISTED -

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

Shane M Biornstad

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

Thursday, March 4, 2021

Hearing Room 5A

10:30 AM

8:19-12411 Orange County Bail Bonds, Inc.

Chapter 11

#15.00 Hearing RE: Second Amended Plan of Reorganization for Small Business Under Chapter 11, Dated January 5, 2021

(Set at DS hrg. held 12-17-20)

Docket 244

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 4, 2021

Confirm the amended plan on the following conditions:

1. The fair and equitable requirement of Section 1191(c)(2)(A) requires that the plan provide that "all of the *projected* disposable income of the debtor . . ." will be applied. Debtor has proposed a guaranteed minimum of "actual" disposable income without providing the legal basis for this new standard in light of the clear and unambiguous statutory requirement. In order to be confirmed, the plan must provide for projected disposable income, i.e., \$287,047. See, by analogy *In re Anderson*, 21 F.3d. 355, 357 (9th Cir. 1994) [interpreting 1325(b)(1)(B) to require projected disposable income as stated in the statute and not *actual* disposable income]
2. Debtor amends the plan to clearly state the remedies in the event that payments are not made in order to satisfy Section 1191(c)(3)(B), e.g., cure period followed by right of creditors to seek enforcement of the plan, *In re Ellingsworth Residential Community Association, Inc.* 2020 WL 6122645 (Bankr.M.D. Fla.Oct. 16 2020), dismissal or conversion of case, waiver of discharge, etc.
3. With respect to Debtor's principal's post-petition insider compensation claim (the "Insider Compensation Claim"), on the one hand, the Plan states

**United States Bankruptcy Court
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Santa Ana
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Thursday, March 4, 2021

Hearing Room 5A

10:30 AM

CONT... Orange County Bail Bonds, Inc.

Chapter 11

that Robert Miller agreed to subordinate his Insider Compensation Claim of \$88,500 to be paid outside of the Plan if the Plan is confirmed and not converted to chapter 7. See Plan, Ex. D, p. 21:-23-22:6 (page numbers at top of page) . Yet, the Plan exhibits show Mr. Miller receiving \$55,000 on the effective date of the Plan on account of the Insider Compensation Claim. Plan, Ex. E. The DS also states that Mr. Miller will receive \$55,000 in full satisfaction of his Insider Compensation Claim on the Effective Date. DS, p. 27-28. Similarly, the Confirmation Brief also indicates that Mr. Miller will receive this payment. See Conf. Br., p. 23:25-24:1.

4. Amend the plan to include the revisions requested by the Trustee:

a. Assets will not revest in the Debtor upon confirmation but rather upon entry of the discharge; and

b. The Debtor's related persons/entities execute a tolling agreement regarding potential avoidance power actions (as mentioned in Docket #243, p. 42 of 56 at lines 21-26).

Additional Comments:

The court overrules the Objecting Creditor's objections regarding feasibility and lack of good faith.

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
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Hearing Room 5A

10:30 AM

CONT... Orange County Bail Bonds, Inc.

Chapter 11

Trustee(s):

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, March 4, 2021

Hearing Room 5A

10:30 AM

8:19-12411 Orange County Bail Bonds, Inc.

Chapter 11

#16.00 Hearing RE: First and Final Application for Compensation and Reimbursement of Expenses

**[GOE FORSYTHE & HODGES LLP, COUNSEL FOR DEBTOR AND DEBTOR
IN POSSESSION]**

Docket 262

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 4, 2021

Approve fees in the amount of \$300,000 and expenses as requested.

Basis for Tentative Ruling:

The court is aware that, contrary to the characterization of Objecting Creditor, this was not a simple case. It has been a highly contentious case with over 200 docket entries. The court accepts Debtor's counsel's voluntary reduction of \$70,000 as a reasonable and sufficient. To the extent Objecting Creditor seeks a reduction in excess of \$70,000, such objections are overruled.

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

Thursday, March 4, 2021

Hearing Room 5A

10:30 AM

8:19-12411 Orange County Bail Bonds, Inc.

Chapter 11

#17.00 Hearing RE: Application for Payment of Final Fees and Expenses

**[FOGG BOOKKEEPING SERVICES, ACCOUNTANT FOR ORANGE COUNTY
BAIL BONDS, INC.]**

Docket 263

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 4, 2021

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):

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
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Thursday, March 4, 2021

Hearing Room 5A

10:30 AM

8:19-12411 Orange County Bail Bonds, Inc.

Chapter 11

#18.00 Hearing RE: Application for Final Fees and Expenses

[GRIFFITHS, DIEHL & COMPANY, INC., ACCOUNTANT FOR DEBTOR]

Docket 264

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 4, 2021

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):

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, March 4, 2021

Hearing Room 5A

10:30 AM

8:19-12411 Orange County Bail Bonds, Inc.

Chapter 11

#19.00 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; 7-16-20; 11-19-20; 12-17-20

Docket 123

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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.

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.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, March 4, 2021

Hearing Room 5A

10:30 AM

CONT... Orange County Bail Bonds, Inc.

Chapter 11

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.

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. (XX)

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.

November 19, 2020

Continue this hearing one final time to December 17, 2020 at 10:30 a.m., the same date/time as hearing on approval of Debtor's disclosure statement. (XX)

The Court's Brief, Abbreviated Comments

1. The court is inclined to deny the Motion on the basis of lack of good faith, a heavy burden of proof which rests with the Movant.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, March 4, 2021

Hearing Room

5A

10:30 AM

CONT... **Orange County Bail Bonds, Inc.**

Chapter 11

2. The filing of a bankruptcy case in lieu of posting an appeal bond is not *per se* bad faith.

3. The conversion of a chapter 11 case to Sub Chapter V is not *per se* bad faith. The court does not find the cases cited by Movant re good faith issues in published Sub Chapter V cases persuasive -- in one case the election to convert to Sub Chapter V was made 15 months after the initial filing. In another the court found lack of impairment of the objecting creditor's property interest. In light of the disallowance of the ACIC claim and the apparent equity in the Saddozai property, it is unlikely that Movant can demonstrate significant harm to any property interest.

4. The election results are in and the outcome is favorable to Debtor's bail bond business, which militates in favor allowing the reorganization process to proceed.

5. Notwithstanding the foregoing comments, the court will re-review the Motion in conjunction with Debtor's disclosure statement and plan in preparation for the December 17, 2020 hearing.

6. Debtor's request to strike the supplemental brief is denied. Under LBR 9013-1(m)(4), unless otherwise ordered by the court, "a continuance of the hearing of a motion automatically extends the time for filing and serving opposing or responsive documents and reply documents." This hearing was continued from July 16, 2020 and the supplemental brief was filed on October 29, 2020, twenty-one days prior to today's hearing.

7. The court will reserve its full analysis for the December 17, 2020 hearing and is inclined not to entertain any substantive argument at today's hearing.

Note: If all parties accept the foregoing tentative ruling (i.e., the continuance to Dec. 17, 2020), appearances at this hearing are not required.

December 17, 2020

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, March 4, 2021

Hearing Room 5A

10:30 AM

CONT... Orange County Bail Bonds, Inc.
Deny Motion

Chapter 11

Basis for Tentative Ruling

See the court's comment #s 1-4 above in its November 19, 2020 tentative ruling.

March 4, 2021

Deny motion if plan is confirmed.

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
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, March 4, 2021

Hearing Room 5A

10:30 AM

8:19-12411 Orange County Bail Bonds, Inc.

Chapter 11

#20.00 CON'TD STATUS CONFERENCE Hearing RE: 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: 4-30-20; 7-16-20; 11-19-20; 12-17-20

Docket 105

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 30, 2020

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)

[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

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, March 4, 2021

Hearing Room 5A

10:30 AM

CONT... Orange County Bail Bonds, Inc.

Chapter 11

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.

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. (XX)

Note: Appearances at this hearing are not required.

November 19, 2020

Continue Status Conference to December 17, 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.

December 17, 2020

Continue Status Conference to February 18, 2021 at 10:30 a.m., same date/time as plan confirmation hearing. Updated status report is not required.

March 4, 2021

Off calendar if the plan is confirmed.

Party Information

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

Thursday, March 4, 2021

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, March 4, 2021

Hearing Room 5A

10:30 AM

8:19-14708 Luz D Meza

Chapter 7

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

[WENETA M.A. KOSMALA, CHAPTER 7 TRUSTEE]

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 4, 2021

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):

Luz D Meza

Pro Se

Trustee(s):

Weneta M.A. Kosmala (TR)

Pro Se

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

Thursday, March 4, 2021

Hearing Room 5A

10:30 AM

8:20-11026 Little John's Antique Arms, Inc.

Chapter 11

#22.00 CON'TD Hearing RE: Debtor and Debtor-in-Possession's Second Omnibus Motion Objecting to Claims (RE: Claim #4):

Cl. #4 Theodore Lauriano \$2,400.00

FR: 1-21-21

Docket 149

***** VACATED *** REASON: OFF CALENDAR: Withdrawal of
Objection to Claim No. 4 filed by Theodore Lauriano, filed 1/28/2021**

Courtroom Deputy:

**OFF CALENDAR: Withdrawal of Objection to Claim No. 4 filed by
Theodore Lauriano, filed 1/28/2021 - td (1/29/2021)**

Tentative Ruling:

January 21, 2021

Grant Motion as to Claim #5 (Dale & Eileen Strong), Claim #7 (Estate of Charles Porter) in the reduced amount of \$19,474.25, Claim #12 (Gene Kan), Claim #13 (Ron & Nicki Chambers), and Claim #18 [erroneously identified as Claim #16 in the Motion (Rosalva Garcia)]. Continue hearing as to Claim #4 (Theodore Lauriano) to March 4, 2021 at 10:30 a.m. to allow Debtor to correct service [served at incorrect address]. (XX)

Basis for Tentative Ruling:

1. According to the Claims Register, the claim of Rosalva Garcia is Claim #18, not #16.
2. The proof of service attached to the Motion indicates that claimant Theodore Lauriano was served at "13723 Canyon Crest Way, **Corona**, CA

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92880". However, the proof of claim shows the address as "13723 Canyon Crest Way, **Eastvale** CA 92880." Tentative ruling for 3/4/21 hearing (if unopposed): Grant.

Note: If Debtor accepts the tentative ruling, appearance at this hearing is 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
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Thursday, March 4, 2021

Hearing Room 5A

10:30 AM

8:20-11254 Mark N. Glover and Connie M. Glover

Chapter 7

#23.00 Hearing RE: Chapter 7 Trustee's Final Report and Application for Final Fees and Expenses

[KAREN SUE NAYLOR, CHAPTER 7 TRUSTEE]

Docket 38

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 4, 2021

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):

Mark N. Glover

Represented By
Halli B Heston

Joint Debtor(s):

Connie M. Glover

Represented By
Halli B Heston

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, March 4, 2021

Hearing Room 5A

10:30 AM

8:20-11254 Mark N. Glover and Connie M. Glover

Chapter 7

#24.00 Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses From June 23, 2020 Through October 5, 2020

[HAHN FIFE & COMPANY LLP, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]

Docket 34

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 4, 2021

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):

Mark N. Glover

Represented By
Halli B Heston

Joint Debtor(s):

Connie M. Glover

Represented By
Halli B Heston

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 4, 2021

Hearing Room 5A

10:30 AM

8:20-13345 Daniel L. Bassett

Chapter 13

#25.00 Hearing RE: Motion of United States Trustee to Determine Whether Compensation Paid to Counsel was Excessive Under 11 U.S.C. Section 329 and F.R.B.P. 2017 and to Order Counsel to File a 2016(b) Statement

Docket 14

***** VACATED *** REASON: OFF CALENDAR: Order Approving Stipulation Regarding Counsel's Fees Pursuant to U.S. Trustee's Motion Under 11 U.S.C. §329 Entered 1/22/2021**

Courtroom Deputy:

OFF CALENDAR: Order Approving Stipulation Regarding Counsel's Fees Pursuant to U.S. Trustee's Motion Under 11 U.S.C. §329 Entered 1/22/2021 - td (1/22/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel L. Bassett

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**

Thursday, March 4, 2021

Hearing Room 5A

10:30 AM

8:21-10135 Chase Merritt Global Fund LLC

Chapter 11

#26.00 STATUS CONFERENCE Hearing on (1) Status of Subchapter V Case; (2) Requiring Report on Status of Subchapter V Case by Debtor and Subchapter V Trustee; and (3) Requiring Subchapter V Trustee to Appear at the Status Conference

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 4, 2021

Deadline to file plan/disclosure stmt:

April 20, 2021

Continued Status Conference:

June 17, 2021 at

10:30am

Deadline to file Updated Status Report (Debtor)

June 3, 2021

Deadline to file Update Status Report (Trustee)

June 10, 2021

An Updated Status Report need not be filed by either Debtor or Trustee if a plan and disclosure statement is filed by or before June 3, 2021.

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required. The Court will issue it's own order.

Party Information

Debtor(s):

Chase Merritt Global Fund LLC

Represented By
W. Derek May

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, March 4, 2021

Hearing Room 5A

2:00 PM

8:19-13858 Bruce Elieff

Chapter 7

Adv#: 8:20-01178 Banning Bench Community of Interest Association, I v. Elieff

#27.00 Hearing RE: Defendant's Motion to Dismiss Adversary Complaint for Failure to State a Claim upon Which Relief Can Be Granted Pursuant to Federal rule of Civil Procedure 12(b)(6)

Docket 5

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 4, 2021

Grant the motion in its entirety with leave to amend. An amended complaint must be filed no later than March 25, 2021 and a responsive pleading no later than April 22, 2021.

Basis for Tentative Ruling:

I. Short Answer:

Standing as a Creditor: Plaintiff asserts the ability to seek relief re alter ego pursuant to CCP 187, but does not cite CCP 187 in the complaint.

523(a)(2)(A)

The First Claim for Relief fails to allege all of the elements of fraud that are required to properly plead nondischargeability on the basis of 523(a)(2)(A). This statute excludes from discharge any debt "obtained by false pretenses, a false representation or actual fraud". In addition, the elements of fraud are 1) a representation, 2) known to be false when made, 3) for the purpose of deceiving a creditor, 4) who relied on such representation, 5) to its financial detriment. FRCP 9 requires that fraud be alleged with particularity.

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Bruce Elieff

Chapter 7

Here, the debt is the Fee Judgment. The complaint, on its face, fails to allege the who/what/when/where/how Defendant obtained money, peoperty, services, or an extension, renewal, or refinancing of credit, by fraud. It further fails to adequately allege the false statements or false representations made by Defendant with respect to the creation of the Fee Judgment. It fails to alleges any facts concerning Plaintiff's justifiable reliance on any alleged false statements, nor does it allege a nexis between such statements and the financial harm suffered by Plaintiff.

727(a)

The Second Claim for Relief lumps several claims into a single claim. Each distinct claim should be set forth in a separate claim. More substantively, the as to 723(a)(2), the complaint should clearly allege activity that occured within one year of the bankruptcy filing. The complaint alleges transfers going back over more than a decade but only vaguely refers to activity occurring in September 2019. See Comp. ¶24. As to the claims under 723(a)(3), (a)(4), and (a)(5), the allegations are generally recitations of the statutory language without alleging specific facts for each claim.

Long Answer

Defendant moves to dismiss the Complaint under FRCP 12(b)(6) with prejudice (the "Motion")[dkt. 5] and (the "Reply")[dkt. 22]. Plaintiffs oppose the Motion (the "Opposition")[dkt. 15]. Both parties filed requests for judicial notice in support of their papers [dkt. 6 & 19].

1. Procedural Background

The Claim Objections

Banning Bench Community of Interest Association, Inc. ("Banning") filed proof of claim no. 19 in the general unsecured amount of \$747,360.09 for "State Court Judgment Awarding Statutory Attorneys' Fees" on February 13, 2020 in Bruce Elieff's bankruptcy case. Highland Springs Conference and Training Center ("Highland") filed proof of claim no. 15 in the general unsecured amount of \$881,398.89 for "Judgment for Attorneys' Fees" on

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February 10, 2020 in Bruce Elieff's bankruptcy case. Creditor Todd Kurtin previously filed objections to these claims [dkt. 574 & 575] but those objections were subsequently withdrawn [dkt. 903]. Howard Ehrenberg, the chapter 7 trustee of Bruce Elieff's substantively consolidated bankruptcy estates ("Trustee") later filed objections to Banning and Highland's claims (collectively, the "Claim Objections") [dkt. 1043 & 1045] on December 2, 2020. Per court approved stipulation, the hearings on the Claim Objections were continued to May 2, 2021 [dkt. 1093].

The Adversary Proceeding

Banning and Highland (collectively, "Plaintiffs") filed the instant nondischargeability complaint (the "Complaint") against Bruce Elieff ("Defendant") giving rise to the instant adversary proceeding on December 20, 2020. The Complaint alleges a cause of action under § 523(a)(2)(A), and a second cause of action under various subsections of § 727(a).

2. Legal standard

FRCP 12(b)(6), made applicable to this adversary proceeding under FRBP 7012, provides that a party may move to dismiss a claim for relief for "failure to state a claim upon which relief can be granted[.]" In *Atlantic Corp. v. Twombly*, 550 U.S. 544, 561 (2007), the Supreme Court established more stringent notice-pleading standards for motions to dismiss under FRCP 12(b)(6). A plaintiff is required to provide more than "labels and conclusions, and a formulaic recitation of the elements of a cause of action" *Id.* at 555. The plaintiff must provide "enough facts to state a claim to relief that is plausible on its face" to nudge "their claims across the line from conceivable to plausible[.]" *Id.* at 570.

"To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (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." *Id.* The plausibility standard is not akin to a 'probability

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requirement,' but it asks more than a sheer possibility that a defendant has acted unlawfully." *Id.* "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." *Id.* While legal conclusions can provide the framework of a complaint, "they must be supported by factual allegations." *Id.* at 679. "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.* (internal citations omitted). The court must construe the complaint in the light most favorable to the plaintiff, accept all well-pleaded factual allegations as true, and "all reasonable inferences drawn from them". *Johnson v. Riverside Healthcare Sys., LP.*, 534 F.3d 1116, 1122 (9th Cir. 1990).

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); *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."). When documents attached to a complaint contradict allegations in the complaint, the document must prevail. See *Ott v. Home Sav. & Loan Assoc.*, 265 F.2d 643, 646 fn.1 (9th Cir. 1958) (when allegations are inconsistent with the terms of a contract attached as an exhibit, the terms of the contract must prevail over the inconsistent allegations). 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*, 116 F.Supp.3d at 1118.

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3. Fee Judgment Background

In November 2006, Plaintiffs, along with several other environmental group plaintiffs, filed separate Petitions for Writ of Mandate against defendant the City of Banning in Riverside Superior Court. These plaintiffs sought to set aside land use entitlements the City of Banning had granted to SunCal Companies to develop 1,500 acres of land, known as "Black Bench Ranch," that were adjacent to the San Bernardino National Forest. See Compl., ¶¶ 8-12, 30-34. Because SunCal subsequently conveyed its rights under the project to SCC/Black Bench, LLC ("SCC/BB"), SCC/BB was added as the real party in interest in these related actions (collectively, the "State Court Litigation"). See Compl., 30-34; Def. RJN, Def. RJN, Ex. A-B (Petitions for Writs of Mandate).

In their petitions for writ of mandate, Plaintiffs pled that the Notice of Determination regarding the Black Bench Project was filed on October 27, 2006. See Def. RJN, Def. RJN, Ex. A-B (Petitions for Writs of Mandate). On April 8, 2008, four separate judgments were entered granting Plaintiffs' requests for a Peremptory Writs of Mandate directed to the City of Banning. See Compl., ¶35; Def. RJN, Ex. C-F (the judgments). In October 2008, judgment for attorneys' fees and costs (collectively, the "Fee Judgment") were entered in favor of Plaintiffs against SCC/BB, granting Banning \$288,920.01 in costs and attorneys' fees against SCC/BB and \$421,819.96 in costs and attorneys' fees against SCC/BB in favor of Highland. See Compl., ¶37; Def. RJN, Ex. G-H (the Fee Judgment).

Plaintiffs' initial attempt to add SCC Acquisitions, Inc. ("SCCA") to the Fee Judgment as an alias was denied. On appeal, the lower court's ruling was overruled and remanded, and on January 12, 2017, SCCA was added to the Fee Judgment as the alter ego of SCC/BB. See Compl., ¶¶42-45; Pl. RJN, Ex. A (Notice of entry of Judgment adding SCCA to Fee Judgment as judgment debtor). The Fee Judgment serves as the basis for the proof of claims filed by Plaintiffs that are currently the subject of Trustee's Claim Objections.

4. There is no statute of limitations applicable to Code of Civil Procedure ("CCP") § 187 but the Complaint fails to cite to CCP §

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Bruce Elieff
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Defendant's first argument is that Plaintiffs lack standing to assert their §§ 523 and 727 claims because, on the petition date, Plaintiffs were not creditors of Defendant since they did not hold an enforceable debt against Defendant. See Mot., p. 8-10; Reply, p. 4-6. Relying on *People v. Clauson*, 231 Cal. App. 2d 374, 376 (1964), Defendant argues that the statute of limitations for Plaintiffs' alter ego claims are connected directly to the statute of limitations for the claims asserted in the State Court Litigation. Because the statute of limitations for the claims asserted in the State Court Litigation expired, at the latest, on October 27, 2006 under California Public Resources Code §§ § 21167(b) or (d), the statute of limitations for the alter ego claims also expired on October 27, 2006. See Mot., p. 8-10; Reply, p. 4-6.

Defendant's argument that the statute of limitations applicable to the underlying claim is also applicable to the alter ego claim is accurate. As one district court, interpreting *People v. Clauson*, found, the applicable statute of limitations for alter ego claims is the statute of limitations for the underlying claim upon which the alter ego claim is based. "Clauson does not stand for the proposition that alter ego claims are not subject to the statute of limitations... the Court finds that plaintiff's claims, to the extent they are premised on an alter ego theory of liability, are subject to the same statute of limitations that attend each underlying claim." *Gerling Global Reinsurance Corp. of Am., et al. v. Fremont General Corp., et al.*, Case No. CV05-5454 (PJWx), 2005 WL 8167691, *8 (C. D. Cal., Dec. 15, 2005), *aff'd*, 287 F. App'x 3 (9th Cir. 2008).

Defendant's argument lacks merit, however, because it misinterprets the underlying basis of Plaintiffs' alter ego claims. The basis of these alter ego claims is not the direct claims asserted in the State Court Litigation, rather, the basis is CCP § 187. See Opp'n, p. 4-5. And because there is no applicable statute of limitations to CCP § 187, there is no applicable statute of limitations to Plaintiffs' alter ego claims. See *Highland Springs Conference and Training Center, et al. v. City of Banning, et al.*, 244 Cal.App.4th 267, 287 (Jan. 26, 2016)("No statute of limitations applies to a section 187 motion to amend a judgment to add a judgment debtor.").

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Defendant maintains that the Complaint does not request that Defendant be "added" to the Fee Judgment under CCP § 187 and even if it did, the court lacks the authority to alter or amend the Fee Judgment under 28 U.S.C. § 1738 and California law. See Mot., p. 10; Reply, p. 5. The Complaint does not specifically cite to CCP § 187 and on that basis the Motion will be granted with leave to amend because this deficiency could easily be fixed by amendment. And such amendment would not be futile because, under Ninth Circuit authority not cited by the parties, Plaintiffs could rely on CCP § 187:

We have held that Federal Rule of Civil Procedure 69(a) empowers federal courts to rely on state law to add judgment-debtors under Rule 69(a), which "permits judgment creditors to use any execution method consistent with the practice and procedure of the state in which the district court sits."...Because California law allows amendment of a judgment to add a judgment-debtor, we held that the district court did not abuse its discretion in so doing....

The instant case is analogous since the Levanders also were judgment-creditors attempting to collect on a debt. As such, Rule 69(a) authorized the use of California law to collect on their debt, and the district court erred by holding that the bankruptcy court did not have the jurisdiction to allow them to do so.

In re Levander, 180 F.3d 1114, 1120–22 (9th Cir. 1999). The Ninth Circuit went on to hold that, "the district court erred when it reversed the bankruptcy court's order, because the bankruptcy court had jurisdiction to add the Partnership as a judgment-debtor under both its inherent power and § 187 of the California Code of Civil Procedure." *Id.* at 1123; *Bank of Montreal v. SK Foods, LLC*, 476 B.R. 588, 597 (N.D. Cal. 2012), *aff'd sub nom. Bank of Montreal v. Salyer*, 599 F. App'x 706 (9th Cir. 2015).

Finally, the court will not rule, within the context of a FRCP 12(b)(6) motion, on the merits of Defendant's affirmative defense that doctrine of laches bars Plaintiffs' claims under § 187. Rather, the court must construe the Complaint in the light most favorable to Plaintiffs, and accept all well-

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pleaded factual allegations as true, and "all reasonable inferences drawn from them". See *Johnson v. Riverside Healthcare Sys., LP.*, 534 F.3d 1116, 1122 (9th Cir. 1990).

Even taking the allegations in the Complaint as true, because the Complaint fails to cite CCP § 187, the Motion will be granted. Leave to amend will be granted, however, because amendment to the Complaint will not be futile in light of the Ninth Circuit authority cited above which may convey standing on Plaintiffs if the allegations in the amended Complaint are viewed as true.

5. The First Claim is Inadequately Pled

Plaintiffs allege a sole count under § 523(a)(2)(A) against Defendant for fraud (the "First Claim"). See Compl., 18-19, ¶¶58-62. Under § 523(a)(2)(A), a debt is nondischargeable if the debt is for "for money, property, services, or an extension, renewal, or refinancing of credit, to the extent obtained, by...(A) false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition[.]"

Where fraud is alleged, "under FRCP 9(b), applicable via Rule 7009, fraud must be pleaded with particularity." *In re Jacks*, 266 B.R. 728, 734 (BAP 9th Cir. 2001). Allegations of fraud must comply with FRCP (9)(b). "To comply with Rule 9(b), allegations of fraud must be specific enough to give defendants notice of the particular misconduct which is alleged to constitute the fraud charged so that they can defend against the charge and not just deny that they have done anything wrong." *Bly-Magee v. Cal.*, 236 F.3d 1014, 1019 (9th Cir. 2001). Moreover, "[t]erms such as 'conversion,' ... 'willful,' 'oppressive,' 'fraudulent,' and 'malicious' are generic terms of a conclusory nature. Stating them serially in a complaint does not transmute them into fact." *In re Aboukhater*, 165 B.R. 904, 909 (BAP 9th Cir. 1994).

For a debt to be non-dischargeable pursuant to § 532(a)(2)(A), the following five elements must be proven by a preponderance of the evidence: (1) the debtor made the representations; (2) that at the time he knew they

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were false; (3) that he made them with the intention and purpose of deceiving the creditor; (4) that the creditor justifiably relied on such representations; and (5) that the creditor sustained the alleged loss and damage as the proximate result of the representations having been made. *In re Kirsh*, 973 F.2d. 1454, 1457 (9th Cir. 1992). The § 523(a)(2)(A) elements mirror the elements of common law fraud. *In re Younie*, 211 B.R. 367, 373 (9th Cir. BAP 1997). " 'Actual fraud' in Section 523(a)(2)(A) includes 'forms of fraud, like fraudulent conveyance schemes, that can be effected without a false representation.' " *In re Wing Cheung Wong*, 802 F. App'x 280, 282 (9th Cir. 2020)(citing *Husky Int'l Elecs., Inc. v. Ritz*, 136 S. Ct. 1581, 1590, 194 L. Ed. 2d 655 (2016)). A statement about a single asset may be a "statement respecting the debtor's financial condition under 523(a)(2)(A). See *Lamar, Archer, & Cofrin, LLP*, 138 S.Ct. 1752, 1764 (2018).

In this case, the First Claim is not plausible. The Complaint generically refers to "numerous instances of fraud" but does not specify which part of § 523(a)(2)(A) it is alleging Defendant committed- a false pretense, a false representation, and/or actual fraud. As discussed above, allegations of fraud must be pled with particularity. See Compl., ¶61; Mot., p. 11-12; Reply, p. 6.

The Complaint does not plead any facts regarding justifiable reliance at all.

Finally, the Complaint fails to allege facts showing the connection between the Fee Judgment and the conduct that Defendant allegedly committed. See Mot., p. 12:8. Section 523 states that a debt for money (here, the Fee Judgment) is nondischargeable to the extent the debt (the Fee Judgment) was obtained by false pretenses, false representation or actual fraud. If alleging a false representation, Plaintiffs have failed to make any connection between Elieff's statements that he is not the alter ego of SCCA to entry of the Fee Judgment. And if alleging actual fraud (a *Husky* claim), Plaintiffs have similarly failed to make any connection between the transfer of assets, tradenames, and sham liens to entry of the Fee Judgment in 2008. See Compl, 37; Opp'n, p. 5-7.

Plaintiffs have failed to state a plausible claim under § 523(a)(2)(A) because, viewing the allegations in the Complaint that Defendant is the alter ego of SCCA as true, Plaintiffs have failed to allege any facts that the Fee

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Judgment was obtained by false pretenses, false representations, or actual fraud. Instead, the Complaint alleges facts that support the inference that the Fee Judgment was entered as a routine procedural matter for attorneys' fees and costs after entry of the judgments in the State Court Litigation. See Compl., ¶37.

6. The Second Claim is Inadequately Pled

In their second claim for relief (the "Second Claim"), Plaintiffs seek to deny Defendant's discharge under § 727(a)(2)(A) and (B), (a)(3), (a)(4), and (a)(5). See Compl., p. 19-20, ¶¶63-69. Starting with the claims under § 727(a)(2)(A) and (B), those sections deny a discharge to a debtor when,

[T]he "debtor, with intent to hinder, delay, or defraud a creditor or an officer of the estate charge with custody of property under this title, has transferred, removed, destroyed, mutilated, or concealed, or has permitted to be transferred, removed, destroyed, mutilated or concealed... (A) property of the debtor, *within one year* before the filing of the petition... or (B) property of the estate, after the date of the filing of the petition[.]

11 U.S.C. § 727(a)(2)(emphasis added). "Section 727(a)(2) is intended to prevent the discharge of a debtor who attempts to avoid payment to creditors by concealing or otherwise disposing of assets." 6 Collier on Bankruptcy ¶ 727.02[1] (16th 2020). It requires a showing of actual intent as distinguished from constructive intent. *Id.* at ¶ [3][a]; Mot., p. 14. Actual intent may be demonstrated by "circumstantial evidence or on inferences drawn from a course of conduct" such as the badges of fraud. *Id.* at ¶[3][b] (16th 2020). As noted by the Ninth Circuit:

Certain "badges of fraud" strongly suggest that a transaction's purpose is to defraud creditors unless some other convincing explanation appears. These factors, not all of which need be present, include 1) a close relationship between the transferor and the transferee; 2) that the transfer was in anticipation of a pending suit; 3) that the transferor Debtor was insolvent or in poor financial [**6] condition at the time; 4) that all or substantially all of the Debtor's property was transferred; 5) that the transfer so completely depleted the Debtor's assets that the creditor has been hindered or delayed in

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recovering any part of the judgment; and 6) that the Debtor received inadequate consideration for the transfer.

In re Woodfield, 978 F.2d 516, 518 (9th Cir. 1992).

In this case, the Complaint alleges facts regarding the transfer and concealment of Defendant's assets that occurred within over more than a decade with only a vague reference to activity taking place in September 2019, within one year of the petition date. See Compl., ¶¶16-24. This is inadequate.

Under 11 U.S.C. § 727(a)(3), a debtor's discharge is denied where "the debtor has concealed, destroyed, mutilated, falsified, or failed to keep or preserve any recorded information, including books, documents, records, and papers, from which the debtor's financial condition or business transactions might be ascertained, unless such act or failure to act was justified under all of the circumstances of the case." As explained by the Ninth Circuit: A creditor states a prima facie case under § 727(a)(3) by showing " (1) that the debtor failed to maintain and preserve adequate records, and (2) that such failure makes it impossible to ascertain the debtor's financial condition and material business transactions." "... After showing inadequate or nonexistent records, "the burden of proof then shifts to the debtor to justify the inadequacy or nonexistence of the records."...

The Seventh Circuit has held that § 727(a)(3) "places an affirmative duty on the debtor to create books and records accurately documenting his business affairs."... The court also noted that when a debtor is sophisticated and carries on a business involving substantial assets, "creditors have an expectation of greater and better record keeping...." Although § 727(a)(3) does not demand absolute completeness in a debtor's records, it does require a debtor to keep and preserve records that will enable his creditors to accurately ascertain his financial condition and business transactions... Thus, we hold that when a debtor owns and controls numerous business entities and engages in substantial financial transactions, the complete absence of recorded information related to those entities and transactions establishes a prima facie violation of 11 U.S.C. § 727(a)(3). Likewise, we hold that when a debtor transfers a substantial amount of money to a third party, the failure to

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keep any documentation evidencing the terms of the transfer or the fact that the payment actually took place establishes a prima facie violation of 11 U.S.C. § 727(a)(3).

If a creditor establishes a prima facie violation of § 727(a)(3), a debtor may show that he is nonetheless entitled to discharge by establishing that his failure to keep or preserve records was justified under the circumstances of his case. *In re Caneva*, 550 F.3d 755, 761–63 (9th Cir. 2008)(citations omitted). Here, even viewing the allegations in the Complaint as true, Plaintiffs have failed to adequately allege a plausible prima facie case under § 727(a)(3) because they have merely recited the statutory language without alleging any specifics regarding the alleged failure to maintain financial records.

11 U.S.C. § 727(a)(4) denies a discharge to the debtor where "the debtor knowingly and fraudulently, in or connection with the case, made a false oath or account." "A false statement or an omission in the debtor's bankruptcy schedules or statement of financial affairs can constitute a false oath." *In re Retz*, 606 F.3d 1189, 1196 (9th Cir. 2010) (citations omitted). "To prevail, a plaintiff must show that '(1) the debtor made a false oath in connection with the case; (2) the oath related to a material fact; (3) the oath was made knowingly; and (4) the oath was made fraudulently.'" *Id.* at 1197 (citations omitted).

Additionally, the statement must be material fact. *In re Aubrey*, 111 B.R. 268, 274 (9th Cir. BAP 1990). "A false statement is material if it bears a relationship to the debtor's business transactions or estate, or concerns the discovery of assets, business dealings, or the existence and disposition of the debtor's property." *In re Wills*, 243 B.R. 58, 62 (B.A.P. 9th Cir. 1999). The plaintiff must also "show that the debtor knowingly and fraudulent made a false oath." *Id.* at 64. The fraudulent intent must be actual, not constructive, and can be established by circumstantial evidence. *Id.*

Here, the Second Claim fails to allege any facts regarding a false oath being fraudulently made by Defendant in this case. See Compl., ¶¶53-55; Opp'n, p. 8. The alleged false oaths in this case is Defendant's assertion that he is not indebted to Plaintiffs although he listed them on his list of creditors.

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See id., ¶53. This is insufficient. As fraud must be pled with particularity, this statement alone does not rise to the level of fraudulent intent. As for § 727(a)(4)(C), this section refers to extortion and bribery committed by the debtor during the case:

The conduct of the debtor under section 727(a)(4)(C) must be done "in or in connection with the case" in which he or she is presently a debtor, unless it is in connection with a case concerning an insider under section 727(a)(7). The conduct referred to in section 152 of title 18 may be done "in any case under title 11." Section 727(a)(4)(C) covers any "extortion," even using that word in a broad, general sense, and bribery. It also covers an attempt to extort, and an attempt to bribe, which makes it unnecessary to establish that the consideration for acting or forbearing was paid, or for that matter, that the promised act was carried out. In addition, the giving or offering of bribes is forbidden. 6 Collier on Bankruptcy P 727.06 (16th 2020).

Accordingly, the Complaint allegations referring to Defendant's transfer of assets to his brother fail to state a plausible claim for relief under § 727(a)(4)(C). *See* Opp'n, p. 8; Compl., 25-28.

Finally, 11 U.S.C. § 727(a)(5) denies a discharge where "the debtor has failed to explain satisfactorily, before determination of denial of discharge under this paragraph, any loss of assets or deficiency of assets to meet the debtor's liabilities." A creditor objecting under § 727(a)(5) has the burden to prove that (1) the debtor owned identifiable assets at a time not too remote from the petition date; (2) the debtor no longer owned the assets on the date the bankruptcy petition was filed or order for relief granted; and (3) the bankruptcy documents do not reflect an adequate explanation for the disposition of the assets. *In re Retz*, 606 F.3d 1189, 1205 (9th Cir. 2010). Once a prima facie case is made, "the debtor must offer credible evidence regarding the disposition of the missing assets." *Id.* Whether the explanation is satisfactory is a question of fact for the bankruptcy court to determine. *Id.*

Here, Plaintiffs do not allege a plausible claim for relief under § 727(a)(5). While Plaintiffs have alleged that Defendant transferred tens of millions of dollars overseas and to insiders for inadequate consideration over a period spanning over a decade, Plaintiffs have failed to allege that the bankruptcy documents (schedules, SOFA, or other bankruptcy pleadings) fail to

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adequately explain the disposition of those assets transferred. See Compl., ¶ 56; Opp'n, p. 9. Ultimately, viewing the allegations in the Complaint as true, Plaintiffs have plausibly pled claims for relief under §§ 727 (a)(2)(A) and (B), and (a)(3). The Complaint does not allege plausible claims for relief under §§ 727(a)(4) and (a)(5).

7. Leave to amend is granted

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 to this proceeding 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. 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 light of the Ninth Circuit's policy of granting leave to amend with "extreme liberality," leave to amend the Complaint is granted.

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Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Defendant(s):

Bruce Elieff

Represented By
Robert P Goe

Plaintiff(s):

Banning Bench Community of

Represented By
John G McClendon

Highland Springs Conference and

Represented By
Josh Chatten-Brown

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

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#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address:

<https://cacb.zoomgov.com/j/1606980711>

ZoomGov meeting number: 160 698 0711

Password: 079395

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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- NONE LISTED -

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8:18-12003 Jack G. Gaglio

Chapter 7

Adv#: 8:18-01172 Pacific Western Bank v. Gaglio et al

#1.00 CON'TD STATUS 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; 4-9-20; 9-10-20; 12-10-20

Docket 1

*** VACATED *** REASON: OFF CALENDAR: Order Granting Motion and Joint Motion for Order Dismissing Complaint Entered 3/8/2021

Courtroom Deputy:

OFF CALENDAR: Order Granting Motion and Joint Motion for Order Dismissing Complaint Entered 3/8/2021 - td (2/12/2021)

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

Defendant(s):

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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

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8:19-10275 Michael J Duff

Chapter 7

Adv#: 8:19-01084 Constantin et al v. Duff

**#2.00 TRIAL STATUS CONFERENCE RE: Complaint to Deny Debtor's Discharge
(Attorneys Only)**

(Set per Order Entered 2/8/2021)

Docket 1

***** VACATED *** REASON: CONTINUED TO 4/22/2021 AT 9:30 A.M.,
PER ORDER ENTERED 2/24/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Trial Status Conference Continued to 4/22/2021 at 9:30
a.m., Per Order Entered 2/24/2021 (XX) - td (2/24/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael J Duff

Pro Se

Defendant(s):

Michael J. Duff

Represented By
David Brian Lally

Plaintiff(s):

Holly Constantin

Represented By
Alan W Forsley

Michael Constantin

Represented By
Alan W Forsley

Trustee(s):

Richard A Marshack (TR)

Pro Se

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8:19-11414 Peter Woo Sik Kim

Chapter 7

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

#3.00 TRIAL PROCEDURES 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; 7-9-20; 1-14-21

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.

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.

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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

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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. 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.

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Note: Appearances at this hearing are required.

January 14, 2021

Continue this Trial Procedures Conference to March 11, 2021 at 9:30 a.m.; postpone the Trial Dates to May 26, 2021 and May 27, 2021 starting each day at **9:30 a.m.**(XX)

Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing dates/times.

March 11, 2021

Counsel for Plaintiff and Defendants to advise the Court Clerk if they have read the Remote Trial Procedures set forth in the Tentative Ruling field as the same will be discussed at today's hearing.

Remote Trial Procedures

The trial in the above-captioned adversary proceeding is set for May 26 and May 27, 2021 commencing at 9:00 a.m. In light of the current COVID-19 pandemic, the Chief Judge of the District Court has issued orders closing all courthouses in Central District of California until further notice. See Order of the Chief Judge No. 21-02 (January 29, 2021). Pursuant to Rule 43(a) of the Federal Rules of Civil Procedure ("Federal Rules"), made applicable here by 9017 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), the current pandemic and closure of the Court's facilities provide "good cause in compelling circumstances" to conduct the Plan Confirmation Hearing remotely, through the use of telephonic and videoconferencing technologies.

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Further, the Court finds that the procedures adopted herein will provide "adequate safeguards" for purposes of Federal Rule 43(a) and ensure due process of law. These procedures will (i) enable the Court to identify, communicate with, and judge the demeanor of all witnesses in real time, (ii) enable counsel for the parties to see and hear the witness testimony, interpose objections, and communicate with the Court in real time, (iii) enable the parties, the witnesses and the Court to have simultaneous access to an identical set of pre-marked exhibits, (iv) avoid any undue influence or interference with the witnesses in connection with their testimony, and (v) preserve the ability of any witness to be represented by counsel during the proceeding, and to communicate with such counsel as the Court deems appropriate.

The following additional rules/requirements shall apply:

1. Audio and Video Conference Solutions. Trial shall take place using the telephonic and videoconferencing solutions described herein. Participants in the Trial will be connected with the courtroom using these technologies but will not be physically present in the courtroom. The Court will utilize Zoom for Government for audio and video. The Zoom dial-in information and URL (internet address) that enables participation in the audio and video portion of the proceedings are posted on the court's website at www.cacb.uscourts.gov under the tentative ruling field for each day of trial (each day of the trial has a separate login information).

2 Required Equipment. For purposes of participation in the Trial each participating attorney and each witness must have simultaneous access to: (1) a computer or other electronic device equipped with a camera that is capable of receiving and transmitting video using the Zoom audio/video platform; (2) Internet browsing software that is adequate to facilitate participation on the Zoom audio/video platform; (3) an Internet connection with bandwidth adequate to support the individual's use of Zoom; and (4) Adobe Acrobat Reader for purposes of reviewing exhibits, as directed by counsel or the Court. All parties must be situated in a quiet location to provide clear audio. (Although a headset is not required, the Court has found that headsets typically provide the highest quality audio when using the Zoom platform.)

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3. Prior Notice of Trial Participants. By 12:00 p.m. on May 19, 2021 the parties shall provide to the Court via email (Chambers_ESmith@cacb.uscourts.gov), and to each other, a list of all attorneys and witnesses who will participate in the Trial, together with an email address and telephone number for each. The telephone number provided should be a number at which the attorney or witness can be reached during the Trial in the event of an interruption in the audio or video feed. This requirement is in addition to any other requirements previously established by the Court for the parties to disclose to each other, by a date certain, the identity of the witnesses they intend to present at the Trial.

4. Electronic Submission of Trial Exhibits. On or before May 19, 2021, the parties shall provide to the Court via email (Chambers_ESmith@cacb.uscourts.gov), each other, and each witness, a .pdf (Adobe Acrobat) file of each exhibit the parties may use at the Trial for any purposes, including for rebuttal or impeachment.

- a. The parties may distribute these electronic documents by way of a secure link to an FTP or other file sharing service, if necessary.
- b. Each exhibit must be a separate .pdf file.
- c. The .pdf files shall be named sequentially. Plaintiff's exhibits shall be numbered as follows: P_Ex_1, P_Ex_2, P_Ex_3, etc. Defendants exhibits shall be lettered as follows: D_Ex_A, D_Ex_B, D_Ex_3, etc.
- d. Upon receipt of the electronic documents (or a download link),
- e. Each attorney and witness shall take the steps necessary to ensure that all electronic documents can be successfully opened and are readily available during the Trial.
- f. Each rebuttal or impeachment exhibit must be separately

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password-protected with a unique password. If, and only if, a party seeks to use a rebuttal or impeachment exhibit, the party will be required to provide the password for that particular exhibit. During trial, if an exhibit is used for rebuttal or impeachment, counsel offering the exhibit will provide the password and the exhibit will be displayed using the Zoom for Government "Share Screen" feature.

5. Paper Copies of Trial Exhibits. On or before May 19, 2021, the parties shall submit paper copies of Trial Exhibits to the court.

6. Remote Witness Testimony. Having found "good cause in compelling circumstances" and "adequate safeguards," any witness called to testify at the Trial shall testify by contemporaneous transmission from a different location into the courtroom (each a "Remote Witness").

a. A subpoena served on a Remote Witness must include the information in this Order Establishing Remote Trial Hearing Procedures.

b. All Remote Witnesses shall be placed under oath and their testimony shall have the same effect and be binding upon the Remote Witness in the same manner as if such Remote Witness was sworn and testified in open court.

c. Each Remote Witness shall provide their testimony from a quiet room and must situate themselves in such a manner as to be able to both view the video feed and be seen by the Court.

d. While the Remote Witness is sworn and testifying: (i) no person may be present in the room from which the Remote Witness is testifying, (ii) the Remote Witness may not have in the room any documents except the exhibits submitted by the parties pursuant to Paragraph 4 above and any declaration submitted in lieu of direct testimony, and (iii) may not communicate with any other person regarding the subject of their testimony, by electronic means or otherwise. If the witness or their counsel seek to communicate with one another, either shall openly request a

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recess for such purpose. If such request is granted by the Court, the witness and their counsel may privately confer "offline," i.e., by telephonic means that are not transmitted to the other parties.

7. Courtroom Formalities. Although conducted using videoconferencing technologies, the Trial constitutes a court proceeding. No person shall record— from any location or by any means—the audio or video of the Trial. The audio recording created and maintained by the Court shall constitute the official record of the Trial. Further, the formalities of a courtroom shall be observed. Counsel and witnesses shall dress appropriately, exercise civility, and otherwise conduct themselves in a manner consistent with the dignity of the Court and its proceedings.

8. The Court may require that all parties (attorneys, clients and witnesses) appear and participate in a Technical Status Conference with the Court's technology staff prior to the trial to ensure that any technological issues are addressed and resolved.

9. Continuance of Trial: The Court reserves the right to reschedule the commencement of the Trial if it determines that proceeding with the currently scheduled Trial dates would be infeasible.

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

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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

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8:19-13130 Mark Jeffrey Berry

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Adv#: 8:20-01175 Casey v. Banuelos, III

#4.00 STATUS CONFERENCE RE: Chapter 7 Trustee's Complaint to Avoid and Recover Transfers of Property of the Estate

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 11, 2021

Continue Status Conference to May 20, 2021 at 9:30 a.m.; updated Status Report must be filed by May 6, 2021.

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

Party Information

Debtor(s):

Mark Jeffrey Berry

Represented By
Francis Guilardi

Defendant(s):

Benjamin Banuelos, III

Pro Se

Plaintiff(s):

Thomas H. Casey

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 11, 2021

Hearing Room 5A

9:30 AM

8:19-13441 Alpha Floors, Inc.

Chapter 7

Adv#: 8:20-01156 Kosmala v. Xia

#5.00 CON'TD STATUS CONFERENCE RE: Complaint: (1) To Avoid Preferential Transfer Pursuant To 11 U.S.C. § 547; (2) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. § 548(A)(1)(A); (3) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. § 548(A)(1)(B); (4) For Recovery Of Avoided Transfers Under 11 U.S.C. § 550; (5) To Preserve Transfer For The Benefit Of The Estate Pursuant To 11 U.S.C. § 551; (6) Turnover Of The Property Of The Estate Pursuant To 11 U.S.C. § 542 Nature of Suit: (11 (Recovery of money/property - 542 turnover of property))

FR: 1-21-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Another Summons
Issued 2/3/2021; New Status Conference Set for 4/22/2021 at 9:30 am (xx)**

Courtroom Deputy:

**OFF CALENDAR: Another Summons Issued 2/3/2021; New Status
Conference Set for 4/22/2021 at 9:30 am (xx) - td (2/3/2021)**

Tentative Ruling:

January 21, 2021

Continue status conference to March 11, 2021 at 9:30 a.m. to allow Plaintiff to either file a proof of service showing proper service of the summons and complaint or to obtain another summons. (XX)

Comments:

The docket does not reflect that the summons and complaint were served and no status report has been filed. Failure to file a proof of service or to file a status report for the March 11, 2021 hearing will result in the imposition of sanctions against Plaintiff's in the amount of \$100 and the issuance of an order to show cause why the adversary proceeding should not be dismissed

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

Thursday, March 11, 2021

Hearing Room 5A

9:30 AM

CONT... Alpha Floors, Inc.
for failure to prosecute.

Chapter 7

Note: If Plaintiff accepts the tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

Alpha Floors, Inc.

Represented By
Eric J Fromme

Defendant(s):

Feiyu Xia

Pro Se

Plaintiff(s):

Weneta Kosmala

Represented By
Reem J Bello

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, March 11, 2021

Hearing Room 5A

9:30 AM

8:19-13858 Bruce Elieff

Chapter 7

Adv#: 8:20-01178 Banning Bench Community of Interest Association, I v. Elieff

#6.00 STATUS CONFERENCE RE: Complaint To Determine Dischargeability of Debt and Denial of Discharge

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 11, 2021

Continue Status Conference to June 3, 2021 at 9:30 a.m.; updated Status Report must be filed by May 20, 2021.

Note: Appearances at this hearing are not required; Plaintiffs to serve notice of the continued hearing date/time.

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Defendant(s):

Bruce Elieff

Pro Se

Plaintiff(s):

Banning Bench Community of

Represented By
John G McClendon

Highland Springs Conference and

Represented By
John G McClendon

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

Thursday, March 11, 2021

Hearing Room 5A

9:30 AM

CONT... Bruce Elieff

Chapter 7

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

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

Thursday, March 11, 2021

Hearing Room 5A

9:30 AM

8:20-10436 Chandra Marie Adam

Chapter 7

Adv#: 8:20-01174 Chicago Title Insurance Company v. Adam

**#7.00 STATUS CONFERENCE RE: Complaint by Chicago Title Insurance Company
To Determine Nondischargeability of Debt**

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 11, 2021

Continue Status Conference to April 15, 2021 at 2:00 p.m., same date/time as Defendant's Motion to Dismiss Adversary Proceeding; updated status report not required.

Note: Appearances at this Status Conference are not required; Plaintiff to serve notice of the continued hearing date/time.

Party Information

Debtor(s):

Chandra Marie Adam Pro Se

Defendant(s):

Chandra Marie Adam Pro Se

Plaintiff(s):

Chicago Title Insurance Company Represented By
Karen A Ragland

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 11, 2021

Hearing Room 5A

10:00 AM

8:21-10141 Judy Unsil Lim

Chapter 7

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

Docket 11

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 11, 2021

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):

Judy Unsil Lim

Represented By
Eric M Sasahara

Movant(s):

Financial Services Vehicle Trust

Represented By
Marjorie M Johnson

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

Thursday, March 11, 2021

Hearing Room 5A

10:00 AM

CONT... Judy Unsil Lim

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 11, 2021

Hearing Room 5A

10:30 AM

8:09-23483 Richard V Valdes

Chapter 7

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

[RICHARD A. MARSHACK, CHAPTER 7 TRUSTEE]

Docket 311

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 11, 2021

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):

Richard V Valdes

Represented By
David M Reeder

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
Sarah Cate Hays
Chad V Haes
Kristine A Thagard

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

Thursday, March 11, 2021

Hearing Room 5A

10:30 AM

8:09-23483 Richard V Valdes

Chapter 7

#10.00 Hearing RE: Third and Final Application for Allowance of Fees and Costs

**[MARSHACK HAYS LLP, ATTORNEYS FOR RICHARD A. MARSHACK,
CHAPTER 7 TRUSTEE]**

Docket 308

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 11, 2021

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):

Richard V Valdes

Represented By
David M Reeder

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
Sarah Cate Hays
Chad V Haes
Kristine A Thagard

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

Thursday, March 11, 2021

Hearing Room 5A

10:30 AM

8:09-23483 Richard V Valdes

Chapter 7

#11.00 Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses From April 30, 2012 through November 18, 2020

[HAHN FIFE & COMPANY, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]

Docket 307

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 11, 2021

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):

Richard V Valdes

Represented By
David M Reeder

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
Sarah Cate Hays
Chad V Haes
Kristine A Thagard

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

Thursday, March 11, 2021

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; 6-11-20; 9-10-20;
11-19-20; 1-14-21

Docket 128

***** VACATED *** REASON: CONTINUED TO 5/11/2021 AT 10:30 A.M.,
PER ORDER ENTERED 3/8/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 5/11/2021 at 10:30 a.m., Per Order
Entered 3/8/2021 (XX) - td (3/8/2021)**

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, 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

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

Thursday, March 11, 2021

Hearing Room 5A

10:30 AM

CONT... Stephen J Haythorne

Chapter 7

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 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 10:00 a.m.

Basis for Tentative Ruling

The courthouse remains closed to in-person court appearances and on-site

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

Thursday, March 11, 2021

Hearing Room 5A

10:30 AM

CONT... Stephen J Haythorne

Chapter 7

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.

September 10, 2020

Continue the examination to November 19, 2020 at 10:00 a.m. (XX)

Basis for Tentative Ruling

The courthouse is currently 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 November 19, 2020. Depending on the status of pandemic-related rules and policies in place on November 19, 2020, the examination 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.

Party Information

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

Thursday, March 11, 2021

Hearing Room 5A

10:30 AM

CONT... Stephen J Haythorne

Chapter 7

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, March 11, 2021

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; 6-11-20; 9-10-20;
11-19-20; 1-14-21

Docket 130

*** VACATED *** REASON: CONTINUED TO 5/11/2021 AT 10:30 A.M.,
PER ORDER ENTERED 3/8/2021 (XX)

Courtroom Deputy:

**CONTINUED: Hearing Continued to 5/11/2021 at 10:30 a.m., Per Order
Entered 3/8/2021 (XX) - td (3/8/2021)**

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, 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

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

Thursday, March 11, 2021

Hearing Room 5A

10:30 AM

CONT... Stephen J Haythorne

Chapter 7

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 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).

June 4, 2020

Continue the examination to September 10, 2020 at 10:00 a.m.

Basis for Tentative Ruling

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

Thursday, March 11, 2021

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.

September 10, 2020

Continue the examination to November 19, 2020 at 10:00 a.m. (XX)

Basis for Tentative Ruling

The courthouse is currently 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 November 19, 2020. Depending on the status of pandemic-related rules and policies in place on November 19, 2020, the examination 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.

Party Information

Debtor(s):

Stephen J Haythorne

Represented By
David S Henshaw

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

Thursday, March 11, 2021

Hearing Room 5A

10:30 AM

CONT... Stephen J Haythorne

Chapter 7

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, March 11, 2021

Hearing Room 5A

10:30 AM

8:18-11262 Jean A Butler-Boren

Chapter 13

#14.00 Hearing RE: Debtor Jean Butler-Boren's Motion for Order Re: Sale of Debtor's Residential Real Property of the Estate

Docket 105

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 11, 2021

Grant motion subject to overbids. Any overbidders wishing to bid on the real property known as 23882 Innisbrook Lane, Laguna Niguel, CA 92677 should state their names during the Clerk's calendar roll call prior to the commencement of the hearing. If there are no overbidders, the motion will be granted as filed.

Party Information

Debtor(s):

Jean A Butler-Boren

Represented By
Thomas J Polis

Trustee(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 11, 2021

Hearing Room 5A

10:30 AM

8:19-12411 Orange County Bail Bonds, Inc.

Chapter 11

#15.00 Hearing RE: First Interim Fee Application for Approval of Compensation for the Period From March 12, 2020 Through February 3, 2021

[MARK M. SHARF, SUBCHAPTER V TRUSTEE]

Docket 257

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 11, 2021

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):

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, March 11, 2021

Hearing Room 5A

10:30 AM

8:19-13242 10827 Studebaker LLC, a California limited liabili

Chapter 11

#16.00 Hearing RE: First and Final Fee Application of SulmeyerKupetz, A Professional Corporation, Attorneys for Debtor in Possession

[SULMEYERKUPETZ, A PROFESSIONAL CORPORATION, ATTORNEYS FOR DEBTOR IN POSSESSION]

Docket 197

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 11, 2021

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):

10827 Studebaker LLC, a California

Represented By
Steven Werth
Alan G Tippie

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

Thursday, March 11, 2021

Hearing Room 5A

10:30 AM

8:19-13547 Luis Alberto Rodriguez, Jr.

Chapter 11

**#17.00 Post-Confirmation Status Conference Hearing RE: First Amended Chapter 11
Plan of Reorganization**

(Set at Conf Hrg held 9-17-20)

Docket 79

***** VACATED *** REASON: OFF CALENDAR: Order Granting
Reorganized Debtor's Motion to Administratively Close Individual Chapter
11 Case Entered 2/9/2021**

Courtroom Deputy:

**OFF CALENDAR: Order Granting Reorganized Debtor's Motion to
Administratively Close Individual Chapter 11 Case Entered 2/9/2021 - td
(3/8/2021)**

Tentative Ruling:

- NONE LISTED -

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, March 11, 2021

Hearing Room 5A

10:30 AM

8:20-10936 Vantage Point Apparel Software, Inc.

Chapter 11

#18.00 Hearing RE: Debtor's Disclosure Statement Describing SubChapter V Chapter 11 Plan of Reorganization Dated January 25, 2021

Docket 65

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 11, 2021

Approve Disclosure Statement with amendments noted in the Tentative Ruling. Confirmation Schedule: Deadline to file final version of Disclosure Statement: Mar. 18, 2021; Deadline to mail plan packages: March 25, 2021; Deadline for creditors to accept/reject/object to the plan: April 22, 2021; Deadline to file confirmation brief: May 6, 2021. Confirmation hearing: May 20, 2021 at 10:30 a.m.

Court's Comments:

1. DS, p. 8-10 and p. 30:4-9. Trustee's first objection is that the chapter 13 bankruptcy of Mr. Lonnie Tee, Debtor's principal ("Mr. Tee"), should be disclosed and an explanation of how the proposed monthly insider compensation of payments of \$13,000 will be sufficient for Mr. Tee to make his personal chapter 13 plan payments of \$14,525 starting in July 2021. See Obj., p. 2. Debtor counters that such disclosure was not necessary because most of the creditors in the personal case are also creditors of Debtor so such disclosure is immaterial. See Response, p. 5-6, ¶¶11-14, 17. And with regard to insufficient insider compensation to make chapter 13 plan payments, Debtor argues that Mr. Tee and his wife receive Social Security income and Debtor's expenses could be further reduced by Mr. Tee's wife replacing an employee of Debtor. See *id.*, ¶¶15-16. Debtor agrees to make such disclosure in an amendment DS if the court deems it necessary. See *id.*, ¶17.

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

Thursday, March 11, 2021

Hearing Room 5A

10:30 AM

CONT... Vantage Point Apparel Software, Inc.

Chapter 11

Trustee's objection is sustained and Debtor is required to make disclosure of Mr. Tee's personal bankruptcy. First, Debtor has an independent duty under § 1125 to make full disclosure, so whether the creditors in the related bankruptcy cases already know of both cases is irrelevant. The application of § 1125 is made applicable by the Court's requirement that a disclosure statement be filed. § 1181(b). Second, the possibility that there could be insufficient income to fund Mr. Tee's personal plan payments because (setting aside the feasibility issues of Mr. Tee's personal case) raises feasibility issues in this case. See Obj., p. 2:5-11.

2. DS, p. 17:1-3. Since there are no property tax claims, delete the section entitled "Property Tax Claims".

3. DS, p. 19:13. In Class 1, delete "Claims Secured Only on Real Property of the Debtor." It is confusing to classify a class only to state that claims in that class don't exist. Reclassify Class 2 as Class 1, and move other classes "up" in number also.

4. DS, p. 20:21-21:8. Change references to the IRS "loan" to "debt" or "claim."

5. DS, p. 20. Trustee objects that the DS should explain what happens if the projected revenue does not increase from \$600,000 to \$850,000 per year. Obj., p. 2-3. This objection is sustained.

6. DS, p. 21:15-17. If there are no priority unsecured claims in Class 3, make Class 4 the new Class 3. It is confusing to create a class only to state that claims in that class don't exist.

7. DS, p. 23:17. Change "valuation of said creditor's claim" to some certain date, such as the Effective Date: "valuation of said creditor's claim as of the Effective Date." This clarification helps avoid a potential violation of § 1123(a)(4) which requires the same treatment of a particular class unless the holder of unless the holder of a particular claim agrees to less favorable treatment. If an allowed claim is paid off before the year 5 payment from the

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

Thursday, March 11, 2021

Hearing Room

5A

10:30 AM

CONT... Vantage Point Apparel Software, Inc.

Chapter 11

Incentive Fund, as currently drafted, it is unclear whether that paid-off creditor would receive this Incentive Fund payment. If not, such treatment could create different Plan treatment of claims in current Class 4.

8. DS, p. 32-22. In the section regarding remedies in the event of payment defaults as required by § 1191, Trustee objects that the remedy provided for unsecured creditors (that they may request a security interest against all of Debtor's property within 180 days following the effective date) will create disparate treatment of unsecured creditors. See Obj., p. 3-4. Trustee's objection is sustained. As explained by Trustee, if the Plan is confirmed non-consensually, estate property will remain estate property, which also ensures that unsecured creditors receive the same treatment if the case is eventually converted to chapter 7. See *id.* The proposed remedy of granting a security interest may create a situation where certain assets are diverted to a small number of unsecured creditors at the expense of the unsecured creditor class as a whole.

In addition to Trustee's objection, the proposed security interest remedy is fatal for two reasons. First, as currently drafted, an unsecured creditor may request the lien even if Debtor is not in default within the 180 after the Effective Date. Second, this provision is not actually a remedy whatsoever for a Plan default that occurs after 180 days from the Effective Date. Debtor has agreed to remove this security interest remedy provision. See Resp., p. 7:20-23.

9. DS, p. 33. The DS and Plan propose a procedure for parties to the Plan to provide written notice to Debtor and give 30 days for Debtor to cure the Plan. Trustee objects to this provision because Debtor is attempting to impose on Trustee a duty which is not in the Bankruptcy Code. See Obj., p. 5. Trustee's objection is sustained and Debtor has agreed to exempt Trustee from the application of this provision. See Obj., p. 16-18.

10. DS, p. 33-34 and p. 47. The DS states that all estate property will vest in Debtor except for intellectual property. Trustee objects because under a cramdown conformation, estate property and property acquired after confirmation remains property of the estate under § 1186(a). See Obj., p. 5:6-9. Debtor has agreed to modify the DS as requested by Trustee. See

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Thursday, March 11, 2021

Hearing Room 5A

10:30 AM

CONT... **Vantage Point Apparel Software, Inc.**
Resp., p. 8:18-26.

Chapter 11

11. DS, p. 36. The DS/Plan provides that Debtor may liquidate its property at any time following the Effective Date. Trustee states that this demonstrate Debtor's intent to transfer assets out of the ordinary course of business post-confirmation, and that Debtor should not be allowed to, especially if the Plan is confirmed via cramdown and all property remains estate property. See Obj., p. 5:1-6. Debtor is willing to remove the provision if the "Trustee finds it offensive for some reason and the Court believes that it is best." Resp., p. 8, ¶23. Trustee's objection is overruled on the condition that any liquidation of property, whether the Plan is confirmed consensually or non-consensually, is subject to court approval. The additional condition of court approval balances Trustee's concerns with Debtor's interest in being able to exercise its business judgment. The Plan already also provides for such oversight in the event of a consensual Plan confirmation. See DS, p. 34:5-9; Plan, p. 33:18-22.

12. DS, p. 45-46 and Exhibit C. Revise the disposable income projections. First, subtotals should be included, such as the subtotal of "Expenses" and Chapter 11 Plan Payments. Second, the section for operating expenses should also be revised to take out the payment to Class 2 which is not an operating expense of Debtor. The Class 2 payment should be included under the Chapter 11 Plan Payments section.

13. DS, p. 47:23. Section 1193, not § 1127, is applicable to plan modifications in subchapter V. Debtor has agreed to make this correction. See Resp., 9:21-25; Obj., p. 6:1-5.

Party Information

Debtor(s):

Vantage Point Apparel Software, Inc.

Represented By
Michael Jones

**United States Bankruptcy Court
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Santa Ana
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Courtroom 5A Calendar**

Thursday, March 11, 2021

Hearing Room 5A

10:30 AM

CONT... Vantage Point Apparel Software, Inc.

Chapter 11

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, March 11, 2021

Hearing Room 5A

10:30 AM

8:20-10936 Vantage Point Apparel Software, Inc.

Chapter 11

#19.00 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; 7-23-20; 9-3-20; 11-19-20; 12-10-20; 2-18-21

Docket 7

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 12, 2020

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 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

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

Thursday, March 11, 2021

Hearing Room

5A

10:30 AM

CONT... **Vantage Point Apparel Software, Inc.**

Chapter 11

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.

September 3, 2020

Continue 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. (XX)

Note: Appearance at today's hearing is not required. The court will issue its own order re the tentative ruling.

November 19, 2020

Continue the Status Conference to December 10, 2020 at 10:30 a.m., the same date/time as hearing on the the approval of Debtor's disclosure statement; updated status report is not required for that hearing. (XX)

Note: Appearances at this hearing are not required.

December 10, 2020

**United States Bankruptcy Court
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Santa Ana
Judge Erithe Smith, Presiding
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Hearing Room 5A

10:30 AM

CONT... **Vantage Point Apparel Software, Inc.**

Chapter 11

Continue Status Conference to February 18, 2021 at 10:30 a.m.; updated Status Report must be filed by February 4, 2021 unless an amended disclosure statement has been timely filed, in which case the requirement of a status report will be waived and the Status Conference continued to the same date/time as hearing on such amended disclosure statement. (XX)

Note: If Debtor is in substantial compliance with the requirements of the U.S. Trustee, appearances at this hearing will not be required. It is Debtor's responsibility to confirm substantial compliance in advance of the hearing.

February 18, 2021

Continue status conference to March 11, 2021 at 10:30 a.m., same date/time set for hearing on approval Debtor's disclosure statement. (XX)

Special note: The court appreciates the updated status report filed by the Subchapter V Trustee [docket # 70]

Note: Appearances at this hearing are not required.

March 11, 2021

Continue Status Conference to May 20, 2021 at 10:30 a.m.; updated Status Report not required.

Party Information

Debtor(s):

Vantage Point Apparel Software, Inc.

Represented By
Michael Jones

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Hearing Room 5A

10:30 AM

CONT... Vantage Point Apparel Software, Inc.

Chapter 11

Trustee(s):

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, March 11, 2021

Hearing Room 5A

10:30 AM

8:20-11837 Golden Communications Inc.

Chapter 11

#20.00 Hearing RE: Motion for Order: (1) Authorizing Payment of Allowed Administrative Claim to Goe Forsythe & Hodges LLP and United States Trustee; and (2) Dismissing Case with All Orders and Agreements Remaining in Full Force and Effect

Docket 97

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 11, 2021

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):

Golden Communications Inc.

Represented By
Marc C Forsythe

**United States Bankruptcy Court
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Courtroom 5A Calendar**

Thursday, March 11, 2021

Hearing Room 5A

10:30 AM

8:20-11837 Golden Communications Inc.

Chapter 11

#21.00 Hearing RE: First and Final Fee Application for Fees and Reimbursement of Expenses

[GOE FORSYTHE & HODGES LLP, ATTORNEYS FOR DEBTOR AND DEBTOR IN POSSESSION]

Docket 98

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 11, 2021

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):

Golden Communications Inc.

Represented By
Marc C Forsythe

**United States Bankruptcy Court
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Thursday, March 11, 2021

Hearing Room 5A

10:30 AM

8:20-12864 Beck & Chase Enterprises, Inc.

Chapter 11

#22.00 CON'TD STATUS CONFERENCE Hearing RE: Status of SubChapter V Case; and (2) Requiring Report on Status of SubChapter V Case by Debtor and SubChapter V Trustee

FR: 12-3-20

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 3, 2020

Deadline to file plan*:	Feb. 16, 2021
Continued Status Conf:	Mar. 11, 2021 at 10:30 a.m. (XX)
Updated Status Report due: (Trustee)	Feb. 25, 2021 (Debtor); Mar. 4, 2021

*The court will not require a disclosure statement. However, the plan must include 1) a brief history of Debtor's business operations and the circumstances precipitating the filing; 2) a liquidation analysis; and 3) projections supporting Debtor's ability to make payments during the term of the plan.

Note: If Debtor is in substantial compliance with the requirements of the U.S. Trustee and there have been no significant developments in the case since the status reports were filed, appearances at this hearing will not be required. The Court will issue its own order re the Status Conference. It is Debtor's responsibility to confirm substantial compliance with the U.S. Trustee in advance of the hearing.

March 11, 2021

**United States Bankruptcy Court
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10:30 AM

CONT... Beck & Chase Enterprises, Inc.

Chapter 11

Continue Status Conference to May 6, 2021 at 10:30 a.m. Debtor may schedule a hearing on approval of its plan for the same date/time. If so, a confirmation brief must be filed by or before April 22, 2021.

Special note to Subchapter V Trustee: The court did not require Debtor to file a disclosure statement. See tentative ruling for December 3, 2021.

Note: Appearances at this Status Conference are not required.

Party Information

Debtor(s):

Beck & Chase Enterprises, Inc.

Represented By
Jeffrey B Smith

**United States Bankruptcy Court
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Thursday, March 11, 2021

Hearing Room 5A

10:30 AM

8:20-13096 Jacob Choi and Rachel Choi

Chapter 7

#23.00 Hearing RE ORDER to show cause re dismissal for failure to comply with rule 1006(B) -installments (\$100.00 due on 1/29/2021)
[OSC issued 2/8/2021]

Docket 23

***** VACATED *** REASON: OFF CALENDAR: Debtor Paid \$135.00
(both third and final installment payments), Paid in Full 3/3/2021, Receipt
#80075400**

Courtroom Deputy:

**OFF CALENDAR: Debtor Paid \$135.00 (both third and final installment
payments), Paid in Full 3/3/2021, Receipt #80075400 - td(3/3/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jacob Choi Pro Se

Joint Debtor(s):

Rachel Choi Pro Se

Trustee(s):

Jeffrey I Golden (TR) Pro Se

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Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar

Thursday, March 11, 2021

Hearing Room 5A

10:30 AM

8:20-13247 Jose Lopez and Martha Alicia Lopez

Chapter 7

#24.00 Hearing RE: Debtors' Motion to Vacate Dismissal of Petition and to Re-impose Stay

Docket 27

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 11, 2021

Grant the motion in its entirety.

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 Lopez

Represented By
James T Spratt

Joint Debtor(s):

Martha Alicia Lopez

Represented By
James T Spratt

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 11, 2021

Hearing Room 5A

10:30 AM

8:21-10133 John Steven Domingos

Chapter 13

#25.00 Hearing RE: Debtor's Objection to CACH, LLC's Claim, Claim Number 1

Docket 22

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 11, 2021

Sustain Debtor's Objection and disallow claim in its entirety. Deny request for attorneys fees.

Basis for Tentative Ruling:

The request for attorneys fees is denied because Debtor has failed to provide evidence of any contract providing for such fees to the claimant. The court declines to speculate re the existence of any such attorneys fee provision and there is no basis for taking judicial notice of the same.

Note: If Debtor accepts the tentative ruling, appearance at this hearing is not required.

Party Information

Debtor(s):

John Steven Domingos

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, March 11, 2021

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

#26.00 ORAL RULING Hearing RE: Defendant Suncal Management, LLC's Motion For Partial Summary Judgment Of Plaintiffs Claims For Actual And Constructive Fraudulent Transfer; And for Summary Adjudication Of Issues

FR: 1-28-21

Docket 496

***** VACATED *** REASON: Continue this hearing to March 30, 2021 at 2:00 p.m. on the court's own motion.**

Courtroom Deputy:

Tentative Ruling:

January 28, 2021

The following tentative ruling applies to matters 1, 3, 5 and 7 on today's Calendar:

The parties will be allowed to present oral argument regarding the Motion for Partial Summary Adjudication ("Main Motion") and the Motion to Strike the Singer Report ("Motion to Strike") as follows:

Defendants will be allowed up to 30 minutes to address both the Main Motion and the Motion to Strike. Plaintiff will then be allowed up to 30 minutes to respond. Defendants will be allowed up to 15 minutes to reply.

The parties should assume that the Court has read the pleadings and use oral argument to highlight key points.

At the conclusion of the oral argument, the matter will be taken under submission and a hearing on the Court's oral ruling will be set for March 11, 2021 at 2:00 p.m.. It is possible that a written ruling may be issued prior to March 11, 2021, in which case the parties will be notified. (XX)

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Santa Ana
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Thursday, March 11, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

Additional Comments:

Plaintiff to address the issue of fraudulent transfer (either actual or constructive) as to Argent. Notably, the court previously denied the parties' cross motions for summary judgment on the alter ego and successor liability claims [AP dkt. 451 and 458]. To the extent that SCM is found liable for any fraudulent transfer claims, the court's granting of partial adjudication as to Argent would not impact Argent's potential liability under Plaintiff's yet to be adjudicated alter ego and successor liability claims.

March 11, 2021 (Updated)

Continue this hearing to March 30, 2021 at 2:00 p.m. on the court's own motion.

Reason for Tentative Ruling:

The court requires additional time to review and analyze the pleadings, caselaw and evidentiary objections.

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

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

Thursday, March 11, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

Richard H Golubow
Louis R Miller
Jeffrey W Broker
Kavita Gupta
Garrick A Hollander
R Grace Rodriguez
Lei Lei Wang Ekvall
Mike D Neue
Tara Castro Narayanan

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
Robert P Goe

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

Thursday, March 11, 2021

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

#27.00 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; 5-28-20; 5-29-20; 12-17-20; 1-28-21

Docket 95

***** VACATED *** REASON: CONTINUED TO 11/4/2021 AT 2:00 P.M.,
PER ORDER ENTERED 2/26/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 11/4/2021 at 2:00 p.m., Per
Order Entered 2/26/2021 (XX) - td (3/1/2021)**

Tentative Ruling:

May 28, 2020

Continue status conference to May 29, 2020 at 2:00 p.m.

January 28, 2021

The following tentative ruling applies to matters 2, 4, 6, 9, 10, 11,

Continue Status Conference to November 4, 2021 at 2:00 p.m., same date/time set for Motion for Partial Summary Adjudication

Party Information

Debtor(s):

Palmdale Hills Property, LLC

Represented By
Paul J Couchot
Peter W Lianides

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, March 11, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

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
Brianna L Frazier

Trustee(s):

Steven M Speier (TR)

Represented By
Louis R Miller

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, March 11, 2021

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CONT...

Palmdale Hills Property, LLC

Mike D Neue
Lei Lei Wang Ekvall

Chapter 11

**United States Bankruptcy Court
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Thursday, March 11, 2021

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

#28.00 ORAL RULING Hearing RE: Defendant Suncal Management, LLC's Motion For Partial Summary Judgment Of Plaintiffs Claims For Actual And Constructive Fraudulent Transfer; And for Summary Adjudication of Issues

FR: 1-28-21

Docket 443

***** VACATED *** REASON: Continue this hearing to March 30, 2021 at 2:00 p.m. on the court's own motion.**

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 28, 2021

The following tentative ruling applies to matters 1, 3, 5 and 7 on today's Calendar:

The parties will be allowed to present oral argument regarding the Motion for Partial Summary Adjudication ("Main Motion") and the Motion to Strike the Singer Report ("Motion to Strike") as follows:

Defendants will be allowed up to 30 minutes to address both the Main Motion and the Motion to Strike. Plaintiff will then be allowed up to 30 minutes to respond. Defendants will be allowed up to 15 minutes to reply.

The parties should assume that the Court has read the pleadings and use oral argument to highlight key points.

At the conclusion of the oral argument, the matter will be taken under submission and a hearing on the Court's oral ruling will be set for March 11, 2021 at 2:00 p.m.. It is possible that a written ruling may be issued prior to March 11, 2021, in which case the parties will be notified. (XX)

**United States Bankruptcy Court
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2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

Additional Comments:

Plaintiff to address the issue of fraudulent transfer (either actual or constructive) as to Argent. Notably, the court previously denied the parties' cross motions for summary judgment on the alter ego and successor liability claims [AP dkt. 451 and 458]. To the extent that SCM is found liable for any fraudulent transfer claims, the court's granting of partial adjudication as to Argent would not impact Argent's potential liability under Plaintiff's yet to be adjudicated alter ego and successor liability claims.

March 11, 2021 (Updated)

Continue this hearing to March 30, 2021 at 2:00 p.m. on the court's own motion.

Reason for Tentative Ruling:

The court requires additional time to review and analyze the pleadings, caselaw and evidentiary objections.

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

**United States Bankruptcy Court
Central District of California
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Thursday, March 11, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

Louis R Miller
Jeffrey W Broker
Kavita Gupta
Garrick A Hollander
R Grace Rodriguez
Lei Lei Wang Ekvall
Mike D Neue
Tara Castro Narayanan

Defendant(s):

SunCal Management LLC

Represented By
Craig H Averch
Aalok Sharma

Argent Management, LLC

Represented By
Craig H Averch
Aalok Sharma

Movant(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

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

CONT... Palmdale Hills Property, LLC

Chapter 11

Mike D Neue
Lei Lei Wang Ekvall
Robert P Goe

**United States Bankruptcy Court
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Thursday, March 11, 2021

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

#29.00 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; 5-29-20; 12-17-20; 1-28-21

Docket 327

***** VACATED *** REASON: CONTINUED TO 11/4/2021 AT 2:00 P.M.,
PER ORDER ENTERED 2/26/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 11/4/2021 at 2:00 p.m., Per
Order Entered 2/26/2021 (XX) - td (3/1/2021)**

Tentative Ruling:

May 28, 2020

Continue status conference to May 29, 2020 at 2:00 p.m.

January 28, 2021

The following tentative ruling applies to matters 2, 4, 6, 9, 10, 11,

Continue Status Conference to November 4, 2021 at 2:00 p.m., same date/time set for Motion for Partial Summary Adjudication

Party Information

Debtor(s):

Palmdale Hills Property, LLC

Represented By
Paul J Couchot
Peter W Lianides

**United States Bankruptcy Court
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Santa Ana
Judge Erithe Smith, Presiding
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Thursday, March 11, 2021

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CONT... Palmdale Hills Property, LLC

Chapter 11

Richard W Esterkin
Asa S Hami
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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

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
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CONT... Palmdale Hills Property, LLC

Chapter 11

**United States Bankruptcy Court
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Santa Ana
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Thursday, March 11, 2021

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2:00 PM

8:08-17206 Palmdale Hills Property, LLC

Chapter 11

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

#30.00 ORAL RULING Hearing RE: Defendant Suncal Management LL'C's Motion for Partial Summary Judgment of Plaintiff's Claims for Actual and Constructive Fraudulent Transfer; And for Summary Adjudication of Issues

FR: 1-28-21

Docket 445

***** VACATED *** REASON: Continue this hearing to March 30, 2021 at 2:00 p.m. on the court's own motion.**

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 28, 2021

The following tentative ruling applies to matters 1, 3, 5 and 7 on today's Calendar:

The parties will be allowed to present oral argument regarding the Motion for Partial Summary Adjudication ("Main Motion") and the Motion to Strike the Singer Report ("Motion to Strike") as follows:

Defendants will be allowed up to 30 minutes to address both the Main Motion and the Motion to Strike. Plaintiff will then be allowed up to 30 minutes to respond. Defendants will be allowed up to 15 minutes to reply.

The parties should assume that the Court has read the pleadings and use oral argument to highlight key points.

At the conclusion of the oral argument, the matter will be taken under submission and a hearing on the Court's oral ruling will be set for March 11, 2021 at 2:00 p.m.. It is possible that a written ruling may be issued prior to March 11, 2021, in which case the parties will be notified. (XX)

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

Thursday, March 11, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

Additional Comments:

Plaintiff to address the issue of fraudulent transfer (either actual or constructive) as to Argent. Notably, the court previously denied the parties' cross motions for summary judgment on the alter ego and successor liability claims [AP dkt. 451 and 458]. To the extent that SCM is found liable for any fraudulent transfer claims, the court's granting of partial adjudication as to Argent would not impact Argent's potential liability under Plaintiff's yet to be adjudicated alter ego and successor liability claims.

March 11, 2021 (Updated)

Continue this hearing to March 30, 2021 at 2:00 p.m. on the court's own motion.

Reason for Tentative Ruling:

The court requires additional time to review and analyze the pleadings, caselaw and evidentiary objections.

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

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

Thursday, March 11, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

Louis R Miller
Jeffrey W Broker
Kavita Gupta
Garrick A Hollander
R Grace Rodriguez
Lei Lei Wang Ekvall
Mike D Neue
Tara Castro Narayanan

Defendant(s):

SunCal Management LLC

Represented By
Craig H Averch
Aalok Sharma

Argent Management, LLC

Represented By
Craig H Averch
Aalok Sharma

Movant(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

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

Thursday, March 11, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

Mike D Neue
Lei Lei Wang Ekvall
Robert P Goe

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

Thursday, March 11, 2021

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

#31.00 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; 5-29-20; 12-17-20; 1-28-21

Docket 329

***** VACATED *** REASON: CONTINUED TO 11/4/2021 AT 2:00 P.M.,
PER ORDER ENTERED 2/26/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 11/4/2021 at 2:00 p.m., Per
Order Entered 2/26/2021 (XX) - td (3/1/2021)**

Tentative Ruling:

May 28, 2020

Continue status conference to May 29, 2020 at 2:00 p.m.

January 28, 2021

The following tentative ruling applies to matters 2, 4, 6, 9, 10, 11,

Continue Status Conference to November 4, 2021 at 2:00 p.m., same date/time set for Motion for Partial Summary Adjudication

Party Information

Debtor(s):

Palmdale Hills Property, LLC

Represented By
Paul J Couchot
Peter W Lianides
Richard W Esterkin

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

Thursday, March 11, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

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

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 11, 2021

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

#32.00 ORAL RULING Hearing RE: Defendant Suncal Management, LLC's Motion for Partial Summary Judgment Of Plaintiffs Claims For Actual And Constructive Fraudulent Transfer; And for Summary Adjudication of Issues

FR: 1-28-21

Docket 391

***** VACATED *** REASON: Continue this hearing to March 30, 2021 at 2:00 p.m. on the court's own motion.**

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 28, 2021

The following tentative ruling applies to matters 1, 3, 5 and 7 on today's Calendar:

The parties will be allowed to present oral argument regarding the Motion for Partial Summary Adjudication ("Main Motion") and the Motion to Strike the Singer Report ("Motion to Strike") as follows:

Defendants will be allowed up to 30 minutes to address both the Main Motion and the Motion to Strike. Plaintiff will then be allowed up to 30 minutes to respond. Defendants will be allowed up to 15 minutes to reply.

The parties should assume that the Court has read the pleadings and use oral argument to highlight key points.

At the conclusion of the oral argument, the matter will be taken under submission and a hearing on the Court's oral ruling will be set for March 11, 2021 at 2:00 p.m.. It is possible that a written ruling may be issued prior to March 11, 2021, in which case the parties will be notified. (XX)

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

Thursday, March 11, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

Additional Comments:

Plaintiff to address the issue of fraudulent transfer (either actual or constructive) as to Argent. Notably, the court previously denied the parties' cross motions for summary judgment on the alter ego and successor liability claims [AP dkt. 451 and 458]. To the extent that SCM is found liable for any fraudulent transfer claims, the court's granting of partial adjudication as to Argent would not impact Argent's potential liability under Plaintiff's yet to be adjudicated alter ego and successor liability claims.

March 11, 2021 (Updated)

Continue this hearing to March 30, 2021 at 2:00 p.m. on the court's own motion.

Reason for Tentative Ruling:

The court requires additional time to review and analyze the pleadings, caselaw and evidentiary objections.

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

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

Thursday, March 11, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

Louis R Miller
Jeffrey W Broker
Kavita Gupta
Garrick A Hollander
R Grace Rodriguez
Lei Lei Wang Ekvall
Mike D Neue
Tara Castro Narayanan

Defendant(s):

SUNCAL MANAGEMENT, LLC

Represented By
Craig H Averch
Aalok Sharma

Argent Management LLC

Represented By
Craig H Averch
Aalok Sharma

Movant(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
Evan C Borges
Mike D Neue
William N Lobel
Gary A Pemberton
Brianna L Frazier
Shane M Biornstad

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

Thursday, March 11, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

Trustee(s):

Steven M Speier (TR)

Represented By
Louis R Miller
Mike D Neue
Lei Lei Wang Ekvall
Robert P Goe

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

Thursday, March 11, 2021

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

#33.00 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; 5-29-20; 12-17-20; 1-28-21

Docket 298

***** VACATED *** REASON: CONTINUED TO 11/4/2021 AT 2:00 P.M.,
PER ORDER ENTERED 2/26/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 11/4/2021 at 2:00 p.m., Per
Order Entered 2/26/2021 (XX) - td (3/1/2021)**

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

Continue status conference to May 29, 2020 at 2:00 p.m.

January 28, 2021

Continue Status Conference to November 4, 2021 at 2:00 p.m.

Party Information

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

Thursday, March 11, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

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

Thursday, March 11, 2021

Hearing Room 5A

2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

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, March 15, 2021

Hearing Room 5A

9:00 AM

8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address:

<https://cacb.zoomgov.com/j/1606400864>

ZoomGov meeting number: 160 640 0864

Password: 309140

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Monday, March 15, 2021

Hearing Room 5A

9:00 AM

CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

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

Tuesday, March 16, 2021

Hearing Room 5A

9:00 AM
8:88-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address:

<https://cacb.zoomgov.com/j/1605741289>

ZoomGov meeting number: 160 574 1289

Password: 377905

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Tuesday, March 16, 2021

Hearing Room 5A

9:00 AM

CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

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

Wednesday, March 17, 2021

Hearing Room

5A

9:00 AM

8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address:

<https://cacb.zoomgov.com/j/1609311488>

ZoomGov meeting number: 160 931 1488

Password: 532719

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Wednesday, March 17, 2021

Hearing Room 5A

9:00 AM

CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

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

Thursday, March 18, 2021

Hearing Room 5A

9:30 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address:

<https://cacb.zoomgov.com/j/1604372314>

ZoomGov meeting number: 160 437 2314

Password: 216862

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Thursday, March 18, 2021

Hearing Room 5A

9:30 AM

CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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

Thursday, March 18, 2021

Hearing Room 5A

9:30 AM

CONT...

- NONE LISTED -

Chapter

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

Thursday, March 18, 2021

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 Trial Procedures Status Conference RE: Amended Complaint

(Set Per Order Entered 3/2/2021)

Docket 47

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

29 Prime, Inc.

Represented By
Richard L Barnett
Christine D Barker

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
Sky Motorsports, Inc.	Pro Se
Haleh Fardi	Pro Se
1Network.Com	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, March 18, 2021

Hearing Room 5A

9:30 AM

CONT... 29 Prime, Inc.

Chapter 7

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, March 18, 2021

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

#1.10 CON'TD TRIAL PROCEDURES 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; 7-9-20; 1-14-21; 3-18-21

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.

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, March 18, 2021

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, March 18, 2021

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. 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.

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Note: Appearances at this hearing are required.

January 14, 2021

Continue this Trial Procedures Conference to March 11, 2021 at 9:30 a.m.; postpone the Trial Dates to May 26, 2021 and May 27, 2021 starting each day at **9:30 a.m.**(XX)

Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing dates/times.

March 11, 2021

Counsel for Plaintiff and Defendants to advise the Court Clerk if they have read the Remote Trial Procedures set forth in the Tentative Ruling field as the same will be discussed at today's hearing.

Remote Trial Procedures

The trial in the above-captioned adversary proceeding is set for May 26 and May 27, 2021 commencing at 9:00 a.m. In light of the current COVID-19 pandemic, the Chief Judge of the District Court has issued orders closing all courthouses in Central District of California until further notice. See Order of the Chief Judge No. 21-02 (January 29, 2021). Pursuant to Rule 43(a) of the Federal Rules of Civil Procedure ("Federal Rules"), made applicable here by 9017 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), the current pandemic and closure of the Court's facilities provide "good cause in compelling circumstances" to conduct the Plan Confirmation Hearing remotely, through the use of telephonic and videoconferencing technologies.

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Further, the Court finds that the procedures adopted herein will provide "adequate safeguards" for purposes of Federal Rule 43(a) and ensure due process of law. These procedures will (i) enable the Court to identify, communicate with, and judge the demeanor of all witnesses in real time, (ii) enable counsel for the parties to see and hear the witness testimony, interpose objections, and communicate with the Court in real time, (iii) enable the parties, the witnesses and the Court to have simultaneous access to an identical set of pre-marked exhibits, (iv) avoid any undue influence or interference with the witnesses in connection with their testimony, and (v) preserve the ability of any witness to be represented by counsel during the proceeding, and to communicate with such counsel as the Court deems appropriate.

The following additional rules/requirements shall apply:

1. Audio and Video Conference Solutions. Trial shall take place using the telephonic and videoconferencing solutions described herein. Participants in the Trial will be connected with the courtroom using these technologies but will not be physically present in the courtroom. The Court will utilize Zoom for Government for audio and video. The Zoom dial-in information and URL (internet address) that enables participation in the audio and video portion of the proceedings are posted on the court's website at www.cacb.uscourts.gov under the tentative ruling field for each day of trial (each day of the trial has a separate login information).

2 Required Equipment. For purposes of participation in the Trial each participating attorney and each witness must have simultaneous access to: (1) a computer or other electronic device equipped with a camera that is capable of receiving and transmitting video using the Zoom audio/video platform; (2) Internet browsing software that is adequate to facilitate participation on the Zoom audio/video platform; (3) an Internet connection with bandwidth adequate to support the individual's use of Zoom; and (4) Adobe Acrobat Reader for purposes of reviewing exhibits, as directed by counsel or the Court. All parties must be situated in a quiet location to provide clear audio. (Although a headset is not required, the Court has found that headsets typically provide the highest quality audio when using the Zoom platform.)

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3. Prior Notice of Trial Participants. By 12:00 p.m. on May 19, 2021 the parties shall provide to the Court via email (Chambers_ESmith@cacb.uscourts.gov), and to each other, a list of all attorneys and witnesses who will participate in the Trial, together with an email address and telephone number for each. The telephone number provided should be a number at which the attorney or witness can be reached during the Trial in the event of an interruption in the audio or video feed. This requirement is in addition to any other requirements previously established by the Court for the parties to disclose to each other, by a date certain, the identity of the witnesses they intend to present at the Trial.

4. Electronic Submission of Trial Exhibits. On or before May 19, 2021, the parties shall provide to the Court via email (Chambers_ESmith@cacb.uscourts.gov), each other, and each witness, a .pdf (Adobe Acrobat) file of each exhibit the parties may use at the Trial for any purposes, including for rebuttal or impeachment.

- a. The parties may distribute these electronic documents by way of a secure link to an FTP or other file sharing service, if necessary.
- b. Each exhibit must be a separate .pdf file.
- c. The .pdf files shall be named sequentially. Plaintiff's exhibits shall be numbered as follows: P_Ex_1, P_Ex_2, P_Ex_3, etc. Defendants exhibits shall be lettered as follows: D_Ex_A, D_Ex_B, D_Ex_3, etc.
- d. Upon receipt of the electronic documents (or a download link),
- e. Each attorney and witness shall take the steps necessary to ensure that all electronic documents can be successfully opened and are readily available during the Trial.
- f. Each rebuttal or impeachment exhibit must be separately

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password-protected with a unique password. If, and only if, a party seeks to use a rebuttal or impeachment exhibit, the party will be required to provide the password for that particular exhibit. During trial, if an exhibit is used for rebuttal or impeachment, counsel offering the exhibit will provide the password and the exhibit will be displayed using the Zoom for Government "Share Screen" feature.

5. Paper Copies of Trial Exhibits. On or before May 19, 2021, the parties shall submit paper copies of Trial Exhibits to the court.

6. Remote Witness Testimony. Having found "good cause in compelling circumstances" and "adequate safeguards," any witness called to testify at the Trial shall testify by contemporaneous transmission from a different location into the courtroom (each a "Remote Witness").

a. A subpoena served on a Remote Witness must include the information in this Order Establishing Remote Trial Hearing Procedures.

b. All Remote Witnesses shall be placed under oath and their testimony shall have the same effect and be binding upon the Remote Witness in the same manner as if such Remote Witness was sworn and testified in open court.

c. Each Remote Witness shall provide their testimony from a quiet room and must situate themselves in such a manner as to be able to both view the video feed and be seen by the Court.

d. While the Remote Witness is sworn and testifying: (i) no person may be present in the room from which the Remote Witness is testifying, (ii) the Remote Witness may not have in the room any documents except the exhibits submitted by the parties pursuant to Paragraph 4 above and any declaration submitted in lieu of direct testimony, and (iii) may not communicate with any other person regarding the subject of their testimony, by electronic means or otherwise. If the witness or their counsel seek to communicate with one another, either shall openly request a

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recess for such purpose. If such request is granted by the Court, the witness and their counsel may privately confer "offline," i.e., by telephonic means that are not transmitted to the other parties.

7. Courtroom Formalities. Although conducted using videoconferencing technologies, the Trial constitutes a court proceeding. No person shall record— from any location or by any means—the audio or video of the Trial. The audio recording created and maintained by the Court shall constitute the official record of the Trial. Further, the formalities of a courtroom shall be observed. Counsel and witnesses shall dress appropriately, exercise civility, and otherwise conduct themselves in a manner consistent with the dignity of the Court and its proceedings.

8. The Court may require that all parties (attorneys, clients and witnesses) appear and participate in a Technical Status Conference with the Court's technology staff prior to the trial to ensure that any technological issues are addressed and resolved.

9. Continuance of Trial: The Court reserves the right to reschedule the commencement of the Trial if it determines that proceeding with the currently scheduled Trial dates would be infeasible.

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

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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

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

#2.00 Hearing RE: Defendant's Motion for Amended Findings and Conclusions Pursuant to FRBP 7052 and FRCP 52(b); Alternatively Amended Judgment Pursuant to FRBP 9023 and FRCP 59(e)

Docket 174

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 18, 2021

Tentative Ruling re the Motion

Amendment To Page 25, lines 9 and 10:

"Plaintiffs are entitled to judgment as a matter of law on their claims for relief to mandatorily subordinate the Kurtin Claim and the Kurtin Liens under § 510(b). Both the Kurtin Claim and the Kurtin Liens are subordinated by this relief because the term "claim" referenced in §510(b) includes both unsecured and secured, i.e., *in rem* lien rights to payment. 11 U.S.C. §§ 101(5) and 510(b); *Johnson v. Home State Bank*, 501 U.S. 78, 84, 111 S. Ct. 2150, 2154 (1991). Accordingly, pursuant to § 510(b), no payments will be made on account of the Kurtin Claim and Kurtin Liens until the claims of all other unsecured creditors have been paid in full in the Elieff, Morse and Camden cases, and after allowed interests as to Morse and Camden. Although the Court finds that the Kurtin Claim and the Kurtin Liens are subject to mandatory subordination under 510(b), the Kurtin Liens are not avoided. "

In addition, the Court will delete the following statement that appears on pages 33 and 34 of the Ruling:

"Even though the bankruptcy case was converted to chapter 7 while the MSJ and the Reconsideration Motion remained pending, the

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expeditious resolution of the § 510(b) claims is important because the status of the Kurtin Claims and Liens will need to be resolved in the chapter 7 for distribution purposes."

The Court declines to make all other amendments requested by the parties.

Basis for the Tentative Ruling

Background

Creditor Todd Kurtin moves to amend the Decision (defined below) under FRCP 52(b) and FRBP 7052; alternately, Kurtin requests an amended judgment pursuant to FRBP 9023 and FRCP 59(e) and Local Bankruptcy Rule 9013-4 (the "Amendment Motion")[dkt. 174], (the "Reply")[dkt. 197], and (the "Kurtin Opposition to Cross Motion")[dkt. 194](incorporated herein by reference in the Reply). Kurtin seeks to correct the Decision by adding the additional finding and conclusion in the Decision or in a separate final judgment on the Decision:

Although the Court finds that the Kurtin Claim is subject to mandatory subordination under § 510(b), the Kurtin Lien rights are not avoided and retain lien priority notwithstanding subordination of the Kurtin Claim.

Amendment Motion, 6:20-27 (the "Kurtin Proposed Amendments"). Trustee opposes the Amendment Motion [dkt. 175] and has filed his own cross motion seeking to amend the Decision to include Trustee's proposed language (the "Cross Motion")[dkt. 189]. Since the legal issues raised in the Amendment Motion are the identical legal issues raised in the Cross Motion, and because Kurtin has already requested that the Kurtin Opposition to Cross Motion be considered within the context of the Amendment Motion, the court will also take judicial notice of Trustee's pleadings and arguments raised in the Cross Motion and Trustee's Reply to the Kurtin Opposition to Cross Motion [dkt. 196] within the context of the Amendment Motion.

A. Facts

On January 26, 2021, the court entered its Memorandum of Decision

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and Order on: (1) Joint Motion for Summary Judgment on Claim for Mandatory Subordination of Claim Pursuant as to 11 U.S.C. §510(B) ["the MSJ"], (2) Joint Motion For Reconsideration or, Alternatively, Entry of Partial Final Judgment Under FRCP 54(b) or Certification Under 28 U.S.C. §1292(B) [the "Reconsideration Motion"], (3) Post-Hearing Procedural Matters (the "Decision")[dkt. 167]. The court ruled to partially grant Trustee's MSJ as to his mandatory subordination claim under § 510(b) and denied Trustee's claim under § 510(c)(2). As for the Reconsideration Motion, the court denied Trustee's request of the earlier dismissal of Trustee's § 510(c)(2) claims with prejudice and for certification under 28 U.S.C. § 1292(b), but the court granted Trustee's request for entry of partial final judgment under FRCP 54(b). Decision, 34-36. To date, no partial summary adjudication judgment based on the Decision has been entered.

Prior to entry of the Decision, but after the court had orally ruled to deny Trustee's claims for relief related to § 510(c)(2) on August 13, 2020, Trustee voluntarily converted the case to chapter 7 and the conversion order was entered on September 10, 2020 [AP dkt. 158, 160][BK dkt. 863, 921].

B. The legal standard for relief under FRCP 52(b)

Under FRCP 52(b), made applicable herein by FRBP 7052, "On a party's motion filed no later than 28 days after the entry of judgment, the court may amend its findings - or make additional findings - and may amend the judgment accordingly." FRBP 7052 reduces the 28 day period to 14 days after entry of judgment. The main purpose of Rule 52(b) is "to create a record upon which the appellate court may obtain the necessary understanding of the issues to be determined on appeal." *See In re St. Marie Development Corp. of Montana, Inc.*, 334 B.R. 663, 675 n.3 (Bankr. D. Mont. 2005); *see also* 9C Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2582 (3d ed. 2015). A motion to amend under Rule 52(b) may be used "to clarify essential findings or conclusions, correct errors of law or fact, or to present newly discovered evidence." 10 Collier on Bankruptcy ¶ 7052.03 (16th ed. 2015) (*citing Wal-Mart Stores, Inc. v. El-Amin (In re El-Amin)*, 252 B.R. 652, 656 (Bankr. E.D. Va. 2000) (the purpose of the rule is to correct an "egregious error of law or fact, not the resubmission of

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unsuccessful arguments")) (additional citations omitted).

In this case, the issue currently raised in the Amendment Motion (and Cross Motion) of whether mandatory subordination of the Kurtin Claim under § 510(b) also subordinated the Kurtin Liens was raised in prior pleadings but the Decision did not squarely address it. See MSJ [dkt. 57], 20:27-21:2, Section III(D); Reply in Support of Reconsideration Motion [dkt. 144], 6:5-19. Accordingly, the court will amend the Decision to clarify an essential finding or conclusion regarding mandatory subordination under § 510(b) and the Kurtin Liens. See Decision, 25:5-10.

C. The Kurtin Liens were mandatorily subordinated under § 510(b)

Kurtin seeks to include the Kurtin Proposed Amendments to the Decision because: (1) the Decision only mandatorily subordinated Kurtin's secured claims under 510(b), (2) the Decision did not avoid the Kurtin Liens or otherwise affect the validity or priority of said liens, (3) case conversion to chapter 7 on September 10, 2020 is a new fact that occurred after submission of the matter but before entry of the Decision, (4) in chapter 7, Trustee cannot make distributions to creditors under § 726 from the collateral encumbered by the Kurtin Liens before the collateral is distributed to Kurtin as required by § 725 (also raising cash collateral issues), and (3) Trustee is taking the position that mandatory subordination of Kurtin's claims includes mandatory subordination of the Kurtin Liens. Decision, 2:7-4:2 Trustee indeed takes the position that under § 510(b), the "subordination of a 'claim' (a defined term that includes secured claims) for 'distribution purposes' necessarily subordinates the payment rights otherwise associated with the liens securing this claim. Trustee Opp'n to Amendment Mot., 5:15-17. Trustee has also filed his own cross motion (the "Cross Motion")[dkt. 189] proposing to add his own language, the "Trustee's Proposed Amendments" to the Decision in order to eliminate any ambiguity in the Decision upon which Kurtin is relying upon for his position regarding Kurtin's distributional rights in the case. See Trustee Opp'n to Amendment Mot., 11-12.

1. The Bankruptcy Code distinguishes between a "claim" and a "lien") but the Supreme Court has interpreted "claim" to include liens

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The plain meaning of a statute should control in situations where there is no specific proof of contrary Congressional intent. See *U.S. v. Ron Pair Enters.*, 489 U.S. 235, 242-43 (1989) ("where, as here, the statute's language is plain, 'the sole function of the courts is to enforce it according to its terms.'). The court's interpretation of statutes is guided by certain interpretative canons. See Reply to Kurtin Opp'n to Cross Mot., 4-6. The court must assume that Congress "says in a statute what it means and means in a statute what it says there." *Conn. Nat'l Bank v. Germain*, 503 U.S. 249, 253-54, 112 S.Ct. 1146, 1149 (1992). Court must also assume that "[w]here Congress knows how to say something but chooses not to, its silence is controlling." *Animal Legal Def. Fund v. U.S. Dep't of Agric.*, 789 F.3d 1206, 1217 (11th Cir. 2015). Courts will also "ordinarily resist reading words or elements into a statute that do not appear on its face[.]" *Bates v. U.S.*, 522 U.S. 23, 29, 118 S. Ct. 285, 290 (1997). "[W]hen a statute omits a specific matter from its coverage, the inclusion of such matter in another statute on a related subject demonstrates an intent to omit the matter from the coverage of the statute in which it is not mentioned." *In re Burns*, 291 B.R. 846, 851 (B.A.P. 9th Cir. 2003). "Interpretations that nullify statutory provisions or render them superfluous are, and should be, disfavored." *Patagonia Corp. v. Bd. of Governors of Fed. Rsv. Sys.*, 517 F.2d 803, 813 (9th Cir. 1975). Finally, "[i]t is well-established that when the statute's language is plain, the sole function of the courts- at least where the disposition is not absurd- is to enforce it according to its terms." *In re Del Biaggio*, 834 F.3d 1003, 1010 (9th Cir. 2016).

Turning the plain language of the statute, as a preliminary matter, the terms "claims" and "liens" are defined terms in the Bankruptcy Code. Under § 101(5), the "term 'claim' means... right to payment, whether or not such right is reduced to judgment...secured, or unsecured[.]" The Code also defines the term "lien" to mean "charge against or interest in property to secure payment of a debtor or performance of an obligation. 11 U.S.C. § 101(37). Indeed, the Code even defines "judicial lien" as a "lien obtained by judgment, levy, sequestration, or other legal or equitable process of proceeding." 11 U.S.C. § 101(36).

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With those definitions of "claims" and "liens" in mind, § 510(b) reads as follows:

(b) For the purpose of distribution under this title, 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, except that if such security is common stock, such claim has the same priority as common stock.

11 U.S.C. § 510(b)(emphasis added).

The Court's reading of § 510(b) is guided by the U.S. Supreme Court's ruling in *Johnson v. Home State Bank*, 501 U.S. 78, 84, 111 S. Ct. 2150, 2154 (1991). This case was initially cited by Kurtin to support his contention that there is a distinction between "claims" and *in rem* lien rights. See Reply to Trustee Opp'n to Amendment Mot., 8. The Ninth Circuit BAP has summarized *Johnson* as follows:

Johnson held that the chapter 7 discharge extinguishes the debtor's personal liability for the underlying debt, but the creditor's rights under the mortgage or deed of trust against the collateral securing the debt survive and pass through bankruptcy.... In *Johnson*, the debtor had...received a chapter 7 discharge. The Supreme Court was confronted with the question of whether the secured creditor's lien rights survived the discharge and, if so, whether those lien rights constituted a "claim" that could be scheduled and adjusted in the debtor's subsequent chapter 13 bankruptcy case. *Id.* at 80-81. The Supreme Court held that the secured creditor's lien rights survived the chapter 7 discharge and that those lien rights constituted a "claim" for bankruptcy purposes that was subject to adjustment in the subsequent chapter 13. *Id.* at 84-87. In so holding, *Johnson* explained that the "bankruptcy discharge extinguishe[d] only one mode of enforcing a claim—namely, an action against the debtor *in personam*—while leaving intact

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another—namely, an action against the debtor *in rem*." *Id.* at 84.

In re Reilly, No. 3:18-BK-05319-DPC, 2020 WL 710371, at *5 (B.A.P. 9th Cir. Feb. 11, 2020).

Relevant to the instant matter, the *Johnson* court also made specific findings regarding liens and claims, concluding that "a mortgage interest [i.e., a lien] that survives the discharge of a debtor's personal liability is a "claim" within the meaning of § 101(5). Even after the debtor's personal obligations have been extinguished, the mortgage holder still retains a 'right to payment' in the form of its right to the proceeds from the sale of the debtor's property." *Johnson, supra*, at 84, 2150. The Supreme Court further explained that including liens against a debtor's property, even if the debtor had no personal liability, within the term "claims" was fully consistent with the rest of the Bankruptcy Code and supported by the legislative background and history of the Code. *Id.* at 85-86, 2154-55.

Other courts have applied *Johnson* and found that an *in rem* right is a "claim." See *In re Airadigm Commc'ns, Inc.*, 616 F.3d 642, 664 (7th Cir. 2010)(rejecting the argument that a lien is not a right to payment because, "The term 'claim' is defined broadly in the Bankruptcy Code. And under *Johnson v. Home State Bank*, a right that is purely *in rem* may give rise to a 'right to payment.'"); *In re Curtis Ctr. Ltd. P'ship*, 192 B.R. 648, 662 (Bankr. E.D. Pa. 1996)("The Court is persuaded that, as in *Johnson*, this right to enforce an obligation against property of the estate [only] amounts to a claim as that term is used in the Bankruptcy Code."); *In re Derrick*, 190 B.R. 346, 356 (Bankr. W.D. Wis. 1995)("While *Johnson* dealt with a mortgage rather than a judgment lien, it relied upon the definition of "claim" found in 11 U.S.C. § 101(5), which provides that a "claim" is a "right to payment" or a "right to an equitable remedy for breach of performance." The court noted that the mortgage holder retained a "right to payment" in the form of its right to the proceeds from the sale of the debtor's property. *Id.* Similarly, the creditor's right to foreclose may be viewed as a "right to an equitable remedy." *Id.* By the same definition, a judgment lien is a claim."); see also *In re PPI Enterprises (U.S.), Inc.*, 324 F.3d 197, 203 (3d Cir. 2003)(citing *Johnson* for the proposition that, "Under § 101(5), a "claim" refers broadly to a creditor's

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right to recovery."); *In re Orange Cty. Nursery, Inc.*, 439 B.R. 144, 149 (C.D. Cal. 2010)(citing to *Johnson* and finding that, when defining the term "claim" in the Code, "Congress intended to adopt the broadest available definition of claim.").

In short, while Kurtin's position is that the definition of a "claim" is not relevant because Kurtin's lien rights are *in rem* rights, see Reply to Trustee Opp'n to Amendment Mot., 7:9-9:8, in *Johnson*, the Supreme Court ruled that an *in rem* lien right is a "claim" within the meaning of § 101(5). The Court, therefore, interprets the term "claim" in § 510(b) to include *in rem* lien rights and will amend the Decision to clarify that both the Kurtin Claim and the Kurtin Liens were mandatorily subordinated under § 510(b). The court is also mindful of Kurtin's argument, relying on *Law v. Siegel*, 571 U.S. 415, 421, 134 S. Ct. 1188 (2014), that the court may not create equitable remedies when those remedies contradict the express mandates of the Code. See Reply to Opp'n to Amend Mot., 6:6-18. Subordinating the Kurtin Liens under § 510(b) is not creating a new remedy, however, but simply applying the Supreme Court's definition of the term "claim" in *Johnson* to the facts of this case.

2. The Argument Under § 725

Section 725 provides that:

After the commencement of a case under this chapter, but before final distribution of property of the estate under section 726 of this title, the trustee, after notice and a hearing, shall dispose of any property in which an entity other than the estate has an interest, such as a lien, and that has not been disposed of under another section of this title. 11 U.S.C. § 725 (emphasis added).

The Court agrees with the position of Trustee that:

Section 725 requires a Chapter 7 trustee to 'dispose' or sell all encumbered property owned by the estate before the trustee makes a final distribution. The mandate in this statute merely accommodates the obvious: The need to sell encumbered property before a final

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distribution is made Section 725 does not require a trustee to accept the validity or priority of the liens encumbering property of the estate. Nor does it vitiate the powers vested in the trustee by Article V of the Bankruptcy Code, and in particular, the power to subordinate claims provided for in Section 510(b)." See Cross Mot. at 11:13-20.

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Defendant(s):

Todd Kurtin

Represented By
Lewis R Landau
Edward O Morales

Plaintiff(s):

Bruce Elieff

Pro Se

Morse Properties, LLC

Pro Se

4627 Camden, LLC

Pro Se

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

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#3.00 Hearing RE: Cross Motion Pursuant to FRBP 9014 and FRBP 60 in Response to "Motion for Amended Findings and Conclusions Pursuant to FRBP 7052 and FRCP 52(b); Alternatively Amended Judgment Pursuant to FRBP 9023 and FRCP 59(e)

Docket 189

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 18, 2021

Deny motion as moot in light of ruling re the Kurtin Motion re Amendment

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Defendant(s):

Todd Kurtin

Represented By
Lewis R Landau
Edward O Morales

Plaintiff(s):

Bruce Elieff

Pro Se

Morse Properties, LLC

Pro Se

4627 Camden, LLC

Pro Se

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

Thursday, March 18, 2021

Hearing Room 5A

2:00 PM

CONT... Bruce Elieff

Chapter 7

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

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

Tuesday, March 23, 2021

Hearing Room 5A

10:00 AM

8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

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Meeting ID: 161 791 4706

Password: 381185

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

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

Tuesday, March 23, 2021

Hearing Room

5A

10:00 AM

CONT...

Chapter

<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

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- Say your name every time you speak.

Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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

Tuesday, March 23, 2021

Hearing Room 5A

10:00 AM

8:21-10525 The Source Hotel, LLC

Chapter 11

#1.00 Hearing RE: Motion for Entry of Order Authorizing Debtor to Provide Adequate Assurance of Future Payment to Utility Companies Pursuant to 11 U.S.C. Section 366 (**OST Entered 3/12/2021**)

Docket 19

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 23, 2021

The court is inclined to grant the Motion, however, service to the utility companies appears to be improper. If so, the hearing re the Motion will be continued to April 1, 2021 at 10:00 a.m., with notice by overnight to be made no later than March 24, 2021; opposition by March 30, 2021 and reply presented orally at the hearing.

Basis for Tentative Ruling:

Service to the utility companies was not made in accordance with FRBP 7004(b)(3) as required by FRBP 9014 for contested matter such as this. It appears that the utility companies were served at post office boxes, presumably the place where payments are made. Service pursuant to 7004(b)(3) must be made to the attention of an officer, managing or general agent, or to any other agent authorized by appointment or by law to accept service of process.

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

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

Tuesday, March 23, 2021

Hearing Room 5A

10:00 AM

8:21-10525 The Source Hotel, LLC

Chapter 11

#2.00 Hearing RE: Motion for Entry of an Order: (A) Requiring Turnover of Estate Cash by Evertrust Bank; (B) Authorizing Debtor to use Cash Collateral; and (C) Authorizing Debtor to Obtain Post-Petition Financing From M+D Properties on an Unsecured Basis **(OST Entered 3/12/2021)**

Docket 21

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 23, 2021

Grant the motion with the modifications set forth in the Reply and with the order language proposed by Shady Bird. Final hearing: May 6, 2021 at 10:30 a.m. Supplemental pleadings by Debtor, if any, must be filed by April 15, 2021; any response by April 22, 2021 and and reply by April 29, 2021.

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

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

Tuesday, March 30, 2021

Hearing Room 5A

2:00 PM

8:00-00000

Chapter

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Meeting ID: 161 561 0056

Password: 011197

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

Tuesday, March 30, 2021

Hearing Room 5A

2:00 PM

CONT...

Chapter

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Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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Parties in interest and members of the public may connect to the video

**United States Bankruptcy Court
Central District of California
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Judge Erithe Smith, Presiding
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Tuesday, March 30, 2021

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CONT...

Chapter

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**United States Bankruptcy Court
Central District of California
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Judge Erithe Smith, Presiding
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Tuesday, March 30, 2021

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**United States Bankruptcy Court
Central District of California
Santa Ana
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Tuesday, March 30, 2021

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 Hearing RE: Defendant Suncal Management, LLC's Motion For Partial Summary Judgment Of Plaintiffs Claims For Actual And Constructive Fraudulent Transfer; And for Summary Adjudication Of Issues

FR: 1-28-21; 3-11-21

Docket 496

***** VACATED *** REASON: In light of the Court's intent to issue written rulings in lieu of oral rulings, all hearings on the 2:00 pm calendar regarding oral rulings are off calendar.**

Courtroom Deputy:

OFF CALENDAR: In light of the Court's intent to issue written rulings in lieu of oral rulings, all hearings on the 2:00 pm calendar regarding oral rulings are off calendar - sb/td (3/30/2021)

Tentative Ruling:

January 28, 2021

The following tentative ruling applies to matters 1, 3, 5 and 7 on today's Calendar:

The parties will be allowed to present oral argument regarding the Motion for Partial Summary Adjudication ("Main Motion") and the Motion to Strike the Singer Report ("Motion to Strike") as follows:

Defendants will be allowed up to 30 minutes to address both the Main Motion and the Motion to Strike. Plaintiff will then be allowed up to 30 minutes to respond. Defendants will be allowed up to 15 minutes to reply.

The parties should assume that the Court has read the pleadings and use oral argument to highlight key points.

At the conclusion of the oral argument, the matter will be taken under

**United States Bankruptcy Court
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Tuesday, March 30, 2021

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2:00 PM

CONT... Palmdale Hills Property, LLC

Chapter 11

submission and a hearing on the Court's oral ruling will be set for March 11, 2021 at 2:00 p.m.. It is possible that a written ruling may be issued prior to March 11, 2021, in which case the parties will be notified. (XX)

Additional Comments:

Plaintiff to address the issue of fraudulent transfer (either actual or constructive) as to Argent. Notably, the court previously denied the parties' cross motions for summary judgment on the alter ego and successor liability claims [AP dkt. 451 and 458]. To the extent that SCM is found liable for any fraudulent transfer claims, the court's granting of partial adjudication as to Argent would not impact Argent's potential liability under Plaintiff's yet to be adjudicated alter ego and successor liability claims.

March 11, 2021 (Updated)

Continue this hearing to March 30, 2021 at 2:00 p.m. on the court's own motion. (XX)

Reason for Tentative Ruling:

The court requires additional time to review and analyze the pleadings, caselaw and evidentiary objections.

March 30, 2021 (Updated)

Special Note: The written ruling in lieu of today's Oral Ruling has not yet been posted for this adversary. However, the court's written is substantively identical to the the ruling for #2 on today's calendar re SunCal Torrance, which has been posted. See ruling for #2.

Party Information

Debtor(s):

Palmdale Hills Property, LLC

Represented By
Paul J Couchot
Peter W Lianides

**United States Bankruptcy Court
Central District of California
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CONT... Palmdale Hills Property, LLC

Chapter 11

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
Tara Castro Narayanan

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

**United States Bankruptcy Court
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CONT... Palmdale Hills Property, LLC

Chapter 11

Trustee(s):

Steven M Speier (TR)

Represented By
Louis R Miller
Mike D Neue
Lei Lei Wang Ekvall
Robert P Goe

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2:00 PM

8:08-17206 Palmdale Hills Property, LLC

Chapter 11

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

#2.00 CONT'D ORAL RULING Hearing RE: Defendant Suncal Management, LLC's Motion For Partial Summary Judgment Of Plaintiffs Claims For Actual And Constructive Fraudulent Transfer; And for Summary Adjudication of Issues

FR: 1-28-21; 3-11-21

Docket 443

***** VACATED *** REASON: In light of the Court's intent to issue written rulings in lieu of oral rulings, all hearings on the 2:00 pm calendar regarding oral rulings are off calendar.**

Courtroom Deputy:

OFF CALENDAR: In light of the Court's intent to issue written rulings in lieu of oral rulings, all hearings on the 2:00 pm calendar regarding oral rulings are off calendar - sb/td (3/30/2021)

Tentative Ruling:

January 28, 2021

The following tentative ruling applies to matters 1, 3, 5 and 7 on today's Calendar:

The parties will be allowed to present oral argument regarding the Motion for Partial Summary Adjudication ("Main Motion") and the Motion to Strike the Singer Report ("Motion to Strike") as follows:

Defendants will be allowed up to 30 minutes to address both the Main Motion and the Motion to Strike. Plaintiff will then be allowed up to 30 minutes to respond. Defendants will be allowed up to 15 minutes to reply.

The parties should assume that the Court has read the pleadings and use oral argument to highlight key points.

At the conclusion of the oral argument, the matter will be taken under

**United States Bankruptcy Court
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CONT... Palmdale Hills Property, LLC

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Additional Comments:

Plaintiff to address the issue of fraudulent transfer (either actual or constructive) as to Argent. Notably, the court previously denied the parties' cross motions for summary judgment on the alter ego and successor liability claims [AP dkt. 451 and 458]. To the extent that SCM is found liable for any fraudulent transfer claims, the court's granting of partial adjudication as to Argent would not impact Argent's potential liability under Plaintiff's yet to be adjudicated alter ego and successor liability claims.

March 11, 2021 (Updated)

Continue this hearing to March 30, 2021 at 2:00 p.m. on the court's own motion. (XX)

Reason for Tentative Ruling:

The court requires additional time to review and analyze the pleadings, caselaw and evidentiary objections.

March 30, 2021

Written Ruling in Lieu of Oral Ruling is set forth below:

RULING:

1. Grant the Motion as to Third and Fourth Claims for relief for constructive fraudulent transfer claims under state and federal law.

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Palmdale Hills Property, LLC

Chapter 11

2. Partially grant the Motion as First Claim for Relief for intentional fraudulent transfer under state law and find that the reasonably equivalent value prong of the CC § 3439.08 statutory defense against CC § 3439.04(a)(1) has been satisfied.

3. Deny the Motion as to the Second Claim for Relief for intentional fraudulent transfer claim under 11 U.S.C. § 548

Background

An involuntary petition was filed against SunCal Torrance Properties, LLC ("Debtor") on November 14, 2008, case no. 08-17472. The order for relief was entered on January 6, 2009 and plaintiff, Steven M. Spier ("Trustee" or "Plaintiff") was appointed chapter 11 trustee and subsequently was later appointed to be the liquidating trustee under the confirmed joint chapter 11 plans.

Trustee filed the complaint against SunCal Management, LLC ("SCM") and Argent Management, LLC ("Argent")(collectively, "Defendants") on May 1, 2012, giving rise to the instant adversary proceeding. Trustee filed a total of twelve adversary proceedings against Defendants. In all 12 of those related adversary proceedings, Trustee seeks the return of management fees paid by the debtors to SCM during the four years preceding their bankruptcies (2004 and 2008). The second amended complaint ("SAC") was filed on May 14, 2014. The court subsequently partially granted Defendants' motion to dismiss and dismissed without leave to amended Trustee's causes of action seeking to recover expenses paid prior to May 2008 as being barred by the applicable 4-year status of limitations [AP dkt. 116]. Defendants filed their answers on December 5, 2014.

On May 31, 2016, the order denying SCM's motion for partial summary adjudication finding that res judicata did not bar the claims for relief alleged by Trustee in the SAC was entered. The motion for reconsideration was also denied [AP dkt. 305]. The Adversary Proceeding was transferred to Judge Geraldine Mund on September 12, 2016. The case was transferred back to Judge Erithe Smith on January 29, 2018.

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CONT... Palmdale Hills Property, LLC

Chapter 11

On June 1, 2018, pursuant to the parties' court approved joint stipulation, Plaintiff filed his third amended complaint (the "TAC") alleging claims for relief to avoid and recover fraudulent transfers and preferences only. Per the order approving the joint stipulation, Defendants' answers to the SAC were deemed to be their answer to the TAC [dkt. 325]. The court subsequently denied the parties' cross motions for summary judgment on the alter ego and successor liability claims [AP dkt. 403, 408]. The order granting Plaintiff's motion for partial summary adjudication that SCM was Debtor's statutory and non-statutory insider was entered on June 17, 2020 [AP 436, 437].

Defendants now move for summary adjudication on Plaintiff's actual and constructive fraudulent transfer claims in the TAC alleged under both federal and state law which seek to recover amounts paid (the "Payments") by Debtor to SCM during the four years preceding Debtor's bankruptcy filed on November 14, 2008 (the "Motion")[AP dkt. 443] and (the "Reply")[AP dkt. 469]. Plaintiff opposes the Motion (the "Opposition") [AP dkt. 449].

A. 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 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.* _

In ruling on a summary judgment motion, the court should never weigh

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the evidence. *Anderson*, 477 U.S. at 255. Instead, 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).

B. The Motion is partially granted as to Argent

In the SAC, Plaintiff seeks to recover the Payments from Defendants based on intentional and constructive fraudulent transfers under state and federal law. *See* SAC, 19-21, ¶¶91-108. The alleged Payments occurred in the 2 and 4 years preceding Debtor's bankruptcy filed in November 2008. *See id.* Plaintiff admits, however, that defendant Argent was not formed until 2009. *See* SAC, 10, ¶54; Argent Answer, 9, ¶54. As such, Plaintiff's direct constructive and intentional fraudulent transfer claims against Argent are dismissed because Plaintiff has presented no evidence in opposition to the Motion that Argent (who did not exist during the relevant time periods as admitted by Plaintiff) directly received any Payments.

Notably, the court previously denied the parties' cross motions for summary judgment on the alter ego and successor liability claims [AP dkt. 451, 458]. To the extent that SCM is found liable for any fraudulent transfer claims, the court's dismissal of the direct fraudulent transfer claims against Argent does not impact Argent's potential liability under Plaintiff's yet to be adjudicated alter ego and successor liability claims. *See* SAC, ¶¶ 99, 108, 118, 126.

C. The Motion is granted as to Plaintiff's Constructive Fraudulent Transfer Claims

1. Federal law

In the Fourth Claim for Relief, Plaintiff seeks recovery of the Payments made within 2 years of the petition date as constructive fraudulent transfers

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Chapter 11

under § 548(a)(1)(B). See TAC, ¶¶ 94-100. The trustee may avoid constructively fraudulent transfers of debtor's interest in property made within 2 years of the petition date under § 548(a)(1)(B). "A transfer is a constructive fraudulent transfer if the debtor receives less than reasonably equivalent value in exchange for the transfer, and the transfer is made while the debtor is in financial distress. *In re Fink*, 217 B.R. 614, 618–19 (Bankr. C.D. Cal. 1997).

As summarized by in *Fink*:

There are three kinds of financial distress that may make a transaction a constructive fraudulent transfer: (a) the debtor is insolvent, or the transfer renders the debtor insolvent; (b) the transfer leaves the debtor undercapitalized or nearly insolvent (i.e., with insufficient assets to carry on its business); (c) the debtor intends to incur debts beyond its ability to pay.

Constructive fraudulent transfer law applies without regard to intent (except the intent to incur debts in the last alternative)... The elements of a cause of action for constructive fraudulent transfer by an insolvent under section 548(a) are as follows: the debtor (1) made a transfer or incurred an obligation, (2) without receiving a reasonably equivalent value in exchange, (3) while insolvent, and (4) within [two years] year before the date of the filing of the bankruptcy petition.

Fink, 217 B.R. at 618–19 (citations omitted); 11 U.S.C. § 548(a)(1).

The Bankruptcy Code defines insolvent as a "financial condition such that the sum of the entity's debts is greater than all such entity's property, at a fair valuation, exclusive of" certain property transferred, concealed or removed or exempt property. 11 U.S.C. § 101(32). A transfer is defined as "each mode, direct and indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—(i) property; or (ii) an interest in property." 11 U.S.C. § 101(54)(D). The trustee "has the burden of proving the elements of a fraudulent transfer by a preponderance of the evidence." *In re 3dfx Interactive, Inc.*, 389 B.R. 842, 863 (Bankr. N.D. Cal. 2008), *subsequently aff'd sub nom. In re 3DFX Interactive, Inc.*, 585 F. App'x 626

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CONT... Palmdale Hills Property, LLC
(9th Cir. 2014).

Chapter 11

The Payments were for reasonable equivalent value as a matter of law

Defendants first argument is that the Payments, as a matter of law, cannot be deemed to be constructively fraudulent because the Payments were for reasonably equivalent value since the Payments discharged Debtor's obligations under the Development Management Agreement ("DMA") entered into between Debtor and SCM, and the loan agreement between Debtor and Lehman (as defined in the Motion) entered into in November 2006 (the "Loan Agreement"). UF 21, 23, 31; Mot., 16-20. The DMA set the amount of management fees paid to SCM based as 3% of the estimated final sale price of Debtor's undeveloped parcel of land (the "Project"), 1% for sales management, and 100% reimbursement of expenses incurred by SCM. UF 27-29.

According to the report prepared by Plaintiff's expert witness, Neal Singer (the "Singer Report"), the total amounts paid to SCM between December 2006 to September 2008 was \$961,686 for management fees, \$27,315 for site supervision, \$51,521 for staff payroll, and \$36,286 staff marketing. Pl. Appendix of Evid., Ex. 1, p. 9 (Neal Singer Report); Gl 6-8, p. 62 (Fact Creating Disputed Issues). Plaintiff alleges that Debtor overpaid SCM by \$766,686. Gl 26, p. 64 (Fact Creating Disputed Issues).

Defendants rely on *In re Fitness Holdings Int'l, Inc.*, 714 F.3d 1141, 1145-1146 (9th Cir. 2013) which states that:

[T]o the extent a transfer is made in satisfaction of a "claim" (i.e., a "right to payment"), that transfer is made for "reasonably equivalent value" for purposes of § 548(a)(1)(B)(i). And a determination that a transfer was made for "reasonably equivalent value" precludes a determination that it was constructively fraudulent under § 548(a)(1)(B).

Before making a ruling that repayment of a debt constituted a transfer for reasonably equivalent value though "the court must determine whether the purported 'debt' constituted a right to payment under state law" and if it did not, "the court may recharacterize the debtor's obligation to the transferee

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under state law principles." *Id.* at 1147.

Chapter 11

Unlike the SunCal Oak Knoll, LLC, adversary proceeding no. 18-01015, Judge Mund made no findings or ruling regarding Plaintiff's original breach of contract claim in this adversary proceeding and Plaintiff subsequently amended the complaint to delete the breach of contract claim for relief. Nonetheless, because the facts of the SunCal Oak Knoll case are almost identical, this court incorporates and adopts Judge Mund's analysis concerning the validity of the DMA in SunCal Oak Knoll as applicable to the DMA involving Debtor in this adversary proceeding. See Mot., p. 10:7-22; August 2, 2017 Memorandum of Decision Granting Defendants' Motion for Summary Judgment in Part and Continuing Hearing ("August 2017 Memorandum of Decision")[18-01015, AP dkt. 342]. In the August 2017 Memorandum of Decision, Judge Mund explained that SunCal Oak Knoll, LLC breached the DMA first by failing to pay the management fees and expenses when Lehman filed for bankruptcy in September 2008. UF 77-78; 2017 Aug. 2017 Mem. of Decision, 23:24-28. This finding necessarily implies that, before the breach, the DMA was a valid contract and there were continuing obligations to pay the management fees and expenses, i.e., a right to payment in favor of SCM. See Reply, 9:1-25. Because the Payments were made in satisfaction of a claim, the DMA, the Payments were for reasonably equivalent value as a matter of law. See *Fitness Holdings*, 714 F.3d at 1145-1146. The same reasoning applies here with respect to payments made by Debtor pursuant to the DMA.

Plaintiff's responsive arguments against Defendants' position are not persuasive. First, Plaintiff argues that the court should find a genuine dispute exists as to whether the Payments satisfied an antecedent debt because Defendants also allege that the Payments were for "new value" in a "contemporaneous exchange." Opp'n, 37:9-19. Plaintiff's argument misses the mark because these two affirmative defenses were unambiguously pled as affirmative defenses to the preference claim for relief -- not the constructive fraudulent claims for relief. Reply, 8:9-15; GI (Facts Creating Dispute) 70-72.

Plaintiff's second argument against finding that the Payments paid under the DMA were not for reasonably equivalent value is that there is an

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exception to the rule that payments made on account of an antecedent debt are reasonably equivalent value. Relying on *In re Sw. Supermarkets, LLC*, 325 B.R. 417, 430-31 (Bankr. D. Ariz. 2005), Plaintiff argues that the exception exists when there are other badges of fraud present, such as an insider relationship between the debtor and the payee. Plaintiff further argues that the exception is applicable to the instant case because the court, in its June 17, 2020 order, has already found that SCM was an insider of Debtor and that SCM dominated and controlled Debtor, so the Payments were not made at arms-length. Opp'n, 37:24-39:24. *Supermarkets* is not binding on this court and was issued years before the Ninth Circuit's decision in *Fitness Holdings* case, and the other cases cited by Plaintiff are also not persuasive.

Opp'n, 28:28-39:6; Reply 11:2-12:20. The only binding authority cited by the parties, *Fitness Holdings*, makes no mention of an exception to the rule that payments made on account of an antecedent debt are reasonably equivalent value- an important omission given the facts of that case involved the payment of almost \$12 million to the debtor's sole shareholder- an insider- on account of promissory notes which the chapter 7 trustee was seeking to recover as constructively fraudulent. *Id.* at 1143-44; Reply 11:15-20.

Plaintiff next argues that a material dispute as to whether there was "true up" provision that required SCM to return fees to Debtor if the estimated gross sale price of the Project upon which the fees were based upon was too high in light of the actual final price of the Project. Opp'n, 39:25-40:14. There is no question that the DMA does not contain a "true-up provision," the Oak Knoll court also came to the same conclusion, and Plaintiff does not point to any specific provision in the DMA for such "true-up provision." See Bruce Cook Decl., Ex. 6 (the DMA); Opp'n, 17-18; Aug. 2017 Mem. of Decision [AP dkt. 342 in 18-01015], 22:6-7. Plaintiff's reliance on Lehman's contentions in pleadings is unpersuasive because Plaintiff has not provided any legal authority that Lehman's arguments in its pleadings can somehow be imputed to Defendants as some type of admission. See GI 41-42 (Facts Creating Dispute). And Plaintiff's reliance on the testimony of Tom Rollins and Ed Nolan to establish a genuine dispute on whether a "true up" provision in the DMA is faulty for two reasons. See GI 44 (Facts Creating Dispute). First, Rollins and Nolan's "understanding" of how to interpret the DMAs does not override the plain language of the DMA. Second, Nolan's testimony actually

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supports Defendant's position, and the plain language of the DMA, that any "true up" provision would occur when the Project was *finally sold*. And Rollins testimony, viewing it most favorably for Plaintiff, establishes that management fees could be adjusted based on revised sale projections at any time, but the testimony certainly does not establish that Defendants were *required* to periodically adjust the sale projections, which would result in revised management fee amounts. See GI 44 (Facts Creating Dispute). During oral argument, Plaintiff's counsel could not point to any specific provision requiring periodic adjustments to the sale projections either.

In her August 2017 ruling in the Oak Knoll adversary proceeding concerning Plaintiff's breach of contract claim, Judge Mund found that any "true up" provision contained in the Grandparent Operating Agreement (as defined in the summary judgment motion) was not applicable because the Oak Knoll debtor breached the DMA in 2008, prior to the Project being sold to Lehman in 2012 and, further, the Project was not sold as a fully-built-out which could have triggered any "true up" provision. Aug. 2017 Mem. of Decision in 18-01021, 6:27-8:9. This reasoning also applies to the instant case because, like Oak Knoll, Debtor also failed to pay certain management fees and the Project was never sold as fully built-out Project. Accordingly, any true-up requirement was never triggered as a matter of law. See Reply 15:2-15.

For the above reasons, Defendants have demonstrated that there is no genuine dispute of material fact that the Payments were paid according to the terms of the DMA which were a continuing obligation of Debtor (i.e., SCM's right to payment from Debtor) until Debtor breached the DMA in 2008 by failing to pay the Management fees. There is also no "true-up" provision in the DMA that was "triggered" because Debtor's breached the DMA and the Project was never sold as fully-built-out. Viewing the evidence in the light most favorable to Plaintiff, under the Ninth Circuit's binding authority of *Fitness Holdings*, Defendants are entitled to partial summary adjudication as a matter of law because Plaintiff cannot carry his burden to demonstrate that the Payments to Defendants were for less than reasonably equivalent value by a preponderance of the evidence. Stated otherwise, because the Payments were paid to satisfy Debtor's obligations under the DMA- a claim against Debtor- the Payments cannot be constructively fraudulent under

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Fitness Holdings. In so holding, the court need not consider Defendants' alternative argument regarding the substance of the Singer Report.

2. State law

In the Third Claim for Relief, Plaintiff seeks recovery of the Payments made within 4 years of the petition date as constructive fraudulent transfers under § 544(b) and California Civil Code ("CC") §§ 3439.04(a)(2), 3439.05 and 3439.07. See TAC, ¶¶84-93. The "strong-arm" powers under § 544(b) allow a trustee to utilize remedies available to creditors under state law. California's Uniform Fraudulent Transfer Act (in effect for transfers occurring before 2016) under CC § 3439 *et seq.* provides such a remedy. Under CC § 3439.04(a)(2), a transfer is constructively fraudulent as to a creditor whose claim arose before the transfer if the transfer was made without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor's remaining assets are unreasonably small or the debtor intended to incur debts beyond his or her ability to repay. Under CC § 3439.05, "A transfer made or obligation incurred by a debtor is fraudulent 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." Section 3439 mirrors the Bankruptcy Code and defines a "transfer" as "every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, license, and creation of a lien or other encumbrance." Civ. Code § 3439.01(l). The trustee "has the burden of proving the elements of a fraudulent transfer by a preponderance of the evidence." *In re 3dfx Interactive, Inc.*, 389 B.R. 842, 863 (Bankr. N.D. Cal. 2008), *subsequently aff'd sub nom. In re 3DFX Interactive, Inc.*, 585 F. App'x 626 (9th Cir. 2014).

Though the Ninth Circuit in *Fitness Holdings* only analyzed reasonably equivalent value under § 548(a)(1)(B), this court finds that the reasoning applies with equal force to claims for relief brought under CC§ 3439. Under CC § 3439.03, "*value is given for a transfer* or obligation if, in exchange for

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the transfer or obligation, property is transferred *or an antecedent debt is secured or satisfied . . .*" (emphasis added). Consistent with the ruling in *Fitness*, value was given within the meaning of CC § 3439.03 because he Payments satisfied an antecedent debt under the DMA. Accordingly, the court finds and concludes that the Payments were made for reasonably equivalent value as a matter of law under CC § 3439 as well.

D. The Motion is Denied as to Plaintiff's Intentional Fraudulent Transfer Claim for Relief

1. Federal law

In the SAC, in the Fourth Claim for Relief, Plaintiff seeks recovery of the Payments made within 2 years of the petition date as intentional fraudulent transfers under § 548(a)(1)(A). See SAC, 20-21. Under 11 U.S.C. § 548(a)(1), a trustee may avoid transfers made with "actual intent to hinder, delay, or defraud" creditors made "within 2 years before the date of the filing of the petition." The Code in § 101(54)(D) defines "transfers" as "each mode, direct and indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—(i) property; or (ii) an interest in property." The necessary intent to "hinder, delay or defraud" creditors" may be inferred based on the traditional "badges of fraud". See *In re Acequia, Inc.*, 34 F.3d 800, 805-06 (9th Cir. 1994)("[C]ourts applying...§ 548(a)(1) frequently infer fraudulent intent from the circumstances surrounding the transfer, taking particular note of certain recognized indicia or badges of fraud.").

The Ninth Circuit recognizes "actual or threatened litigation against the debtor," "insolvency or other unmanageable indebtedness on the part of the debtor" and "a special relationship between the debtor and the transferee" as three of the "more common circumstantial indicia of fraudulent intent." *Id.* at 806. A transferee's fraudulent intent may be imputed to the transferor if the transferee controls the debtor's disposition of the transferred property. See *In re Brobeck, Phleger & Harrison LLP*, 408 B.R. 318, 339 (Bankr. N.D. Cal. 2009). Given the subject nature of intent, actual fraudulent intent is a question of fact. *Id.* at 340. The trustee "has the burden of proving the elements of a fraudulent transfer by a preponderance of the evidence." *In re 3dfx Interactive, Inc.*, 389 B.R. 842, 863 (Bankr. N.D. Cal. 2008),

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subsequently aff'd sub nom. In re 3DFX Interactive, Inc., 585 F. App'x 626 (9th Cir. 2014).

In this case, the fact that Plaintiff has not demonstrated a triable issue of material fact that the Payments were for less than reasonably equivalent value is not fatal to Plaintiff's intentional fraudulent transfer claims under § 548(a)(1)(A). "Unlike constructively fraudulent transfers, the adequacy or equivalence of consideration provided for the actually fraudulent transfer is not material to the question whether the transfer is actually fraudulent... Conversely, the transferor's intent is immaterial to the constructively fraudulent transfer in which the issue is the equivalence of the consideration coupled with either insolvency, or inadequacy of remaining capital, or inability to pay debts as they mature." *In re Cohen*, 199 B.R. 709, 717 (B.A.P. 9th Cir. 1996).

Turning to other badges of fraud, there continues to be disputed issues of material fact. For example, Defendants presented evidence of the projected appraised value of the Project that exceeds Debtor's liabilities, but Plaintiff has submitted rebuttal evidence in the form of Howard Grobstein's expert witness report (to which Defendants have not moved to strike) opining that Debtor was insolvent and the declaratory testimony of certain principals of Debtor, SCM, and D.E. Shaw (a creditor of Debtor) that Debtor stopped paying its debts as they became due. *Cf.* Mot., 33; Opp'n, 18-19.

The court has also previously found that SCM was an insider of Debtor, and though the court did not find that SCM "dominated and controlled" Debtor, the court did find that SC substantially operated all of Debtor's business, was the managing agent of Debtor, controlled Debtor's day-to-day operations, and processed the underlying Payments to itself, notwithstanding Lehman's control over the Project, on Debtor's behalf. See Exhibit 1 to Order Granting In Part And Denying In Part The Trustee's Motion For Partial Summary Adjudication That SunCal Management, LLC Was An Insider Of The Debtor Lodged On June 5, 2020 [AP dkt. 486], 0019-25. And while Defendants' did not conceal the Payments (concealment being another badge of fraud), the court has also previously found that the Payments were not made at arms-length due to SCM's control over the payment process.

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See *id.* at 0025; see Mot., 31; Opp'n, 20:89; GI 78.

Plaintiff has presented rebuttal evidence that raises questions of disputed facts regarding badges of fraud other than lack of reasonably equivalent value. The court is required to believe Plaintiff's evidence and all justifiable inferences drawn in Plaintiff's favor. See *Tolan v. Cotton*, 572 U.S. 650, 651 (2014). And the court cannot weigh the evidence against each other. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986). The court therefore finds that disputed facts remain regarding the badges of fraud that could cumulatively demonstrate fraudulent intent at trial, so Defendants have not established that Defendants are entitled to partial summary adjudication in Defendants' favor. 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).

2. State law

In the SAC, in the Third Claim for Relief, Plaintiff seeks recovery of the Payments made within 4 years of the petition date as intentional fraudulent transfers under § 544 and CC §§ 3439.04(a)(1) and 3439.07. See SAC, 21-22. Under CC § 3439.04(a)(1), Trustee may avoid transfers made with "actual intent to hinder, delay, or defraud" creditors. The necessary intent to "hinder, delay or defraud" creditors" may be inferred from the traditional "badges of fraud." See *Attebury Grain Ltd. Liab. Co. v. Grayn Co.*, 721 F. App'x 669, 671 (9th Cir. 2018)("Under California law, a transaction may be voided if a debtor makes a transfer with the intent to "hinder, delay, or defraud" its creditors... This intent can be inferred based on consideration of the statute's non-exhaustive list of eleven badges of fraud."); Civ. Code § 3439.04(b). A creditor seeking to avoid a fraudulent transfer under Civil Code § 3439.04(a) bears the "burden of proving the elements of the claim for relief by a preponderance of the evidence." CC § 3439.04(c); *In re 3dfx Interactive, Inc.*, 389 B.R. 842, 863 (Bankr. N.D. Cal. 2008), *subsequently aff'd sub nom. In re 3DFX Interactive, Inc.*, 585 F. App'x 626 (9th Cir. 2014).

CC § 3439.04(b)(1)-(11) sets forth a nonexclusive, eleven-factor test for determining whether a transfer was made with an actual intent to hinder, delay, or defraud a creditor. Consideration maybe given, among other

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factors, to any or all of the following badges of fraud: (1) The transfer or obligation was to an insider or other person with a special relationship with the debtor; (2) The debtor retained possession or control over the property after the transfer; (3) The transfer was not disclosed; (4) Actual or threatened litigation against the debtor at the time of the transfer; (5) The transfer included all or substantially all of the debtor's assets; (6) The debtor absconded; (7) The debtor removed or concealed assets; (8) The value of the consideration received by the debtor was not reasonably equivalent to the value of the asset transfer; (9) Insolvency or other unmanageable indebtedness on the part of the debtor; (10) The transfer occurred shortly after a substantial debt was incurred; and (11) Whether the debtor transferred the essential assets of the business to a lienholder who transferred the assets to an insider of the debtor. *Id.*

CC § 3439.08 states that, "A transfer or an obligation is not voidable under paragraph (1) of subdivision (a) of Section 3439.04, against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee." Thus, good faith and reasonably equivalent value is a statutory defense to intentional fraudulent transfer claims under CC § 3439.04(a)(1):

Civil Code section 3439.08, subdivision (a) provides a defense to an action based on section 3439.04, subdivision (a). Section 3439.08, subdivision (a) states that "[a] transfer or an obligation is not voidable under subdivision (a) of Section 3439.04, against a person who took in good faith and for a reasonably equivalent value" Thus, a showing of good faith and reasonably equivalent value is all that is required to defeat a creditor's action based on section 3439.04, subdivision (a).

Annod Corp. v. Hamilton & Samuels, 100 Cal. App. 4th 1286, 1294 (2002).

Here, while not explicitly citing to the CC § 3439.08(a), the court deems Defendants to be requesting such relief based on Defendants' citation to *Annod* while making arguments regarding reasonably equivalent value. See Mot., p. 31:1-16. As discussed above, viewing the undisputed facts in the light most favorable to Plaintiff, Defendants have demonstrated that the

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Payments were made for reasonably equivalent value by a preponderance of the evidence. Thus, the reasonably equivalent value prong of CC § 3439.08(a) has been satisfied and Defendants are entitled to partial summary adjudication on that element of CC § 3439.08(a).

Defendant has not established, however, the second prong of the CC § 3439.08(a) statutory defense to actual fraudulent intent transfer- good faith. For the same reasons discussed above, disputed facts regarding several badges of fraud, i.e., fraudulent intent, remains, so Defendants have not demonstrated that they are entitled to partial summary adjudication on the good faith prong of their statutory defense, or on the issue of fraudulent intent overall. The court is required to believe Plaintiff's evidence and all justifiable inferences drawn in Plaintiff's favor. See *Tolan v. Cotton*, 572 U.S. 650, 651 (2014). And the court cannot weigh the evidence against each other. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986). As a result, Defendants have not established that Defendants are entitled to partial summary adjudication on the CC § 3439.08(a) defense, and as a result, Defendants are not entitled to partial summary adjudication of Plaintiff's actual fraudulent transfer claim for relief under state law.

Conclusion

The Motion is granted as to the Third and Fourth claims for constructive fraudulent transfer claims because Plaintiff cannot satisfy the "less than reasonably equivalent value" elements of the claims viewing the evidence in the light most favorable to Plaintiff and as a matter of law.

The Motion is partially granted as to First Claim for Relief for intentional fraudulent transfer under state law. CC § 3439.08(a) provides a statutory defense against CC § 3439.04(a)(1) has two elements (reasonably equivalent value and good faith) and Plaintiff has satisfied the first element- that the Payments were made for reasonably equivalent value. Plaintiff has not satisfied the second element of good faith.

The Motion is denied as to the Second Claim for Relief for intentional fraudulent transfer claim under federal law because there remain disputed issues of fact regarding the "badges of fraud."

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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
Tara Castro Narayanan

Defendant(s):

SunCal Management LLC

Represented By

Craig H Averch
Aalok Sharma

Argent Management, LLC

Represented By

Craig H Averch
Aalok Sharma

Movant(s):

SunCal Management LLC

Represented By

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Argent Management, LLC

Craig H Averch
Aalok Sharma

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
Robert P Goe

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8:08-17206 Palmdale Hills Property, LLC

Chapter 11

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

#3.00 CONT'D ORAL RULING Hearing RE: Defendant Suncal Management LL'C's Motion for Partial Summary Judgment of Plaintiff's Claims for Actual and Constructive Fraudulent Transfer; And for Summary Adjudication of Issues

FR: 1-28-21; 3-11-21

Docket 445

***** VACATED *** REASON: In light of the Court's intent to issue written rulings in lieu of oral rulings, all hearings on the 2:00 pm calendar regarding oral rulings are off calendar.**

Courtroom Deputy:

OFF CALENDAR: In light of the Court's intent to issue written rulings in lieu of oral rulings, all hearings on the 2:00 pm calendar regarding oral rulings are off calendar - sb/td (3/30/2021)

Tentative Ruling:

January 28, 2021

The following tentative ruling applies to matters 1, 3, 5 and 7 on today's Calendar:

The parties will be allowed to present oral argument regarding the Motion for Partial Summary Adjudication ("Main Motion") and the Motion to Strike the Singer Report ("Motion to Strike") as follows:

Defendants will be allowed up to 30 minutes to address both the Main Motion and the Motion to Strike. Plaintiff will then be allowed up to 30 minutes to respond. Defendants will be allowed up to 15 minutes to reply.

The parties should assume that the Court has read the pleadings and use oral argument to highlight key points.

At the conclusion of the oral argument, the matter will be taken under

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submission and a hearing on the Court's oral ruling will be set for March 11, 2021 at 2:00 p.m.. It is possible that a written ruling may be issued prior to March 11, 2021, in which case the parties will be notified. (XX)

Additional Comments:

Plaintiff to address the issue of fraudulent transfer (either actual or constructive) as to Argent. Notably, the court previously denied the parties' cross motions for summary judgment on the alter ego and successor liability claims [AP dkt. 451 and 458]. To the extent that SCM is found liable for any fraudulent transfer claims, the court's granting of partial adjudication as to Argent would not impact Argent's potential liability under Plaintiff's yet to be adjudicated alter ego and successor liability claims.

March 11, 2021 (Updated)

Continue this hearing to March 30, 2021 at 2:00 p.m. on the court's own motion. (XX)

Reason for Tentative Ruling:

The court requires additional time to review and analyze the pleadings, caselaw and evidentiary objections.

March 30, 2021 (Updated)

Special Note: The written ruling in lieu of today's Oral Ruling has not yet been posted for this adversary. However, the court's written is substantively identical to the the ruling for #2 on today's calendar re SunCal Torrance, which has been posted. See ruling for #2.

Party Information

Debtor(s):

Palmdale Hills Property, LLC

Represented By
Paul J Couchot

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Garrick A Hollander
R Grace Rodriguez
Lei Lei Wang Ekvall
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Tara Castro Narayanan

Defendant(s):

SunCal Management LLC

Represented By
Craig H Averch
Aalok Sharma

Argent Management, LLC

Represented By
Craig H Averch
Aalok Sharma

Movant(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
Brianna L Frazier
Shane M Biornstad

Trustee(s):

Steven M Speier (TR)

Represented By
Louis R Miller
Mike D Neue
Lei Lei Wang Ekvall
Robert P Goe

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8:08-17206 Palmdale Hills Property, LLC

Chapter 11

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

#4.00 CONT'D ORAL RULING Hearing RE: Defendant Suncal Management, LLC's Motion for Partial Summary Judgment Of Plaintiffs Claims For Actual And Constructive Fraudulent Transfer; And for Summary Adjudication of Issues

FR: 1-28-21; 3-11-21

Docket 391

***** VACATED *** REASON: In light of the Court's intent to issue written rulings in lieu of oral rulings, all hearings on the 2:00 pm calendar regarding oral rulings are off calendar.**

Courtroom Deputy:

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March 11, 2021 (Updated)

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March 30, 2021 (Updated)

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Party Information

Debtor(s):

Palmdale Hills Property, LLC

Represented By
Paul J Couchot

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

Defendant(s):

SUNCAL MANAGEMENT, LLC

Represented By
Craig H Averch
Aalok Sharma

Argent Management LLC

Represented By
Craig H Averch
Aalok Sharma

Movant(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
Evan C Borges
Mike D Neue
William N Lobel
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
Robert P Goe

**United States Bankruptcy Court
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Thursday, April 1, 2021

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Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1603512591>

Meeting ID: 160 351 2591

Password: 199889

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Thursday, April 1, 2021

Hearing Room 5A

9:30 AM

CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.

Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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

Thursday, April 1, 2021

Hearing Room 5A

9:30 AM

8:18-11594 George Carl Natzic

Chapter 7

Adv#: 8:18-01170 Add2Net, Inc. v. Natzic et al

#1.00 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; 7-16-20; 9-17-20; 11-5-20; 1-8-21

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/3/2021 AT 9:30 A.M.,
PER ORDER ENTERED 3/19/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 6/3/2021 at 9:30 a.m., Per
Order Entered 3/19/2021 (XX) - am/td (3/19/2021)**

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

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
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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, April 1, 2021

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 CON'TD PRE-TRIAL 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: 3-5-20; 9-10-20; 12-17-20

Docket 1

Courtroom Deputy:

SPECIAL NOTE: Unilateral Notice of Settlement of Matter and Request to Continue Pre-trial Proceeding filed 12/3/2020 - td (12/3/2020)

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.
(XX)
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.

December 17, 2020

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, April 1, 2021

Hearing Room 5A

9:30 AM

CONT...

Francis J Marzec

Chapter 7

Continue the hearing as a Status Conference to April 1, 2021 at 9:30 a.m.; an updated Status Report must be filed by March 18, 2021 if the adversary proceeding is still pending as of such date. (XX)

Note: Appearances at this hearing are not required; Plaintiff shall serve notice of the continued hearing date/time.

April 1, 2021

In light of pending settlement, continue this hearing to June 3, 2021 at 9:30 a.m. as a holding date; updated status report must be filed by May 20, 2021 if the matter is still pending as of that date.

Note: Appearances at this hearing are not required; Plaintiff shall serve notice of the continued hearing date/time.

Party Information

Debtor(s):

Francis J Marzec

Represented By
Christine A Kingston

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

Trustee(s):

Richard A Marshack (TR)

Represented By
Anerio V Altman

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, April 1, 2021

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9:30 AM

CONT... Francis J Marzec

Chapter 7

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, April 1, 2021

Hearing Room 5A

9:30 AM

8:19-11546 Joseph Ra

Chapter 7

Adv#: 8:20-01154 Marshack v. Ra

#3.00 CON'TD STATUS CONFERENCE RE: Chapter 7 Trustee's Complaint RE: Objection to Debtor's Discharge Under Section 727 of the Bankruptcy Code

FR: 1-14-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Order Granting Motion for Default Judgment and Default Judgment Entered 3/8/2021**

Courtroom Deputy:

OFF CALENDAR: Order Granting Motion for Default Judgment and Default Judgment Entered 3/8/2021 - td (3/8/2021)

Tentative Ruling:

January 14, 2021

Continue Status Conference to April 1, 2021 at 9:30 a.m.; an updated Status Report must be filed by March 18, 2021 if a motion for default judgement has not been filed by such date. (XX)

Special Note:

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

**United States Bankruptcy Court
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Thursday, April 1, 2021

Hearing Room 5A

9:30 AM

CONT... Joseph Ra Chapter 7

today's hearing is not required; Plaintiff to serve notice of the continued hearing date/time.

Party Information

Debtor(s):

Joseph Ra

Represented By
David B Golubchik
Jaenam J Coe

Defendant(s):

Joseph Ra

Pro Se

Plaintiff(s):

Richard A. Marshack

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 1, 2021

Hearing Room 5A

9:30 AM

8:19-11551 Richard Allen Rietveld

Chapter 7

Adv#: 8:19-01162 Becharoff Capital Corporation v. Rietveld

#4.00 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; 8-20-20; 10-1-20; 12-17-20

Docket 1

***** VACATED *** REASON: CONTINUED TO 5/20/2021 AT 9:30 A.M.,
PER ORDER ENTERED 3/29/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Pre-trial Conference Continued to 5/20/2021 at 9:30 a.m.,
Per Order Entered 3/29/2021 (XX) - td (3/29/2021)**

Tentative Ruling:

November 7, 2019

Discovery Cut-off Date:	April 1, 2020
Pretrial Conference Date: (XX)	May 21, 2020 at 9:30 a.m.
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.

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. (XX)

**United States Bankruptcy Court
Central District of California
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Thursday, April 1, 2021

Hearing Room

5A

9:30 AM

CONT...

Richard Allen Rietveld

Chapter 7

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.

October 1, 2020

Continue this Pretrial Conference to December 17, 2020 at 9:30 a.m. as a Status Conference; an updated Status Report must be filed by December 3, 2020. (XX)

Special Note: A Status Report was not timely filed by September 17, 2020 as previously ordered by the Court [docket #14]. If this adversary proceeding remains pending as of December 3, 2020 and no Status Report is filed by such date, sanctions in an amount of not less than \$200 will be imposed on Plaintiff's counsel for failure to do so.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time on Defendant.

December 17, 2020

Set Pretrial Conference for April 1, 2021 at 9:30 a.m.; Joint Pretrial Stipulation must be filed by March 18, 2021. (XX)

Special note: As the first Status Conference was held more than one year ago, the court will not simply continue the Status Conference any further. Either the matter will settle or proceed to trial.

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.

Party Information

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, April 1, 2021

Hearing Room 5A

9:30 AM

CONT... Richard Allen Rietveld

Chapter 7

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, April 1, 2021

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

#5.00 CON'TD PRE-TRIAL CONFERENCE RE: Complaint Seeking Non-Dischargeability of Debt in Core Adversary Proceeding.

FR: 4-2-20; 6-11-20; 11-5-20; 1-14-21

Docket 1

***** VACATED *** REASON: CONTINUED TO 7/22/2021 AT 9:30 A.M.,
PER ORDER ENTERED 3/22/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Pre-Trial Conference Continued to 7/22/2021 at 9:30 a.m.,
Per Order Entered 3/22/2021 (XX) - td (3/22/2021)**

Tentative Ruling:

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

April 2, 2020

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.

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

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Thursday, April 1, 2021

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9:30 AM

CONT... Catherine Melissa-Ann Guinto

Chapter 7

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

November 5, 2020

Continue the Pretrial Conference to December 10, 2020 to allow Defendant one final opportunity to participate in the drafting of the Pretrial Stipulation. Defendant must advise Plaintiff's counsel of her suggested revisions to the Pretrial Stipulation no later than November 19, 2020 and Plaintiff will provide Defendant with a copy of the revised Pretrial Stipulation no later than November 30, 2020. The final version of the Joint Pretrial Stipulation must be filed no later than December 3, 2020.

Court's Comments

1. It is Defendant's best interest to participate in the drafting of the Joint Pretrial Stipulation ("Stipulation") because the Stipulation establishes all issues that will be decided at trial as well as the exhibits and witness that may be presented. Defendant is advised to review Local Bankruptcy Rule 7016-1 re the preparation of joint pretrial stipulations. Unless Defendant participates in the process, the unilateral Joint Pretrial Stipulation (except as noted below) will stand. Defendant is strongly advised to communicate with Plaintiff's counsel regarding the Stipulation.

2. On pages 2 and 3 of the Stipulation, Plaintiff lists all facts it believes are not in dispute. See paragraphs 1 (a) through (j). If Defendant disagrees with any of those facts, she needs to advise Plaintiff's counsel so that the disputed fact(s) can be included in paragraph 2 (starting at p.3, lines 15-27 to p. 4,

**United States Bankruptcy Court
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Thursday, April 1, 2021

Hearing Room 5A

9:30 AM

CONT... Catherine Melissa-Ann Guinto

Chapter 7

lines 1-4). For example, if Defendant agrees that she filed a chapter 7 bankruptcy case on September 26, 2019, that is an "agreed" fact that need not be determined at trial. It is Defendant's responsibility to identify any facts in paragraph 1 that genuinely disputes and communicate that to Defendant.

3. Paragraph 2 includes facts that the parties do not agree on that must be decided by the court at trial, such as whether Defendant made false statements regarding the loan, etc.

4. Plaintiff states as an undisputed fact on p. 3 at lines 3-7 that a "default judgment for *fraud* was entered." However, though the complaint attaches several exhibits, a copy of the actual judgment (showing fraud) was not attached. This is important because the state court complaint also includes a cause of action for breach of contract (which is dischargeable) and there is at least a possibility that the judgment could be solely for breach of contract. The court notes that the judgment is not included on Plaintiff's list of exhibits.

5. Defendant needs to provide to Plaintiff's counsel by November 19, 2020 a) her list of witnesses (even if its just herself) and a short summary of what the witnesses will testify to; and b) her list of exhibits that she will present in her defense. If Defendant does not provide a list of witnesses or exhibits by November 19, 2020, she will not be allowed to present them at trial.

6. The trial date will be provided at the December 10, 2020 hearing.

Note: If the both parties accept the tentative ruling, appearances at this hearing are not required and Plaintiff shall serve notice of the continued hearing date and deadlines. Plaintiff is also encouraged to provide Defendant with a copy of the the tentative ruling prior to the hearing.

Party Information

Debtor(s):

Catherine Melissa-Ann Guinto

Represented By
Lawrence B Yang

**United States Bankruptcy Court
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Judge Erithe Smith, Presiding
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Thursday, April 1, 2021

Hearing Room 5A

9:30 AM

CONT... Catherine Melissa-Ann Guinto

Chapter 7

Defendant(s):

Catherine Melissa-Ann Guinto Pro Se

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
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Thursday, April 1, 2021

Hearing Room 5A

10:00 AM

8:18-11899 Dennis Ulrich

Chapter 7

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

JPMORGAN CHASE BANK, NA

VS.

DEBTOR

Docket 41

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 1, 2021

Grant with 4001(a)(3) waiver, except that no foreclosure sale of the property may be scheduled prior to August 1, 2021.

Special note: The chapter 7 trustee has filed an application to employ a real estate broker re a short sale of the property and indicates a list price of only \$900,000. The August 1, 2021 date is to allow the trustee an opportunity for a short sale.

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):

Dennis Ulrich

Represented By
William P White

**United States Bankruptcy Court
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Thursday, April 1, 2021

Hearing Room 5A

10:00 AM

CONT... Dennis Ulrich

Chapter 7

Movant(s):

JPMorgan Chase Bank, National

Represented By
Nancy L Lee

Trustee(s):

Jeffrey I Golden (TR)

Represented By
Reem J Bello

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, April 1, 2021

Hearing Room 5A

10:00 AM

8:19-14580 Dae Min Kang and Jaie Yoon Kang

Chapter 13

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

CITIZENS BANK NA

VS.

DEBTORS

Docket 40

***** VACATED *** REASON: Order approving APO Entered 3/30/21**

Courtroom Deputy:

OFF CALENDAR: Order approving APO Entered 3/30/21- mp/td (3/29/21)

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

Movant(s):

CITIZENS BANK N.A.

Represented By
Christina J Khil

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court
Central District of California
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Thursday, April 1, 2021

Hearing Room 5A

10:00 AM

8:20-12562 Michael Gregory Franco

Chapter 13

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

WELLS FARGO BANK, N.A.

VS.

DEBTOR

Docket 59

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 1, 2021

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):

Michael Gregory Franco

Represented By
Anerio V Altman

Movant(s):

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

Represented By
Jenelle C Arnold

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, April 1, 2021

Hearing Room 5A

10:00 AM

CONT... Michael Gregory Franco

Chapter 13

**United States Bankruptcy Court
Central District of California
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Thursday, April 1, 2021

Hearing Room 5A

10:00 AM

8:20-12607 Jose J Sanchez

Chapter 13

#9.00 CON'TD Hearing RE: Amended Motion for Relief from Stay

VEROS CREDIT, LLC

VS.

DEBTOR

FR: 2-11-21; 3-4-21

Docket 35

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 11, 2021

Grant with 4001(a)(3) waiver; deny relief request #7 as Movant has provided no evidence or grounds for extraordinary relief.

Basis for Tentative Ruling:

Movant seeks an order making it effective for two years -- essentially requesting relief under 362(d)(4) without meeting the requirement for such relief as set forth in 362(d)(4) (e.g., multiple filings or transfer of property).

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.

**United States Bankruptcy Court
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Thursday, April 1, 2021

Hearing Room 5A

10:00 AM

**CONT... Jose J Sanchez
March 4, 2021**

Chapter 13

Movant to advise the court re the status of this matter. If more time is needed to finalize the adequate protection order, a further continuance may be requested during the Clerk's calendar roll call prior to the commencement of the hearing. Available continued dates: March 11, 2021, April 1, 2021, April 8, 2021 or April 22, 2021 at 10:00 a.m.

April 1, 2021

No APO has been filed. Continue hearing one final time to April 15, 2021 at 10:00 a.m.

Note: Appearances not required if the parties accept the foregoing tentative ruling; Movant to serve notice of the continued hearing date/time.

Party Information

Debtor(s):

Jose J Sanchez

Represented By
Gary Polston

Movant(s):

Veros Credit, LLC

Represented By
Robert M Tennant

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
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Santa Ana
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Thursday, April 1, 2021

Hearing Room 5A

10:00 AM

8:21-10525 The Source Hotel, LLC

Chapter 11

#9.10 CONT'D Hearing RE: Motion for Entry of Order Authorizing Debtor to Provide Adequate Assurance of Future Payment to Utility Companies Pursuant to 11 U.S.C. Section 366 **(OST Entered 3/12/2021)**

FR: 3-23-21

Docket 19

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 23, 2021

The court is inclined to grant the Motion, however, service to the utility companies appears to be improper. If so, the hearing re the Motion will be continued to April 1, 2021 at 10:00 a.m., with notice by overnight to be made no later than March 24, 2021; opposition by March 30, 2021 and reply presented orally at the hearing. (XX)

Basis for Tentative Ruling:

Service to the utility companies was not made in accordance with FRBP 7004(b)(3) as required by FRBP 9014 for contested matter such as this. It appears that the utility companies were served at post office boxes, presumably the place where payments are made. Service pursuant to 7004(b)(3) must be made to the attention of an officer, managing or general agent, or to any other agent authorized by appointment or by law to accept service of process.

April 1, 2021

Grant the Motion.

United States Bankruptcy Court
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Thursday, April 1, 2021

Hearing Room 5A

10:00 AM

CONT... The Source Hotel, LLC

Chapter 11

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):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

**United States Bankruptcy Court
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Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

8:09-20845 Commercial Services Building Inc

Chapter 7

#10.00 CONT'D Hearing RE: Creditor Douglas J. Patrick's Objection to Proof of Claim No. 8-1 Filed by State Fund in the Amount of \$1,350,389.47

FR: 11-19-20; 2-4-20

Docket 441

***** VACATED *** REASON: CONTINUED TO 5/6/2021 AT 10:30 A.M.,
PER ORDER ENTERED 3/25/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 5/6/2021 at 10:30 a.m., Per Order
Entered 3/25/2021 (XX) - td (3/25/2021)**

Tentative Ruling:

November 19, 2020

Continue this hearing to January 21, 2021 at 10:30 a.m. to allow a) Objecting Party to take discovery as permitted by FRBP 9014 for contested matters and b) additional briefing by the parties to address the issues set forth in the the court's "Basis for Tentative Ruling" comments.

Basis for Tentative Ruling

Creditor State Compensation Insurance Fund ("Claimant") filed proof of claim no. 8-1 (the "Claim") in the general unsecured amount of \$1,350,389.47 for "Insurance Policy" for unpaid workers' compensation insurance premiums for policy years 2002-2006.

Creditor Douglas Patrick ("Patrick") objects to the Claim and requests disallowance in full because the Claim includes several errors that increased the premium amounts (the "Objection")[dkt. 441]. Claimant opposes the Objection (the "Opposition")[dkt. 454].

The Objection is continued for further briefing regarding statute of

**United States Bankruptcy Court
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Thursday, April 1, 2021

Hearing Room

5A

10:30 AM

CONT...

Commercial Services Building Inc

Chapter 7

limitations and whether the Claim has already been fully adjudicated and liquidated prepetition

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, 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*, 223 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).

In this case, Claimant filed the Claim in accordance with Rule 3001. The Claim was filed with Official Form 410 and included supporting documentation. See, Obj., Ex. 1 (the Claim). Thus, Claimant has complied with Rule 3001 and the Claim is entitled to *prima facie* validity under Rule 3001(f).

Since the Claim is entitled to *prima facie* validity, Patrick must present affirmative evidence to overcome the Claim's presumption of validity. Patrick argues that the Claim includes the following errors: Claimant misclassified Debtor's employees as "electrical" workers resulting in higher insurance premiums, mistakenly charged for employees that worked outside of California and were not insured under the policy, and failed to explain why the "Experience Modifier" increased from 105% to 172% in one year. See, Obj., p. 2. Claimant counters that Patrick fails to rebut the *prima facie* validity of the Claim because Patrick's arguments relate only to the 2006 policy year premiums (and not the 2002-2005 policy year premiums) underlying the claim

**United States Bankruptcy Court
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Thursday, April 1, 2021

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10:30 AM

CONT... Commercial Services Building Inc

Chapter 7

and Claimant already conducted an internal, prepetition audit which confirmed the amounts claimed in the Claim. See, Opp'n, p. 4. Patrick's responds by challenging the reliability of the evidence provided by Claimant (such as pointing out that policy contract that was attached to the Opposition was "revised" in August 2010 and therefore cannot be the policy contract entered into by Debtor and Claimant in 2000), that Debtor was unaware that amounts were owed for policy years 2002-2005 until the Claim was filed, and stating that Claimant failed to attach its internal audit records so the accuracy of Claimant's figures cannot be confirmed because Debtor does not have access to those internal audit records. See, Reply, p. 3-4 and Opp'n, p. 6 of Ex. A. Claimant's argument that the Objection only raises arguments regarding the 2006 policy year is also undermined by Claimant's own exhibit of a letter from Debtor's prepetition counsel to Claimant dated January 23, 2007 that references the ongoing dispute over the final audits for the policy years 2003-2007. See, Opp'n, Ex. C.

Accordingly, there is a disputed question of fact regarding the accuracy of Claimant's calculation of the insurance premiums due for the policy years 2002-2006. Such dispute may warrant discovery as requested by Patrick. In addition, the parties must address the threshold issue regarding the statute of limitations and whether the Claim is already fully adjudicated and liquidated.

Patrick has raised the argument that any breach of the policy contract that occurred before October 7, 2005 may be barred by the 4-year statute of limitations for written contracts. See, Reply, p. 3, n. 1. As this argument was first raised in the Reply, Claimant has not had an opportunity to address it.

On the other hand, Claimant raises the argument that the Claim has been fully adjudicated and liquidated prepetition with following testimony from Kimberly Byrne: "State Fund's records do not indicate that Debtor requested reconsideration of State Fund's determination or appealed to the Administrative Hearing Bureau at the California Department of Insurance" and "State Fund's records do not show that Debtor disputed the revised experience modification with State Fund, the WCIRB or appealed to the Administrative Hearings Bureau of the California Department of Insurance *within the time prescribed by law.*" See, Kimberly Byrne Decl., p. 2-3, ¶5 and p. 3, ¶6 (emphasis added).

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CONT... Commercial Services Building Inc

Chapter 7

EVIDENTIARY OBJECTIONS

<u>Objection #*</u>	<u>Ruling</u>
1	Sustained
2 "final"	Overruled: the testimony identifies the documents as bills. The objection is in the nature of argument.
3	Overruled: the objection is in the nature of argument
4	Sustained: hearsay
5	Overruled: th testimony is in the nature of argument
6	Sustained: hearsay

*For ease of reference, the court has assigned a chronologica number to each objection .

Party Information

Debtor(s):

Commercial Services Building Inc

Represented By
Phillip B Greer

Trustee(s):

Karl T Anderson (TR)

Represented By
Misty A Perry Isaacson
Misty A Perry Isaacson
Thomas J Polis
Robert M Dato
Jason E Goldstein

**United States Bankruptcy Court
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Hearing Room 5A

10:30 AM

8:17-10706 John Jean Bral

Chapter 11

#11.00 CON'TD Hearing RE: Reorganized Debtor John Bral's Motion to Extend Time to Object to Cannae Financial, LLC's Proof of Claim [Claim No. 17]

FR: 2-11-21, 2-18-21; 3-4-21

Docket 962

***** VACATED *** REASON: CONTINUED TO 5/6/2021 AT 10:30 A.M.,
PER ORDER ENTERED 3/23/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 5/6/2021 at 10:30 a.m., Per Order
Entered 3/23/2021 (XX) - td (3/23/2021)**

Tentative Ruling:

- NONE LISTED -

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

Shane M Biornstad

**United States Bankruptcy Court
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Santa Ana
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Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

8:17-13650 Giuseppe Galietta and Heldia F. De Galietta

Chapter 13

#12.00 Hearing RE: Debtors' Motion for Authority to Refinance Real Property Under LBR 3015-1(p)

Docket 166

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 1, 2021

Deny motion without prejudice. Debtors have not responded to the objections to the Motion filed by the ch. 13 trustee and judgment lien creditor Janice Vinci.

Party Information

Debtor(s):

Giuseppe Galietta

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Heldia F. De Galietta

Represented By
Joseph A Weber
Fritz J Firman

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
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Santa Ana
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Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

8:19-12890 Manufacture Resource Products, Inc.

Chapter 7

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

[KAREN SUE NAYLOR, CHAPTER 7 TRUSTEE]

Docket 51

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 1, 2021

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):

Manufacture Resource Products, Inc.

Represented By
Thomas J Polis

Trustee(s):

Karen S Naylor (TR)

Represented By
Nanette D Sanders

**United States Bankruptcy Court
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Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

8:19-12890 Manufacture Resource Products, Inc.

Chapter 7

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

**[RIINGSTAD & SANDERS LLP, ATTORNEY FOR KAREN SUE NAYLOR,
CHAPTER 7 TRUSTEE]**

Docket 48

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 1, 2021

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):

Manufacture Resource Products, Inc.

Represented By
Thomas J Polis

Trustee(s):

Karen S Naylor (TR)

Represented By
Nanette D Sanders

**United States Bankruptcy Court
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Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

8:19-12890 Manufacture Resource Products, Inc.

Chapter 7

#15.00 Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses From October 7, 2019 Through October 10, 2020

[HAHN FIFE & COMPANY LLP, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]

Docket 46

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 1, 2021

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):

Manufacture Resource Products, Inc.

Represented By
Thomas J Polis

Trustee(s):

Karen S Naylor (TR)

Represented By
Nanette D Sanders

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, April 1, 2021

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; 4-9-20; 4-30-20; 6-18-20; 9-17-20; 12-17-20

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.

April 9, 2020

Continue Status Conference to April 30, 2020 at 10:30 a.m., the same

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Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

CONT... 10827 Studebaker LLC, a California limited liability Chapter 11
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 17, 2020 at 10:30 a.m.; 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.

September 17, 2020

Continue status conference to November 5, 2020 at 10:30 a.m.; court to issue order to show cause why this case should not be dismissed or converted due to Debtor's inability to confirm a plan within a reasonable period of time. Hearing on such OSC shall be scheduled for November 5, 2020 at 10:30 a.m.

December 17, 2020

Continue Status Conference to April 1, 2021 at 10:30 a.m.; An updated Status report must be filed by March 18, 2021 unless Debtor has filed a

**United States Bankruptcy Court
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Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

CONT... 10827 Studebaker LLC, a California limited liability Chapter 11

motion to dismiss the case by such date, in which case the requirement of a report will be waived. (XX)

Special Note: Regarding Buchanan's request in its statement that any funds on hand be distributed to it, the court shall rule on that matter in context of a motion to dismiss the case.

Note: If the parties accept the tentative ruling, appearances at this hearing are not required.

April 1, 2021

Continue status conference to May 6, 2021 at 10:30 a.m. in light of Debtor's intent to move for dismissal of the case.

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

10827 Studebaker LLC, a California

Represented By
Steven Werth

**United States Bankruptcy Court
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Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#17.00 Hearing RE: Chapter 7 Trustee's Application for Order Authorizing Employment of Ord & Associates as Special Tax Consultant

Docket 1062

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 1, 2021

Deny approval of application.

Basis for Tentative Ruling:

1. The point raised by the U.S. re duplication of services to be performed by Mr. Taylor is well-taken.
2. Trustee has not sufficiently disclosed a) why Mr. Taylor cannot perform all tax services pursuant to the previously approved employment application, and b) the division of services.
3. The court has a duty to closely scrutinize an employment application providing for the employment of a professional at the rate of \$710/hour for services that match the description of services to be rendered by another professional.
4. Trustee says that Mr. Ord, an attorney, will not be acting as an attorney but rather as a "consultant" but does not fully explain the difference. Further, this representation is undermined by the fact that Mr. Ord intends to use the services of an *associate* in his office. Will she be acting as an attorney or a consultant at \$395/hr? What specific services will she be rendering?

Party Information

**United States Bankruptcy Court
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Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

CONT... Bruce Elieff

Chapter 7

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

**United States Bankruptcy Court
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Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

8:20-11026 Little John's Antique Arms, Inc.

Chapter 11

#18.00 STATUS CONFERENCE Hearing RE: Debtor-in-Possession's Motion for Authority to Disburse Funds

FR: 1-7-21 (Continued from 1-7-21 per Order Entered 1-14-21); 2-4-21

Docket 126

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 7, 2021

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.

February 4, 2021

Continue this hearing as a Status Conference to April 1, 2021 at 10:30 a.m. in light of Debtor's continued collection efforts and the possibility of the filing of a motion to dismiss the case; an updated Status Report must be filed by March 18, 2021. (XX)

Note: Appearances at this hearing are not required.

April 1, 2021

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Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

CONT... Little John's Antique Arms, Inc.

Chapter 11

[This Tentative Ruling has been modified since the original posting]

This Motion will go off calendar in light of the interim disbursement of funds authorized by this court's order entered January 14, 2021 [dkt 161] and the granting of the Motion to Dismiss which provides for the final disbursement of funds remaining in the estate. Motion as moot in light of the granting of the Motion to Dismiss Case, which includes the same requested 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):

Little John's Antique Arms, Inc.

Represented By
Richard A Marshack
Chad V Haes
D Edward Hays

Movant(s):

Little John's Antique Arms, Inc.

Represented By
Richard A Marshack
Chad V Haes
D Edward Hays

**United States Bankruptcy Court
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Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

8:20-11026 Little John's Antique Arms, Inc.

Chapter 11

#19.00 Hearing RE: Debtor-in-Possession's Motion for Authority to Make Final Distributions to Creditors and Professionals and for Dismissal of Bankruptcy Case

Docket 175

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 1, 2021

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):

Little John's Antique Arms, Inc.

Represented By
Richard A Marshack
Chad V Haes
D Edward Hays

**United States Bankruptcy Court
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Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

8:20-11026 Little John's Antique Arms, Inc.

Chapter 11

#20.00 Hearing RE: Second and Final Fee Application for Allowance of Fees and Costs Filed by Marshack Hays LLP as General Counsel

[MARSHACK HAYS LLP AS GENERAL BANKRUPTCY COUNSEL]

Docket 179

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 1, 2021

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):

Little John's Antique Arms, Inc.

Represented By
Richard A Marshack
Chad V Haes
D Edward Hays

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Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

8:20-11026 Little John's Antique Arms, Inc.

Chapter 11

#21.00 Hearing RE: Second and Final Application for Compensation of Fees and Reimbursement of Expenses by Auction Monitor for the Chapter 11 Debtor-in-Possession for the Period November 18, 2020 through February 11, 2021

[KARL T. ANDERSON CPA, INC., AUCTION MONITOR FOR THE CHAPTER 11 DEBTOR-IN-POSSESSION]

Docket 178

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 1, 2021

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):

Little John's Antique Arms, Inc.

Represented By
Richard A Marshack
Chad V Haes
D Edward Hays

**United States Bankruptcy Court
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Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

8:20-11026 Little John's Antique Arms, Inc.

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: 6-4-20; 9-17-20; 12-10-20

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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. (XX)
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.

September 17, 2020

Continue Status Conference to December 10, 2020 at 10:30 a.m.; an updated Status Report must be filed by December 3, 2020 if the case has not been dismissed by such date. (XX)

Special Note: Starting October 8, 2020, all hearings before Judge Smith will be by Zoom videoconference. See details on the court's website at

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CONT... Little John's Antique Arms, Inc.
cacb.uscourts.gov

Chapter 11

Note: Appearance at this hearing is not required; the court will issue it's own order.

December 10, 2020

Continue the Status Conference to April 1, 2021 at 10:30 a.m.; an updated Status Report must be filed by March 18, 2021 if the case is still pending as of such date. (XX)

Note: If Debtor is in substantial compliance with the requirements of the U.S. Trustee, appearances at this hearing will not be required. It is Debtor's responsibility to confirm substantial compliance in advance of the hearing.

April 1, 2021

Off calendar in light of the court's ruling for calendar no. 19 granting the Motion to Dismiss Case.

Party Information

Debtor(s):

Little John's Antique Arms, Inc.

Represented By
Richard A Marshack
Chad V Haes

**United States Bankruptcy Court
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Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

8:20-11837 Golden Communications Inc.

Chapter 11

#23.00 CON'TD STATUS CONFERENCE Hearing RE: (1) Status of Chapter 11 Case; and (2) Requiring Report on Status of Chapter 11 Case

FR: 9-3-20; 12-17-20; 2-18-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Order Granting Motion: (1) Authorizing Payment of Fees Due United States Trustee; and (2) Dismissing Case with All Orders and Agreements Remaining in Full Force and Effect Entered 3/11/2021**

Courtroom Deputy:

OFF CALENDAR: Order Granting Motion: (1) Authorizing Payment of Fees Due United States Trustee; and (2) Dismissing Case with All Orders and Agreements Remaining in Full Force and Effect Entered 3/11/2021 - td (3/23/2021)

Tentative Ruling:

September 3, 2020

Claims bar date: Nov. 10, 2020 (notice by 9/10/20)

Deadline to file plan/DS: Dec. 1, 2020

Continued Status Conf: Dec. 17, 2020 at 10:30 a.m. (XX)

Deadline to file Updated Status Report*: Dec. 3, 2020

*Update report requirement waived if DS is timely filed.

Note: If Debtor is in substantial compliance with the requirements of the U.S. Trustee, appearance at this hearing is not required and the court will issue it's own order re the same. It is Debtor's responsibility

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Hearing Room 5A

10:30 AM

CONT... Golden Communications Inc.

Chapter 11

to confirm compliance with the UST prior to the hearing.

December 17, 2020

Continue the Status Conference to February 18, 2021 at 10:30 a.m.; updated Status Report must be filed by February 4, 2021. (XX)

Note: If Debtor is in substantial compliance with the requirements of the U.S. Trustee, appearance at this hearing is not required and the court will issue it's own order re the same. It is Debtor's responsibility to confirm compliance with the UST prior to the hearing.

February 18, 2021

Continue status conference to April 1, 2021 at 10:30 a.m.; an updated status report must be filed by March 18, 2021 unless the case has been dismissed prior to such date. (XX)

Basis for Tentative Ruling

Debtor's late-filed status report [docket #94] indicates Debtor's intent to file a motion to dismiss this case.

Note: Appearances at this hearing are not required.

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, April 1, 2021

Hearing Room 5A

10:30 AM

8:20-12488 Christopher Summers

Chapter 11

#24.00 Hearing RE: Debtor's Chapter 11 Disclosure Statement

Docket 35

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 1, 2021

[This Tentative Ruling has been modified since the original posting to add Comment #1a]

Continue this hearing to May 20, 2021 at 10:30 a.m. to allow Debtor to correct service and other issues. Amended Disclosure Statement must be filed no later than April 22, 2021; any opposition must be filed by May 6, 2021; any reply must be filed by May 13, 2021.

Basis for Tentative Ruling:

1. Service issue: Notice was improper because Debtor did not serve a separate notice of the disclosure statement hearing which provided notice of the 14-day opposition deadline. Per LBR 9013-1(c)(2), 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." See 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."). Debtor only filed the supplemental Zoom notice [dkt. 37] which does not include the opposition deadline information.

1a. Debtor needs to address all of the comments raised by the U.S. Trustee

**United States Bankruptcy Court
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Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

CONT...

Christopher Summers

Chapter 11

2. The secured claim in Class 1 also is impaired because the Plan alters claimant's prepetition contractual rights to proceed with nonjudicial foreclosure of the Property. See DS, p. 6:16-20. Under the broad definition of "impairment" under § 1124, "*any alteration* of the rights constitutes impairment even if the value of the rights is enhanced." *In re L & J Anaheim Assocs.*, 995 F.2d 940, 942 -943(9th Cir. 1993)(emphasis added)(holding that secured creditor was impaired when that creditor could not "invoke the substantive remedies or procedural mechanisms available to it at state law" pursuant to its contractual rights under the loan agreement and its collateral would be sold under the chapter 11 plan). This section should be revised.

3. Because the Effective Date of the Plan will be 30 days after the confirmation order is entered, this raises feasibility issues since it is unclear whether there will be sufficient time file and obtain court approval of an employment application for a broker for the Dana Point Property, adequately market the property, and file and obtain approval of a sale motion before the confirmation order is entered. See DS, p. 2:16-17 and p. 6:25-7:2.

4. Pg. 8:12: TWF needs to be defined

5. Pg. 10:3-13: Either identify the general unsecured creditors or attache a list of the same as an exhibit.

6. Pg. 11:10-11: Provide a list of executory contracts that may be subject to assumption

7. Pg. 13:24; 17:5: The claims bar date was January 8, 2021

8. Pg. 15:18-19; 19:15-8: Delete discussion re the pledging of projected disposable income if this provision is not applicable.

Note: If Debtor and the UST accept the foregoing tentative ruling, appearances at this hearing are not required.

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

Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

CONT... Christopher Summers

Chapter 11

Party Information

Debtor(s):

Christopher Summers

Represented By
J Scott Williams

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

Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

8:20-12488 Christopher Summers

Chapter 11

#25.00 CON'TD STATUS CONFERENCE Hearing RE: (1) Status of Chapter 11 Case;
and (2) Requiring Report on Status of Chapter 11 Case

FR: 11-5-20; 2-4-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

November 5, 2020

Claims bar date:	Jan. 8, 2021 (notice by Nov. 9, 2020)
Deadline to file plan/DS:	1/15/21
Continued Status Conf:	Feb. 4, 2021 at 10:30 am (XX)
Updated Status Report due: filed)	Jan. 21, 2021 (waived if plan/DS timely filed)

Note: Appearance at this hearing is not required if Debtor accepts the foregoing tentative ruling and Debtor is in substantial compliance with the requirements of the U.S. Trustee. It is Debtor's responsibility to confirm such compliance with the U.S. Trustee prior to the hearing. The court will prepare its own Order re the status conference.

February 4, 2021

Continue Status Conference to April 1, 2021 at 10:30 a.m.; updated Status Report not required. (XX)

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, April 1, 2021

Hearing Room 5A

10:30 AM

**CONT... Christopher Summers
April 1, 2021**

Chapter 11

Continue status conference to May 20, 2021 at 10:30 a.m.; updated status report is not required if the amended disclosure statement is timely filed on April 22, 2021.

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

Christopher Summers

Represented By
J Scott Williams

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

Thursday, April 1, 2021

Hearing Room 5A

10:30 AM

8:20-13358 Muhammad Faisal Taqi

Chapter 7

#26.00 Hearing RE: Order to Show Cause RE: Dismissal for Failure to Comply with Rule 1006(b) (\$84.50 Due on 2/15/2021) (OSC Issued 2/18/2021)

Docket 20

***** VACATED *** REASON: OFF CALENDAR: Third Payment of \$84.50 Due 2/15/2021 and Final Payment of \$84.50 Due 3/15/2021 Paid 3/17/2021, Receipt #80075415**

Courtroom Deputy:

OFF CALENDAR: Third Payment of \$84.50 Due 2/15/2021 and Final Payment of \$84.50 Due 3/15/2021 Paid 3/17/2021, Receipt #80075415 - td (3/23/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Muhammad Faisal Taqi	Pro Se
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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 1, 2021

Hearing Room 5A

2:00 PM

8:17-10706 John Jean Bral

Chapter 11

#27.00 Hearing RE: Reorganized Debtor John Jean Bral's Motion for Attorneys' Fees Pursuant to Contract

Docket 1011

*** VACATED *** REASON: CONTINUED TO 7/26/2021 AT 2:00 P.M.,
PER ORDER ENTERED 3/22/2021 (XX)

Courtroom Deputy:

CONTINUED: Hearing Continued to 7/26/2021 at 2:00 p.m., Per Order Entered 3/22/2021 (XX) - td (3/22/2021)

Tentative Ruling:

- NONE LISTED -

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
Shane M Biornstad

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

Thursday, April 1, 2021

Hearing Room 5A

2:00 PM

8:17-10706 John Jean Bral

Chapter 11

#28.00 Hearing RE: Barry Beitler's Motion for Sanctions Against John Jean Bral and His Bankruptcy Estate

Docket 1022

***** VACATED *** REASON: CONTINUED TO 7/26/2021 AT 2:00 P.M.,
PER ORDER ENTERED 3/22/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 7/26/2021 at 2:00 p.m., Per Order
Entered 3/22/2021 (XX) - td (3/22/2021)**

Tentative Ruling:

- NONE LISTED -

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
Shane M Biornstad

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

Thursday, April 8, 2021

Hearing Room 5A

9:30 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1613970256>

Meeting ID: 161 397 0256

Password: 343771

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Thursday, April 8, 2021

Hearing Room 5A

9:30 AM

CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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

Thursday, April 8, 2021

Hearing Room 5A

9:30 AM
CONT...

Chapter

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

Thursday, April 8, 2021

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; 7-23-20; 10-22-20; 1-21-21

Docket 1

Courtroom Deputy:

SPECIAL NOTE: Notice of Voluntary Dismissal of Only Defendant Byungwhan Chung, an individual, filed 3/25/2021 - td (3/26/2021)

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.

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

Thursday, April 8, 2021

Hearing Room 5A

9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

January 21, 2021

Continue status conference to April 8, 2021 at 9:30 a.m.; updated status report must be filed by March 25, 2021 if the adversary is still pending by such date. (XX)

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

April 8, 2021

Continue status conference one final time to May 20, 2021 at 9:30 a.m.; updated status report must be filed by May 6, 2021.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall serve notice of the continued hearing date/time.

Party Information

Debtor(s):

Prime Metals U.S.A., Inc.

Represented By
Steven Werth

Defendant(s):

Minho An

Represented By
Michael H Yi

Byungwhan Chung

Pro Se

Plaintiff(s):

Richard A Marshack

Represented By
Ronald S Hodges
Robert P Goe

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

Thursday, April 8, 2021

Hearing Room 5A

9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

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 8, 2021

Hearing Room 5A

9:30 AM

8:20-11977 SC Development Fund, LLC

Chapter 7

Adv#: 8:20-01135 Zhang et al v. SC Development Fund, LLC et al

#2.00 CONT'D STATUS CONFERENCE RE: First Amended Adversary Complaint For
1. Equitable Subordination under 11 USC Section 510 (c) ; 2. Preliminary
Injunctive Relief; 3. Injunctive Relief; 4. Declaratory Relief; 5. Fraud; 6.
Conspiracy To Commit Fraud; 7. Disallowance Of Claims under 11 USC Section
502(a), (d), (e); 8. Fraudulent Transfer under 11 USC Section 548; 9.
Constructive Fraudulent Transfer under 11 USC Sections 544, 550, 551
California Civil Code Sections 3439.05 and 3439.07

(Another Summons Issued 10-14-20)
FR: 1-7-21

Docket 5

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 7, 2021

Continue Status Conference to April 8, 2021 at 9:30 a.m.; an updated Joint
Status Report must be filed by March 25, 2021. (XX)

***Note: If the parties accept the foregoing tentative ruling, appearances at
this hearing are not required; Plaintiff shall serve notice of the
continued hearing date/time.***

April 8, 2021

Discovery Cut-off Date:

Aug. 31, 2021

Deadline to Attend Mandatory Mediation:

Sept. 30, 2021

Pretrial Conference Date:

Nov. 4, 2021 at 9:30

am

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

Thursday, April 8, 2021

Hearing Room 5A

9:30 AM

CONT... SC Development Fund, LLC

Chapter 7

Deadline to File Pretrial Stipulation:

Oct. 21, 2021

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):

SC Development Fund, LLC

Represented By
Keith S Dobbins

Defendant(s):

SC Development Fund, LLC

Pro Se

Weneta M Kosmala

Pro Se

Plaintiff(s):

Hui Xiu Zhang

Represented By
Elan Darvish

Jumbo Investment, Inc.

Represented By
Elan Darvish

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, April 8, 2021

Hearing Room 5A

9:30 AM

8:20-12390 Frank Hinojosa Castro

Chapter 13

Adv#: 8:20-01145 ESIRF, LLC v. Castro

#3.00 CON'TD STATUS CONFERENCE RE: Complaint to Determine Non-Dischargeability of Debt Pursuant to 11 U.S.C. §§523(a)(3)(A), 523(a)(4), and 1328(a)(2)

FR: 1-7-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Order Approving Stipulation and for Judgment Excepting Debt from Discharge Pursuant to 11 U.S.C. §§523(a)(2)(A), 523(a)(4); and Dismissing Claims for Relief Pursuant to 11 U.S.C. §1328(a)(2) Entered 2/1/2021**

Courtroom Deputy:

OFF CALENDAR: Order Approving Stipulation and for Judgment Excepting Debt from Discharge Pursuant to 11 U.S.C. §§523(a)(2)(A), 523(a)(4); and Dismissing Claims for Relief Pursuant to 11 U.S.C. § 1328(a)(2) Entered 2/1/2021 - td (2/1/2021)

Tentative Ruling:

January 7, 2021

Continue Status Conference to April 8, 2021 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). (XX)

Additional notes:

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.

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

Thursday, April 8, 2021

Hearing Room 5A

9:30 AM

CONT... Frank Hinojosa Castro

Chapter 13

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

Debtor(s):

Frank Hinojosa Castro

Represented By
Christopher P Walker

Defendant(s):

Frank Hinojosa Castro

Pro Se

Plaintiff(s):

ESIRF, LLC

Represented By
Aaron D. Burden

Trustee(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 8, 2021

Hearing Room 5A

10:00 AM

8:18-12499 Katrina Barrientos and James Wee

Chapter 13

#4.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]
FREEDOM MORTGAGE CORPORATION
VS.
DEBTORS

Docket 84

*** VACATED *** REASON: OFF CALENDAR: Order Granting Motion
for Relief from the Automatic Stay (Settled by Stipulation) Entered 3/22/2021

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic
Stay (Settled by Stipulation) Entered 3/22/2021 - td (3/22/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Katrina Barrientos

Represented By
Amanda G Billyard
Andy C Warshaw

Joint Debtor(s):

James Wee

Represented By
Amanda G Billyard
Andy C Warshaw

Movant(s):

Freedom Mortgage Corporation

Represented By
Dane W Exnowski

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

Thursday, April 8, 2021

Hearing Room 5A

10:00 AM

CONT... Katrina Barrientos and James Wee

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 8, 2021

Hearing Room 5A

10:00 AM

8:21-10189 Adolfo Rodriguez Carabali and Guadalupe Brito De

Chapter 7

#5.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]
MECHANICS BANK AUTO FINANCE
VS.
DEBTORS; AND KAREN S. NAYLOR, CHAPTER 7 TRUSTEE

Docket 11

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 8, 2021

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):

Adolfo Rodriguez Carabali

Represented By
Juan Castillo-Onofre

Joint Debtor(s):

Guadalupe Brito De Rodriguez

Represented By
Juan Castillo-Onofre

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

Thursday, April 8, 2021

Hearing Room 5A

10:00 AM

CONT... Adolfo Rodriguez Carabali and Guadalupe Brito De

Chapter 7

Movant(s):

Mechanics Bank Auto Finance

Represented By
Vincent V Frounjian

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 8, 2021

Hearing Room 5A

10:00 AM

8:21-10335 Karen Ann McColley

Chapter 7

#6.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]
YAMAHA MOTOR FINANCE CORP.
VS.
DEBTOR

Docket 9

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 8, 2021

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):

Karen Ann McColley

Represented By
Gary Polston

Movant(s):

Yamaha Motor Finance Corp.

Represented By
Karel G Rocha

Trustee(s):

Weneta M.A. Kosmala (TR)

Pro Se

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

Thursday, April 8, 2021

Hearing Room 5A

10:00 AM

CONT... Karen Ann McColley

Chapter 7

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

Thursday, April 8, 2021

Hearing Room 5A

10:30 AM

8:18-14221 Taylor Tech Inc.

Chapter 7

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

[WENETA M.A. KOSMALA, CHAPTER 7 TRUSTEE]

Docket 131

*** VACATED *** REASON: CONTINUED TO 5/11/2021 AT 10:30 A.M.,
PER ORDER ENTERED 3/24/2021 (XX)

Courtroom Deputy:

**CONTINUED: Hearing Continued to 5/11/2021 at 10:30 a.m., Per Order
Entered 3/24/2021 (XX) - jl/td (3/24/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Taylor Tech Inc.

Represented By
Anthony A Friedman

Trustee(s):

Weneta M.A. 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, April 8, 2021

Hearing Room 5A

10:30 AM

8:18-14221 Taylor Tech Inc.

Chapter 7

#8.00 Hearing RE: First and Final Application for Allowance and Payment of Fees and Reimbursement of Expenses of Counsel for the Chapter 7 Trustee

**[WEILAND GOLDEN GOODRICH LLP, ATTORNEYS FOR CHAPTER 7
TRUSTEE WENETA M.A. KOSMALA]**

Docket 124

***** VACATED *** REASON: CONTINUED TO 5/11/2021 AT 10:30 A.M.,
PER ORDER ENTERED 3/24/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 5/11/2021 at 10:30 a.m., Per Order
Entered 3/24/2021 (XX) - jl/td (3/24/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Taylor Tech Inc.

Represented By
Anthony A Friedman

Trustee(s):

Weneta M.A. 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, April 8, 2021

Hearing Room 5A

10:30 AM

8:18-14221 Taylor Tech Inc.

Chapter 7

#9.00 Hearing RE: First and Final Fee Application of Hahn Fife & Company for Allowance of Fees and Expenses from February 7, 2019 through October 22, 2020

[HAHN FIFE & COMPANY, LLP, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]

Docket 126

***** VACATED *** REASON: CONTINUED TO 5/11/2021 AT 10:30 A.M.,
PER ORDER ENTERED 3/24/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 5/11/2021 at 10:30 a.m., Per Order
Entered 3/24/2021 (XX) - jl/td (3/24/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Taylor Tech Inc.

Represented By
Anthony A Friedman

Trustee(s):

Weneta M.A. 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, April 8, 2021

Hearing Room 5A

10:30 AM

8:18-14221 Taylor Tech Inc.

Chapter 7

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

[INDEPENDENT MANAGEMENT SERVICES, TRUSTEE FIELD REPRESENTATIVE]

Docket 125

*** VACATED *** REASON: CONTINUED TO 5/11/2021 AT 10:30 A.M.,
PER ORDER ENTERED 3/24/2021 (XX)

Courtroom Deputy:

CONTINUED: Hearing Continued to 5/11/2021 at 10:30 a.m., Per Order Entered 3/24/2021 (XX) - jl/td (3/24/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Taylor Tech Inc.

Represented By
Anthony A Friedman

Trustee(s):

Weneta M.A. 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, April 8, 2021

Hearing Room 5A

10:30 AM

8:19-11546 Joseph Ra

Chapter 7

#11.00 Hearing RE: Chapter 7 Trustee's Motion for Order Extending Time to File
Actions Under 11 U.S.C. Sections 108, 546(a) and 549(D)

Docket 268

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 8, 2021

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

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 8, 2021

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#12.00 STATUS CONFERENCE 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; 7-16-20; 10-22-20; 2-4-21

Docket 360

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 25, 2020

TENTATIVE RULING

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

Note: Appearance at this hearing is not required.

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, April 8, 2021

Hearing Room 5A

10:30 AM

CONT...

Bruce Elieff

Chapter 7

1. Discovery deadline of September 4, 2020
2. Continued hearing date: October 22, 2020 at 2:00 p.m. (XX)
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.

October 22, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Continue hearing to February 4, 2021 at 2:00 p.m. (XX)

Note: Appearances at this hearing are not required.

February 4, 2021

Continue this matter to April 8, 2021 at 10:30 a.m. as a Status Conference; updated Status Report must be filed by April 1, 2021. (XX)

Note: Appearances at today's hearing are not required.

April 8, 2021

Overrule objection for failure to prosecute without prejudice to the chapter 7 trustee or other interested party re-filing an objection to the claim.

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

Thursday, April 8, 2021

Hearing Room 5A

10:30 AM

CONT... Bruce Elieff

Chapter 7

Alternatively, Mr. Kurtin may verbally withdraw the objection during the calendar roll call, in which case a notice of withdrawal of objection must be filed within 7 days of today's hearing.

Party Information

Debtor(s):

Bruce Elieff

Represented By
Paul J Couchot
Lisa Nelson

Movant(s):

Todd Kurtin

Represented By
Lewis R Landau
Edward O Morales

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe

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

Thursday, April 8, 2021

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#13.00 STATUS CONFERENCE 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; 7-16-20; 10-22-20; 2-4-21

Docket 362

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 25, 2020

TENTATIVE RULING

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

Note: Appearance at this hearing is not required.

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, April 8, 2021

Hearing Room 5A

10:30 AM

CONT... Bruce Elieff

Chapter 7

1. Discovery deadline of September 4, 2020
2. Continued hearing date: October 22, 2020 at 2:00 p.m. (XX)
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.

October 22, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Continue hearing to February 4, 2021 at 2:00 p.m.(XX)

Note: Appearances at this hearing are not required.

February 4, 2021

Continue this matter to April 8, 2021 at 10:30 a.m. as a Status Conference; updated Status Report must be filed by April 1, 2021. (XX)

Note: Appearances at today's hearing are not required.

April 8, 2021

Overrule objection for failure to prosecute without prejudice to the chapter 7 trustee or other interested party re-filing an objection to the claim. Alternatively, Mr. Kurtin may verbally withdraw the objection during the

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

Thursday, April 8, 2021

Hearing Room 5A

10:30 AM

CONT... Bruce Elieff

Chapter 7

calendar roll call, in which case a notice of withdrawal of objection must be filed within 7 days of today's hearing.

Party Information

Debtor(s):

Bruce Elieff

Represented By
Paul J Couchot
Lisa Nelson

Movant(s):

Todd Kurtin

Represented By
Lewis R Landau
Edward O Morales

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe

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

Thursday, April 8, 2021

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#14.00 CON'TD STATUS CONFERENCE Hearing RE: Creditor Todd Kurtin's Objection to Claim #27 by Stephan Z. Elieff - \$4,464,870.00

FR: 5-7-20; 7-23-20; 10-22-20; 2-4-21

Docket 375

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 22, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Continue hearing to February 4, 2021 at 2:00 p.m. (XX)

Note: Appearances at this hearing are not required.

February 4, 2021

Continue this matter to April 8, 2021 at 10:30 a.m. as a Status Conference; updated Status Report must be filed by April 1, 2021. (XX)

Note: Appearances at today's hearing are not required.

April 8, 2021

Overrule objection for failure to prosecute without prejudice to the chapter 7 trustee or other interested party re-filing an objection to the claim. Alternatively, Mr. Kurtin may verbally withdraw the objection during the

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

Thursday, April 8, 2021

Hearing Room 5A

10:30 AM

CONT... Bruce Elieff

Chapter 7

calendar roll call, in which case a notice of withdrawal of objection must be filed within 7 days of today's hearing.

Party Information

Debtor(s):

Bruce Elieff

Represented By
Paul J Couchot
Lisa Nelson

Movant(s):

Todd Kurtin

Represented By
Lewis R Landau
Edward O Morales

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe

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

Thursday, April 8, 2021

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#15.00 CON'TD STATUS CONFERENCE 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; 7-23-20; 10-22-20; 2-4-21

Docket 376

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 22, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Continue hearing to February 4, 2021 at 2:00 p.m. (XX)

Note: Appearances at this hearing are not required.

February 4, 2021

Continue this matter to April 8, 2021 at 10:30 a.m. as a Status Conference; updated Status Report must be filed by April 1, 2021. (XX)

Note: Appearances at today's hearing are not required.

April 8, 2021

Overrule objection for failure to prosecute without prejudice to the chapter 7 trustee or other interested party re-filing an objection to the claim.

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

Thursday, April 8, 2021

Hearing Room 5A

10:30 AM

CONT... Bruce Elieff

Chapter 7

Alternatively, Mr. Kurtin may verbally withdraw the objection during the calendar roll call, in which case a notice of withdrawal of objection must be filed within 7 days of today's hearing.

Party Information

Debtor(s):

Bruce Elieff

Represented By
Paul J Couchot
Lisa Nelson

Movant(s):

Todd Kurtin

Represented By
Lewis R Landau
Edward O Morales

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe

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

Thursday, April 8, 2021

Hearing Room 5A

10:30 AM

8:20-10372 Broadband Nation LLC

Chapter 11

#16.00 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; 7-16-20; 10-22-20; 2-4-21

Docket 36

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 25, 2020

TENTATIVE RULING

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

Note: Appearance at this hearing is not required.

July 16, 2020

Same tentative ruling as for #45

October 22, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Continue hearing to February 4, 2021 at 2:00 p.m. (XX)

February 4, 2021

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

Thursday, April 8, 2021

Hearing Room 5A

10:30 AM

CONT... Broadband Nation LLC

Chapter 11

Continue this matter to April 8, 2021 at 10:30 a.m. as a Status Conference; updated Status Report must be filed by April 1, 2021. (XX)

Note: Appearances at today's hearing are not required.

April 8, 2021

Overrule objection for failure to prosecute without prejudice to the chapter 7 trustee or other interested party re-filing an objection to the claim. Alternatively, Mr. Kurtin may verbally withdraw the objection during the calendar roll call, in which case a notice of withdrawal of objection must be filed within 7 days of today's hearing.

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 8, 2021

Hearing Room 5A

10:30 AM

8:20-10372 Broadband Nation LLC

Chapter 11

#17.00 STATUS CONFERENCE 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; 7-16-20; 10-22-20; 2-4-21

Docket 35

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 25, 2020

TENTATIVE RULING

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

Note: Appearance at this hearing is not required.

July 16, 2020

Same tentative ruling as #46
(XX)

October 22, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Continue hearing to February 4, 2021 at 2:00 p.m. (XX)

Note: Appearances at this hearing are not required.

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

Thursday, April 8, 2021

Hearing Room 5A

10:30 AM

CONT... Broadband Nation LLC

Chapter 11

February 4, 2021

Continue this matter to April 8, 2021 at 10:30 a.m. as a Status Conference; updated Status Report must be filed by April 1, 2021. (XX)

Note: Appearances at today's hearing are not required.

April 8, 2021

Overrule objection for failure to prosecute without prejudice to the chapter 7 trustee or other interested party re-filing an objection to the claim. Alternatively, Mr. Kurtin may verbally withdraw the objection during the calendar roll call, in which case a notice of withdrawal of objection must be filed within 7 days of today's hearing.

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 8, 2021

Hearing Room 5A

10:30 AM

8:20-10373 Heritage Colorado LLC

Chapter 11

#18.00 STATUS CONFERENCE 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; 7-16-20; 10-22-20; 2-4-21

Docket 36

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 25, 2020

TENTATIVE RULING

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

Note: Appearance at this hearing is not required.

July 16, 2020

Same tentative ruling as #45
(XX)

October 22, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Continue hearing to February 4, 2021 at 2:00 p.m. (XX)

Note: Appearances at this hearing are not required.

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

Thursday, April 8, 2021

Hearing Room 5A

10:30 AM

CONT... Heritage Colorado LLC

Chapter 11

February 4, 2021

Continue this matter to April 8, 2021 at 10:30 a.m. as a Status Conference; updated Status Report must be filed by April 1, 2021. (XX)

Note: Appearances at today's hearing are not required.

April 8, 2021

Overrule objection for failure to prosecute without prejudice to the chapter 7 trustee or other interested party re-filing an objection to the claim. Alternatively, Mr. Kurtin may verbally withdraw the objection during the calendar roll call, in which case a notice of withdrawal of objection must be filed within 7 days of today's hearing.

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 8, 2021

Hearing Room 5A

10:30 AM

8:20-10373 Heritage Colorado LLC

Chapter 11

#19.00 STATUS CONFERENCE 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; 7-16-20; 10-22-20; 2-4-21

Docket 35

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 25, 2020

TENTATIVE RULING

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

Note: Appearance at this hearing is not required.

July 16, 2020

Same tentative ruling as #46
(XX)

October 22, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Continue hearing to February 4, 2021 at 2:00 p.m. (XX)

Note: Appearances at this hearing are not required.

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

Thursday, April 8, 2021

Hearing Room 5A

10:30 AM

CONT... Heritage Colorado LLC

Chapter 11

February 4, 2021

Continue this matter to April 8, 2021 at 10:30 a.m. as a Status Conference; updated Status Report must be filed by April 1, 2021. (XX)

Note: Appearances at today's hearing are not required.

April 8, 2021

Overrule objection for failure to prosecute without prejudice to the chapter 7 trustee or other interested party re-filing an objection to the claim. Alternatively, Mr. Kurtin may verbally withdraw the objection during the calendar roll call, in which case a notice of withdrawal of objection must be filed within 7 days of today's hearing.

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 8, 2021

Hearing Room 5A

10:30 AM

8:20-10374 TDV Development Corporation

Chapter 11

#20.00 STATUS CONFERENCE 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; 7-16-20; 10-22-20; 2-4-21

Docket 36

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 25, 2020

TENTATIVE RULING

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

Note: Appearance at this hearing is not required.

July 16, 2020

Same tentative ruling as #45
(XX)

October 22, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Continue hearing to February 4, 2021 at 2:00 p.m. (XX)

Note: Appearances at this hearing are not required.

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

Thursday, April 8, 2021

Hearing Room 5A

10:30 AM

CONT... TDV Development Corporation

Chapter 11

February 4, 2021

Continue this matter to April 8, 2021 at 10:30 a.m. as a Status Conference; updated Status Report must be filed by April 1, 2021. (XX)

Note: Appearances at today's hearing are not required.

April 8, 2021

Overrule objection for failure to prosecute without prejudice to the chapter 7 trustee or other interested party re-filing an objection to the claim. Alternatively, Mr. Kurtin may verbally withdraw the objection during the calendar roll call, in which case a notice of withdrawal of objection must be filed within 7 days of today's hearing.

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 8, 2021

Hearing Room 5A

10:30 AM

8:20-10374 TDV Development Corporation

Chapter 11

#21.00 STATUS CONFERENCE 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; 7-16-20; 10-22-20; 2-4-21

Docket 35

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 25, 2020

TENTATIVE RULING

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

Note: Appearance at this hearing is not required.

Continue hearing to February 4, 2021 at 2:00 p.m. (XX)

Note: Appearances at this hearing are not required.

February 4, 2021

Continue this matter to April 8, 2021 at 10:30 a.m. as a Status Conference; updated Status Report must be filed by April 1, 2021. (XX)

Note: Appearances at today's hearing are not required.

April 8, 2021

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

Thursday, April 8, 2021

Hearing Room 5A

10:30 AM

CONT... TDV Development Corporation

Chapter 11

Overrule objection for failure to prosecute without prejudice to the chapter 7 trustee or other interested party re-filing an objection to the claim.

Alternatively, Mr. Kurtin may verbally withdraw the objection during the calendar roll call, in which case a notice of withdrawal of objection must be filed within 7 days of today's hearing.

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 8, 2021

Hearing Room 5A

10:30 AM

8:20-11507 HCA West, Inc

Chapter 11

#22.00 Hearing RE: Debtors and Debtors in Possessions' Motion for Order Further Extending the Time Periods During Which the Debtors Have the Exclusive Rights to File a Plan and to Solicit Acceptances Thereof Pursuant to Section 1121(D) of the Bankruptcy Code

Docket 439

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 8, 2021

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):

HCA West, Inc

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, April 8, 2021

Hearing Room 5A

10:30 AM

8:21-10608 DEA Brothers Sisters LLC

Chapter 11

#23.00 Hearing RE: Debtor's Motion Pursuant to Section 363(C) of the Bankruptcy Code and Rule 4001(B) of the Federal Rules of Bankruptcy Procedure for an Order Authorizing the Use of Cash Collateral for the Shopping Center Located at 16502 S. Main St., Carson CA90248; Request for Order of Adequate Protection

Docket 18

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 8, 2021

Grant motion on an interim basis on the terms set forth in the Motion, except that no postpetition cash collateral shall be used to pay legal fees, through and including June 10, 2021. All secured creditors will retain their liens in the same priority as existed as of the petition date. A final hearing shall be held on June 10, 2021 at 10:30 a.m.; Debtor must file any supplemental pleadings in support of the Motion by May 20, 2021; any further opposition or response must be filed by May 27, 2021; any reply must be filed by June 3, 2021. Debtor to self-calendar a hearing on any motion to value property on its own.

Court's Comments re the Motion and Opposition:

1. Payment of operating expenses on the property maintains the value of the property to benefit of objecting creditor A&G. A&G's objection to the use of cash collateral to pay utilities, landscaping, repairs, etc. is unreasonable. Moreover, Debtor has offered a replacement lien in the cash collateral expended (in order of priority).
2. Because net rents are insufficient to pay the contractual payments to the senior, 1st position lender, Debtor is not required to apportion the net rents between such senior lender and the junior lender A&G.

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

Thursday, April 8, 2021

Hearing Room 5A

10:30 AM

CONT... **DEA Brothers Sisters LLC**

Chapter 11

3. A&G has not established a diminution in the value of its interest in the subject property entitling it to adequate protection payments. See *US v. Timbers of Inwood Forest*, 484 U.S. 365 (1988).

4. The court accepts Debtor's valuation of the property on an interim basis as it is the only admissible evidence of value that has been presented at this point. As aptly stated in *In re Russell*, 567 B.R. 833, 840 (Bankr.Mont.2017): "an owner is competent to give his or her opinion on the value of his or her property, most often simply by stating the conclusion without stating a reason. See Hon. Barry Russell, BANKRUPTCY EVIDENCE MANUAL, 2016–2017 ed. § 701:2; *South Central Livestock Dealers, Inc. v. Security State Bank of Hedley, Tex.*, 614 F.2d 1056, 1061 (5th Cir. 1980). While a debtor's estimate of value may be acceptable in certain cases, the Court may give little weight to an opinion if not based upon sufficient facts. *In re Plummer*, 20 Mont. B.R. 468, 478 (Bankr. D. Mont. 2003). . . ." See also, Fed.R.Evid. 701. A&G's citation to Zillow is, as it has acknowledged, completely inadmissible. It's evidentiary objections to the statement of value by Enayat Ali Jiwani are, therefore, overruled.

5. A&G's evidentiary objection to the exhibits attached to the Motion on the basis of insufficient authentication are well-taken. Mr. Jiwani's declaration should have specifically addressed and authenticated each exhibit. **Proper authentication/personal knowledge/foundation will need to be provided for the final hearing.**

6. The court does not base its decision to grant the motion on an interim on the declaration of real estate broker David Pai as Mr. Pai is 1) not the owner of the property and 2) the conclusory declaration does not rise to the level of even a broker's opinion (e.g., no cap rate, comparables, etc.).

7. Pursuant to LBR 1001-1(a), the court waives the requirement of the use of Statement Regarding Cash Collateral or Debtor in Possession Financing as required by LBR 4001-2(a) in this instance but cautions Debtor's counsel to utilize this form in the future.

Party Information

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

Thursday, April 8, 2021

Hearing Room 5A

10:30 AM

CONT... DEA Brothers Sisters LLC

Chapter 11

Debtor(s):

DEA Brothers Sisters LLC

Represented By
Roger J Plasse

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

Thursday, April 8, 2021

Hearing Room 5A

10:30 AM

8:21-10608 DEA Brothers Sisters LLC

Chapter 11

#24.00 Hearing RE: Application of Debtor-in-Possession to Employ Financial Relief Legal Advocates, Inc. and its Attorney, John H. Bauer, as General Bankruptcy Counsel

Docket 23

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 8, 2021

Approve employment application.

Special Note: The approval of this application may not be interpreted as implying approval of "co-counsel" Osborn & Plasse ("O&P") who has not filed an employment application. It is unclear what O&P's role would be re the representation of Debtor in this bankruptcy case.

Note: As this matter appears to be uncontested, appearance at the hearing is not required.

Party Information

Debtor(s):

DEA Brothers Sisters LLC

Represented By
Roger J Plasse
John H Bauer

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

Thursday, April 8, 2021

Hearing Room 5A

2:00 PM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

Adv#: 8:20-01136 Marshack v. Levy et al

#25.00 Hearing RE: Defendants' Motion (1) To Dismiss Plaintiff's First Amended Complaint; (2) To Strike Plaintiff's Prayer for Specific Performance or, Alternatively, for Reconsideration of Defendants' Prior Motion to Dismiss

Docket 30

***** VACATED *** REASON: CONTINUED TO 6/10/2021 AT 10:30 A.M.,
PER ORDER ENTERED 3/31/21 (XX)**

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 6/10/2021 at 10:30 am, Per
Order Entered 3/31/2021 (XX) - am/td (4/1/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Friendly Village MHP Associates LP	Represented By Howard Camhi
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Defendant(s):

Shaoul J. Levy	Represented By Howard Steinberg
Levy Affiliated Holdings LLC	Represented By Howard Steinberg
LEVY FRIENDLY VILLAGE, LLC	Represented By Howard Steinberg
5450 PARAMOUNT LP	Represented By Howard Steinberg

Plaintiff(s):

Richard A Marshack	Represented By Shant Kabateck LLP Karnikian
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**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, April 8, 2021

Hearing Room 5A

2:00 PM

CONT... Friendly Village MHP Associates LP

Chapter 7

Joana Fang
Nineli Sarkissian
Brian Kabateck

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
Kristine A Thagard
Arthur Grebow
David Wood
Tinho Mang
Stefan Perovich

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

Thursday, April 8, 2021

Hearing Room 5A

2:00 PM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

Adv#: 8:20-01136 Marshack v. Levy et al

#26.00 CON'TD STATUS CONFERENCE RE: Complaint For: 1) Specific Performance;
and 2) Breach of Contract

FR: 12-10-20; 2-18-21

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/10/2021 AT 10:30 A.M.,
PER ORDER ENTERED 3/31/21 (XX)**

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 6/10/2021 at 10:30 am, Per
Order Entered 3/31/2021 (XX) - am/td (4/1/2021)**

Tentative Ruling:

December 10, 2020

No tentative ruling -- disposition will depend on the outcome of Defendants'
motion to dismiss also set for this date.

Party Information

Debtor(s):

Friendly Village MHP Associates LP	Represented By Howard Camhi
------------------------------------	--------------------------------

Defendant(s):

Shaoul J. Levy	Pro Se
Levy Affiliated Holdings LLC	Pro Se
LEVY FRIENDLY VILLAGE, LLC	Pro Se
5450 PARAMOUNT LP	Pro Se

Plaintiff(s):

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

Thursday, April 8, 2021

Hearing Room 5A

2:00 PM

CONT... Friendly Village MHP Associates LP

Chapter 7

Shant Kabateck LLP Karnikian
Joana Fang
Nineli Sarkissian
Brian Kabateck

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 15, 2021

Hearing Room 5A

9:30 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1607310868>

Meeting ID: 160 731 0868

Password: 073715

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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Thursday, April 15, 2021

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9:30 AM

CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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CONT...

- NONE LISTED -

Chapter

**United States Bankruptcy Court
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Hearing Room 5A

9:30 AM

8:19-13441 Alpha Floors, Inc.

Chapter 7

Adv#: 8:20-01065 Kosmala v. U.S. Customs and Border Protection

#1.00 CON'TD 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
[Set per another summons issued on 7/7/2020]

FR: 9-29-20, Rm 5D; 10-1-20; 12-10-20; 2-11-21

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/17/2021 AT 9:30 A.M.,
PER ORDER ENTERED ON 3-18-2021 (XX)**

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 6/17/2021 at 9:30 a.m., Per
Order Entered 3/18/2021 (XX) - td (3/19/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alpha Floors, Inc.

Represented By
Eric J Fromme

Defendant(s):

U.S. Customs and Border Protection

Pro Se

Plaintiff(s):

Weneta M.A. Kosmala

Represented By
Jeffrey I Golden
Reem J Bello
Ryan W Beall

**United States Bankruptcy Court
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9:30 AM

CONT... Alpha Floors, Inc.

Chapter 7

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Reem J Bello

**United States Bankruptcy Court
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Santa Ana
Judge Erithe Smith, Presiding
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Thursday, April 15, 2021

Hearing Room 5A

9:30 AM

8:20-11898 Louis Sandoval

Chapter 7

Adv#: 8:20-01110 Myers v. Sandoval

#2.00 Hearing RE: Plaintiff's Motion for Default Judgment Under LBR 7055-1

Docket 19

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

Continue this hearing to May 11, 2021 at 2:00 p.m., same date and time as the hearing on Defendant's motion to dismiss the adversary so that all matters can be heard in the same hearing. (XX)

Note: No appearances for the April 15, 2021 hearing are required.

Party Information

Debtor(s):

Louis Sandoval

Represented By
Steven B Lever

Defendant(s):

Louis Sandoval

Pro Se

Plaintiff(s):

Charlotte Cysner Myers

Pro Se

Trustee(s):

Weneta M.A. Kosmala (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, April 15, 2021

Hearing Room 5A

9:30 AM

8:20-11898 Louis Sandoval

Chapter 7

Adv#: 8:20-01110 Myers v. Sandoval

#3.00 CON'TD STATUS CONFERENCE RE: Complaint to Object to Debtor's Discharge and Complaint to Determine Non-Dischargeability of Debt Under Section 523(A) (2) of The Bankruptcy Code and For Denial of Discharge Under Section 727(A)(4) of The Bankruptcy Code (Another Summons Issued 10/30/2020)

FR: 1-14-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 14, 2021

No answer or other response to the Complaint has been filed by the defendant, Louis Sandoval. Accordingly, this Status Conference will be continued to April 15, 2021 at 9:30 a.m. to allow Plaintiff to file a motion for entry of a default judgment against the defendant which provides evidence to support the required elements of fraud under Bankruptcy Code Section 523(a)(2)(A). (XX)

Special Note:

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

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9:30 AM

CONT... Louis Sandoval

Chapter 7

Conference for failure to prosecute.

The court strongly suggests that Plaintiff seek legal counsel regarding the preparation of a motion for default judgment.

Note: If Plaintiff accepts the foregoing tentative ruling, appearance at today's hearing is not required; Plaintiff to serve the defendant by mail with notice of the continued hearing date/time.

April 15, 2021

Continue this hearing to May 11, 2021 at 2:00 p.m., same date and time as the hearing on Defendant's motion to dismiss the adversary so that all matters can be heard in the same hearing. (XX)

Note: No appearances for the April 15, 2021 hearing are required.

Party Information

Debtor(s):

Louis Sandoval

Represented By
Steven B Lever

Defendant(s):

Louis Sandoval

Pro Se

Plaintiff(s):

Charlotte Cysner Myers

Pro Se

Trustee(s):

Weneta M Kosmala (TR)

Pro Se

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Thursday, April 15, 2021

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; 3-19-20; 4-30-20; 7-23-20; 10-22-20; 1-21-21

Docket 183

***** VACATED *** REASON: OFF CALENDAR: Order to Vacate Orders for Appearance and Examination of Guadalupe Savastano and Dominc Savastano Entered 3/16/2021**

Courtroom Deputy:

OFF CALENDAR: Order to Vacate Orders for Appearance and Examination of Guadalupe Savastano and Dominc Savastano Entered 3/16/2021 - td (3/16/2021)

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.

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

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

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10:00 AM

CONT... Luis Savastano

Chapter 7

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.

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.

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. (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.

October 22, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Once the witness has been sworn in by the Court Clerk, the parties will be placed in a separate Zoom break-out room for the examination scheduled for

**United States Bankruptcy Court
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Thursday, April 15, 2021

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10:00 AM

CONT... Luis Savastano
today.

Chapter 7

January 21, 2021

Continue the third party judgment debtor examination **one final time** to April 15, 2021 at 10:00 a.m.; if Judgment Creditor intends to pursue an Order to Show Cause, then she must file and serve a proper motion in accordance with Local Bankruptcy Rule 9020-1; she must also serve the examinees with proper Zoom notice of the continued hearing. (XX)

Additional Comments:

1. Judgment Creditor was advised by the court's courtroom deputy on 1/5/21 that a proper motion had not been filed and, to date, no motion has been filed.
2. Judgment Creditor did not serve the examinees with Zoom notice of the hearing.
3. This matter will be taken off calendar if Judgment Creditor continues to failure to properly prosecute this matter.

Note: If Judgment Creditor accepts the foregoing tentative ruling, appearance at this hearing is not required.

Party Information

Debtor(s):

Luis Savastano

Represented By
Nathan Fransen

Defendant(s):

Luis Savastano

Represented By
Nathan Fransen

Plaintiff(s):

Richard Bobinski

Represented By

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Thursday, April 15, 2021

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10:00 AM

CONT... Luis Savastano

Crystal Bergstrom

Chapter 7

Trustee(s):

Karen S Naylor (TR)

Represented By
Karen S Naylor (TR)

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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; 3-19-20; 4-30-20; 7-23-20; 10-22-20; 1-21-21

Docket 175

***** VACATED *** REASON: OFF CALENDAR: Order to Vacate Orders
for Appearance and Examination of Guadalupe Savastano and Dominc
Savastano Entered 3/16/2021**

Courtroom Deputy:

**OFF CALENDAR: Order to Vacate Orders for Appearance and
Examination of Guadalupe Savastano and Dominc Savastano Entered
3/16/2021 - td (3/16/2021)**

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)

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)

**United States Bankruptcy Court
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10:00 AM

CONT... Luis Savastano

Chapter 7

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

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.

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. (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.

October 22, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Once the witness has been sworn in by the Court Clerk, the parties will be placed in a separate Zoom break-out room for the examination scheduled for today.

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10:00 AM

CONT... Luis Savastano

Chapter 7

January 21, 2021

Continue the third party judgment debtor examination **one final time** to April 15, 2021 at 10:00 a.m.; if Judgment Creditor intends to pursue an Order to Show Cause, then she must file and serve a proper motion in accordance with Local Bankruptcy Rule 9020-1; she must also serve the examinees with proper Zoom notice of the continued hearing. (XX)

Additional Comments:

1. Judgment Creditor was advised by the court's courtroom deputy on 1/5/21 that a proper motion had not been filed and, to date, no motion has been filed.
2. Judgment Creditor did not serve the examinees with Zoom notice of the hearing.
3. This matter will be taken off calendar if Judgment Creditor continues to failure to properly prosecute this matter.

Note: If Judgment Creditor accepts the foregoing tentative ruling, appearance at this hearing is not required.

Party Information

Debtor(s):

Luis Savastano

Represented By
Nathan Fransen

Defendant(s):

Luis Savastano

Represented By
Nathan Fransen

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10:00 AM

CONT... Luis Savastano

Chapter 7

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)

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Thursday, April 15, 2021

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10:00 AM

8:20-12607 Jose J Sanchez

Chapter 13

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

U.S. BANK NA

VS.

DEBTOR

Docket 42

Courtroom Deputy:

SPECIAL NOTE: Supplemental notice of hearing to be held remotely using Zoomgov audio and video, fld. 3/19/21, dkt #43 (RE: 4/15/21 hrg.) - td (3/22/2021)

Tentative Ruling:

April 15, 2021

[UPDATED SINCE ORIGINAL POSTING TO REFLECT LATE OPPOSITION FILED BY DEBTOR]

Though no proof of payments is attached to the late Opposition, if Movant agrees that Debtor is now current on payments, the court will grant a standard adequate protection order 1) requiring that Debtor remain current and 2) allowing Movant to file a declaration re nonpayment along with a proposed order granting immediate relief from the stay if Debtor fails to timely make a payment within the contractual grace period in the future.

Note: If the parties accept the foregoing tentative ruling, appearances at today's hearing are not required.

Note: This matter appears to be uncontested. Accordingly, no court

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Thursday, April 15, 2021

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10:00 AM

CONT... Jose J Sanchez

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.

Party Information

Debtor(s):

Jose J Sanchez

Represented By
Gary Polston

Movant(s):

U.S. Bank NA, successor trustee to

Represented By
JaVonne M Phillips
Nancy L Lee

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, April 15, 2021

Hearing Room 5A

10:00 AM

8:20-12607 Jose J Sanchez

Chapter 13

#6.10 CON'TD Hearing RE: Amended Motion for Relief from Stay

VEROS CREDIT, LLC

VS.

DEBTOR

FR: 2-11-21; 3-4-21; 4-1-21

Docket 35

***** VACATED *** REASON: OFF CALENDAR: Order Approving APO
Entered 4/13/21**

Courtroom Deputy:

OFF CALENDAR: Order Approving APO Entered 4/13/21- mp/td(4/13/21)

Tentative Ruling:

February 11, 2021

Grant with 4001(a)(3) waiver; deny relief request #7 as Movant has provided no evidence or grounds for extraordinary relief.

Basis for Tentative Ruling:

Movant seeks an order making it effective for two years -- essentially requesting relief under 362(d)(4) without meeting the requirement for such relief as set forth in 362(d)(4) (e.g., multiple filings or transfer of property).

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.

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**CONT... Jose J Sanchez
March 4, 2021**

Chapter 13

Movant to advise the court re the status of this matter. If more time is needed to finalize the adequate protection order, a further continuance may be requested during the Clerk's calendar roll call prior to the commencement of the hearing. Available continued dates: March 11, 2021, April 1, 2021, April 8, 2021 or April 22, 2021 at 10:00 a.m.

April 1, 2021

No APO has been filed. Continue hearing one final time to April 15, 2021 at 10:00 a.m. (XX)

Note: Appearances not required if the parties accept the foregoing tentative ruling; Movant to serve notice of the continued hearing date/time.

April 15, 2021

Take this matter off calendar in light of APO stipulation filed 4/12/21

Note: Appearances at this hearing are not required; Movant's counsel to lodge an adequate protection order within 7 days of the hearing.

Party Information

Debtor(s):

Jose J Sanchez

Represented By
Gary Polston

Movant(s):

Veros Credit, LLC

Represented By
Robert M Tennant

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

CONT... Jose J Sanchez

Chapter 13

United States Bankruptcy Court
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Thursday, April 15, 2021

Hearing Room 5A

10:00 AM

8:21-10279 Jay Chihwan Jung

Chapter 13

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

PRIME BUSINESS CREDIT, INC.

VS.

DEBTOR

Docket 34

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

Grant motion 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):

Jay Chihwan Jung

Represented By
Jaenam J Coe

Movant(s):

Prime Business Credit, Inc.

Represented By
Maria L Garcia
Aviram Edward Muhtar

**United States Bankruptcy Court
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10:00 AM

CONT... Jay Chihwan Jung

Scott Lee

Chapter 13

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 5A

10:00 AM

8:21-10493 Teresa Beazley

Chapter 7

#8.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]
TOYOTA LEASE TRUST
VS.
DEBTOR

Docket 11

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

Grant motion 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):

Teresa Beazley

Represented By
Timothy McFarlin

Movant(s):

Toyota Lease Trust, as serviced by

Represented By
Austin P Nagel

Trustee(s):

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, April 15, 2021

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10:00 AM

CONT... Teresa Beazley

Chapter 7

United States Bankruptcy Court
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Thursday, April 15, 2021

Hearing Room 5A

10:00 AM

8:21-10572 Ronaldo Marquez and Cristina Marquez

Chapter 13

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

Docket 22

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

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):

Ronaldo Marquez

Represented By
Stephen L Burton

Joint Debtor(s):

Cristina Marquez

Represented By
Stephen L Burton

**United States Bankruptcy Court
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Thursday, April 15, 2021

Hearing Room 5A

10:00 AM

CONT... Ronaldo Marquez and Cristina Marquez

Chapter 13

Movant(s):

Bridgecrest Credit Company, LLC

Represented By
Erica T Loftis Pacheco

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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Thursday, April 15, 2021

Hearing Room 5A

10:30 AM

8:19-10898 Alicia K Pipitone

Chapter 13

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

#10.00 Hearing RE: Motion to Withdraw as Plaintiff's Counsel

Docket 78

***** VACATED *** REASON: OFF CALENDAR: Voluntary Dismissal of Motion to Withdraw as Counsel filed 4/14/2021**

Courtroom Deputy:

OFF CALENDAR: Voluntary Dismissal of Motion to Withdraw as Counsel filed 4/14/2021 - td (4/14/2021)

Tentative Ruling:

April 15, 2021

Continue hearing to May 20, 2021 at 10:30 a.m. to allow Movant to correct service issue: Debtor was not served with the Motion. However, if Movant is able to file an amended proof of service showing timely service of the Motion to Debtor within 24 hours of today's hearing, the Motion will be granted and the May 20, 2021 hearing will be taken off calendar.

Note: If Movant accepts the foregoing tentative ruling, appearance at today's hearing is not required.

Party Information

Debtor(s):

Alicia K Pipitone

Represented By
Marc A Goldbach

Defendant(s):

Choice Motor Credit, LLC

Represented By
Misty A Perry Isaacson

**United States Bankruptcy Court
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Hearing Room 5A

10:30 AM

CONT... Alicia K Pipitone

Chapter 13

Plaintiff(s):

Alicia Pipitone

Represented By
Douglas A. Crowder

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court
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Thursday, April 15, 2021

Hearing Room 5A

10:30 AM

8:20-10127 Milan & Sahadev Inc.

Chapter 7

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

[RICHARD A. MARSHACK, CHAPTER 7 TRUSTEE]

Docket 38

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

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):

Milan & Sahadev Inc.

Represented By
John R Setlich

Trustee(s):

Richard A Marshack (TR)

Represented By
Donald W Sieveke

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Thursday, April 15, 2021

Hearing Room 5A

10:30 AM

8:20-10127 Milan & Sahadev Inc.

Chapter 7

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

**[DONALD W. SIEVEKE, ATTORNEY FOR RICHARD A. MARSHACK,
CHAPTER 7 TRUSTEE]**

Docket 34

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

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):

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, April 15, 2021

Hearing Room 5A

10:30 AM

8:20-10127 Milan & Sahadev Inc.

Chapter 7

#13.00 Hearing RE: First and Final Application for Compensation for the Period
September 8, 2020 Through December 30, 2020

**[KARL T. ANDERSON CPA, INC., ACCOUNTANTS FOR RICHARD A.
MARSHACK, CHAPTER 7 TRUSTEE]**

Docket 35

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

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):

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, April 15, 2021

Hearing Room 5A

10:30 AM

8:20-10262 MESCO, Inc.

Chapter 11

#14.00 Hearing RE: Second Interim Application for Compensation and Reimbursement of Costs

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

Docket 181

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

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):

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, April 15, 2021

Hearing Room 5A

10:30 AM

8:20-10262 MESCO, Inc.

Chapter 11

**#15.00 CON'TD STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and
(2) Requiring Report on Status of Chapter 11 Case (Holding Date)**

FR: 4-2-20; 9-10-20; 11-5-20; 12-17-20; 2-11-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Order Confirming
Debtor's First Amended Chapter 11 Plan of Reorganization, as Modified
Entered 3/9/2021**

Courtroom Deputy:

**OFF CALENDAR: Order Confirming Debtor's First Amended Chapter 11
Plan of Reorganization, as Modified Entered 3/9/2021 - td (3/9/2021)**

Tentative Ruling:

April 2, 2020

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.

September 10, 2020

Continue the status conference to November 5, 2020 at 10:30 a.m.; updated status report not required. (XX)

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, April 15, 2021

Hearing Room 5A

10:30 AM

CONT... MESCO, Inc.

Chapter 11

Note: Appearance at this hearing is not required.

November 5, 2020

Continue status conference to January 21, 2021 at 10:30 a.m.; updated status report not required.

Note: Appearance at this hearing not required.

December 17, 2020

Continue the status conference to February 11, 2021 at 10:30 a.m. (XX)

February 11, 2021

No tentative ruling. Disposition will depend on the outcome of the confirmation hearing.

Party Information

Debtor(s):

MESCO, Inc.

Represented By
Michael G Spector

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

Thursday, April 15, 2021

Hearing Room 5A

10:30 AM

8:20-10566 Eric C. Bryant and Gina K Bryant

Chapter 7

#16.00 Hearing RE: Motion to Approve Compromise with Chapter 7 Trustee, Karen Naylor

Docket 109

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

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):

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
Thomas H Casey

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

Thursday, April 15, 2021

Hearing Room 5A

10:30 AM

8:20-12488 Christopher Summers

Chapter 11

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

Docket 43

***** VACATED *** REASON: OFF CALENDAR: Voluntary Dismissal of U.S. Trustee's Motion, filed 3/19/2021**

Courtroom Deputy:

OFF CALENDAR: Voluntary Dismissal of U.S. Trustee's Motion, filed 3/19/2021 - td (3/19/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christopher Summers

Represented By
J Scott Williams

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

Thursday, April 15, 2021

Hearing Room 5A

10:30 AM

8:20-12564 Bryce Allen McGall

Chapter 7

#18.00 Hearing RE: Chapter 7 Trustee's Motion for Order Compelling Turnover of Real Property of the Estate Requiring Vacating of Premises, and Allowing Trustee to Exercise All Legal Remedies to Obtain Possession

Docket 66

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

Grant the Motion -- Debtor and all tenants must vacate the subject property by or before May 21, 2021, or such later time that the parties may agree to.

Basis for Tentative Ruling:

1. Debtor has known since he voluntarily converted the case to chapter 7 on or about January 25, 2021 that a) the property has substantial equity and b) the chapter 7 trustee would have a duty to sell the property and he, therefore, should have started making preparations to move soon thereafter.

2. May 21, 2021 is more than 90 days from the conversion of the case on January 25, 2021 and more than 60 days after the filing of the Motion on March 19, 2021.

Note: If the Trustee and Debtor accept the tentative ruling, appearances at today's hearing are not required.

Party Information

Debtor(s):

Bryce Allen McGall

Represented By
Edmond Richard McGuire

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

Thursday, April 15, 2021

Hearing Room 5A

10:30 AM

CONT... Bryce Allen McGall

Chapter 7

Trustee(s):

Weneta M.A. 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 15, 2021

Hearing Room 5A

10:30 AM

8:21-10279 Jay Chihwan Jung

Chapter 13

#19.00 Hearing RE: Debtor's Motion to Avoid Junior Lien on Principal Residence
[Creditor Holding Junior Lien: Prime Business Credit, Inc.]

Docket 30

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

Deny the Motion.

Basis for Tentative Ruling

Using Debtor's own figures, Prime's third priority lien is partially secured by Debtor's residence, and, therefore, the lien cannot be stripped under § 506(d) as a matter of law due to the anti-modification statute found in § 1322(b). See *Zimmer v. PSB Lending Corp. (In re Zimmer)*, 313 F.3d 1220, 1224 (9th Cir. 2002) ("The Supreme Court rejected this approach of bifurcation and stripping down, primarily because the debtors' argument failed to consider the fact that § 1322(b)(2) 'focuses on the modification of the 'rights of holders,'... because the creditor's claim was partially secured... it was entitled to the protections of the antimodification clause.")(internal citations omitted)(citing *Nobelman v. Am. Sav. Bank*, 508 U.S. 324 (1993)).

The court further notes that the Guaranty signed by Jung created a debt independent from that of the primary obligor in the event of default.

Party Information

Debtor(s):

Jay Chihwan Jung

Represented By
Jaenam J Coe

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

Thursday, April 15, 2021

Hearing Room 5A

10:30 AM

CONT... Jay Chihwan Jung

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 15, 2021

Hearing Room 5A

10:30 AM

8:21-10513 Rosa A Fridman

Chapter 7

#20.00 Hearing RE: Creditor Karl Avetoom's Motion to Dismiss Bankruptcy Case Pursuant to 11 U.S.C. Section 707 with 180 Day Bar to Refiling

Docket 14

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

Deny the Motion due to insufficient grounds stated therefor.

Basis for Tentative Ruling

Movant has the burden of proving that the case was filed for an improper purpose or in bad faith. Movant has failed to meet that burden in this instance.

Party Information

Debtor(s):

Rosa A Fridman

Represented By
Scott Talkov

Movant(s):

Karl Avetoom

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, April 15, 2021

Hearing Room 5A

10:30 AM

8:21-10513 Rosa A Fridman

Chapter 7

#21.00 Hearing RE: Debtor's Motion to Avoid Lien Under 11 U.S.C. Section 522(f) (Real Property) [Creditor: Karl Avetoom and Beach Crest Villas Owners Association (Potential Partial Assignee)]

Docket 13

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

Grant the Motion.

Basis for Tentative Ruling

Debtor seeks to avoid 7 judicial liens encumbering the condominium located at 16542 Blackbeard Lane #304, Huntington Beach, CA 92649 (the "Property") under § 522(f)("Motion")[dkt. 13]. Title is currently held by Moisey O. Fridman and Rosa A. Fridman, Trustees of The Fridman Family Trust u/d/t April 14, 2000 ("Trust"), as to an undivided 68.3% interest and Alex Fridman, a single man, as to an undivided 31.7% interest, all as tenants in common. The fair market value of the Property is \$337,687, with \$230,640 (all figures rounded down) representing the fair market value of Debtor's 68.3% interest in the Property. Debtor has claimed a homestead exemption under Code of Civil Procedure §704.730(a) in the amount of \$600,000 ("Homestead Exemption"). As such, Debtor seeks to avoid the following 7 judicial liens which were all recorded in Orange County in favor of creditor Karl Avetoom ("Avetoom"):

<u>Preliminary Exception No.</u>	<u>Judgment Entry Date</u>	<u>Judgment Recording Date</u>	<u>Court</u>	<u>Case</u>
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**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, April 15, 2021

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CONT...

Rosa A Fridman

Chapter 7

"Exception 14"	11/18/11	11/18/11	OC Superior Court	Avetoom v. Mosey and Rosa Fridman (30-2010-003454 90) ("2010 IIED Action")
"Exception 15"	11/18/11	1/17/12	Same	2010 IIED Action
"Exception 17"	8/13/14	9/30/14	Same	2010 IIED Action
"Exception 15-Amendment"	11/18/11	3/11/15	Same	2010 IIED Action
"Exception 18"	3/16/15	3/11/15	Same	2010 IIED Action
"Exception 21"	8/13/20	11/19/20	Same	Avetoom v. Risbrough, et al. (30-2015-008207 60) ("2015 Fraudulent Transfer Action")
"Exception 22"	10/6/20	11/19/20	Same	2015 Fraudulent Transfer Action

Creditors Avetoom [dkt. 16, 22, 33], Charles L. Murray III ("Murray")[dkt. 25], and Victor Balakin [dkt. 30] oppose the Motion.

The procedural objections raised by Murray and Balakin are overruled

As a preliminary matter, LBR 9013-1(f) requires that any opposition to a motion must be filed no later than 14 days before the hearing. Here, the opposition deadline in this case was April 1, 2021. Yet, Avetoom (dkt. 33-filed Apr. 13, 2021), Murray (dkt. 25-filed Apr. 7, 2021), and Balakin (dkt. 30-filed Apr. 12, 2021) all filed untimely oppositions. The court could exercise its discretion to strike these pleadings and not consider them since they were filed after the reply deadline under LBR 9013-1(f). Instead, the court will consider these pleadings by exercising its discretion under in LBR 1001-1(d)

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, April 15, 2021

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CONT... Rosa A Fridman

Chapter 7

which states, "The court may waive the application of any Local Bankruptcy Rule in any case or proceeding, or make additional orders as it deems appropriate, in the interest of justice."

Similarly, the court will exercise of discretion under LBR 1001-1(d) to overrule the objections raised by Avetoom, Murray, and Balakin regarding Debtor's failure to comply with LBR 4003-2 to file separate motions for each Avetoom lien to be avoided, and failing to serve a copy of the Motion and notice to purported lienholders Murray and Balakin. The court finds that the objecting parties have not been prejudiced by Debtor's procedural deficiencies because only Avetoom's liens are being avoided under the Motion and he had ample opportunity to object, and Murray and Balakin were able to each file their own oppositions which the court will consider. Moreover, if the Motion is granted, Murray and Balakin would appear to benefit from ruling since their purported liens would presumably move up in priority.

The Motion is granted under § 522 (f)

The Ninth Circuit Bankruptcy Appellate Panel summarized the statutory requirements to avoid a lien under § 522(f) as follows:

There are four basic elements to avoiding a lien under §522(f)(1)(A): First, there must be an exemption to which the debtor 'would have been entitled under subsection (b) of this section.' 11 U.S.C. §522(f). Second, the property must be listed on the debtor's schedules and claimed as exempt. Third, the lien must impair that exemption. Fourth, the lien must be ... a judicial lien. *In re Goswami*, 304 B.R. 386, 390-1 (9th Cir. BAP 2003) (citing *In re Mohring*, 142 B.R. 389, 392-3 (9th Cir. 1994)). "The debtor has the burden of showing she is entitled to lien avoidance under section 522(f)." *Mohring*, 24 F.3d at 247.

As for the first element, Debtor has demonstrated that she would be entitled to the Homestead Exemption. Debtor has provided her declaration that establishes that she has lived at the Property since it was acquired in 2013 and that her 68.3% interest in the Property is property of the estate, notwithstanding that it was previously placed into a family trust. And Debtor

**United States Bankruptcy Court
Central District of California
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Judge Erithe Smith, Presiding
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Thursday, April 15, 2021

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10:30 AM

CONT...

Rosa A Fridman

Chapter 7

has indicated her intent to continue to reside there. See Reply, 22-24; *Diaz v. Kosmala (In re Diaz)*, 547 B.R. 329, 336 (BAP 9th Cir. 2016); *But see* Avetoom Opp'n [dkt. 22], 2-3. As for the second element, the Property was listed on Debtor's schedules and claimed as exempt under Code of Civil Procedure § 704.730(a)(2) thereby satisfying the second element. See Mot., 16-17 (page nos. at top of document).

And with regard to the third element, the liens to be avoided, individually and collectively, impair Debtor's Homestead Exemption. The fair market value of Debtor's 68.3% interest in the Property is only \$230,640 and the amount of Debtor's Homestead Exemption is \$600,000. *Goswami*, 304 B.R. at 390 ("Avoidance of a judicial lien may be allowed even if the claimed exemption amount is de minimis."). Thus, the liens to be avoided impair Debtor's Homestead Exemption because Debtor is unable to fully take her \$600,000 exemption in this case. *Avetoom*, relying on *In re Pederson*, 230 B.R. 158, 164 (B.A.P. 9th Cir. 1999), argues that Exceptions 14 and 15 (Part 1) [and Exception 15 Part 2 because it relates back to Exception 15 Part (1)] cannot be avoided because those liens were recorded in 2011 and 2012 and before Debtor acquired her interest in the Property in 2013. See Opp'n [dkt. 22], 4-5. because "A debtor must acquire an interest in property before the judicial lien attaches in order to be able to avoid the lien under § 522(f)(1)." *Pederson, supra*, at 164. The reasoning in that case is that under California law, a judgment lien recorded before a judgment debtor acquires real property attaches simultaneously with the judgment debtor's acquisition of the real property. *Id.* at 163. But this case is unique because, unlike *Pederson*, the automatic stay was in effect at the time Debtor acquired the Property, so the judgment liens could not "attach" to Debtor's property due to § 362(a)(5) which prohibits "any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before commencement of the case under this title." See Reply, 11-14. At best then, Exceptions 14 and 15 (Part 1) [and Exception 15 (Part 2) which relates back as an amendment to Exception (Part 1)] attached on after October 29, 2013 when the automatic stay was lifted, i.e. after Debtor had acquired her interest in the Property in May 2013. And there's no question that the remaining liens, Exceptions 17, 18, 21, and 22 were recorded after 2013 when Debtor acquired the Property. Accordingly, the third element is satisfied for all of the liens to be avoided.

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CONT... Rosa A Fridman

Chapter 7

Finally, with regard to the fourth element, all of the liens to be avoided are judicial liens which arose from Avetoom's recording of either judgments or abstracts of judgements. See Mot., 25-66 (page nos. at top of document). Under California law, upon recording of an Abstract of Judgment, a judgment lien is created against a debtor's real property. See CCP § 697.310(a)("[A] judgment lien on real property is created under this section by recording an abstract of a money judgment with the county recorder."). Under the Bankruptcy Code, a judgment lien is a judicial lien. See 11 U.S.C. § 101(36) (defining "judicial lien" as a "lien obtained by judgment ..."). See *In re Coy*, 552 B.R. 199, 203 (Bankr. C.D. Cal. 2016). Avetoom's argument that the court should find Exception 21 is not a judicial lien because it is the product of a settlement is denied for two reasons. First, the actual document recorded giving rise to Exception 21 was a judgment- not a settlement agreement or a hearing transcript which Aveetom argues demonstrates the parties' intent to create a lien via the settlement. See Opp'n, 5-7. Second, even consensual judgment are judicial liens subject to avoidance under § 522(f). See *In re Applebaum*, 162 B.R. 548, 552 (Bankr. E.D. Cal. 1993)("As with most consent judgments, the Bank's lien derives from an abstract of judgment, not the party's consent. Section 522(f) accordingly applies and the filing of the lien may be avoided.").

Finally, the court rejects Avetoom's argument that the court's § 522(f) ruling is a collateral attack on the parties' prior settlement or will somehow impede on the state court's jurisdiction. See Opp'n, 22. The avoidance of judicial liens under § 522(f) is within the bankruptcy court's exclusive jurisdiction over Debtor's property. See 28 U.S.C. § 1334(c) ("The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction...of all the property, wherever located, of the debtor as of the commencement of such case, and of property of the estate[.]"). Sustaining these arguments would have the effect of empowering the parties or the state court to limit the court's jurisdiction to effectuate § 522(f) which would be contrary to 28 U.S.C. § 1334(c).

Party Information

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

Thursday, April 15, 2021

Hearing Room 5A

10:30 AM

CONT... Rosa A Fridman

Chapter 7

Debtor(s):

Rosa A Fridman

Represented By
Scott Talkov

Movant(s):

Rosa A Fridman

Represented By
Scott Talkov

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 15, 2021

Hearing Room 5A

10:30 AM

8:21-10525 The Source Hotel, LLC

Chapter 11

#22.00 Hearing RE: Motion of Shady Bird Lending, LLC for Order Designating Chapter 11 Case as Single Asset Real Estate Case Pursuant to 11 U.S.C. Sections 101(5aB) and 362(d)(3)

Docket 49

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

Deny the Motion.

Basis for Tentative Ruling

Movant has the burden of proof to demonstrate that the subject property is a single asset real estate within the meaning of Section 101(51B) of the Code. It has not met that burden in the court's view.

1. The court recognizes that the majority view is that undeveloped land generating no income may meet the requirements of Section 101(51B). This court does not necessarily agree with that view but, even if it did, where the property is partially developed for a purpose that will involve more than simply the operation of real property, such as a full-service hotel with restaurant, bar, laundry services, etc., 101(51B) does not apply.

2. Movant has not established the legal status of Debtor's interest in the real property. Debtor doesn't own fee title to the property and it is unclear whether Debtor does or does not have an active leasehold interest and, if so, the length of such lease.

Party Information

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, April 15, 2021

Hearing Room 5A

10:30 AM

CONT... The Source Hotel, LLC

Chapter 11

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, April 15, 2021

Hearing Room 5A

10:30 AM

8:21-10525 The Source Hotel, LLC

Chapter 11

#23.00 Hearing RE: Motion of Shady Bird Lending, LLC for Order Excusing State Court Receiver from Turnover of Assets Pursuant to 11 U.S.C. Section 543

Docket 51

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

Deny Motion.

A more detailed tentative ruling may be posted at any time prior to the hearing.

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

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

Thursday, April 15, 2021

Hearing Room 5A

10:30 AM

8:21-10594 Z Real Estate Holdings LLC

Chapter 11

#24.00 STATUS CONFERENCE Hearing on Status of SubChapter V Case; (2) Requiring Report on Status of SubChapter V Case by Debtor and SubChapter V Trustee; and (3) Requiring SubChapter V Trustee to Appear at the Status Conference

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Order Reassigning Bankruptcy Case Pursuant to General Order 11-01 to Judge with Prior Related Case/Proceeding Entered 3/18/2021; Case Transferred to LA Division, New Case Number is 2:21-12171-BR**

Courtroom Deputy:

OFF CALENDAR: Order Reassigning Bankruptcy Case Pursuant to General Order 11-01 to Judge with Prior Related Case/Proceeding Entered 3/18/2021; Case Transferred to LA Division, New Case Number is 2:21-12171-BR - td (3/19/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Z Real Estate Holdings LLC

Represented By
Marc A Goldbach

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 15, 2021

Hearing Room 5A

2:00 PM

8:20-10436 Chandra Marie Adam

Chapter 7

Adv#: 8:20-01174 Chicago Title Insurance Company v. Adam

#25.00 Hearing RE: Defendant, Chandra Marie Adam's Motion to Dismiss Complaint

Docket 6

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

Grant the Motion to Dismiss

Basis for Tentative Ruling:

Short Answer:

- 1) Plaintiff has not established standing to bring the Complaint.
- 2) Even if standing had been established Plaintiff was properly listed on Defendant's schedules and received notice of the bankruptcy filing and deadline to file a nondischargeability complaint. Plaintiff offers no evidence that it did not receive the bankruptcy notice. In fact, there is no declaration from any employee of Plaintiff explaining the entity's office mail procedures.
3. The complaint was filed seven months after the deadline. This court lacks authority to extend the deadline.

Long Answer:

On February 7, 2020, Chandra Marie Adam ("Defendant") filed a voluntary chapter 7 petition. The 341(a) meeting of creditors was first set for March 26, 2020. The deadline for dischargeability complaints was May 15, 2020 ("523 Deadline"). Debtor received her discharge on May 26, 2020.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, April 15, 2021

Hearing Room 5A

2:00 PM

CONT... Chandra Marie Adam

Chapter 7

1. The Adversary Proceeding

On December 17, 2020, plaintiff Chicago Title Insurance Company, a Florida corporation ("Plaintiff") filed a nondischargeability complaint against Defendant alleging causes of action under §§ 523(a)(2)(A) and (a)(3)(B) ("Complaint"). The Complaint alleges that Plaintiff issued a title insurance policy to Wachovia Bank ("Wachovia") for real property that served as collateral for a HELOC obtained by Defendant and her brother during the pendency of Defendant's parents' chapter 7 bankruptcy case. After the chapter 7 trustee in Defendant's parent's bankruptcy case successfully obtained a judgment against Wachovia avoiding the unauthorized postpetition transfer of the deed of trust securing the HELOC, Plaintiff paid Wachovia pursuant to the title insurance policy and the defect in title. Plaintiff, who holds the rights and remedies available to Wachovia against Defendant due to a subrogation provision in the title insurance policy, then sued Defendant in state court and obtained a judgment in the amount of \$324,185 ("State Court Judgment")(figures rounded down) for Defendant's fraud based on misrepresentations made to Wachovia during the HELOC loan transaction with respect to the ownership of the subject property. The Complaint seeks a judgment finding the State Court Judgment to be nondischargeable.

The answer deadline was January 19, 2021 and on that date, Defendant filed the instant FRCP 12(b)(6) motion seeking to dismiss the Complaint under FRCP 12(b)(6) and FRBP 7012 for failure to allege a plausible claim for relief because the Complaint was filed almost seven months after the 523 Deadline ("Motion")[dkt. 6, 7] and ("Reply")[dkt. 18]. Plaintiff opposes the Motion ("Opposition")[dkt. 15].

2. Legal standard

FRCP 12(b)(6), made applicable to this adversary proceeding under FRBP 7012, provides that a party may move to dismiss a claim for relief for "failure to state a claim upon which relief can be granted[.]" In *Atlantic Corp. v. Twombly*, 550 U.S. 544, 561 (2007), the Supreme Court established more stringent notice-pleading standards for motions to dismiss under FRCP 12(b)(6). A plaintiff is required to provide more than "labels and conclusions, and a

**United States Bankruptcy Court
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Courtroom 5A Calendar**

Thursday, April 15, 2021

Hearing Room 5A

2:00 PM

CONT... Chandra Marie Adam

Chapter 7

formulaic recitation of the elements of a cause of action" *Id.* at 555. The plaintiff must provide "enough facts to state a claim to relief that is plausible on its face" to nudge "their claims across the line from conceivable to plausible[.]" *Id.* at 570.

"To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (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." *Id.* The plausibility standard is not akin to a 'probability requirement,' but it asks more than a sheer possibility that a defendant has acted unlawfully." *Id.* "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." *Id.* While legal conclusions can provide the framework of a complaint, "they must be supported by factual allegations." *Id.* at 679. "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.* (internal citations omitted). The court must construe the complaint in the light most favorable to the plaintiff, accept all well-pleaded factual allegations as true, and "all reasonable inferences drawn from them". *Johnson v. Riverside Healthcare Sys., LP.*, 534 F.3d 1116, 1122 (9th Cir. 1990).

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); *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

**United States Bankruptcy Court
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Santa Ana
Judge Erithe Smith, Presiding
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Thursday, April 15, 2021

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Chandra Marie Adam

Chapter 7

whose authenticity no party questions, but which are not physically attached to the [plaintiff's] pleadings."). When documents attached to a complaint contradict allegations in the complaint, the document must prevail. See *Ott v. Home Sav. & Loan Assoc.*, 265 F.2d 643, 646 fn.1 (9th Cir. 1958) (when allegations are inconsistent with the terms of a contract attached as an exhibit, the terms of the contract must prevail over the inconsistent allegations). 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 motion for summary judgment under FRCP 56. See FRCP 12(d); *Gerritson*, 116 F.Supp.3d at 1118.

3. Plaintiff lacks standing to prosecute the Complaint

In the Reply, Defendant argues that Plaintiff lacks standing because the State Court Judgment was entered in favor of "Chicago Title Insurance Company, a Nebraska corporation" but the Complaint alleges that Plaintiff is "Chicago Title Company, a Florida corporation." See Reply, 6-7; Compl., ¶4 and Ex. 23. Although this argument was raised for the first time in the Reply, the court will consider it because the court can raise the issue of standing *sua sponte*. See *Carrico v. City & Cnty of San Francisco*, 656 F.3d 1002, 1005 (finding that a court may raise standing issue at any time *sua sponte*). Standing is comprised of two components as follows:

Standing is comprised of Article III requirements and prudential considerations: "[S]tanding jurisprudence contains two strands: Article III standing, which enforces the Constitution's case-or-controversy requirement... and prudential standing, which embodies "judicially self-imposed limits on the exercise of federal jurisdiction[.]" *Elk Grove Unified Sch. Dist. v. Newdow*, 542 U.S. 1, 11–12 (2004)(citation omitted), *abrogated on other grounds by Lexmark Int'l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118 (2014). "A federal court may exercise jurisdiction over a litigant only when that litigant meets constitutional and prudential standing requirements." *In re Veal*, 450 B.R. 897, 906 (B.A.P. 9th Cir. 2011)(citing *Elk Grove Unified Sch. Dist.*).

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- First, the plaintiff must have suffered an "injury in fact" - an invasion of a legally protected interest which is (a) concrete and particularized, and (b) "actual or imminent, not 'conjectural' or 'hypothetical.'"

- Second, there must be a causal connection between the injury and the conduct complained of - the injury has to be "fairly traceable to the challenged action of the defendant, and not ... the result [of] the independent action of some third party not before the court."

- Third, it must be "likely," as opposed to merely "speculative," that the injury will be redressed by a favorable decision."

Kardules v. City of Columbus, 95 F.3d at 1346 (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-1 (1992)). The party invoking federal jurisdiction has the burden of establishing the elements of standing. *Id.* at 561-562. Each element of standing "must be supported with the manner and degree of evidence required at each successive stage of the litigation." *Defenders of Wildlife*, 504 U.S. 16 at 561.

In this case, Defendant's argument focuses on the first element of Article III standing, injury-in-fact. The plaintiff must clearly allege sufficient facts demonstrating injury-in-fact. *Spokeo, Inc. v. Robins*, 578 U.S. ___, 136 S.Ct. 1540 (2016). Under the *Twombly/Iqbal* standards, the complaint must allege sufficient facts to make the operative allegations "plausible," even as to allegations pertaining to injury-in-fact that would give rise to subject matter jurisdiction. *Amidax Trading Group v. S.W.I.F.T. SCRL*, 671 F.3d 140, 145-149 (2d Cir. 2011). Viewing the allegations in the Complaint as true, on the face of the Complaint, Plaintiff lacks standing because it has not suffered any injury-in-fact. "Chicago Title Insurance Company, a Nebraska corporation" ("CTIC-Neb") obtained the State Court Judgment, not Plaintiff, who is a separate legal entity incorporated in Florida. Because the Complaint does not explain how Plaintiff came to acquire the rights of CTIC-Neb under the State Court Judgment, Plaintiff has

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Chapter 7

failed to state a plausible claim for relief since Plaintiff lacks standing.

4. Plaintiff has failed to allege a plausible claim for relief under § 523

Under Rule 4007(c), the deadline to file a dischargeability complaint is 60 days after the first date set for the meeting of creditors. The primary purpose for the deadline in Rule 4007(c) is to facilitate the debtor's fresh start in a timely and expeditious manner. See *Schunck v. Santos (In re Santos)*, 112 B.R. 1001, 1006 (9th Cir. BAP 1990). Rule 9006(b)(3) authorizes the court to enlarge the time for filing a complaint under Rule 4007(c) only when a motion for such an extension is made before the time has expired.

In this case, the court served notice of the 523 Deadline on February 9, 2020 to "Chicago Title Insurance Company" at Plaintiff's main Orange County office located at 16969 Von Karmen Ave, Ste. 150, Irvine, CA 92606 ("OC Office"). See Mot. Ex. A. And there is no question that the Complaint was filed almost seven months after the 523 Deadline and that Plaintiff did not file a motion to extend the 523 Deadline before it expired. Accordingly, Defendant argues that the Complaint is barred by Rule 4007(c). See Mot., 2-3.

Plaintiff counters that the Complaint is not time barred because notice was improper due to Defendant improperly scheduling Plaintiff's debt and did not include the address for Plaintiff's attorneys in the underlying state court action. See Opp'n, 7-8. In addition, Plaintiff argues that Defendant "cleverly" chose to list the OC Office in an effort to not provide notice to Plaintiff and Defendant's schedules lacked identifying information which would have made it easier for Plaintiff to determine that Defendant was judgment debtor of Plaintiff. *Id.* at 6. These arguments are unpersuasive for several reasons.

First, Defendant duly scheduled the debt owed to Plaintiff. In determining whether a debtor has been duly scheduled, the BAP has explained:

The correct test is whether this debt was scheduled in time to permit a timely request for a determination of discharge or a timely proof of claim.... In order for a debt to be duly listed, the debtor must state the name and address

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Chandra Marie Adam

Chapter 7

of the creditor.... The burden is on the debtors to use reasonable diligence in completing their schedules and lists.... If a creditor proves that an address is incorrect, the debtor must justify the inaccuracy in preparing his schedules.... An incorrect or careless omission is not enough.

In re Fauchier, 71 B.R. 212, 215 (B.A.P. 9th Cir. 1987); *In re Kern*, 171 B.R. 679, 682 (Bankr. D. Ariz. 1994).

Here, Debtor has explained the efforts she went through to find an address for CTIC-Neb which were reasonable in light of the fact that this search proved to be more difficult since CTIC-Neb was a dissolved corporation. See Mot. 6-8. The 523 Deadline notice also included Defendant's identifying information. See Reply, 3. More importantly, Plaintiff has not argued that the OC Office *is not* a valid address for Plaintiff or that it was not actually received in that office.. See *generally*, Opp'n. The court finds that Plaintiff's debt was properly scheduled.

Second, because there is a presumption that the court's mailing of the 523 Deadline notice was received by Plaintiff. "The Supreme Court has held that upon proof that mail is properly addressed, stamped and deposited in an appropriate receptacle, it is presumed to have been received by the addressee in the ordinary course of the mails." *In re De la Cruz*, 176 B.R. 19, 22 (B.A.P. 9th Cir. 1994). "In order to rebut this presumption, something more than a mere declaration of a creditor alleging non-receipt is required." *Id.* Here, Plaintiff has failed to rebut the presumption that it received the 523 Deadline notice because Plaintiff has not demonstrated that the OC Office is not a valid address for Plaintiff.

Third, the argument that Defendant was required to serve Plaintiff's state court counsel is flawed because an "attorney who has represented a creditor in state court proceedings does not, by virtue of that relationship alone, represent the creditor with respect to that same debt in a federal bankruptcy proceeding." *Fauchier*, 71 B.R. at 215. Finally, the Complaint fails to allege when Plaintiff received actual notice of Defendant's bankruptcy filing. See Mot., 8-9. This date is relevant because, "The Ninth Circuit has held that notice is sufficient when the creditor has actual knowledge of the bankruptcy filing in time to file a complaint under § 523." *De la Cruz*, 176 B.R.

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CONT... Chandra Marie Adam Chapter 7

at 23. Accordingly, viewing the allegations in the Complaint in the light most favorable to Plaintiff, Plaintiff has not pled plausible claims for relief under § 523 because the Complaint is time-barred by FRBP 4007(c).

Party Information

Debtor(s):

Chandra Marie Adam	Pro Se
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Defendant(s):

Chandra Marie Adam	Pro Se
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Plaintiff(s):

Chicago Title Insurance Company	Represented By Karen A Ragland
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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
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Thursday, April 15, 2021

Hearing Room 5A

2:00 PM

8:20-10436 Chandra Marie Adam

Chapter 7

Adv#: 8:20-01174 Chicago Title Insurance Company v. Adam

#26.00 CON'TD STATUS CONFERENCE RE: Complaint by Chicago Title Insurance Company To Determine Nondischargeability of Debt

FR: 3-11-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 11, 2021

Continue Status Conference to April 15, 2021 at 2:00 p.m., same date/time as Defendant's Motion to Dismiss Adversary Proceeding; updated status report not required. (xx)

Note: Appearances at this Status Conference are not required; Plaintiff to serve notice of the continued hearing date/time.

April 15, 2021

Take the matter off calendar if the motion to dismiss the adversary proceeding is granted.

Party Information

Debtor(s):

Chandra Marie Adam

Pro Se

Defendant(s):

Chandra Marie Adam

Pro Se

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

Thursday, April 15, 2021

Hearing Room 5A

2:00 PM

CONT... Chandra Marie Adam

Chapter 7

Plaintiff(s):

Chicago Title Insurance Company

Represented By
Karen A Ragland

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**

Friday, April 16, 2021

Hearing Room 5A

10:00 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

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Meeting URL: <https://cacb.zoomgov.com/j/1611807855>

Meeting ID: 161 180 7855

Password: 019326

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

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

Friday, April 16, 2021

Hearing Room 5A

10:00 AM

CONT...

Chapter

<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

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- Say your name every time you speak.

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Docket 0

Courtroom Deputy:

- NONE LISTED -

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

Friday, April 16, 2021

Hearing Room 5A

10:00 AM

8:21-10958 Plamex Investment, LLC

Chapter 11

#1.00 Hearing RE: Debtor's Emergency Motion for Entry of Order Authorizing Debtor to Provide Adequate Assurance of Future Payment to Utility Companies Pursuant to 11 U.S.C. Section 366

Docket 5

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Plamex Investment, LLC

Represented By
Ron Bender
Juliet Y Oh
Monica Y Kim

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

Friday, April 16, 2021

Hearing Room 5A

10:00 AM

8:21-10958 Plamex Investment, LLC

Chapter 11

#2.00 Hearing RE: Debtor's Emergency Motion for Entry of an Interim Order, Pending a Final Hearing, Authorizing the Debtor to Use Cash Collateral

Docket 6

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Plamex Investment, LLC

Represented By
Ron Bender
Juliet Y Oh
Monica Y Kim

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

Wednesday, April 21, 2021

Hearing Room 5A

9:00 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

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Meeting URL: <https://cacb.zoomgov.com/j/1604300326>

Meeting ID: 160 430 0326

Password: 272898

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

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**United States Bankruptcy Court
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Wednesday, April 21, 2021

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9:00 AM

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Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
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- Say your name every time you speak.

Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

**United States Bankruptcy Court
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Judge Erithe Smith, Presiding
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Wednesday, April 21, 2021

Hearing Room 5A

9:30 AM

8:20-13145 Patrick Michael Herrle

Chapter 7

#1.00 Hearing RE: Pro se Reaffirmation Agreement Between Debtor and American Honda Finance Corporation (RE: 2018 Honda Civic - \$1,391.45)
[TA CASE]

Docket 11

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Patrick Michael Herrle	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, April 21, 2021

Hearing Room 5A

9:30 AM

8:20-13196 Bilal Temel

Chapter 7

#2.00 Hearing RE: Reaffirmation Agreement Between Debtor and American Honda Finance Corporation (RE: 2016 Honda Civic - \$7,902.93)

Docket 14

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Bilal Temel

Represented By
Clifford Bordeaux

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, April 21, 2021

Hearing Room 5A

9:30 AM

8:20-13336 Kimberly Dawn Peterson

Chapter 7

**#3.00 Hearing RE: Reaffirmation Agreement Between Debtor and Bank of the West
(RE: 2017 Chrysler Pacific - \$26,596.13)**

Docket 17

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Kimberly Dawn Peterson

Represented By
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**

Wednesday, April 21, 2021

Hearing Room 5A

9:30 AM

8:20-13511 Manuel Rivera and Teresita Rivera

Chapter 7

#4.00 Hearing RE: Pro se Reaffirmation Agreement Between Debtor and American Honda Finance Corporation (2020 Honda CRV - \$11,166.12)

Docket 11

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Manuel Rivera

Represented By
Arlene M Tokarz

Joint Debtor(s):

Teresita Rivera

Represented By
Arlene M Tokarz

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, April 21, 2021

Hearing Room 5A

9:30 AM

8:20-13523 Yvonne Gutierrez

Chapter 7

#5.00 Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Partners
Federal Credit Union (2013 Nissan Sentra - \$4,392.14)
[TA CASE]

Docket 9

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Yvonne Gutierrez

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**

Wednesday, April 21, 2021

Hearing Room 5A

9:30 AM

8:20-13525 Blanca Maritza Lopez-Choc

Chapter 7

#6.00 Hearing RE: [8] Reaffirmation Agreement Between Debtor and Wells Fargo Bank NA d/b/a Wells Fargo Auto (RE: 2014 Toyota Sienna - \$10,920.41) [TA CASE]

Docket 8

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Blanca Maritza Lopez-Choc

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
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Wednesday, April 21, 2021

Hearing Room 5A

9:30 AM

8:21-10080 Jae Woo Lee and Kyung A Kang

Chapter 7

#7.00 Hearing RE: Pro se Reaffirmation Agreement Between Debtor and American Honda Finance Corporation (RE: 2018 Honda Accord - Amount: \$12,082.48)
[SC CASE]

Docket 12

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Jae Woo Lee Pro Se

Joint Debtor(s):

Kyung A Kang Pro Se

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, April 21, 2021

Hearing Room 5A

9:30 AM

8:21-10334 Frances Elaine Hill Tran

Chapter 7

#8.00

Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (RE: 2016 Toyota Camry - Amount: \$16,215.56)
[SC CASE]

Docket 9

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Frances Elaine Hill Tran

Pro Se

Trustee(s):

Weneta M.A. Kosmala (TR)

Pro Se

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

Wednesday, April 21, 2021

Hearing Room 5A

9:30 AM

8:21-10453 Sheldon Chester Goodridge

Chapter 7

#9.00 Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Capital One Auto Finance, a division of Capital One, N.A.
(RE: 2016 Nissan Maxima Sedan 4D S V6 - \$18,021.22) **[TA CASE]**

Docket 12

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Sheldon Chester Goodridge	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, April 21, 2021

Hearing Room 5A

9:30 AM

8:21-10667 Jennyfer Sickler

Chapter 7

#10.00 Hearing RE: Reaffirmation Agreement Between Debtor and Hyundai Motor Finance (RE: 2015 Hyundai Elantra- \$11,764.71)

Docket 7

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Jennyfer Sickler

Represented By
Julie J Villalobos

Trustee(s):

Thomas H Casey (TR)

Pro Se

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

Wednesday, April 21, 2021

Hearing Room 5A

1:00 PM

8:16-12895 29 Prime, Inc.

Chapter 7

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

#11.00 Pre-Trial Technical Status Conference RE: First Amended Complaint for: (1) Breach of Fiduciary Duty - Derivative; (2) Constructive Trust **(As to Defendant Russell Wallace Only)**

Docket 0

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

29 Prime, Inc.

Represented By
Richard L Barnett
Christine D Barker

Defendant(s):

Russell B. Wallace	Pro Se
1Network.Com	Pro Se
Tony Redman	Pro Se
Jason Martin	Pro Se
Local Zoom, Inc.	Pro Se
OC Listing, Inc.	Pro Se
Sky Motorsports, Inc.	Pro Se
Haleh Fardi	Pro Se

Plaintiff(s):

Richard A. Marshack

Represented By
Rosemary Amezcu-Moll

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

Wednesday, April 21, 2021

Hearing Room 5A

1:00 PM

CONT... 29 Prime, Inc.

Chapter 7

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 22, 2021

Hearing Room 5A

9:30 AM
8:00-00000

Chapter

#1.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

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Meeting URL: <https://cacb.zoomgov.com/j/1613356013>

Meeting ID: 161 335 6013

Password: 078356

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

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

Thursday, April 22, 2021

Hearing Room 5A

9:30 AM
CONT...

Chapter

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- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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

Thursday, April 22, 2021

Hearing Room 5A

9:30 AM

CONT...

- NONE LISTED -

Chapter

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

Thursday, April 22, 2021

Hearing Room 5A

9:30 AM

8:17-10423 Chad Paul Delannoy

Chapter 7

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

#2.00 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; 7-16-20; 10-22-20

Docket 1

***** VACATED *** REASON: CONTINUED TO 7/22/2021 AT 9:30 A.M.,
Per Order Entered 4/8/2020 (XX)-am**

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 7/22/2021 at 9:30 a.m., Per Order Entered 4/8/2020 (XX) - am (4/8/2021)

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 22, 2021

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, April 22, 2021

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.

Party Information

Debtor(s):

Chad Paul Delannoy

Represented By
Robert P Goe
Charity J Manee

Defendant(s):

Chad Paul Delannoy

Represented By
Robert P Goe
Charity J Manee
Thomas J Eastmond

Plaintiff(s):

Woodlawn Colonial, L P

Represented By
Howard M Bidna
Evan Rothman

Trustee(s):

Thomas H Casey (TR)

Represented By
Thomas H Casey
Kathleen J McCarthy

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

Thursday, April 22, 2021

Hearing Room 5A

9:30 AM

8:17-11370 David Tudor Chamberlain

Chapter 11

Adv#: 8:17-01101 Martin D. Fern, individually and as Trustee of the v. Chamberlain et al

#3.00 CONT Hearing RE: Plaintiffs Martin D. Fern and Linda Taylor-Fern's Motion to Strike Defendants' Answer to Complaint

[fr: 9/26/17, 3/7/18, 9/26/18, 1/9/19, 6/12/19, 12/11/19, 3/4/20]; 9/30/20, Rm 5D; 10-1-20; 1-21-21

Docket 20

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 1, 2020

In light of pending state court litigation, continue this matter to January 21, 2021 at 10:30 a.m. (XX)

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

January 21, 2021

In light of pending state court litigation, continue this matter to April 22, 2021 at 9:30 a.m.; updated Joint Status Report must be filed no later than April 8, 2021 and must include a copy of the Superior Court order or notice re the suspension of civil trials. (XX)

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

April 22, 2021

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

Thursday, April 22, 2021

Hearing Room 5A

9:30 AM

CONT... David Tudor Chamberlain

Chapter 11

Continue hearing to August 19, 2021 at 9:30 a.m.; updated joint status report must be filed by August 5, 2021.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

David Tudor Chamberlain

Represented By
Jeffrey I Golden
Alan J Friedman
Beth Gaschen

Defendant(s):

David Tudor Chamberlain

Represented By
Gregory S Page

Linda Chamberlain, an individual

Represented By
Gregory S Page

Plaintiff(s):

Martin D. Fern, individually and as

Represented By
Eric P Israel
Sonia Singh

Linda Taylor-Fern, individually and

Represented By
Eric P Israel
Sonia Singh

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

Thursday, April 22, 2021

Hearing Room 5A

9:30 AM

8:17-11370 David Tudor Chamberlain

Chapter 11

Adv#: 8:17-01101 Martin D. Fern, individually and as Trustee of the v. Chamberlain et al

#4.00 CONT STATUS CONFERENCE RE: Complaint to determine nondischargeability of debts pursuant to 11 U.S.C. Sections 523(a) and 524(a) (3)

[fr: 8/22/17, 9/26/17, 3/7/18, 9/26/18, 1/9/19, 6/12/19, 12/11/19, 3/4/20]; 9-30-20, Rm 5D; 10-1-20; 1-21-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 1, 2020

In light of pending state court litigation, continue this matter to January 21, 2021 at 10:30 a.m. Plaintiff shall file a status report regarding the status of the state court trial by or before January 7, 2021.(XX)

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiffs shall serve Defendants with notice of the continued hearing date/time.

January 21, 2021

In light of pending state court litigation, continue this matter to April 22, 2021 at 9:30 a.m.; updated Joint Status Report must be filed no later than April 8, 2021 and must include a copy of the Superior Court order or notice re the suspension of civil trials. (XX)

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, April 22, 2021

Hearing Room 5A

9:30 AM

CONT... David Tudor Chamberlain

Chapter 11

April 22, 2021

Continue hearing to August 19, 2021 at 9:30 a.m.; updated joint status report must be filed by August 5, 2021.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

David Tudor Chamberlain

Represented By
Jeffrey I Golden
Alan J Friedman
Beth Gaschen

Defendant(s):

David Tudor Chamberlain

Pro Se

Linda Chamberlain, an individual

Pro Se

Plaintiff(s):

Martin D. Fern, individually and as

Represented By
Eric P Israel

Linda Taylor-Fern, individually and

Represented By
Eric P Israel

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

Thursday, April 22, 2021

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 CONTD PRE-TRIAL CONFERENCE RE: Complaint for: 1. Breach of Fiduciary Duty; 2. Accounting; and 3. Defalcation of Trust **(as to Defendant Minho An)**

FR: 2-6-20; 10-8-20; 1-21-21

Docket 1

***** VACATED *** REASON: CONTINUED TO 5/20/2021 AT 9:30 A.M.,
PER ORDER ENTERED 3/29/2021 (XX)**

Courtroom Deputy:

**SPECIAL NOTE: Status Conference Scheduled for 4/22/2021 at 9:30 a.m.
(as to Defendants Gill Sun and Ik Kim) - td (7/31/2020)**

**SPECIAL NOTE: Notice of Voluntary Dismissal of Only Defendant Ik
Dong Kim, aka Kim Zk Dong, an individual, with Prejudice, filed
2/3/2021 - td (2/3/2021); Notice of Voluntary Dismissal of Only Defendant
Gill Su Sun, an individual, with Prejudice, filed 3/25/2021 - td (3/26/2021)**

**CONTINUED: Pre-trial Conference Continued to 5/20/2021 at 9:30 a.m.,
Per Order Enteed 3/29/2021 (XX) - td (3/29/2021)**

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.
(XX)	
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

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

Thursday, April 22, 2021

Hearing Room 5A

9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

participate. Per the docket, only one defendant, Minho 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
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
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Thursday, April 22, 2021

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 **(as to Defendants Gill Sun and Ik Kim)**

(Another Summons Issued 2/11/2020)
FR: 4-30-10; 6-4-20; 8-6-20; 11-5-20

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Notice of Voluntary Dismissal of Only Defendant Ik Dong Kim, aka Kim Zk Dong, an individual, with Prejudice, filed 2/3/2021; Notice of Voluntary Dismissal of Only Defendant Gill Su Sun, an individual, with Prejudice, filed 3/25/2021 (No Answer Nor Motion for Summary Judgment filed by Either Defendant Filed)**

Courtroom Deputy:

SPECIAL NOTE: Pre-trial Conference Scheduled for 4/22/2021 at 9:30 a.m. (as to Defendant Minho An) - td (7/31/2020)

OFF CALENDAR: Notice of Voluntary Dismissal of Only Defendant Ik Dong Kim, aka Kim Zk Dong, an individual, with Prejudice, filed 2/3/2021; Notice of Voluntary Dismissal of Only Defendant Gill Su Sun, an individual, with Prejudice, filed 3/25/2021 (No Answer Nor Motion for Summary Judgment filed by Either Defendant Filed) - td (3/26/2021)

Tentative Ruling:

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

August 6, 2020

Joint status report was not timely filed by July 23, 2020 as required by this court's order entered June 2, 2020 [docket #24]. Impose sanctions in the amount of \$100 against Plaintiff's counsel.

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

Thursday, April 22, 2021

Hearing Room 5A

9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

November 5, 2020

Continue the adversary proceeding as a Status Conference as to defendants Gill Sun and Ik Kim to April 22, 2021 at 9:30 a.m. Any request for default and/or motion for default judgment as to Defendant Sun must be filed so that it can be heard or decided on or prior to April 22, 2021. Defendant Kim must be served with the summons and complaint on or prior to February 1, 2021. As to Defendant Minho An, the existing discovery and mediation deadlines stand, as well as the pretrial conference scheduled for April 22, 2021 at 9:30 a.m. (XX)

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 within 7 days of the hearing.

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

Represented By
Michael H Yi

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 22, 2021

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, April 22, 2021

Hearing Room 5A

9:30 AM

8:19-10275 Michael J Duff

Chapter 7

Adv#: 8:19-01084 Constantin et al v. Duff

**#7.00 TRIAL STATUS CONFERENCE RE: Complaint to Deny Debtor's Discharge
(Attorneys Only)**

(Set per Order Entered 2/8/2021)
FR: 3-11-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 22, 2021

Take this matter off calendar in light of Plaintiff's pending motion to dismiss this adversary proceeding.

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

Michael J Duff

Pro Se

Defendant(s):

Michael J. Duff

Represented By
David Brian Lally

Plaintiff(s):

Holly Constantin

Represented By
Alan W Forsley

Michael Constantin

Represented By
Alan W Forsley

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, April 22, 2021

Hearing Room 5A

9:30 AM

CONT... Michael J Duff

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, April 22, 2021

Hearing Room 5A

9:30 AM

8:19-10898 Alicia K Pipitone

Chapter 13

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

#8.00 CONT'D 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; 8-6-20; 9-10-20; 11-5-20; 12-17-20

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/17/2021 AT 9:30 A.M.,
PER ORDER ENTERED 3/1/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Pre-trial Conference Continued to 6/17/2021 at 9:30 a.m.,
Per Order Entered 3/1/2021 (XX) - td (3/1/2021)**

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.

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

Thursday, April 22, 2021

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.

November 5, 2020

Continue the Pretrial Conference to December 17, 2020 at 9:30 a.m. Plaintiff must file and serve any motion for leave to amend the Complaint by or before November 19, 2020, such that the motion can be decided and/or heard by December 17, 2020. (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
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Thursday, April 22, 2021

Hearing Room 5A

9:30 AM

CONT... Alicia K Pipitone

Chapter 13

at today's hearing are not required.

December 17, 2020

Continue the Pretrial Conference to April 22, 2021 at 9:30 a.m.; Joint Pretrial Stipulation must be filed by April 8, 2021. (XX)

Party Information

Debtor(s):

Alicia K Pipitone

Represented By
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, April 22, 2021

Hearing Room 5A

9:30 AM

8:19-13441 Alpha Floors, Inc.

Chapter 7

Adv#: 8:20-01156 Kosmala v. Xia

#9.00 STATUS CONFERENCE RE: Complaint: (1) To Avoid Preferential Transfer Pursuant To 11 U.S.C. § 547; (2) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. § 548(A)(1)(A); (3) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. § 548(A)(1)(B); (4) For Recovery Of Avoided Transfers Under 11 U.S.C. § 550; (5) To Preserve Transfer For The Benefit Of The Estate Pursuant To 11 U.S.C. § 551; (6) Turnover Of The Property Of The Estate Pursuant To 11 U.S.C. § 542
Nature of Suit: (11 (Recovery of money/property - 542 turnover of property))

(Another Summons Issued 2-3-21)

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 22, 2021

In light of default entered against Defendant on April 9, 2021, continue the Status Conference to June 17, 2021 at 9:30 a.m.

Special Note:

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.

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

Thursday, April 22, 2021

Hearing Room 5A

9:30 AM

CONT... Alpha Floors, Inc.

Chapter 7

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

Party Information

Debtor(s):

Alpha Floors, Inc.

Represented By
Eric J Fromme

Defendant(s):

Feiyu Xia

Pro Se

Plaintiff(s):

Weneta Kosmala

Represented By
Reem J Bello

Trustee(s):

Weneta M.A. 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 22, 2021

Hearing Room 5A

9:30 AM

8:19-13858 Bruce Elieff

Chapter 7

Adv#: 8:19-01234 Miller v. Elieff et al

#10.00 PRE-TRIAL CONFERENCE RE: Amended Complaint to Determine Dischargeability Pursuant to 11 U.S.C. Section 523(a)(2) and (6)

FR: 4-2-20; 6-18-20; 12-17-20

Docket 2

***** VACATED *** REASON: OFF CALENDAR: Order Approving Stipulation Between Plaintiff Jacqueline Miller and Defendant Bruce Elieff Regarding Resolution of Case Entered 4/12/2021. Order on Request for Dismissal Pursuant to FRBP 7041 of Defendant Camden, LLC Entered 4/19/2021**

Courtroom Deputy:

OFF CALENDAR: Order Approving Stipulation Between Plaintiff Jacqueline Miller and Defendant Bruce Elieff Regarding Resolution of Case Entered 4/12/2021. Order on Request for Dismissal Pursuant to FRBP 7041 of Defendant Camden, LLC Entered 4/19/2021 - td (4/19/2021)

Tentative Ruling:

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 status report must be filed by December 3, 2020. (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, April 22, 2021

Hearing Room 5A

9:30 AM

CONT... Bruce Elieff

Chapter 7

at this hearing are not required and Plaintiff shall serve notice of the continued hearing date/time.

December 17, 2020

Discovery Cut-off Date: Mar. 17, 2021
Pretrial Conference Date: Apr. 22, 2021 at 9:30 a.m.
(XX)
Deadline to file Joint Pretrial Stipulation: Apr. 8, 2021

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):

Bruce Elieff

Represented By
Paul J Couchot
Lisa Nelson

Defendant(s):

Bruce Elieff

Represented By
Jeffrey S Benice

4627 Camden, LLC

Represented By
Jeffrey S Benice

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 22, 2021

Hearing Room 5A

9:30 AM

CONT... Bruce Elieff

Chapter 7

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe

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

Thursday, April 22, 2021

Hearing Room 5A

10:00 AM

8:19-14023 Jorge Sanchez and Zoila Quinonez

Chapter 7

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

TD AUTO FINANCE LLC

VS.

DEBTORS

Docket 46

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 22, 2021

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):

Jorge Sanchez

Represented By
Kevin Tang

Joint Debtor(s):

Zoila Quinonez

Represented By
Kevin Tang

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

Thursday, April 22, 2021

Hearing Room 5A

10:00 AM

CONT... Jorge Sanchez and Zoila Quinonez

Chapter 7

Movant(s):

TD Auto Finance 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, April 22, 2021

Hearing Room 5A

10:00 AM

8:21-10525 The Source Hotel, LLC

Chapter 11

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

SHADY BIRD LENDING, LLC

VS.

DEBTOR

Docket 62

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 22, 2021

Continue hearing to June 3, 2021 at 2:00 p.m., same date and time as the hearing on Movant's motion to excuse the state court receiver from the turnover requirements of 11 U.S.C. Section 543. Ordinary 21/14/7 briefing deadlines under LBR 9013-1 apply.

Special Note:

Tentative ruling for 6/3/21: Based on the evidence presented thus far, the court is inclined to deny the Motion due to the lack of evidence that the property has declined in value since the petition date and the lack of evidence to refute the owner's opinion as to the value of the property. Despite the tentative ruling, the court declines to rule at today's hearing or to entertain oral argument because it would like to view the Motion in the context of the turnover motion.

Additional note to the parties: In this court, pleadings rife with snide, petty, snarky hyperbole is unpleasantly distracting and degrades the quality of one's argument and position.

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

Thursday, April 22, 2021

Hearing Room 5A

10:00 AM

CONT... The Source Hotel, LLC

Chapter 11

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

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

Thursday, April 22, 2021

Hearing Room 5A

10:00 AM

8:21-10570 Jonathan E Hicks and Christi A Hicks

Chapter 7

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

ACAR LEASING LTD

VS.

DEBTORS

Docket 10

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 22, 2021

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):

Jonathan E Hicks

Represented By
Bert Briones

Joint Debtor(s):

Christi A Hicks

Represented By
Bert Briones

Movant(s):

ACAR Leasing LTD d/b/a GM

Represented By

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

Thursday, April 22, 2021

Hearing Room 5A

10:00 AM

CONT... Jonathan E Hicks and Christi A Hicks

Chapter 7

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, April 22, 2021

Hearing Room 5A

10:00 AM

8:21-10860 Erica Duarte Bruce

Chapter 13

#14.00 Hearing RE: Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 11931 Buckingham Circle, Garden Grove, CA 92840

Docket 10

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 22, 2021

Grant motion on condition that Debtor provides proof of permanent loan modification from SPS by or before April 29, 2021. If Debtor fails to provide such proof, the Motion will be denied.

Basis for Tentative Ruling

1. The loan modification eliminating over \$50,000 in arrearages is the only substantive changed financial circumstances. Absent the loan modification, Debtor is actually in a worse financial condition in the current case (see below).

2. Notwithstanding the slight increase in her spouse's hourly wage rate, Debtor's net monthly income in the current case (\$6,418.35) is *less* than her net monthly income in the prior case (\$6,487.58). More significantly, Debtor's net disposable income in the current case (\$1,603.82) is less than the disposable income in her prior case (\$2,852.58), a reduction of \$1,248.76 in disposable income. Further, it appears Debtor has fallen further behind in HOA payments -- \$38,686.04 in arrearages in the prior plan vs. \$45,235.00 in the current plan. Finally, Debtor now has a \$520.00 monthly car payment and

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

Thursday, April 22, 2021

Hearing Room 5A

10:00 AM

CONT... Erica Duarte Bruce

Chapter 13

overall monthly expenses have increased by \$1,179.53.

3. Debtor has had two prior unsuccessful chapter 13 cases (18-13735ES and 19-13509), both of which were dismissed due to failure to make plan payments with disposable income almost double the current case.

Note: If Debtor accepts the tentative ruling, appearance at this hearing is not required.

Party Information

Debtor(s):

Erica Duarte Bruce

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

Thursday, April 22, 2021

Hearing Room 5A

10:30 AM

8:20-11507 HCA West, Inc

Chapter 11

#15.00 CON'TD 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)]

FR: 8-6-20; 12-17-20

Docket 1

*** VACATED *** REASON: CONTINUED TO 5/6/2021 AT 10:30 A.M. ON COURT'S OWN MOTION. Pachulski Stang Ziehl & Jones LLP will Provide Notice, per Nancy Lockwood (XX)

Courtroom Deputy:

CONTINUED: Status Conference Continued to 5/6/2021 at 10:30 a.m. on Court's Own Motion. Pachulski Stang Ziehl & Jones LLP will Provide Notice, per Nancy Lockwood (XX) - td (2/17/2021)

Tentative Ruling:

August 6, 2020

Continue Status Conference to December 17, 2020 at 10:30 am; updated Status Report must be filed by December 3, 2020. (XX)

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.

December 17, 2020

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

Thursday, April 22, 2021

Hearing Room 5A

10:30 AM

CONT... HCA West, Inc

Chapter 11

Continue Status Conference to April 22, 2021 at 10:30 a.m.; updated Status Report must be filed by April 15, 2021 unless a plan and disclosure statement has been filed by such date, in which case the requirement of an updated status report shall be waived. (XX)

Note: Appearance at this hearing is not required.

Party Information

Debtor(s):

HCA West, Inc

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, April 22, 2021

Hearing Room 5A

2:00 PM

8:17-12213 Solid Landings Behavioral Health, Inc.

Chapter 11

Adv#: 8:20-01010 Grobstein v. Degner

#16.00 Hearing RE: Plaintiff's Motion for Partial Summary Judgment on First Claim for Relief

Docket 82

***** VACATED *** REASON: CONTINUED TO MAY 6, 2021 AT 2:00PM
ON THE COURT'S OWN MOTION. Plaintiff to Provide Notice (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 5/6/2021 at 2:00 p.m. on the Court's
Own Motion. Plaintiff to Provide Notice (XX) - am/td (4/19/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Solid Landings Behavioral Health,

Represented By
David L. Neale
Juliet Y Oh
Jeffrey S Kwong
David M Samuels

Defendant(s):

Gerik M. Degner

Represented By
Ismail Amin

Plaintiff(s):

Howard B Grobstein

Represented By
Rodger M. Landau
Monica Rieder

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

Tuesday, April 27, 2021

Hearing Room 5A

1:30 PM

8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1613722740>

Meeting ID: 161 372 2740

Password: 501372

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Tuesday, April 27, 2021

Hearing Room 5A

1:30 PM
CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.

Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

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

Tuesday, April 27, 2021

Hearing Room 5A

1:30 PM

8:21-10468 Sergio Miramontes

Chapter 7

#1.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 15

*** VACATED *** REASON: OFF CALENDAR: Debtor's Notice of
Conversion of Bankruptcy Case from Chapter 13 to Chapter 7 filed
3/16/2021; Case Converted to Chapter 7

Courtroom Deputy:

**OFF CALENDAR: Debtor's Notice of Conversion of Bankruptcy Case
from Chapter 13 to Chapter 7 filed 3/16/2021; Case Converted to Chapter
7 - td (3/16/2021)**

Party Information

Debtor(s):

Sergio Miramontes

Represented By
Anerio V Altman

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**

Tuesday, April 27, 2021

Hearing Room 5A

1:30 PM

8:21-10434 April Hindahl

Chapter 13

#2.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 1

***** VACATED *** REASON: OFF CALENDAR : Order and Notice of
Dismissal for failure to file schedules, statement and/or plan.**

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

April Hindahl Pro Se

Movant(s):

April Hindahl 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 27, 2021

Hearing Room 5A

1:30 PM

8:21-10279 Jay Chihwan Jung

Chapter 13

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

Docket 29

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Jay Chihwan Jung

Represented By
Jaenam J Coe

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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

Tuesday, April 27, 2021

Hearing Room

1:30 PM

8:21-10233 John Benyamin and Jacklin Bettaryouren

Chapter 13

#4.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

John Benyamin

Represented By
James G. Beirne

Joint Debtor(s):

Jacklin Bettaryouren

Represented By
James G. Beirne

Movant(s):

John Benyamin

Represented By
James G. Beirne

Jacklin Bettaryouren

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, April 27, 2021

Hearing Room 5A

1:30 PM

8:21-10221 David Bruce Dodson and Penny Sue Dodson

Chapter 13

#5.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

David Bruce Dodson

Represented By
Anthony B Vigil

Joint Debtor(s):

Penny Sue Dodson

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 Calendar**

Tuesday, April 27, 2021

Hearing Room

1:30 PM

8:21-10159 Lael Gonzales

Chapter 13

#6.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 5

***** VACATED *** REASON: OFF CALENDAR: Order Denying
Application to Pay Filing fee in Installment. Filing Fee not paid on 1/26/2021.
Order Dismissing Case Entered 1/27/2021.**

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Lael Gonzales	Pro Se
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Movant(s):

Lael Gonzales	Pro Se
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Trustee(s):

Amrane (SA) Cohen (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Tuesday, April 27, 2021

Hearing Room 5A

1:30 PM

8:21-10157 Michael Collins and Lyann Courant

Chapter 13

#7.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 19

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Michael Collins

Represented By
Douglas A. Crowder

Joint Debtor(s):

Lyann Courant

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, April 27, 2021

Hearing Room 5A

1:30 PM

8:21-10133 John Steven Domingos

Chapter 13

#8.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 20

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

John Steven Domingos

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, April 27, 2021

Hearing Room 5A

1:30 PM

8:21-10115 Lael Gonzales

Chapter 13

#9.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 17

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Lael Gonzales	Pro Se
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Movant(s):

Lael Gonzales	Pro Se
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Trustee(s):

Amrane (SA) Cohen (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom Calendar**

Tuesday, April 27, 2021

Hearing Room

1:30 PM

8:21-10111 Roman Israel Pacheco

Chapter 13

#10.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Roman Israel Pacheco

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, April 27, 2021

Hearing Room 5A

1:30 PM

8:21-10095 Evan Mitchell Rothman

Chapter 13

#11.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Evan Mitchell Rothman

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, April 27, 2021

Hearing Room 5A

1:30 PM

8:21-10049 Julio Cesar Pichardo and Rocio Pichardo

Chapter 13

#12.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Julio Cesar Pichardo

Represented By
Christopher J Langley

Joint Debtor(s):

Rocio Pichardo

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 27, 2021

Hearing Room 5A

1:30 PM

8:20-13553 Jim Walter Pittman

Chapter 13

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

FR: 2-23-21

Docket 2

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Jim Walter Pittman

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 27, 2021

Hearing Room 5A

1:30 PM

8:20-13332 Manuel Mancenido

Chapter 13

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

FR: 1-26-21; 2-23-21

Docket 2

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Manuel Mancenido

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 27, 2021

Hearing Room 5A

1:30 PM

8:20-13288 Shannon Jauch and Nami Nitta

Chapter 13

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

FR: 1-26-21

Docket 16

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Shannon Jauch

Represented By
Richard L. Sturdevant

Joint Debtor(s):

Nami Nitta

Represented By
Richard L. Sturdevant

Trustee(s):

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 27, 2021

Hearing Room 5A

2:30 PM

8:20-10518 John C Crismon and Rhonda L Crismon

Chapter 13

#17.00 Hearing RE: Application for Compensation for the Period: 2/17/2020 to 4/2/2021

[ANERIO V. ALTMAN, ESQ, ATTORNEY FOR DEBTORS]

Docket 85

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, April 27, 2021

Hearing Room 5A

2:30 PM

8:20-10307 David Patterson

Chapter 13

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

Docket 62

*** VACATED *** REASON: OFF CALENDAR: Notice of Withdrawal of
Trustee's Motion, filed 4/20/2021

Courtroom Deputy:

OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed
4/20/2021 - td (4/20/2021)

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 27, 2021

Hearing Room 5A

2:30 PM

8:19-14683 Roberto Llamas

Chapter 13

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

Docket 48

***** VACATED *** REASON: OFF CALENDAR; Notice of Withdrawal of Trustee's Motion, filed 4/19/2021**

Courtroom Deputy:

OFF CALENDAR; Notice of Withdrawal of Trustee's Motion, filed 4/19/2021 - td (4/19/2021)

Party Information

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, April 27, 2021

Hearing Room 5A

2:30 PM

8:19-13921 Stephen Jacob Maki

Chapter 13

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

Docket 54

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Stephen Jacob Maki

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, April 27, 2021

Hearing Room 5A

2:30 PM

8:19-12933 Lisa Nguyen

Chapter 13

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

FR 2-23-21

Docket 89

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Lisa Nguyen

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, April 27, 2021

Hearing Room 5A

2:30 PM

8:19-11141 Douglas Robert Redding and Dana Marie Redding

Chapter 13

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

Docket 56

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Douglas Robert Redding

Represented By
Sunita N Sood

Joint Debtor(s):

Dana Marie Redding

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 27, 2021

Hearing Room 5A

2:30 PM

8:18-14641 Richard Thomas McPhee

Chapter 13

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

FR: 1-26-21; 2-23-21

Docket 50

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, April 27, 2021

Hearing Room 5A

2:30 PM

8:18-14562 Mary Guenther

Chapter 13

#24.00 Hearing RE: Trustee's Verified Motion for Order Dismissing Case Due to Material Default of a Plan Provision

Docket 42

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Mary Guenther

Represented By
Timothy McFarlin

Trustee(s):

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 27, 2021

Hearing Room 5A

2:30 PM

8:18-14035 William Raymond Harvey and Akram Naieharvey

Chapter 13

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

FR: 2-23-21

Docket 108

***** VACATED *** REASON: OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 4/19/2021**

Courtroom Deputy:

OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 4/19/2021 - td (4/19/2021)

Party Information

Debtor(s):

William Raymond Harvey

Represented By
Farbood Majd

Joint Debtor(s):

Akram Naieharvey

Represented By
Farbood Majd

Trustee(s):

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 27, 2021

Hearing Room 5A

2:30 PM

8:17-13650 Giuseppe Galietta and Heldia F. De Galietta

Chapter 13

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

FR: 10-27-20; 11-24-20; 12-18-20; 1-26-21; 2-23-21

Docket 148

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Giuseppe Galietta

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Heldia F. De Galietta

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, April 27, 2021

Hearing Room 5A

2:30 PM

8:17-13262 Troy Bernard Jemerson

Chapter 13

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

FR: 2-23-21

Docket 141

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Troy Bernard Jemerson

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, April 27, 2021

Hearing Room 5A

2:30 PM

8:17-10313 Michael Mitchell Wise

Chapter 13

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

Docket 82

Courtroom Deputy:

- NONE LISTED -

Party Information

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 27, 2021

Hearing Room 5A

2:30 PM

8:16-15074 Katherine Burroughs Heidelman

Chapter 13

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

FR: 2-23-21

Docket 107

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Katherine Burroughs Heidelman

Represented By
Steven A Alpert

Trustee(s):

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 27, 2021

Hearing Room 5A

2:30 PM

8:16-14751 Alfred Trejo and Margaret F. Trejo

Chapter 13

#30.00 Hearing RE: Debtors' Motion Under LBR 3015-1(n) and (w) to Modify Plan or Suspend Plan Payments (Ch 13)

Docket 75

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Alfred Trejo

Represented By
Michael G Spector

Joint Debtor(s):

Margaret F. Trejo

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, April 27, 2021

Hearing Room 5A

2:30 PM

8:16-13812 Hang Nga Thi Le

Chapter 13

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

Docket 94

***** VACATED *** REASON: OFF CALENDAR: Trustee's Notice of Withdrawal, filed 3/3/2021**

Courtroom Deputy:

**OFF CALENDAR: Trustee's Notice of Withdrawal, filed 3/3/2021 - td
(3/3/2021)**

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, April 27, 2021

Hearing Room 5A

2:30 PM

8:16-13537 Darryl L. Cazares and DeAnna J. Cazares

Chapter 13

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

Docket 126

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Darryl L. Cazares

Represented By
Joseph Arthur Roberts

Joint Debtor(s):

DeAnna J. Cazares

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, April 27, 2021

Hearing Room 5A

2:30 PM

8:16-13275 Jamie Miller Campagnolo

Chapter 13

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

Docket 37

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Jamie Miller Campagnolo

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, April 27, 2021

Hearing Room 5A

2:30 PM

8:16-12854 Paul Edward Rubio

Chapter 13

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

Docket 200

Courtroom Deputy:

- NONE LISTED -

Party Information

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**

Tuesday, April 27, 2021

Hearing Room 5A

2:30 PM

8:16-12017 David Hepburn and Kimberly Hepburn

Chapter 13

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

Docket 85

***** VACATED *** REASON: OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 3/10/2021**

Courtroom Deputy:

OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 3/10/2021 - td (3/10/2021)

Party Information

Debtor(s):

David Hepburn

Represented By
Julie J Villalobos

Joint Debtor(s):

Kimberly Hepburn

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, April 27, 2021

Hearing Room 5A

2:30 PM

8:16-11539 Cassia Catrina McGee

Chapter 13

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

Docket 38

*** VACATED *** REASON: OFF CALENDAR: Notice of Withdrawal of
Trustee's Motion for Order Dismissing Chapter 13, filed 3/3/2021

Courtroom Deputy:

**OFF CALENDAR: Notice of Withdrawal of Trustee's Motion for Order
Dismissing Chapter 13, filed 3/3/2021 - td (3/3/2021)**

Party Information

Debtor(s):

Cassia Catrina McGee

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 27, 2021

Hearing Room 5A

2:30 PM

8:15-14803 Orlando Martinez

Chapter 13

#37.00 CON'TD Hearing RE: Debtor's Motion Under LBR 3015-1(n) and (w) to Modify Plan or Suspend Plan Payments

FR: 12-18-20; 1-26-21; 2-23-21

Docket 76

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Orlando Martinez

Represented By
Mark S 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**

Tuesday, April 27, 2021

Hearing Room 5A

2:30 PM

8:19-14771 Lenore Renee Mallek-Passey

Chapter 13

#38.00 Hearing RE: Debtor's Motion Under LBR 3015-1(n) and (w) to Modify Plan or Suspend Plan Payments

Docket 32

Courtroom Deputy:

- NONE LISTED -

Party Information

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, April 27, 2021

Hearing Room 5A

2:30 PM

8:16-12084 Tovias Martinez

Chapter 13

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

Docket 92

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Tovias Martinez

Represented By
Todd L Turoci
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**

Wednesday, April 28, 2021

Hearing Room 5A

9:00 AM

8:16-12895 29 Prime, Inc.

Chapter 7

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

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

(Set at PTC held 4-9-20)
FR: 10-28-20 & 10-29-20

Docket 47

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

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
Sky Motorsports, Inc.	Pro Se
Haleh Fardi	Pro Se
1Network.Com	Pro Se

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

Wednesday, April 28, 2021

Hearing Room 5A

9:00 AM

CONT... 29 Prime, Inc.

Chapter 7

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**

Wednesday, April 28, 2021

Hearing Room 5A

9:00 AM

8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1603911121>

Meeting ID: 160 391 1121

Password: 992316

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Wednesday, April 28, 2021

Hearing Room 5A

9:00 AM
CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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

Wednesday, April 28, 2021

Hearing Room 5A

9:00 AM

CONT...

- NONE LISTED -

Chapter

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

Thursday, April 29, 2021

Hearing Room 5A

9:00 AM

8:16-12895 29 Prime, Inc.

Chapter 7

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

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

(Set at PTC held 4-9-20)
FR: 10-28-20 & 10-29-20; 4-28-21

Docket 47

Courtroom Deputy:

TRIALED TO 9:30 AM - td (4/28/2021 5:27 PM)

Tentative Ruling:

- NONE LISTED -

Party Information

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
Sky Motorsports, Inc.	Pro Se
Haleh Fardi	Pro Se
1Network.Com	Pro Se

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

Thursday, April 29, 2021

Hearing Room 5A

9:00 AM

CONT... 29 Prime, Inc.

Chapter 7

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 29, 2021

Hearing Room 5A

9:00 AM

8:00-00000

Chapter

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Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1607515250>

Meeting ID: 160 751 5250

Password: 188952

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Thursday, April 29, 2021

Hearing Room 5A

9:00 AM
CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.

Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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

Thursday, May 6, 2021

Hearing Room 5A

9:30 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

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Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1618897382>

Meeting ID: 161 889 7382

Password: 736506

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Thursday, May 6, 2021

Hearing Room 5A

9:30 AM
CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

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- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.

Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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

Thursday, May 6, 2021

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.

#1.00 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

(Another Summons Issued 2/16/2021)

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Continue the Status Conference to July 15, 2021 at at 9:30 a.m.; updated Joint Status Report must be filed by July 1, 2021. (XX)

Note: If the parties accept the tentative ruling, appearance at this hearing is not required.

Party Information

Debtor(s):

Prime Metals U.S.A., Inc.

Represented By
Steven Werth

Defendant(s):

R-Techo, Co., Ltd.

Pro Se

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

Thursday, May 6, 2021

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, May 6, 2021

Hearing Room 5A

9:30 AM

8:20-10566 Eric C. Bryant

Chapter 7

Adv#: 8:20-01157 Oregon Pacific Bank v. Bryant et al

#2.00 PRE-TRIAL CONFERENCE RE: Complaint to Determine Dischargeability of
Debt Pursuant to 11 U.S.C. Section 523

(Set at SC held 1-21-21)

Docket 1

*** VACATED *** REASON: OFF CALENDAR: Order Approving
Stipulation to Dismiss Adversary Case based on Settlement Entered
4/13/2021

Courtroom Deputy:

**OFF CALENDAR: Order Approving Stipulation to Dismiss Adversary
Case Based on Settlement Entered 4/13/2021 - am/td (4/13/2021)**

Tentative Ruling:

January 21, 2021

Deadline for Rule 26 Compliance:	February 28, 2021
Discovery Cutoff Date:	March 31, 2021
Pretrial Conference Date:	May 6, 2021 at 9:30 a.m. (XX)
Deadline to File Pretrial Stipulation:	April 22, 2021

Note: If all parties accept the tentative ruling, appearances at this hearing are not required and Plaintiff shall lodge a scheduling order consistent with the same.

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, May 6, 2021

Hearing Room 5A

9:30 AM

CONT... Eric C. Bryant

Chapter 7

Debtor(s):

Eric C. Bryant

Represented By
Christine A Kingston

Defendant(s):

Eric C. Bryant

Pro Se

Gina K Bryant

Pro Se

Joint Debtor(s):

Gina K Bryant

Represented By
Christine A Kingston

Plaintiff(s):

Oregon Pacific Bank

Represented By
Michael N Nicastro

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, May 6, 2021

Hearing Room 5A

10:00 AM

8:19-11141 Douglas Robert Redding and Dana Marie Redding

Chapter 13

#3.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]
U.S. BANK TRUST NA, AS TRUSTEE OF CABANA SERIES III TRUST
VS.
DEBTORS

Docket 63

***** VACATED *** REASON: OFF CALENDAR: Order Granting Motion
for Relief from the Automatic Stay (Settled by Stipulation) Entered 5/5/2021**

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic
Stay (Settled by Stipulation) Entered 5/5/2021 - td (5/5/2021)**

Tentative Ruling:

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):

U.S. Bank Trust National

Represented By
Erica T Loftis Pacheco

Trustee(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 6, 2021

Hearing Room 5A

10:00 AM

8:19-12141 Stephen Tague La Fountain and Rosemary Ann La

Chapter 13

#4.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]
CAPITAL ONE AUTO FINANCE
VS.
DEBTORS

Docket 51

***** VACATED *** REASON: OFF CALENDAR: Order Granting Motion
for Relief from the Automatic Stay (Settled by Stipulation) Entered 4/27/2021**

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic
Stay (Settled by Stipulation) Entered 4/27/2021 - td (4/27/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen Tague La Fountain

Represented By
Kevin Tang

Joint Debtor(s):

Rosemary Ann La Fountain

Represented By
Kevin Tang

Movant(s):

Capital One Auto Finance, a division

Represented By
Marjorie M Johnson

Trustee(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 6, 2021

Hearing Room 5A

10:00 AM

8:19-14708 Luz D Meza

Chapter 7

#5.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]
JPMORGAN CHASE BANK, N.A.
VS.
DEBTOR

Docket 38

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

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):

Luz D Meza

Pro Se

Movant(s):

JPMorgan Chase Bank, N.A.

Represented By
Jenelle C Arnold

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

Thursday, May 6, 2021

Hearing Room 5A

10:00 AM

CONT... Luz D Meza

Chapter 7

Trustee(s):

Weneta M.A. Kosmala (TR)

Pro Se

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

Thursday, May 6, 2021

Hearing Room 5A

10:00 AM

8:21-10109 Brian Steven Skelton

Chapter 7

#6.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]
JPMORGAN CHASE BANK, N.A.
VS.
DEBTOR

Docket 11

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

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):

Brian Steven Skelton

Represented By
Brian J Soo-Hoo

Movant(s):

JPMorgan Chase Bank, N.A.

Represented By
Jenelle C Arnold

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

Thursday, May 6, 2021

Hearing Room 5A

10:00 AM

CONT... Brian Steven Skelton

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, May 6, 2021

Hearing Room 5A

10:00 AM

8:21-10485 Alan Dickinson

Chapter 13

#7.00 Hearing RE: Motion for relief from the automatic stay [ACTION IN NONBANKRUPTCY FORUM]

DAVID LENHARDT and FRED PETERS

VS.

DEBTOR

Docket 14

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Grant motion for the limited relief of seeking and/or obtaining an order in state court for attorneys fees and costs. The state court may make whatever findings/determinations that are directly relevant to its determination of the amount of such fees and costs.

Special note: In his response, Debtor requests that this court "limit relief from for the sole purpose of determining an amount of attorney's fees with no other factors of law or other determination allowed." The court has no idea as to what "factors of law" or "other determination" Debtor is referring but the court declines to restrain the state court from making whatever findings/determinations it deems appropriate in order to support its ruling on the motion for attorneys fees/costs.

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Movants shall lodge an order consistent with the same.

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

Thursday, May 6, 2021

Hearing Room 5A

10:00 AM

CONT... Alan Dickinson

Chapter 13

Party Information

Debtor(s):

Alan Dickinson

Represented By
Sundee M Teeple

Movant(s):

Alan Dickinson

Represented By
Sundee M Teeple
Sundee M Teeple
Sundee M Teeple
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**

Thursday, May 6, 2021

Hearing Room 5A

10:00 AM

8:21-10485 Alan Dickinson

Chapter 13

#8.00 Hearing RE: Motion for relief from the automatic stay [ACTION IN NONBANKRUPTCY FORUM]

GOLDEN RAIN FOUNDATION OF LAGUNA WOODS

VS.

DEBTOR

Docket 20

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Grant motion for the limited relief of seeking and/or obtaining an order in state court for attorneys fees and costs. The state court may make whatever findings/determinations that are directly relevant to its determination of the amount of such fees and costs.

Special note: In his response, Debtor requests that this court "limit relief from for the sole purpose of determining an amount of attorney's fees with no other factors of law or other determination allowed." The court has no idea as to what "factors of law" or "other determination" Debtor is referring but the court declines to restrain the state court from making whatever findings/determinations it deems appropriate in order to support its ruling on the motion for attorneys fees/costs.

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Movants shall lodge an 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, May 6, 2021

Hearing Room 5A

10:00 AM

CONT... Alan Dickinson

Chapter 13

Debtor(s):

Alan Dickinson

Represented By
Sundee M Teeple

Movant(s):

Golden Rain Foundation of Laguna

Represented By
David Lenhardt

Trustee(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 6, 2021

Hearing Room 5A

10:00 AM

8:21-10513 Rosa A Fridman

Chapter 7

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

KARL AVETOOM

VS.

DEBTOR

Docket 31

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Grant the motion for the limited purpose of allowing the contempt hearing originally scheduled to be heard on April 9, 2021 to proceed. However, relief from the stay is not lifted to allow Movant to collect any monetary award that may be ordered by the state court.

Basis for Tentative Ruling:

1. The Order to Show Cause issued by the OC Superior Courtt ("State Court") on February 22, 2021 in case no. 30-2010-00345490 states on that it has been issued regarding the possible contempt of two of its orders issued on August 19, 2019 and November 16, 2020.

2. In *Yellow Express, LLC, v. Dingley (In re Dingley)*, 514 B.R. 591 (B.A.P. 9th Cir.2014) , the Panel held that the 9th Circuit "has created a bright-line rule on whether the automatic stay applies to state court contempt proceedings, whether they are based on nonpayment of a monetary sanction

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

Thursday, May 6, 2021

Hearing Room

5A

10:00 AM

CONT...

Rosa A Fridman

Chapter 7

*or some other behavior which violates a state court order: if the sanction order 'does not involve a determination [or collection] of the ultimate obligation of the bankrupt nor does it represent a ploy by a creditor to harass him' the automatic stay does not prevent the proceeding from going forward." (quoting *David v. Hooker*, LTD, 560 F.2d 412,418 (9th Cir.1977)." See also, *In re Dumas*, 19 B.R. 676, 678 (State court's sentence for contempt as to bankruptcy for debtor's disobeying its subpoena before bankruptcy was not affected by automatic stay even if it were imposed at the request of creditor).*

4. Movant does not have relief from the stay to do anything other than seek a ruling on the Order to Show Cause. He may not attempt collect any monetary award or to otherwise any contempt order to collect his underlying debt.

Note: if all parties accept the tentative ruling, appearances at the hearing are not required.

Party Information

Debtor(s):

Rosa A Fridman

Represented By
Scott Talkov

Movant(s):

Karl Avetoom

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 6, 2021

Hearing Room 5A

10:00 AM

8:21-10556 Robert G Campoy

Chapter 13

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

Docket 18

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Grant motion in its entirety.

Basis for Tentative Ruling:

In light of the dismissal of Debtor's prior chapter 11 case on September 20, 2021, the automatic stay in this case expired on April 4, 2021 pursuant to 11 U.S.C. 362(c)(3)(A). No motion was timely made by Debtor for the continuation of the stay by the 30 days pursuant to 11 U.S.C. 362(c)(3)(B).

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):

Robert G Campoy

Represented By
Chris T Nguyen

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

Thursday, May 6, 2021

Hearing Room 5A

10:00 AM

CONT... Robert G Campoy

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, May 6, 2021

Hearing Room 5A

10:00 AM

8:18-13311 Ruby's Diner, Inc., a California corporation

Chapter 7

Adv#: 8:21-01014 Marshack v. Cavanaugh et al

#10.10 CONT'D Hearing RE: Application For Right To Attach Order And For Issuance Of Writ Of Attachment As To Douglas Cavanaugh (Application filed 4/14/2021)

FR: 5-5-21, Ctrm 5C before SC

Docket 29

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

The court is inclined to grant the Application with a bond of \$10,000; however Plaintiff will need to address the Exemption Statement.

EVIDENTIARY RULINGS

Defendants' Objection to the Declaration of Richard Marshack

<u>Paragraph #</u>	<u>Ruling</u>
6	Overruled
7	Overruled as to the fact of possession of the subject documents; Sustained as to the truth of their content.
Exhs. A-I;3-11	Overruled as to the fact of possession of the subject documents; Sustained as to the truth of their content or authenticity of the same

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

Thursday, May 6, 2021

Hearing Room 5A

10:00 AM

CONT... Ruby's Diner, Inc., a California corporation

Chapter 7

Plaintiff's Evidentiary Objections to Declaration of Douglas S. Cavanaugh

<u>Paragraph #</u>	<u>Ruling</u>
6: 2:3-6	Overruled
7: 2:7-9 Distributions")	Sustained as to "I have amended . . . to the
8: 2:10-11	Overruled
9: 2:12-14	Overruled

Party Information

Debtor(s):

Ruby's Diner, Inc., a California	Represented By William N Lobel Jeffrey P Nolan
----------------------------------	--

Defendant(s):

Douglas Cavanaugh	Represented By Leo A Bautista
Ralph Kosmides	Represented By Leo A Bautista
Beachcomber Management Crystal	Pro Se
Lighthouse Cafe, LLC	Pro Se
Beachcomber at Crystal Cove, LLC	Pro Se
Shake Shack Crystal Cove, LLC	Pro Se

Plaintiff(s):

Richard A. Marshack	Represented By Christopher Dale Beatty
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**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, May 6, 2021

Hearing Room 5A

10:00 AM

CONT... Ruby's Diner, Inc., a California corporation

Chapter 7

Trustee(s):

Richard A Marshack (TR)

Represented By
Laila Masud
D Edward Hays
Tinho Mang

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

Thursday, May 6, 2021

Hearing Room 5A

10:00 AM

8:18-13311 Ruby's Diner, Inc., a California corporation

Chapter 7

Adv#: 8:21-01014 Marshack v. Cavanaugh et al

#10.20 CONT'D Hearing RE: Application For Right To Attach Order And For Issuance
Of Writ Of Attachment As To Ralph Kosmides
(Application filed 4/14/2021)

FR: 5-5-21, Ctrm 5C before SC

Docket 35

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

The court is inclined to grant the Application with a bond of \$10,000; however Plaintiff will need to address the Exemption Statement.

EVIDENTIARY RULINGS

Plaintiff's Evidentiary Objections to Declaration of Ralph Kosmides

<u>Paragraph #</u>	<u>Ruling</u>
5: 1:25 - 2:2	Sustained
5: 2:3 - 6	Sustained as to "which made it appear ...they had not." Overruled as to the balance
7: 2:14-20	Sustained as to "Hesch reviewed the issues ... and not loans." Overruled as to the balance.
8: 2:21-22	Sustained

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, May 6, 2021

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10:00 AM

CONT... Ruby's Diner, Inc., a California corporation

Chapter 7

9: 2:23-27 the Marshack	Sustained (Note: Defendant has apparently objected to authenticity of certain or all of such documents re Declaration)
10: 3:1-4	Overruled
11 3:5-7 Distributions")	Sustained as to "I have amended . . . to the FRE 1002
13: 3:10-15	Overruled
Exh. A	Sustained

Party Information

Debtor(s):

Ruby's Diner, Inc., a California	Represented By William N Lobel Jeffrey P Nolan
----------------------------------	--

Defendant(s):

Douglas Cavanaugh	Represented By Leo A Bautista
Ralph Kosmides	Represented By Leo A Bautista
Beachcomber Management Crystal	Pro Se
Lighthouse Cafe, LLC	Pro Se
Beachcomber at Crystal Cove, LLC	Pro Se
Shake Shack Crystal Cove, LLC	Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, May 6, 2021

Hearing Room 5A

10:00 AM

CONT... Ruby's Diner, Inc., a California corporation

Chapter 7

Plaintiff(s):

Richard A. Marshack

Represented By
Christopher Dale Beatty

Trustee(s):

Richard A Marshack (TR)

Represented By
Laila Masud
D Edward Hays
Tinho Mang

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

Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

8:09-20845 Commercial Services Building Inc

Chapter 7

#11.00 CONT'D Hearing RE: Creditor Douglas J. Patrick's Objection to Proof of Claim No. 8-1 Filed by State Fund in the Amount of \$1,350,389.47

FR: 11-19-20; 2-4-20; 4-1-21

Docket 441

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

November 19, 2020

Continue this hearing to January 21, 2021 at 10:30 a.m. to allow a) Objecting Party to take discovery as permitted by FRBP 9014 for contested matters and b) additional briefing by the parties to address the issues set forth in the the court's "Basis for Tentative Ruling" comments.

Basis for Tentative Ruling

Creditor State Compensation Insurance Fund ("Claimant") filed proof of claim no. 8-1 (the "Claim") in the general unsecured amount of \$1,350,389.47 for "Insurance Policy" for unpaid workers' compensation insurance premiums for policy years 2002-2006.

Creditor Douglas Patrick ("Patrick") objects to the Claim and requests disallowance in full because the Claim includes several errors that increased the premium amounts (the "Objection")[dkt. 441]. Claimant opposes the Objection (the "Opposition")[dkt. 454].

The Objection is continued for further briefing regarding statute of limitations and whether the Claim has already been fully adjudicated and liquidated prepetition

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

CONT...

Commercial Services Building Inc

Chapter 7

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, 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*, 223 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).

In this case, Claimant filed the Claim in accordance with Rule 3001. The Claim was filed with Official Form 410 and included supporting documentation. See, Obj., Ex. 1 (the Claim). Thus, Claimant has complied with Rule 3001 and the Claim is entitled to *prima facie* validity under Rule 3001(f).

Since the Claim is entitled to *prima facie* validity, Patrick must present affirmative evidence to overcome the Claim's presumption of validity. Patrick argues that the Claim includes the following errors: Claimant misclassified Debtor's employees as "electrical" workers resulting in higher insurance premiums, mistakenly charged for employees that worked outside of California and were not insured under the policy, and failed to explain why the "Experience Modifier" increased from 105% to 172% in one year. See, Obj., p. 2. Claimant counters that Patrick fails to rebut the *prima facie* validity of the Claim because Patrick's arguments relate only to the 2006 policy year premiums (and not the 2002-2005 policy year premiums) underlying the claim and Claimant already conducted an internal, prepetition audit which confirmed the amounts claimed in the Claim. See, Opp'n, p. 4. Patrick's responds by challenging the reliability of the evidence provided by Claimant

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

CONT... **Commercial Services Building Inc** Chapter 7

(such as pointing out that policy contract that was attached to the Opposition was "revised" in August 2010 and therefore cannot be the policy contract entered into by Debtor and Claimant in 2000), that Debtor was unaware that amounts were owed for policy years 2002-2005 until the Claim was filed, and stating that Claimant failed to attach its internal audit records so the accuracy of Claimant's figures cannot be confirmed because Debtor does not have access to those internal audit records. See, Reply, p. 3-4 and Opp'n, p. 6 of Ex. A. Claimant's argument that the Objection only raises arguments regarding the 2006 policy year is also undermined by Claimant's own exhibit of a letter from Debtor's prepetition counsel to Claimant dated January 23, 2007 that references the ongoing dispute over the final audits for the policy years 2003-2007. See, Opp'n, Ex. C.

Accordingly, there is a disputed question of fact regarding the accuracy of Claimant's calculation of the insurance premiums due for the policy years 2002-2006. Such dispute may warrant discovery as requested by Patrick. In addition, the parties must address the threshold issue regarding the statute of limitations and whether the Claim is already fully adjudicated and liquidated.

Patrick has raised the argument that any breach of the policy contract that occurred before October 7, 2005 may be barred by the 4-year statute of limitations for written contracts. See, Reply, p. 3, n. 1. As this argument was first raised in the Reply, Claimant has not had an opportunity to address it.

On the other hand, Claimant raises the argument that the Claim has been fully adjudicated and liquidated prepetition with following testimony from Kimberly Byrne: "State Fund's records do not indicate that Debtor requested reconsideration of State Fund's determination or appealed to the Administrative Hearing Bureau at the California Department of Insurance" and "State Fund's records do not show that Debtor disputed the revised experience modification with State Fund, the WCIRB or appealed to the Administrative Hearings Bureau of the California Department of Insurance *within the time prescribed by law.*" See, Kimberly Byrne Decl., p. 2-3, ¶15 and p. 3, ¶16 (emphasis added).

EVIDENTIARY OBJECTIONS

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

CONT... Commercial Services Building Inc

Chapter 7

<u>Objection #*</u>	<u>Ruling</u>
1	Sustained
2 "final"	Overruled: the testimony identifies the documents as bills. The objection is in the nature of argument.
3	Overruled: the objection is in the nature of argument
4	Sustained: hearsay
5	Overruled: th testimony is in the nature of argument
6	Sustained: hearsay

*For ease of reference, the court has assigned a chronologica number to each objection .

May 6, 2021

If the settlement is still being finalized this hearing may be continued one final time by the parties requesting a continuance during the calendar roll call prior to the hearing. Available continued hearing dates are July 15, 2021 or **July 22, 2021 at 10:30 a.m. (XX)**

Party Information

Debtor(s):

Commercial Services Building Inc

Represented By
Phillip B Greer

Trustee(s):

Karl T Anderson (TR)

Represented By
Misty A Perry Isaacson
Misty A Perry Isaacson
Thomas J Polis

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

Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

CONT... Commercial Services Building Inc

Chapter 7

Robert M Dato
Jason E Goldstein

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

Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

8:15-13630 Daghan Izberk

Chapter 7

#12.00 Hearing RE: Trustee's Motion for Order: (1) Authorizing Employment of Special Belize Counsel Pursuant to 11 U.S.C. Section 327; and (2) Allowance of Paid Retainer by Creditor Counsel as Administrative Expense Per Section 503

Docket 40

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Approve employment application.

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's counsel will be so notified.

Party Information

Debtor(s):

Daghan Izberk

Represented By
Joseph A Weber

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, May 6, 2021

Hearing Room 5A

10:30 AM

8:15-14202 Mary L. Pesce

Chapter 13

#13.00 Hearin RE: Motion For Allowance and Payment of Administrative Claim

Docket 109

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Deny Motion without prejudice to Movant pursuing any claims it believes it has against Debtor in a non-bankruptcy court of competent jurisdiction.

Basis for Tentative Ruling:

1. As noted by the Chapter 13 Trustee in his comments, Debtor has completed her plan payments and has no legal obligations to pay anything more to the trustee. In fact, as also pointed out by the trustee, this court has no authority to entertain or approve any further modification of the plan for the payment of any administrative claim asserted by Movant as the 60-month period has expired. Simply stated, there are no funds from which Movant's claim can be paid from the bankruptcy estate.

2. Even if the plan term had not already expired, the court has no evidence that Movant's claim qualifies as an administrative claim within the meaning Section 503(b)(1)(A), i.e., that the loan proceeds were "actual, necessary costs and expenses of preserving the [bankruptcy] estate." According to Debtor's confirmed plan and various bankruptcy schedules, Debtor was required to pay the entirety of her disposable income as a flight attendant, i.e., \$434.00, to pay 100% of her unsecured debt. Nothing in the plan (or in any of the motions to modify/suspend plan payments) suggests the necessity of \$315,000. The burden of proving an administrative expense claim is on the claimant." *Microsoft Corp. v. DAK Indus. (In re DAK Indust.)*. 66 F.3d 1091, 1094 (9th Cir.1995). Movant has not met that burden of proof in this matter.

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

Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

CONT... Mary L. Pesce

Chapter 13

3. It would appear that any claim(s) that Movant may have against Debtor must be properly brought in a non-bankruptcy court of competent jurisdiction, including its request for an accounting.

Note: If Movant accepts the tentative ruling, appearance at this hearing is not required and Movant shall lodge an order consistent with the same within seven days of the hearing.

Party Information

Debtor(s):

Mary L. Pesce

Represented By
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, May 6, 2021

Hearing Room 5A

10:30 AM

8:17-10706 John Jean Bral

Chapter 11

#14.00 CON'TD Hearing RE: Reorganized Debtor John Bral's Motion to Extend Time to Object to Cannae Financial, LLC's Proof of Claim [Claim No. 17]

FR: 2-11-21, 2-18-21; 3-4-21; 4-1-21

Docket 962

***** VACATED *** REASON: CONTINUED TO 7/22/2021 AT 10:30 A.M.,
PER ORDER ENTERED 4/28/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 7/22/2021 at 10:30 a.m., Per Order
Entered 4/28/2021 (XX) - td (4/28/2021)**

Tentative Ruling:

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
Shane M Biornstad

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

Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

8:19-10275 Michael J Duff

Chapter 7

Adv#: 8:19-01084 Constantin et al v. Duff

#15.00 Hearing RE: Plaintiffs' Motion to Dismiss 11 U.S.C. Section 727 Adversary
Action

Docket 80

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Grant the Motion.

Special Note: Debtor requests that the adversary be dismissed with prejudice. The motion does not request dismissal with prejudice. Though the deadline for filing a 727 action has expired, the court will only grant the motion with prejudice if Plaintiff agrees to the same.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

Michael J Duff

Pro Se

Defendant(s):

Michael J. Duff

Represented By
David Brian Lally

Plaintiff(s):

Holly Constantin

Represented By
Alan W Forsley

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

Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

CONT... **Michael J Duff**
Michael 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
Courtroom 5A Calendar**

Thursday, May 6, 2021

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; 4-9-20; 4-30-20; 6-18-20; 9-17-20; 12-17-20; 4-1-21

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

Continue Status Conference to April 30, 2020 at 10:30 a.m., the same

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

Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

CONT... 10827 Studebaker LLC, a California limited liability Chapter 11
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 17, 2020 at 10:30 a.m.; 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.

September 17, 2020

Continue status conference to November 5, 2020 at 10:30 a.m.; court to issue order to show cause why this case should not be dismissed or converted due to Debtor's inability to confirm a plan within a reasonable period of time. Hearing on such OSC shall be scheduled for November 5, 2020 at 10:30 a.m.

December 17, 2020

Continue Status Conference to April 1, 2021 at 10:30 a.m.; An updated Status report must be filed by March 18, 2021 unless Debtor has filed a

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

Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

CONT... 10827 Studebaker LLC, a California limited liability Chapter 11

motion to dismiss the case by such date, in which case the requirement of a report will be waived. (XX)

Special Note: Regarding Buchanan's request in its statement that any funds on hand be distributed to it, the court shall rule on that matter in context of a motion to dismiss the case.

Note: If the parties accept the tentative ruling, appearances at this hearing are not required.

April 1, 2021

Continue status conference to May 6, 2021 at 10:30 a.m. in light of Debtor's intent to move for dismissal of the case. (XX)

May 6, 2021

Continue the status conference to May 20, 2021 at 10:30 a.m., same date/time set for hearing on Debtor's motion to dismiss the case. (XX)

Note: Appearances at today's hearing are not required.

Note: 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, May 6, 2021

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#17.00 CON'TD Hearing RE: Chapter 7 Trustee's Objection to Claim No. 15-1 of Highland Springs Conference and Training Center (Claim Amount: \$881,398.89)

FR: 1-14-21

Docket 1043

***** VACATED *** REASON: CONTINUED TO 8/19/2021 AT 10:30 A.M.,
PER ORDER ENTERED 4/20/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 8/19/2021 at 10:30 a.m., Per Order
Entered 4/20/2021 (XX) - td (4/20/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

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

Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#18.00 CON'TD Hearing RE: Chapter 7 Trustee's Objection to Claim No 17-1 of City of Banning (Claim Amount: \$700,000)

FR: 1-14-21

Docket 1044

***** VACATED *** REASON: CONTINUED TO 8/19/2021 AT 10:30 A.M.,
PER ORDER ENTERED 4/20/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 8/19/2021 at 10:30 a.m., Per Order
Entered 4/20/2021 (XX) - td (4/20/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

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

Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#19.00 CON'TD Hearing RE: Chapter 7 Trustee's Objection to Claim No. 19-1 of Banning Bench Community of Interest Association (Claim Amount: \$747,360.09)

FR: 1-14-21

Docket 1045

***** VACATED *** REASON: CONTINUED TO 8/19/2021 AT 10:30 A.M.,
PER ORDER ENTERED 4/20/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 8/19/2021 at 10:30 a.m., Per Order
Entered 4/20/2021 (XX) - td (4/20/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

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

Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

8:19-14023 Jorge Sanchez and Zoila Quinonez

Chapter 7

#20.00 Hearing RE: Joint Debtor Zoila Quinonez's Application to Dismiss Deceased Debtor Jorge Sanchez from Pending Chapter 7 Case Per Federal Bankruptcy Rule 1016 and L.B.R. 9013-1

Docket 56

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

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):

Jorge Sanchez

Represented By
Kevin Tang

Joint Debtor(s):

Zoila Quinonez

Represented By
Kevin Tang

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 6, 2021

Hearing Room 5A

10:30 AM

8:19-14771 Lenore Renee Mallek-Passey

Chapter 13

#21.00 Hearing RE: Motion to vacate order Sustaining Objection to Claim of Axos Bank Claim Number 18, or in the alternative, for Reconsideration of Order Sustaining Objection to Claim of Axos Bank, Claim Number 18

Docket 37

*** VACATED *** REASON: OFF CALENDAR: Order Approving Stipulation RE: Motion to Vacate Order sustaining Objection to Claim of Axos Bank Claim Number 18, or , in the Alternative, for Reconsideration of Order Sustaining Objection to Claim of Axos Bank, Claim Number 18 Entered 4/27/2021

Courtroom Deputy:

OFF CALENDAR: Order Approving Stipulation RE: Motion to Vacate Order sustaining Objection to Claim of Axos Bank Claim Number 18, or , in the Alternative, for Reconsideration of Order Sustaining Objection to Claim of Axos Bank, Claim Number 18 Entered 4/27/2021 - td (4/27/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

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**

Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

8:20-11507 HCA West, Inc

Chapter 11

#22.00 Hearing RE: Debtors' Motion for Approval of Purchase Agreement Among the Debtors and the Purchaser, Approving Sale of the Inventory of The Debtors Free and Clear of All Liens, Claims, Encumbrances and Other Interests Pursuant to Bankruptcy Code Sections 105, 363(b), (f) and (m), and Granting Related Relief

Docket 456

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Grant the Motion, except the language appearing in paragraphs L and 8 in the proposed order attached to the Motion as Exhibit A is not approved.

Basis for Tentative Ruling:

The court declines to make findings re the successor liability of the purchaser. The language in paragraphs L and 8 are not addressed in the Motion itself with supporting legal authority and also do not appear in the purchase agreement. As the court previously noted on the record during a hearing on the prior sale motion, this court lacks the jurisdiction to find that the purchaser, Hytera US Inc. (an entity that is not in bankruptcy before this court) is not liable for "any liability whatsoever" under any legal theory within the context of a sale motion.

Party Information

Debtor(s):

HCA West, Inc

Represented By
John W Lucas
Jason H Rosell
Victoria Newmark

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

CONT... HCA West, Inc

Chapter 11

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

8:20-11507 HCA West, Inc

Chapter 11

#23.00 Hearing RE: Second Interim Application for Compensation and Reimbursement of Expenses for the Period September 1, 2020 through February 28, 2021

**[PACHULSKI STANG ZIEHL & JONES LLP, GENERAL BANKRUPTCY
COUNSEL FOR THE DEBTORS AND DEBTORS IN POSSESSION]**

Docket 463

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Approve fees and expenses on an interim basis 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):

HCA West, Inc

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, May 6, 2021

Hearing Room 5A

10:30 AM

8:20-11507 HCA West, Inc

Chapter 11

#24.00 Hearing RE: Second Interim Application of Levene, Neal, Bender, Yoo & Brill L.L.P. for Approval of Fees and Reimbursement of Expenses

**[LEVENE, NEALE, BENDER, YOO & BRILL L.L.P., ATTORNEYS FOR THE
JOINT COMMITTEE OF CREDITORS HOLDING UNSECURED CLAIMS]**

Docket 454

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Approve fees and expenses on an interim basis 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):

HCA West, Inc

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, May 6, 2021

Hearing Room 5A

10:30 AM

8:20-11507 HCA West, Inc

Chapter 11

#25.00 Hearing RE: Second Interim Application for Compensation and Reimbursement of Expenses for the Debtors and the Debtors in Possession for the Period September 1, 2020 through February 28, 2021

**[STEP TOE & JOHNSON LLP AS CORPORATE AND SPECIAL COUNSEL
FOR THE DEBTORS AND THE DEBTORS IN POSSESSION]**

Docket 464

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Approve fees and expenses on an interim basis 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):

HCA West, Inc

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, May 6, 2021

Hearing Room 5A

10:30 AM

8:20-11507 HCA West, Inc

Chapter 11

#26.00 Hearing RE: Second Interim Application for Compensation and Reimbursement of Expenses for the Period September 1, 2020 through January 31, 2021

**[IMPERIAL CAPITAL, LLC AS INVESTMENT BANKER AND FINANCIAL
ADVISOR TO THE DEBTORS AND DEBTORS IN POSSESSION]**

Docket 465

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Approve fees and expenses on an interim basis 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):

HCA West, Inc

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, May 6, 2021

Hearing Room 5A

10:30 AM

8:20-11507 HCA West, Inc

Chapter 11

#27.00 CON'TD 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)]

FR: 8-6-20; 12-17-20; 4-22-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 6, 2020

Continue Status Conference to December 17, 2020 at 10:30 am; updated
Status Report must be filed by December 3, 2020. (XX)

***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.***

December 17, 2020

Continue Status Conference to April 22, 2021 at 10:30 a.m.; updated Status
Report must be filed by April 15, 2021 unless a plan and disclosure statement
has been filed by such date, in which case the requirement of an updated
status report shall be waived. (XX)

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Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

CONT... HCA West, Inc

Chapter 11

Note: Appearance at this hearing is not required.

May 6, 2021

Continue the Status Conference to September 30, 2021 at 10:30 a.m.; updated Status Report must be filed by September 16, 2021 unless a plan and disclosure statement has been filed by such date, in which the requirement of a Status Report will be waived. (XX)

Note: Appearance at this hearing is not required.

Party Information

Debtor(s):

HCA West, Inc

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, May 6, 2021

Hearing Room 5A

10:30 AM

8:20-12881 Stonewood Homes LLC

Chapter 7

#28.00 Hearing RE: Chapter 7 Trustee's Motion for Order: (1) Approving the Sale of Real Property Pursuant to 11 U.S.C. Section 363(b) and (f); (2) Approving Compensation of Real Estate Agent; (3) Approving Overbid Procedures; (4) Approving Stipulation for Carve Out; (5) Approving Distribution of Sale Proceeds; (6) For a Good Faith Finding Pursuant to 11 U.S.C. Section 363(m); and (7) Waiver of the Stay of Rule 6004(h)

Docket 98

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Approve overbid procedures. This matter will be put on "second call" and will be called at the end of the court's 10:30 a.m. calendar in order to allow the bidding process to proceed outside the virtual court.

Party Information

Debtor(s):

Stonewood Homes LLC

Represented By
William J King

Trustee(s):

Thomas H Casey (TR)

Represented By
Karen S. Naylor

**United States Bankruptcy Court
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Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

8:21-10525 The Source Hotel, LLC

Chapter 11

#29.00 FINAL Hearing RE: Motion for Entry of an Order: (A) Requiring Turnover of Estate Cash by Evertrust Bank; (B) Authorizing Debtor to use Cash Collateral; and (C) Authorizing Debtor to Obtain Post-Petition Financing From M+D Properties on an Unsecured Basis **(OST Entered 3/12/2021)**

FR: 3-23-21

Docket 21

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 23, 2021

Grant the motion with the modifications set forth in the Reply and with the order language proposed by Shady Bird. Final hearing: May 6, 2021 at 10:30 a.m. Supplemental pleadings by Debtor, if any, must be filed by April 15, 2021; any response by April 22, 2021 and and reply by April 29, 2021.
(XX)

May 6, 2021

Grant the motion on a final basis.

Basis for Tentative Ruling:

No new pleadings were filed since the initial hearing.

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By

**United States Bankruptcy Court
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Judge Erithe Smith, Presiding
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Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

CONT... The Source Hotel, LLC

Ron Bender
Juliet Y Oh

Chapter 11

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

Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

8:21-10525 The Source Hotel, LLC

Chapter 11

**#30.00 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:

May 6, 2021

Claims Bar Date: 7/12/21 -- notice to creditors by 5/12/21

Deadline to file plan/discl. stmt: not set at this time

Continued Status Conference: 8/12/21 at 10:30 a.m. (XX)

Updated Status Report due: 7/29/21

***Note: If Debtor is in substantial compliance with the requirements of the
US Trustee, appearance at this hearing is not required.***

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

**United States Bankruptcy Court
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Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

8:21-10608 DEA Brothers Sisters LLC

Chapter 11

#31.00 Hearing RE: Application of Debtor-in-Possession to Employ Roger J. Plasse, Esq., and The Firm, Osborn & Plasse, as General Bankruptcy Counsel

Docket 55

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Deny application to employ co-general bankruptcy counsel without prejudice to Debtor seeking to employ the Firm on a special counsel basis for discrete services that are not duplicative of services already being rendered by Debtor's current general counsel.

Basis for Tentative Ruling

The court is not persuaded by the Reply that grounds exist for the employment of two separate law firms to act as general bankruptcy counsel. The fact that the United States Trustee has not objected is not a persuasive factor.

Party Information

Debtor(s):

DEA Brothers Sisters LLC

Represented By
Roger J Plasse
John H Bauer

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

8:21-10608 DEA Brothers Sisters LLC

Chapter 11

#32.00 Hearing RE: Application of Debtor to Employ Douglas & Associates, with its Appraiser, Mr. Roger Douglass, to Appraise the Shopping Center Located at 16502 S. Main St., Carson, CA 90248

Docket 64

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Approve the application.

Note: This matter appears to be uncontested. Accordingly, no court appearance by the 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):

DEA Brothers Sisters LLC

Represented By
Roger J Plasse
John H Bauer

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

Thursday, May 6, 2021

Hearing Room 5A

10:30 AM

8:21-10608 DEA Brothers Sisters LLC

Chapter 11

**#33.00 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:

May 6, 2021

Claims Bar Date: 7/12/21 [notice to creditors by
5/12/21]

Deadline to File Plan/Disc. Stmt 8/11/21 -- no additional extensions

Continued Status Conference: 9/2/21 at 10:30 a.m. (XX)

Updated Status Report due: 8/19/21 (waived if plan/ds timely
filed)

***Note: If Debtor accepts the foregoing tentative ruling and there is no
objection by the US Trustee or other party, appearances at this hearing
are not required; court to issue its own order.***

Party Information

Debtor(s):

DEA Brothers Sisters LLC

Represented By
Roger J Plasse

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, May 6, 2021

Hearing Room 5A

2:00 PM

8:17-12213 Solid Landings Behavioral Health, Inc.

Chapter 11

Adv#: 8:20-01010 Grobstein v. Degner

#34.00 CON'TD Hearing RE: Plaintiff's Motion for Partial Summary Judgment on First Claim for Relief

FR: 4/22/21

Docket 82

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Partially grant the Motion. Grant partial summary adjudication on the first element for breach of fiduciary duty in Plaintiff's favor- that Defendant owed the fiduciary duty of care to Debtors as Debtor's president. Deny all other relief requested.

Basis for Tentative Ruling:

Solid Landings Behavioral Health, Inc. ("Solid Landings") filed a voluntary chapter 11 on June 1, 2017. An order authorizing joint administration with several related debtors, including Sure Haven, Inc. ("Sure Haven"), was entered on June 7, 2017. The order confirming the related debtors' liquidation plan was entered March 22, 2018, and Howard Grobstein was appointed liquidating trustee ("Plaintiff").

On January 30, 2020, Plaintiff filed the within complaint alleging a single cause of action for breach of fiduciary duty against the defendant, Gerik M. Degner ("Defendant"). The order denying Defendant's motion to dismiss or transfer the complaint was entered April 14, 2020. Defendant filed his answer on April 21, 2020 demanding a jury trial. Defendant also filed a third-party complaint against Starr Indemnity & Liability Company ("Starr") on

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2:00 PM

CONT... **Solid Landings Behavioral Health, Inc.**

Chapter 11

April 22, 2020, and Starr filed its answer on May 26, 2020. On January 21, 2021, the court entered its order granting Plaintiff's first motion for partial summary adjudication as to Defendant's 32nd affirmative defense, holding that the business judgment rule was not applicable to Defendant as a defense. Plaintiff now moves for partial summary judgment on his breach of fiduciary duty claim for relief ("Motion" and "Points and Authorities")[AP dkt. 82] and ("Reply")[AP dkt. 103]. Defendant opposes the Motion ("Opposition")[AP dkt. 96].

A. Legal standard

Under FRCP 56(a), made applicable herein by FRBP 7056, "[t]he The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." The 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.* "Therefore, at summary judgment, the judge must view the evidence in the light most favorable to the nonmoving party: if direct evidence produced by the moving party conflicts with direct evidence produced by the nonmoving party, the judge must assume the truth of the evidence set forth by the nonmoving party with respect to that fact." *T.W. Elec. Serv., Inc. v. Pac. Elec. Contractors Ass'n*, 809 F.2d 626, 630–31 (9th Cir. 1987)(internal citations omitted). 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

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CONT... **Solid Landings Behavioral Health, Inc.**

Chapter 11

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).

B. Undisputed facts

Stephen Fennelly ("Fennelly"), Mark Shandrow ("Shandrow"), and Elizabeth Perry ("Perry")(collectively, "Owners") owned 99% of Sure Haven and 100% of the other four related debtors. Owners were the only directors of Solid Landings and Sure Haven (collectively, "Debtors"). Debtors provided 12-step treatment and alternative treatment programs for people suffering from substance abuse. Owners entered the substance abuse treatment business in approximately 2009, opening a sober living residence in Costa Mesa. Debtors expanded rapidly in 2014 and 2015 and peaked around September 2015. At that time, Debtors were operating in California, Nevada, and Texas and offered 550 beds, serving more than 3,000 clients annually, and employed approximately 1,200 employees. Plaintiff's Statement of Undisputed Facts ("UF") 1-3, 8 (It is unclear whether Defendant is disputing some of these facts because Defendant effectively tries to rewrite the UF in Defendant's Statement of Genuine Issues ("GI") without citation to any evidence. As such, to the extent any SUF is not "adequately controverted by citation to evidence filed in opposition to the [summary judgment] motion", such fact is deemed admitted under LBR 7056-1(f)).

Debtors began experiencing financial problems in the second half of 2015 after Debtors failed implement the infrastructure, such as specialized medical billing software, necessary for the expanded enterprise to operate effectively, litigation with Costa Mesa over regulations that severely restricted the use of property in Costa Mesa for substance abuse treatment services, and overextending themselves pursuing the development of large facilities in Long Beach and Santa Ana to replace the Costa Mesa facilities. UF 8, 10-11. Fennelly approached Defendant for assistance at that time.

Defendant, who had worked with Fennelly in investment banking in 2009, found Alpine Pacific Capital, LLC ("Alpine"), a private equity group. Debtors approached Alpine and Defendant to help Debtors obtain bridge financing since collections to alleviate cash flow issues. UF 4-5. In

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5A

2:00 PM

CONT... Solid Landings Behavioral Health, Inc.

Chapter 11

November 2015, Alpine helped Debtors obtain a \$7.5 million line of credit from CapStar Bank ("CapStar") secured by substantially all of Debtors' assets. UF 9. Alpine also assisted Owners in their effort to sell the business with the help of Brentwood Capital Advisors, LLC ("Brentwood"), an investment bank. UF 12. These sale efforts were halted in December 2015 after an outside accounting firm could not complete its analysis of Debtors' revenue because Debtors' revenue and profit numbers were inflated and severely inaccurate. UF 14.

Around the end of 2015, Debtors began losing revenue for two primary reasons: (1) insurance companies stopped paying for substance abuse treatments and that revenue represented 95% of Debtors' revenue, and (2) Debtors' reduction in operation in an effort to cut expenses resulted in declining patient censuses and further reduced revenues. UF 10-11. In January 2016, Owners communicated with outside counsel about the possibility of a chapter 11 filing but no petition was filed. UF 16. Several months later, on April 15, 2016, Defendant became president of Debtors. UF 18. Owners hired him because they had asked Defendant to identify other possible sources of debt for Debtors and Defendant had told Owners that hiring him as president would facilitate lending for Debtors' financing. UF 18; Fennelly Decl., 4, ¶13.

Defendant served as president from April 15, 2016 through July 28, 2017. UF 19. During that time, Defendant managed Debtors' daily operations, at least in part (even though Defendant had no experience in the healthcare industry) and corporate finance duties. UF 19; GI 19. Defendant received daily emails informing him of Debtors' financial status and the patient census and Owners also received emails regarding the same. UF 20-21, 24, 42, 47, 54, 57-64; GI 20. Per the patient census reports, at Debtors' peak in 2015, Debtors had 350 patients, at the end of May 2016, Debtors had 175 patients, and by the end of May 2017, Debtors had 14 patients. UF 27. Defendant and Owners received financial reports report indicating that, as of May 31, 2016, Debtors owed approximately \$2.9 million in accrued accounts payable, of which more than 40% (approximately \$1.2 million) was more than 90 days past due, that Debtors were struggling to cover basic expenses, like insurance and payroll, and that funds were insufficient to spend on marketing which was necessary to attract new

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CONT... **Solid Landings Behavioral Health, Inc.**

Chapter 11

patients. UF 7, 21-25. The May 2016 financials that Defendant received on July 12, 2016 also indicated that between February 2016 and May 2016, Debtors' revenue declined approximately 50% – from approximately \$8 million in February to approximately \$4 million in May and that the declining revenue had caused Debtors to begin incurring substantial losses, with Debtors losing \$886,825 in May 2016. UF 21, 26. In May 2016, Owners and Defendant discussed ceasing operations. Fennelly Decl., Ex. 6. Defendant also knew that a term sheet to sell Debtors' Long Beach facility to Behavioral Property Partners ("BPP") had stalled due to BPP's failure to provide information about their funding. UF 32.

During Defendants' tenure as president, Debtors lost approximately \$24.6 million and all of the related debtors lost \$32.8 million. Fennelly Decl., Ex. 263. Defendant negotiated a Forbearance Agreement with CapStar on August 31, 2016 that nominally increased the credit limit but became due on October 15, 2016. UF 39. On that date, the balance owed to CapStar was \$6,913,917.78. UF 51. The effort to sell Debtors' assets in Long Beach and Texas (and certain real estate assets of Debtors' affiliates) in 2016 was ultimately unsuccessful as well and the purported \$8.5 million purchase price would, at best, only result in net proceeds of \$4 million to Debtors. UF 56. The only assets Debtors ever sold to BPP were the real properties in which Debtors' Long Beach facilities were housed, which yielded net proceeds of \$265,828.26. UF 65.

C. The court declines to rule on Defendant's procedural objections

Defendant raises two procedural arguments against the Motion. First, Defendant contends that the Motion (consisting of a 47 page "Motion" and 21 page "Memorandum of Points and Authorities") violates U.S. District Court Local Civil Rule 11-6 which sets the page length for briefs at 25 pages unless permitted by order of the court. See *also* LBR 1001-1(e)(1) ("A matter not specifically covered by these Local Bankruptcy Rules *may be* determined, if possible, by parallel or analogy to the F.R.Civ.P., the FRBP, or the Local Civil Rules.") (emphasis added). Second, Defendant objects to Plaintiff's failure to produce all 238 exhibits filed in support of the Motion since Plaintiff did not supplement its initial disclosures under FRCP 26(a) in violation of FRCP 26(e). Accordingly, Defendant requests a continuance under FRCP 56(d)(2)

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to allow Defendant the opportunity to review these newly produced exhibits and conduct additional discovery. See Opp'n, 7 and 12. Plaintiff counters that email exhibits were only "recently obtained" from Fennelly's counsel (without giving the actual date) by Plaintiff and in any event, Defendant was on notice since August 31, 2020 (when Plaintiff served his initial FRCP 26(a) disclosures to Defendant) that there were emails in Owners' possession but Defendant himself failed to conduct discovery on Owners. See Reply, 22-27. While the court notes that Plaintiff's initial FRCP 26 disclosures stated that "some of these emails" were in Plaintiff's possession and "that others" were in the possession of third parties, see Supp. Decl. of M. Rieder, Ex. 14, p. 8, because the court will largely deny the Motion on the merits in Defendants' favor as discussed below, these two procedural objections will have no bearing on the outcome so the court declines to rule on Defendants' procedural objections.

Defendants' arguments regarding Plaintiff's lack of admissible evidence, see Opp'n, 13-15, repeat the arguments raised by Defendant in his 251 total evidentiary objections. As such, the court need not address these evidentiary arguments again here since the court's rulings on the evidentiary objections will do so.

- D. Plaintiff has failed to carry his burden to demonstrate the absence of material facts and that Plaintiff is entitled to summary judgment as a matter of law as to the entirety of the claim for relief

As Debtors are both California corporations, California law is applicable. See, e.g., *Davis & Cox v. Summa Corp.*, 751 F.2d 1507, 1527 (9th Cir. 1985) ("Claims involving 'internal affairs' of corporations, such as the breach of fiduciary duties, are subject to the laws of the state of incorporation."). Under California law, "[t]he elements of a cause of action for breach of fiduciary duty are the existence of a fiduciary relationship, its breach, and damage proximately caused by that breach." *City of Atascadero v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 68 Cal. App. 4th 445, 483 (1998); see P. & A., 2. The plaintiff has the initial burden of proving not only the existence of a fiduciary duty, but also the failure to perform it. *LaMonte v. Sanwa Bank California*, 45 Cal. App. 4th 509, 517 (1996). Turning to these elements individually:

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1. Defendant had a fiduciary duty to Debtors

Under California law, "officers of corporations who participate in the management of the corporation are considered fiduciaries as a matter of law" and one of those fiduciary duties is the duty of care. See *L.A. Mem'l Coliseum Com. v. Insomniac, Inc.*, 233 Cal. App. 4th 803, 834 (2015); *GAB Bus. Servs. v. Lindsey & Newsom Claim Servs.*, 83 Cal. App. 4th 409, 420-21 (2000) ("An officer who participates in management of the corporation, exercising some discretionary authority, is a fiduciary of the corporation as a matter of law."). The fiduciary duties owed by the officer of a California corporation include the duty of care. See, e.g., *FDIC v. McSweeney*, 976 F.2d 532, 538 (9th Cir. 1992) ("Under California statutory and common law, shareholders and corporations have an established right to sue corporate directors and officers for negligent breach of the duty of care."). The duty of care requires corporate officers to exercise "reasonable care, diligence, and skill in their work." *In re Heritage Bond Litig.*, 2004 U.S. Dist. LEXIS 15387, at *13 (C.D. Cal. Jun. 28, 2004); Mot., P. & A., 3-4.

In this case, because Defendant served as president of Debtors from April 14, 2016 to July 28, 2017, see P. & A., 3-4, UF 19; GI 19, and managed (at least in part) the daily operations of Debtors, see, UF 67; GI 67, Defendant owed a fiduciary duty to Debtors as a matter of law.

2. There are questions of material fact over whether Defendant breached his fiduciary duty to Debtors

Plaintiff argues that Defendant breached his duty of care to Debtors by failing to cease Debtors' operations or file for bankruptcy no later than July 15, 2016. By that date, Defendant purportedly knew with absolute certainty, from the financial reports he received about Debtors and communications with Owners, that Debtors' downward spiral could not be stopped and continuing to operate Debtor would only cause further losses. Defendant nonetheless continued to operate Debtors after July 15, 2016 for almost an entire additional year, losing millions per month, after any officer exercising reasonable care would have ceased operations, and Defendant ultimately caused Debtors to lose \$20,552,236.43 during that time. See P. & A., 4-18.

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Defendant counters that Owners were not disinterested directors but rather officers themselves of Debtors (Fennelly as CEO, Shandrow as Chief Revenue Officer, and Perry as Chief Culture Officer) who supervised Defendant, made strategic decisions on behalf of Debtors, and performed day-to-day management of Debtors themselves, which is evidenced by the fact that Owners were copied on the emails regarding Debtors' finances. Opp'n, 16-17; Degner Decl., 2, ¶ 2; B. Dully Decl., 2, ¶ 7-8 (reporting directly to Fennelly); S. Halberstadt Decl., 2-3, ¶ 10 (summarizing emails in which Owners are described as officers and/or participating in Debtors' operations). As officers of Debtors, Defendant argues that Owners themselves beached their fiduciary duties, not Defendant, because Owners, not Defendant, ultimately had the authority to decide whether to cease operations or file for bankruptcy (which they failed to do in January 2016 when they discussed filing for chapter 11 months before Defendant even was hired as president). See Opp'n, 18-20.

Viewing the evidence in the light most favorable to the non-moving party, Defendant, Plaintiff has failed to carry his burden to demonstrate that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. First, that Owners served as officers of Debtors is unrefuted. Second, the scope of Owners involvement in Debtor's operations as officers remains disputed. And while Plaintiff argues that Owners were solely reliant on Defendant for deciding whether to continue Debtors' operations, this argument is undermined by the undisputed facts that Fennelly himself testified that Defendant was only hired a president to lend further credibility to Defendant's efforts to obtain debt financing for Debtors (or "facilitate lending" as Defendant described it, Fennelly Decl., 4, ¶13) so the scope of his duties were to be limited to the "finance department," Owners themselves had successfully operated Debtors for several years before 2015 and Defendant's appointment, and Fennelly appears to have remained active in Debtors' affairs even during his leave of absence. See UF 8, 18; Degner Decl., Ex. L (texts between S. Fennelly and Defendant discussing Debtors' business). In other words, viewing the evidence in the light most favorable to Defendant, and drawing all reasonable inferences in favor of Defendant, it is unlikely that Owners would have left the day-to-day operational management of Debtors solely to Defendant, with no input from Owners, when at least

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Fennelly knew that Defendant had no experience in operations or the healthcare industry. See UF 4, 6. Plaintiff's arguments is further undermined that Owners themselves demonstrated an intent to operate notwithstanding the dire financial condition of Debtors in January 2016 when Owners themselves refused to file for bankruptcy even after insurance payments constituting a significant portion of Debtors' revenue suddenly stopped in late 2015, Debtors' were in litigation with Costa Mesa, and Debtors overextended attempting to develop larger treatment facilities. See UF 8, 10, 16. Stated otherwise, Debtors were already in a financial death spiral when Defendant assumed the position of president of Debtors and factual issues abound as whether Defendant pursued a course of action (lack of action) that rose to the level of breach of his fiduciary duty.

Plaintiff has also failed to show that Defendant breached his fiduciary duties when, again viewing the evidence in the light most favorable to Defendant, it appears that there is material dispute as to whether Defendant was the only individual that wanted to continue operating Debtors after July 15, 2016 as the Motion argues. It appears that Owners, or at least Fennelly as CEO, wanted to continue operating past July 15, 2016. Exhibit J to Defendant's declaration is the engagement letter between Solid Landings and Brentwood, signed by Fennelly and dated July 7, 2016, confirming Brentwood's engagement for a possible sale of Debtors' Texas and Nevada assets, but no mention of Debtors' California assets is included. Plaintiff's attempts to paint Defendant as the only individual who wanted to pursue the ill-fated 2016 sale is therefore undermined by this engagement letter signed by Debtors' CEO only 8 days before the July 15, 2016 date (the date Plaintiff argues Defendant should have known to cease operations or file for bankruptcy). And even if Defendant had wanted to cease operations or file for bankruptcy, given Owner's intent to continue operating at Debtors' business in California (as evidenced by their refusal to file for bankruptcy in January 2016, May 2016, and the Brentwood engagement letter signed July 8, 2016), that Defendant as president could overrule the CEO who wanted to try to continue efforts to sell Debtor's assets on July 8, 2016. This lends support to Defendant's argument that Owners retained "ultimate control of the Debtors' operations and strategic decision making." See Opp'n, 5.

Plaintiff's reliance on Defendant's past testimony for the position that

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Defendant has admitted that he was solely responsible for Debtors' daily operations is unpersuasive because Defendant in that testimony did not state that Owners had no role in Debtors' daily operations whatsoever. See Reply, 11-13. Again viewing the evidence in the light most favorable to Defendant, that past testimony can be construed as Defendant admitting that he played a major role (but not sole authority) in Debtors' daily operations. And to the extent that he took over Fennelly's operational duties during Fennelly's leave of absence, Defendant makes no mention of taking over the duties of the other two Owners in that past testimony. See e.g., Degner Decl. [dkt. 66], 7, ¶ 24 ("In that role, *in conjunction with the Debtors' other remaining directors, Perry and Shandrow*, I prepared the strategic plans to keep the Debtors functioning and, potentially saving them.) (emphasis added).

Finally, in his declaration, Defendant testifies about his strategic plan for the company in terms of streamlining expenses and obtaining favorable financing, the actions he took to do so, and the challenges he faced. See, e.g., Degner Decl at ¶¶ 16-20, 22-25, 29. Viewing the facts in a light most favorable to Defendant, there are material issues of fact as whether Defendant's efforts constitute a breach of his fiduciary duty to Debtors.

3. There are questions of material fact over whether Defendant's breach, if any, caused the damages allegedly suffered by Debtors

Plaintiff argues that Defendant alone caused Debtors to continue operating past July 15, 2016 and as such, Defendant should be liable for the damages in an amount equal to the losses suffered by Debtors during that time. Plaintiff therefore seeks damages in the total amount of \$20,552,236.43 plus 7% interest on the amounts awarded against Defendant with the interest on the amount awarded for each month running from the end of that month through the date on which final judgment is entered. See P. & A., 18-20; SUF 70 (while Defendant disputes the amounts, Defendant has offered no opposing evidence, see SGI 70).

Under California law, a fiduciary who breaches his duty of care is liable for damages in "the amount which will compensate for all the detriment

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proximately caused thereby, whether it could have been anticipated or not." See Cal. Civ. Code § 3333 ("For the breach of an obligation not arising from contract, the measure of damages...is the amount which will compensate for all the detriment proximately caused thereby, whether it could have been anticipated or not."); *Michelson v. Hamada*, 29 Cal. App. 4th 1566, 1584 (1994)(holding the fiduciary liable for estimated income lost as a result of the fiduciary's improper management of a business); *Smith v. Arthur Andersen Ltd. Liab. P'ship*, 421 F.3d 989, 1004 (9th Cir. 2005)(agreeing "that the complaint states a cognizable harm to Boston Chicken when it alleges that the defendants 'prolonged' the firm's existence, causing it to expend corporate assets that would not have been spent 'if the corporation [had been] dissolved in a timely manner, rather than kept afloat with spurious debt.'"). "Although causation is a question of fact, it may be decided as a matter of law if, under undisputed facts, reasonable minds could not differ." *In re Heritage Bond Litig.*, 2004 U.S. Dist. LEXIS 15387, at *24 (C.D. Cal. June 28, 2004).

In opposition, Defendant raises several arguments. First, Defendant argues that under California Civil Code § 1431.2(a), when there are multiple tortfeasors, the damages must be allocated between the tortfeasors. See Opp'n, 21. This argument is unpersuasive because, as explained by Plaintiff, the plain language of Civil Code § 1431.2 requires "the application of comparative fault only to non-economic damages in personal injury, property damage and wrongful death cases' and not for claims for economic damages, such as breach of fiduciary duty claims. See Reply, 15-19. Civil Code § 1431.2(a), states..."*In any action for personal injury, property damage, or wrongful death*, based upon principles of comparative fault, the liability of each defendant for non-economic damages shall be several only and shall not be joint." (emphasis added). Defendant's own cited legal authority supports Plaintiff's position. See *Dafonte v. Up-Right, Inc.*, 2 Cal. 4th 593, 601 (1992)("Section 1431.2 declares plainly and clearly that in tort suits for personal harm or property damage, no 'defendant' shall have 'joint' liability for 'non-economic' damages, and 'each defendant' shall be liable 'only' for those 'non-economic' damages directly attributable to his or her own 'percentage of fault.'"); *Evangelatos v. Superior Ct.*, 44 Cal. 3d 1188, 1239 (1988)("Second, it is well to recall exactly what Proposition 51 provides. It repeals the joint and several rule only as applied to noneconomic damages, i.e. pain and suffering,

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emotional distress, loss of consortium and the like. (Civ. Code, § 1431.2, subd. (b)(2)."); *Pfeifer v. John Crane, Inc.*, 220 Cal. App. 4th 1270, 1318 (2013)("Under Civil Code section 1431.2, JCI's liability for noneconomic damages is limited by its share of comparative fault."); *Vollaro v. Lisper*, 224 Cal. App. 4th 93, 99 (2014)("...Proposition 51...abolished joint and several liability for noneconomic damages in personal injury cases... Proposition 51, which amended Civil Code section 1431 and added Civil Code sections 1431.1 through 1431.5...").

Second, Defendant contends that Owners are solely responsible for any damages sustained by the Debtors after January 2016 (or May 2016) because their failure to file for bankruptcy then caused Debtors to continue operating through May 31, 2017, and Owners were also Debtors' corporate officers so they also fiduciary duties to Debtors. See Opp'n, 21-22. Viewing the evidence in the light most favorable to Defendant, this position raises a material factual dispute because it raises the issue of whether Defendant's breach, if any, was the proximate cause Plaintiff's damages. See Civ. Code § 3333 ("For the breach of an obligation not arising from contract, the measure of damages...is the amount which will compensate for all the detriment *proximately caused* thereby, whether it could have been anticipated or not." (emphasis added)). "[T]he proper test for determining actual cause is the 'substantial factor' test, under which the defendant's conduct will be regarded as an actual cause of the plaintiff's harm if it was a substantial factor in bringing about the harm." *Heritage Bond Litig.*, *supra*, at 25. Based on Plaintiff's own undisputed facts, Debtors were already in a "financial death spiral" at the end of 2015 (months before Defendant was hired as president) because insurance payments constituting a significant portion of Debtors' revenue suddenly stopped in late 2015, Debtors' were in litigation with Costa Mesa, and Debtors overextended attempting to develop larger treatment facilities. See UF 8, 10, 16. And as discussed above, Owners were also corporate officers of Debtors during 2015 who themselves owed fiduciary duties to Debtors. As a result, a dispute remains over material facts since reasonable minds could disagree over whether Defendant's breach, if any, was a substantial factor in bring about Debtors' damages or whether Debtors were already in a "financial death spiral" and contemplating bankruptcy prior to Defendant's hiring as president.

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Plaintiff's reliance on California Corporations Code § 309 to argue that Owners cannot be liable for damages because they enjoy statutory immunity under the business judgment rule ignores the undisputed fact that Owners were also officers of Debtors and as this court has previously ruled, the business judgment rule is applicable to directors but not corporate officers. See Reply, 20-21. Thus, the scope of Owners' actions, whether as directors or officers, also remains a disputed material fact affecting not only the second element of whether Defendant breach his fiduciary duty, but also whether such breach, if any, was the proximate cause of Debtors' damages.

Conclusion

Under California law, "[t]he elements of a cause of action for breach of fiduciary duty are the existence of a fiduciary relationship, its breach, and damage proximately caused by that breach." *City of Atascadero, supra*, at 483. Plaintiff has carried his burden to demonstrate that there is no genuine dispute as to any material fact regarding the existence of a fiduciary duty, and that Plaintiff is entitled to partial summary adjudication on this first element. But because genuine disputes remain as to material facts regarding the second and third element, Plaintiff has not carried his burden under FRCP 56(a) as to these last two elements.

EVIDENTIARY OBJECTIONS

Defendant's Evidentiary Objectons to Declaration of Monica Reider

Objection #

Ruling

1 - Exh. 3
contents

Admitted for the purpose of showing the document attached to Proof of Claim #77, not the truth of its

2

Sustained

3 - 8

Overruled

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Defendant's Evidentiary Objections to Declaration of Stephen Fennelly

<u>Objection #</u>	<u>Ruling</u>
1	Overruled
2	Overruled
3	Overruled
4 - 7	Sustained.
8	Admitted as received by Declarant but not for truth of content
9	Admitted as received by Declarant but not for truth of content
10	Overruled
11	Sustained

As to the remainder of the objections re emails, emails sent by third parties to other third parties (not including Mr. Fennelly) are Sustained, emails sent by third parties (including to Mr. Fennelly) are admitted as emails received but not for the truth of content, emails sent by Mr. Degner are Overruled, and emails sent by Mr. Fennelly are Overruled.

Party Information

Debtor(s):

Solid Landings Behavioral Health,

Represented By

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David L. Neale
Juliet Y Oh
Jeffrey S Kwong
David M Samuels

Defendant(s):

Gerik M. Degner

Represented By
Ismail Amin

Plaintiff(s):

Howard B Grobstein

Represented By
Rodger M. Landau
Monica Rieder

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8:19-13858 Bruce Elieff

Chapter 7

Adv#: 8:20-01161 Kurtin v. Elieff

#35.00 Hearing RE: Plaintiff's Motion for Summary Judgment or Partial Summary Judgment

Docket 10

***** VACATED *** REASON: CONTINUED TO 6/17/2021 AT 2:00 P.M.,
PER ORDER ENTERED 4/2/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 6/17/2021 at 2:00 pm, Per Order
Entered 4/2/2021 (XX) - am/td (4/14/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Defendant(s):

Bruce Elieff

Represented By
Robert P Goe

Plaintiff(s):

Todd Kurtin

Represented By
Lewis R Landau

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

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CONT... Bruce Elieff

Chapter 7

**United States Bankruptcy Court
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Hearing Room 5A

9:30 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1618882991>

Meeting ID: 161 888 2991

Password: 468762

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.

Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
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10:00 AM

8:18-10135 Harry K. James

Chapter 13

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

DEUTSCHE BANK NATIONAL TRUST COMPANY

VS.

DEBTOR

Docket 60

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

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):

Harry K. James

Represented By
Julie J Villalobos

Movant(s):

Deutsche Bank National Trust

Represented By
Sean C Ferry
Eric P Enciso

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CONT... Harry K. James

Chapter 13

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, May 11, 2021

Hearing Room 5A

10:00 AM

8:21-10452 William Andrew Deans

Chapter 7

**#2.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]
(RE: 1006 S. Hathaway St Unit D, Santa Ana, CA 92705)**

EASTSIDE DEVELOPMENT, CO.

VS.

DEBTOR

Docket 19

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

Grant the Motion with all relief requested therein, except that relief request #9 is denied.

Basis for Tentative Ruling/General Comments

1. Relief request #9 seeks 180-day prospective relief against any debtor, not just the debtor in this case. No grounds for such extraordinary relief have been stated.

2. Debtor has filed a late opposition to the Motion, requesting an order providing for no lockout prior to June 7, 2021. However, Debtor apparently does not realize that the automatic stay in this case expired on March 25, 2021. Bankruptcy Code Section 362(c)(3) provides that if a debtor has had a bankruptcy case pending and dismissed within a year of the current filing, the automatic stay in the current case expires 30 days after the petition was filed. unless the debtor files a motion extending the stay beyond the 30-day limit. Section 362(c)(3)(B) requires that the motion be filed and the hearing

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CONT...

William Andrew Deans

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on the motion occur before the expiration of the 30 days. Here, Debtor's prior bankruptcy case was dismissed on February 16, 2021, which is within one year of the current case which was filed on February 23, 2021. As Debtor did not file a motion to extend the stay or obtain a hearing date within 30 days, the stay expired as a matter of law on March 25, 2021. The court has no authority to entertain a motion after the 30 days has expired.

3. If Eastside Development is agreeable to allowing Debtor until June 7, 2021 to vacate the premises, Movant can so advise the clerk during the calendar roll call just prior to the commencement of the hearing and the parties will not have to stay for the hearing.

4. The expiration of the automatic stay has no impact upon any applicable moratoriums under federal, state or local laws.

Party Information

Debtor(s):

William Andrew Deans

Pro Se

Movant(s):

Eastside Development, Co.

Represented By
Barry L O'Connor

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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Tuesday, May 11, 2021

Hearing Room 5A

10:00 AM

8:21-10452 William Andrew Deans

Chapter 7

**#3.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]
(RE: 1004 S. Hathaway St Unit P, Santa Ana, CA 92705)**

EASTSIDE DEVELOPMENT, CO.

VS.

DEBTOR

Docket 21

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

Grant the Motion with all relief requested therein, except that relief request #9 is denied.

Basis for Tentative Ruling/General Comments

1. Relief request #9 seeks 180-day prospective relief against any debtor, not just the debtor in this case. No grounds for such extraordinary relief have been stated.

2. Debtor has filed a late opposition to the Motion, requesting an order providing for no lockout prior to June 7, 2021. However, Debtor apparently does not realize that the automatic stay in this case expired on March 25, 2021. Bankruptcy Code Section 362(c)(3) provides that if a debtor has had a bankruptcy case pending and dismissed within a year of the current filing, the automatic stay in the current case expires 30 days after the petition was filed. unless the debtor files a motion extending the stay beyond the 30-day limit. Section 362(c)(3)(B) requires that the motion be filed and the hearing

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

Tuesday, May 11, 2021

Hearing Room 5A

10:00 AM

CONT...

William Andrew Deans

Chapter 7

on the motion occur before the expiration of the 30 days. Here, Debtor's prior bankruptcy case was dismissed on February 16, 2021, which is within one year of the current case which was filed on February 23, 2021. As Debtor did not file a motion to extend the stay or obtain a hearing date within 30 days, the stay expired as a matter of law on March 25, 2021. The court has no authority to entertain a motion after the 30 days has expired.

3. If Eastside Development is agreeable to allowing Debtor until June 7, 2021 to vacate the premises, Movant can so advise the clerk during the calendar roll call just prior to the commencement of the hearing and the parties will not have to stay for the hearing.

4. The expiration of the automatic stay has no impact upon any applicable moratoriums under federal, state or local laws.

Party Information

Debtor(s):

William Andrew Deans

Pro Se

Movant(s):

Eastside Development, Co.

Represented By
Barry L O'Connor

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 11, 2021

Hearing Room 5A

10:00 AM

8:21-10452 William Andrew Deans

Chapter 7

**#4.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]
(RE: 1006 S. Hathaway St Unit E, Santa Ana, CA 92705)**

EASTSIDE DEVELOPMENT, CO.

VS.

DEBTOR

Docket 23

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

Grant the Motion with all relief requested therein, except that relief request #9 is denied.

Basis for Tentative Ruling/General Comments

1. Relief request #9 seeks 180-day prospective relief against any debtor, not just the debtor in this case. No grounds for such extraordinary relief have been stated.

2. Debtor has filed a late opposition to the Motion, requesting an order providing for no lockout prior to June 7, 2021. However, Debtor apparently does not realize that the automatic stay in this case expired on March 25, 2021. Bankruptcy Code Section 362(c)(3) provides that if a debtor has had a bankruptcy case pending and dismissed within a year of the current filing, the automatic stay in the current case expires 30 days after the petition was filed. unless the debtor files a motion extending the stay beyond the 30-day limit. Section 362(c)(3)(B) requires that the motion be filed and the hearing

**United States Bankruptcy Court
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Santa Ana
Judge Erithe Smith, Presiding
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Tuesday, May 11, 2021

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10:00 AM

CONT... William Andrew Deans

Chapter 7

on the motion occur before the expiration of the 30 days. Here, Debtor's prior bankruptcy case was dismissed on February 16, 2021, which is within one year of the current case which was filed on February 23, 2021. As Debtor did not file a motion to extend the stay or obtain a hearing date within 30 days, the stay expired as a matter of law on March 25, 2021. The court has no authority to entertain a motion after the 30 days has expired.

3. If Eastside Development is agreeable to allowing Debtor until June 7, 2021 to vacate the premises, Movant can so advise the clerk during the calendar roll call just prior to the commencement of the hearing and the parties will not have to stay for the hearing.

4. The expiration of the automatic stay has no impact upon any applicable moratoriums under federal, state or local laws.

Party Information

Debtor(s):

William Andrew Deans

Pro Se

Movant(s):

Eastside Development, Co.

Represented By
Barry L O'Connor

Trustee(s):

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
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Tuesday, May 11, 2021

Hearing Room 5A

10:00 AM

8:21-10452 William Andrew Deans

Chapter 7

**#5.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]
(RE: 1004 S. Hathaway St Unit C, Santa Ana, CA 92705)**

EASTSIDE DEVELOPMENT, CO.

VS.

DEBTOR

Docket 25

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

Grant the Motion with all relief requested therein, except that relief request #9 is denied.

Basis for Tentative Ruling/General Comments

1. Relief request #9 seeks 180-day prospective relief against any debtor, not just the debtor in this case. No grounds for such extraordinary relief have been stated.

2. Debtor has filed a late opposition to the Motion, requesting an order providing for no lockout prior to June 7, 2021. However, Debtor apparently does not realize that the automatic stay in this case expired on March 25, 2021. Bankruptcy Code Section 362(c)(3) provides that if a debtor has had a bankruptcy case pending and dismissed within a year of the current filing, the automatic stay in the current case expires 30 days after the petition was filed. unless the debtor files a motion extending the stay beyond the 30-day limit. Section 362(c)(3)(B) requires that the motion be filed and the hearing

**United States Bankruptcy Court
Central District of California
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Hearing Room 5A

10:00 AM

CONT...

William Andrew Deans

Chapter 7

on the motion occur before the expiration of the 30 days. Here, Debtor's prior bankruptcy case was dismissed on February 16, 2021, which is within one year of the current case which was filed on February 23, 2021. As Debtor did not file a motion to extend the stay or obtain a hearing date within 30 days, the stay expired as a matter of law on March 25, 2021. The court has no authority to entertain a motion after the 30 days has expired.

3. If Eastside Development is agreeable to allowing Debtor until June 7, 2021 to vacate the premises, Movant can so advise the clerk during the calendar roll call just prior to the commencement of the hearing and the parties will not have to stay for the hearing.

4. The expiration of the automatic stay has no impact upon any applicable moratoriums under federal, state or local laws.

Party Information

Debtor(s):

William Andrew Deans

Pro Se

Movant(s):

Eastside Development, Co.

Represented By
Barry L O'Connor

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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Tuesday, May 11, 2021

Hearing Room 5A

10:00 AM

8:18-13311 Ruby's Diner, Inc., a California corporation

Chapter 7

Adv#: 8:21-01014 Marshack v. Cavanaugh et al

#5.10 CONT'D Hearing RE: Application For Right To Attach Order And For Issuance Of Writ Of Attachment As To Ralph Kosmides (Application filed 4/14/2021)

FR: 5-5-21, Ctrrm 5C before SC; 5-6-21

Docket 35

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

The court is inclined to grant the Application with a bond of \$10,000; however Plaintiff will need to address the Exemption Statement.

EVIDENTIARY RULINGS

Plaintiff's Evidentiary Objections to Declaration of Ralph Kosmides

<u>Paragraph #</u>	<u>Ruling</u>
5: 1:25 - 2:2	Sustained
5: 2:3 - 6	Sustained as to "which made it appear ...they had not." Overruled as to the balance
7: 2:14-20	Sustained as to "Hesch reviewed the issues ... and not loans." Overruled as to the balance.
8: 2:21-22	Sustained

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10:00 AM

CONT...	Ruby's Diner, Inc., a California corporation	Chapter 7
9: 2:23-27	Sustained (Note: Defendant has apparently objected to the	
Marshack	authenticity of certain or all of such documents re Declaration)	
10: 3:1-4	Overruled	
11 3:5-7	Sustained as to "I have amended . . . to the	
Distributions")	FRE 1002	
13: 3:10-15	Overruled	
Exh. A	Sustained	

May 11, 2021

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):

Ruby's Diner, Inc., a California	Represented By
	William N Lobel
	Jeffrey P Nolan

Defendant(s):

Douglas Cavanaugh	Represented By
	Leo A Bautista
Ralph Kosmides	Represented By
	Leo A Bautista
Beachcomber Management Crystal	Pro Se

**United States Bankruptcy Court
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Hearing Room 5A

10:00 AM

CONT... Ruby's Diner, Inc., a California corporation Chapter 7

Lighthouse Cafe, LLC Pro Se

Beachcomber at Crystal Cove, LLC Pro Se

Shake Shack Crystal Cove, LLC Pro Se

Plaintiff(s):

Richard A. Marshack

Represented By
Christopher Dale Beatty

Trustee(s):

Richard A Marshack (TR)

Represented By
Laila Masud
D Edward Hays
Tinho Mang

**United States Bankruptcy Court
Central District of California
Santa Ana
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Tuesday, May 11, 2021

Hearing Room 5A

10:00 AM

8:18-13311 Ruby's Diner, Inc., a California corporation

Chapter 7

Adv#: 8:21-01014 Marshack v. Cavanaugh et al

#5.20 CONT'D Hearing RE: Application For Right To Attach Order And For Issuance Of Writ Of Attachment As To Douglas Cavanaugh (Application filed 4/14/2021)

FR: 5-5-21, Ctrrm 5C before SC; 5-6-21

Docket 29

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

The court is inclined to grant the Application with a bond of \$10,000; however Plaintiff will need to address the Exemption Statement.

EVIDENTIARY RULINGS

Defendants' Objection to the Declaration of Richard Marshack

<u>Paragraph #</u>	<u>Ruling</u>
6	Overruled
7	Overruled as to the fact of possession of the subject documents; Sustained as to the truth of their content.
Exhs. A-I;3-11	Overruled as to the fact of possession of the subject documents; Sustained as to the truth of their content or authenticity of the same

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Tuesday, May 11, 2021

Hearing Room 5A

10:00 AM

CONT... Ruby's Diner, Inc., a California corporation

Chapter 7

Plaintiff's Evidentiary Objections to Declaration of Douglas S. Cavanaugh

<u>Paragraph #</u>	<u>Ruling</u>
6: 2:3-6	Overruled
7: 2:7-9 Distributions")	Sustained as to "I have amended . . . to the
8: 2:10-11	Overruled
9: 2:12-14	Overruled

May 11, 2021

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):

Ruby's Diner, Inc., a California	Represented By William N Lobel Jeffrey P Nolan
----------------------------------	--

Defendant(s):

Douglas Cavanaugh	Represented By Leo A Bautista
Ralph Kosmides	Represented By Leo A Bautista
Beachcomber Management Crystal	Pro Se
Lighthouse Cafe, LLC	Pro Se
Beachcomber at Crystal Cove, LLC	Pro Se

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10:00 AM

CONT... Ruby's Diner, Inc., a California corporation

Chapter 7

Shake Shack Crystal Cove, LLC

Pro Se

Plaintiff(s):

Richard A. Marshack

Represented By
Christopher Dale Beatty

Trustee(s):

Richard A Marshack (TR)

Represented By
Laila Masud
D Edward Hays
Tinho Mang

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Tuesday, May 11, 2021

Hearing Room 5A

10:30 AM

8:16-11882 Stephen J Haythorne
Adv#: 8:16-01247 Damon v. Haythorne

Chapter 7

#6.00 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; 6-11-20; 9-10-20;
11-19-20; 1-14-21; 3-11-21

Docket 128

***** VACATED *** REASON: CONTINUED TO 7/1/2021 AT 10:30 A.M.,
PER ORDER ENTERED 5/4/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Examination Continued to 7/1/2021 at 10:30 a.m., Per
Order Entered 5/4/2021 (XX) - td (5/4/2021)**

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, 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

**United States Bankruptcy Court
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CONT... Stephen J Haythorne

Chapter 7

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 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 10:00 a.m.

Basis for Tentative Ruling

The courthouse remains closed to in-person court appearances and on-site

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Tuesday, May 11, 2021

Hearing Room 5A

10:30 AM

CONT... Stephen J Haythorne

Chapter 7

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.

September 10, 2020

Continue the examination to November 19, 2020 at 10:00 a.m. (XX)

Basis for Tentative Ruling

The courthouse is currently 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 November 19, 2020. Depending on the status of pandemic-related rules and policies in place on November 19, 2020, the examination 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.

Party Information

**United States Bankruptcy Court
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Tuesday, May 11, 2021

Hearing Room 5A

10:30 AM

CONT... Stephen J Haythorne

Chapter 7

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
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Tuesday, May 11, 2021

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10:30 AM

8:16-11882 Stephen J Haythorne

Chapter 7

Adv#: 8:16-01247 Damon v. Haythorne

#7.00 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; 6-11-20; 9-10-20;
11-19-20; 1-14-21; 3-11-21

Docket 130

*** VACATED *** REASON: CONTINUED TO 7/1/2021 AT 10:30 A.M.,
PER ORDER ENTERED 5/4/2021 (XX)

Courtroom Deputy:

**CONTINUED: Examination Continued to 7/1/2021 at 10:30 a.m., Per
Order Entered 5/4/2021 (XX) - td (5/4/2021)**

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, 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

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10:30 AM

CONT... Stephen J Haythorne

Chapter 7

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 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).

June 4, 2020

Continue the examination to September 10, 2020 at 10:00 a.m.

Basis for Tentative Ruling

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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.

September 10, 2020

Continue the examination to November 19, 2020 at 10:00 a.m. (XX)

Basis for Tentative Ruling

The courthouse is currently 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 November 19, 2020. Depending on the status of pandemic-related rules and policies in place on November 19, 2020, the examination 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.

Party Information

Debtor(s):

Stephen J Haythorne

Represented By
David S Henshaw

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Tuesday, May 11, 2021

Hearing Room 5A

10:30 AM

CONT... Stephen J Haythorne

Chapter 7

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
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Tuesday, May 11, 2021

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#8.00 Hearing RE: Trustee's Motion to Approve to Amendment Settlement Agreement and Release of State Court Action and to Clarify Global Settlement Order

Docket 577

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

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):

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
Stefan Perovich

**United States Bankruptcy Court
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Tuesday, May 11, 2021

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#9.00 Hearing RE: Trustee's Motion to Clarify Terms of the Orders Granting Trustee's Motions Authorizing Sale (A) Outside the Ordinary Course of Business; (B) Free and Clear of Liens; Claims; and Encumbrances; (C) Subject to Overbid; (D) For Determination of Good Faith Purchaser Under 11 U.S.C. Section 363(M); (E) Authorizing the Assumption and Assignment of Leases Pursuant to 11 U.S.C. Section 365; and (F) Authorizing the Assignment of the Admiral Insurance Policy, Current Insurance Policies and Rent Reduction and Release Agreements

Docket 580

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

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):

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

**United States Bankruptcy Court
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10:30 AM

CONT... Friendly Village MHP Associates LP

Chapter 7

Tinho Mang
Stefan Perovich

**United States Bankruptcy Court
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Tuesday, May 11, 2021

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#10.00 Hearing RE: Trustee's Motion to Approve Two Compromises of Controversies with: (1) Shaoul J. Levy, Levy Affiliated Holdings, LLC, Levy Friendly Village, LLC, 5450 Paramount LP, and 5450 Paramount LLC; (2) Sanford Michelman and Michelman and Robinson, LLP

Docket 583

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

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):

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
Stefan Perovich

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10:30 AM

CONT... Friendly Village MHP Associates LP

Chapter 7

**United States Bankruptcy Court
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Tuesday, May 11, 2021

Hearing Room 5A

10:30 AM

8:18-13864 Friendly Village GP, LLC

Chapter 7

#11.00 Hearing RE: Trustee's Motion to Approve to Amendment Settlement Agreement and Release of State Court Action and to Clarify Global Settlement Order

Docket 284

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

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):

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**

Tuesday, May 11, 2021

Hearing Room 5A

10:30 AM

8:18-13864 Friendly Village GP, LLC

Chapter 7

#12.00 Hearing RE: Trustee's Motion to Clarify Terms of the Orders Granting Trustee's Motions Authorizing Sale (A) Outside the Ordinary Course of Business; (B) Free and Clear of Liens, Claims, and Encumbrances; (C) Subject to Overbid; (D) For Determination of Good Faith Purchaser Under 11 U.S.C. Section 363(M); (E) Authorizing the Assumption and Assignment of Leases Pursuant to 11 U.S.C. Section 365; and (F) Authorizing the Assignment of the Admiral Insurance Policy, Current Insurance Policies and Rent Reduction and Release Agreements

Docket 287

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

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):

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
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10:30 AM

8:18-13864 Friendly Village GP, LLC

Chapter 7

#13.00 Hearing RE: Trustee's Motion to Approve Two Compromises of Controversies with: (1) Shaoul J. Levy, Levy Affiliated Holdings, LLC, Levy Friendly Village, LLC, 5450 Paramount LP, and 5450 Paramount LLC; (2) Sanford Michelman and Michelman and Robinson, LLP

Docket 290

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

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):

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**

Tuesday, May 11, 2021

Hearing Room 5A

10:30 AM

8:18-14221 Taylor Tech Inc.

Chapter 7

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

[WENETA M.A. KOSMALA, CHAPTER 7 TRUSTEE]

FR: 4-8-21

Docket 131

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

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):

Taylor Tech Inc.

Represented By
Anthony A Friedman

Trustee(s):

Weneta M.A. 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**

Tuesday, May 11, 2021

Hearing Room 5A

10:30 AM

8:18-14221 Taylor Tech Inc.

Chapter 7

#15.00 CONT Hearing RE: First and Final Application for Allowance and Payment of Fees and Reimbursement of Expenses of Counsel for the Chapter 7 Trustee

**[WEILAND GOLDEN GOODRICH LLP, ATTORNEYS FOR CHAPTER 7
TRUSTEE WENETA M.A. KOSMALA]**

FR: 4-8-21

Docket 124

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

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):

Taylor Tech Inc.

Represented By
Anthony A Friedman

Trustee(s):

Weneta M.A. Kosmala (TR)

Represented By
Beth Gaschen
Jeffrey I Golden

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Tuesday, May 11, 2021

Hearing Room 5A

10:30 AM

8:18-14221 Taylor Tech Inc.

Chapter 7

#16.00 CONT Hearing RE: First and Final Fee Application of Hahn Fife & Company for Allowance of Fees and Expenses from February 7, 2019 through October 22, 2020

[HAHN FIFE & COMPANY, LLP, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]

FR: 4-8-21

Docket 126

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

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):

Taylor Tech Inc.

Represented By
Anthony A Friedman

Trustee(s):

Weneta M.A. Kosmala (TR)

Represented By
Beth Gaschen
Jeffrey I Golden

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

10:30 AM

8:18-14221 Taylor Tech Inc.

Chapter 7

#17.00 CONT Hearing RE: Application for Payment of First and Final Fees and/or Expenses

[INDEPENDENT MANAGEMENT SERVICES, TRUSTEE FIELD REPRESENTATIVE]

FR: 4-8-21

Docket 125

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

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):

Taylor Tech Inc.

Represented By
Anthony A Friedman

Trustee(s):

Weneta M.A. Kosmala (TR)

Represented By
Beth Gaschen
Jeffrey I Golden

**United States Bankruptcy Court
Central District of California
Santa Ana
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Hearing Room 5A

10:30 AM

8:18-14221 Taylor Tech Inc.

Chapter 7

#18.00 Hearing RE: First and Final Application for Allowance and Payment of Fees and Reimbursement of Expenses of Financial Advisor to the Chapter 7 Trustee

[FORCE TEN PARTNERS, LLC, FINANCIAL ADVISOR TO THE CHAPTER 7 TRUSTEE]

Docket 138

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

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):

Taylor Tech Inc.

Represented By
Anthony A Friedman

Trustee(s):

Weneta M.A. Kosmala (TR)

Represented By
Beth Gaschen
Jeffrey I Golden

**United States Bankruptcy Court
Central District of California
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Tuesday, May 11, 2021

Hearing Room 5A

10:30 AM

8:20-13201 American Sterling Corporation

Chapter 11

#19.00 Hearing RE: Debtor and Debtor-in-Possession's Motion for (1) Authorization to Sell Estate's Residual Interests or Film Rights, in the Annihilation of Fish and Dark Matter, as is Where is, Free and Clear of Any Liens, Claims or Encumbrances, Subject to Overbid, and (2) Approval of Overbidding Procedures

Docket 48

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

Grant the Motion in its entirety.

Basis for Tentative Ruling:

No party submitted an overbid by or before the April 27, 2021 deadline.

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):

American Sterling Corporation

Represented By
Nanette D Sanders

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, May 11, 2021

Hearing Room 5A

10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#20.00 Hearing RE: Motion Seeking Relief Under 11 U.S.C. Section 365(d)(3)(A) and (B) For Entry of Order Extending Time for Performance of Obligations Arising Under Unexpired Non-Residential Real Property Leases

Docket 17

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

Deny Motion.

Basis for Tentative Ruling

1. Debtor has failed to file any evidence in support of the Motion as required by LBR 9013-1(c)(3). No declaration or documentary evidence is attached to the Motion. Though Debtor makes a reference to projections filed early in the case [docket 12], the projections do not jibe with the MOR filed for the period ending March 31, 2021 [docket #32] which shows no receipts whatsoever. The failure to file supporting evidence alone is sufficient ground for denying the Motion irrespective of the other grounds stated by the objecting landlords.

2. As pointed out by objecting parties, Debtor has not, and apparently cannot, satisfy the relief from forfeiture requirement of CCP 1179. That being the case, the leases expired prepetition and cannot be assumed. Section 365(d)(3)(B) does not change that circumstance.

Party Information

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CONT... Mehr Group of Companies Holding Inc.

Chapter 11

Debtor(s):

Mehr Group of Companies Holding

Represented By

Andy C Warshaw

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
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10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#21.00 Hearing RE: PCH Restaurant & Marina, LLC's Motion to Compel Rejection of Terminated Nonresidential Lease

Docket 26

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

Grant Motion for the reasons stated in the Motion and Reply, which the court adopts by reference herein.

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By
Andy C Warshaw

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
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10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#22.00

Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]

PCH RESTAURANT & MARINA, LLC

VS.

DEBTOR

Docket 28

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

Grant Motion for the reasons stated in the Motion and Reply, which the court adopts by reference herein.

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By
Andy C Warshaw

Movant(s):

PCH Restaurant & Marina, LLC

Represented By
Ryan D O'Dea

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
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10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#23.00 STATUS CONFERENCE Hearing on Status of Subchapter V Case; (2) Requiring Report on Status of Subchapter V Case by Debtor and Subchapter V Trustee; and (3) Requiring Subchapter V Trustee to Appear at the Status Conference

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

No tentative ruling; disposition will depend on outcome of other matters on today's calendar.

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By
Andy C Warshaw

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
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Tuesday, May 11, 2021

Hearing Room 5A

10:30 AM

8:21-10958 Plamex Investment, LLC

Chapter 11

#24.00 FINAL Hearing RE: Debtor's Emergency Motion for Entry of an Interim Order,
Pending a Final Hearing, Authorizing the Debtor to Use Cash Collateral

FR: 4/16/21

Docket 6

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

Grant motion on final basis on terms set forth in the signed cash collateral stipulation.

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

Plamex Investment, LLC

Represented By
Ron Bender
Juliet Y Oh
Monica Y Kim

Movant(s):

Plamex Investment, LLC

Represented By
Ron Bender
Juliet Y Oh
Monica Y Kim

**United States Bankruptcy Court
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Santa Ana
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Tuesday, May 11, 2021

Hearing Room 5A

2:00 PM

8:20-11898 Louis Sandoval

Chapter 7

Adv#: 8:20-01110 Myers v. Sandoval

#25.00 Hearing RE: Motion of Defendant Louis Sandoval to Dismiss Complaint of Charlotte Cysner Myers as to All Causes of Action

Docket 25

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

Grant the Motion to Dismiss the Complaint with leave to amend the Complaint as to the 523(a)(2) claim; Grant the Motion to Dismiss the Complaint without leave to amend the Complaint as to the claim for relief under 727(a)(4). Plaintiff must file and serve an Amended Complaint no later than June 11, 2021; Defendant must file and serve his response to the Amended Complaint no later than July 12, 2021.

Basis for Tentative Ruling:

Louis Sandoval, debtor and defendant ("Defendant") filed a voluntary chapter 7 petition on July 3, 2020. Charlotte Myers ("Plaintiff") filed a complaint asserting that her debt was excepted from discharge under §§ 523(a)(2) and for denial of discharge under 727(a)(4) ("Complaint") on July 20, 2020. Defendant did not file an answer to the Complaint but has filed this motion to dismiss the Complaint pursuant to Federal Rules of Civil Procedure (FRCP) 12(b)(6) ("Dismissal Motion"). Plaintiff's pending motion for entry of a default judgment is scheduled for hearing at the same time as the Dismissal Motion.

A. Legal standard

FRCP 12(b)(6), made applicable to this adversary proceeding by

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Federal Rules of Bankruptcy Procedure 7012, provides that a party may move to dismiss a claim for relief for "failure to state a claim upon which relief can be granted[.]" In *Atlantic Corp. v. Twombly*, 550 U.S. 544, 561 (2007), the Supreme Court established stringent notice-pleading standards for motions to dismiss under FRCP 12(b)(6). A plaintiff is required to provide more than "labels and conclusions, and a formulaic recitation of the elements of a cause of action" *Id.* at 555. The plaintiff must provide "enough facts to state a claim to relief that is plausible on its face" to nudge "their claims across the line from conceivable to plausible[.]" *Id.* at 570.

"To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim for relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (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." *Id.* The plausibility standard is not akin to a 'probability requirement,' but it asks more than a sheer possibility that a defendant has acted unlawfully." *Id.* "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." *Id.* While legal conclusions can provide the framework of a complaint, "they must be supported by factual allegations." *Id.* at 679. "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.* (internal citations omitted).

The court must construe the complaint in the light most favorable to the plaintiff, accept all well-pleaded factual allegations as true, and "all reasonable inferences drawn from them". *Johnson v. Riverside Healthcare Sys., LP.*, 534 F.3d 1116, 1122 (9th Cir. 1990).

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); *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

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necessarily relies' on them.").

B. Plaintiff has failed to allege a plausible claim for relief under § 523

Even construing the Complaint liberally, as required for *pro se* litigants, and construing the Complaint in the light most favorable to Plaintiff, the Complaint, as currently written, fails to allege any plausible claims for relief. See, *In re Kashani*, 190 B.R. 875, 883 (B.A.P. 9th Cir. 1995)("The courts are to make reasonable allowances for *pro se* litigants and are to construe *pro se* papers and pleadings liberally.").

Although the caption of the Complaint references §§ 523(a)(2) and 727(a)(4) as the basis for the nondischargeability of Defendant's debt to her and the denial of Defendant's discharge respectively, the Complaint itself does not set forth any claims for relief under either statute. See Compl., 1 (§§ 523(a)(2) and 727(a)(4) are cited only in the Complaint title caption and footer). That alone is basis for granting the Motion because the Complaint fails to satisfy the pleading notice requirements of FRCP 8. "The purpose of notice pleading is to 'give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests.' " *In re Bey*, 2014 WL 4071042, at *3 (Bankr. C.D. Cal. Aug. 14, 2014). The Complaint alleges certain factual allegations but does not tie the allegations to either §523(a)(2) or 727(a)(4)

To the extent the Complaint is alleging a claim for relief for fraud under § 523(a)(2)(A), the Complaint falls short of the higher pleading standards of FRCP 9. Where fraud is alleged, "under FRCP 9(b), applicable via Rule 7009, fraud must be pleaded with particularity." *In re Jacks*, 266 B.R. 728, 734 (BAP 9th Cir. 2001). Allegations of fraud must comply with FRCP (9)(b). "To comply with Rule 9(b), allegations of fraud must be specific enough to give defendants notice of the particular misconduct which is alleged to constitute the fraud charged so that they can defend against the charge and not just deny that they have done anything wrong." *Bly-Magee v. Cal.*, 236 F.3d 1014, 1019 (9th Cir. 2001).

Under § 523(a)(2)(A), a debt is nondischargeable if the debt is for "for money, property, services, or an extension, renewal, or refinancing of credit, to the extent obtained, by...(A) false pretenses, a false representation, or

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actual fraud, other than a statement respecting the debtor's or an insider's financial condition[.]" For a debt to be non-dischargeable pursuant to § 532(a)(2)(A), the following five elements must be proven by a preponderance of the evidence: (1) the debtor made the representations; (2) that at the time he knew they were false; (3) that he made them with the intention and purpose of deceiving the creditor; (4) that the creditor justifiably relied on such representations; and (5) that the creditor sustained the alleged loss and damage as the proximate result of the representations having been made. *In re Kirsh*, 973 F.2d. 1454, 1457 (9th Cir. 1992).

In this case, even viewing the Complaint in the light most favorable to Plaintiff, the Complaint fails to allege any specific false statement(s) (or when such false statement(s) was/were made to Plaintiff), that Defendant knew the statement(s) to be false when made; that Defendant intended to deceive Plaintiff, that Plaintiff's reliance on Defendant's alleged false statement(s) was justifiable, and that she relied on such false statement(s) to her financial detriment. At best, the Complaint alleges that Defendant borrowed \$50,000 from Plaintiff during the course of their personal relationship which Debtor did not repay. And while Plaintiff alleges additional facts in her Opposition to the Motion, the court will only consider the "four corners" of the Complaint as required within the context of FRCP 12(b)(6).

C. Plaintiff has failed to allege a plausible claim for relief under § 727

As previously noted, the Complaint's title caption and footer also refers to § 727(a)(4). Bankruptcy Code Section 727(a)(4) denies a discharge to the debtor where "the debtor knowingly and fraudulently, in or connection with the [bankruptcy] case, made a false oath or account." "A false statement or an omission in the debtor's bankruptcy schedules or statement of financial affairs can constitute a false oath." *In re Retz*, 606 F.3d 1189, 1196 (9th Cir. 2010) (citations omitted). "To prevail, a plaintiff must show that '(1) the debtor made a false oath in connection with the case; (2) the oath related to a material fact; (3) the oath was made knowingly; and (4) the oath was made fraudulently.'" *Id.* at 1197 (citations omitted). Additionally, the statement must be material fact. *In re Aubrey*, 111 B.R. 268, 274 (9th Cir. BAP 1990). "A false statement is material if it bears a relationship to the debtor's business transactions or estate, or concerns the discovery of assets, business dealings, or the

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existence and disposition of the debtor's property." *In re Wills*, 243 B.R. 58, 62 (B.A.P. 9th Cir. 1999). The plaintiff must also "show that the debtor knowingly and fraudulently made a false oath." *Id.* at 64. The fraudulent intent must be actual, not constructive, and can be established by circumstantial evidence. *Id.*

In this matter, the Complaint does not allege any false statement or false oath or that he engaged in any misconduct in connection with the bankruptcy case itself. The alleged misconduct of taking advantage of Plaintiff's "kindness and willingness to fraudulently borrow" \$50,000 from Plaintiff was not committed "in or in connection with the case" because it occurred well before the bankruptcy case was filed in 2020. Accordingly, even viewing the Complaint in the light most favorable to Plaintiff, Plaintiff has failed to allege a plausible claim for relief under § 727(a)(4).

D. Leave to amend the Complaint is partially granted

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 to this proceeding 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. 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.

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2004).

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Here, although Plaintiff has not requested leave to amend, in light of the Ninth Circuit's policy of granting leave to amend with "extreme liberality," the court will grant Plaintiff the opportunity to amend the Complaint as to a claim under 523(a)(2) in order to satisfy the pleading requirements for fraud. The court strongly encourages Plaintiff to seek legal counsel in assisting her with the filing of an amended complaint. Leave to amend will not be granted for the § 727 claim for relief, however, because the loans were issued in the 2013 and the personal relationship ended in 2019. As such, Defendant's alleged conduct did not occur "in or in connection with" Defendant's bankruptcy case which was filed in 2020.

Party Information

Debtor(s):

Louis Sandoval

Represented By
Steven B Lever

Defendant(s):

Louis Sandoval

Represented By
Steven B Lever

Plaintiff(s):

Charlotte Cysner Myers

Pro Se

Trustee(s):

Weneta M.A. Kosmala (TR)

Pro Se

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8:20-11898 Louis Sandoval

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Adv#: 8:20-01110 Myers v. Sandoval

#26.00 CON'TD Hearing RE: Plaintiff's Motion for Default Judgment Under LBR 7055-1

FR: 4-15-21

Docket 19

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

Continue this hearing to May 11, 2021 at 2:00 p.m., same date and time as the hearing on Defendant's motion to dismiss the adversary so that all matters can be heard in the same hearing. (XX)

Note: No appearances for the April 15, 2021 hearing are required.

May 11, 2021

Deny the Motion for Default Judgment

Basis for the Tentative Ruling

A defendant's default in failing to respond to a complaint, does not automatically entitle the plaintiff to entry of a default judgment; rather, the bankruptcy court has broad discretion to conduct such hearings and receive such evidence as it deemed proper prior to entering default judgment. See *In re Trevisan*, 300 BR 708 (Bankr. E.D. Wis. 2003) ("In nondischargeability proceedings, bankruptcy courts should exercise their discretion to require creditors to prove a prima facie case, and not just rely

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on debtor's default in failing to answer creditor's complaint in order to prevent creditor from obtaining default judgment, regardless of the merits of its complaint").

Under FRBP 7055(b), the court may require a plaintiff to demonstrate a *prima facie* case by competent evidence in a prove-up trial to obtain a default judgment. See *In re Liu*, 282 B.R. 904 (Bankr. C.D. Cal. 2002); *In re Villegas*, 132 B.R. 742, 746 (9th Cir. BAP 1991); *TeleVideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). In such a hearing, the plaintiff must demonstrate each of the elements of a cause of action to support a *prima facie* case. See *In re Bui*, 188 B.R. 274, 276 (Bankr. N.D. Cal. 1995). The court has wide discretion under FRBP 7055 to consider whether the evidence presented supports a claim and warrants judgment for the plaintiff. See *In re Beltran*, 182 B.R. 820, 823-24 (9th Cir. BAP 1995).

Under FRBP 7055(b), the court may require a plaintiff to demonstrate a *prima facie* case by competent evidence in a prove-up trial to obtain a default judgment. See *In re Liu*, 282 B.R. 904 (Bankr. C.D. Cal. 2002); *In re Villegas*, 132 B.R. 742, 746 (9th Cir. BAP 1991); *TeleVideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). In such a hearing, the plaintiff must demonstrate each of the elements of a cause of action to support a *prima facie* case. See *In re Bui*, 188 B.R. 274, 276 (Bankr. N.D. Cal. 1995). The court has wide discretion under FRBP 7055 to consider whether the evidence presented supports a claim and warrants judgment for the plaintiff. See *In re Beltran*, 182 B.R. 820, 823-24 (9th Cir. BAP 1995).

Here, Plaintiff filed a form motion for default judgment with no evidence in support of the Motion. There are no declarations attached to the Motion. The Complaint is also bare bones and includes no specific allegations under either §523(a)(2) or §727(a)(4) (other than in the caption and footer of the Complaint. The Motion does not include any evidence in support of the allegations, such as a sworn statement (declaration), copies of checks, etc. While Plaintiff might have a meritorious case against Defendant, she has not demonstrated a *prima facie* case for nondischargeability under §523(a)(2) or objection to discharge under §

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727(a)(4).

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Moreover, since the filing of the Motion, Defendant has filed a motion to dismiss the Complaint that is set for hearing on May 11 at 2:00 pm. While this is no excuse for Defendant's failure to participate in the case up to this point (assuming he was properly served with the Complaint and Another Summons), he is now showing an interest in defending the action. Since there is a strong preference to litigate cases on the merits in the Ninth Circuit, default is not appropriate.

Party Information

Debtor(s):

Louis Sandoval

Represented By
Steven B Lever

Defendant(s):

Louis Sandoval

Pro Se

Plaintiff(s):

Charlotte Cysner Myers

Pro Se

Trustee(s):

Weneta M.A. Kosmala (TR)

Pro Se

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

Tuesday, May 11, 2021

Hearing Room 5A

2:00 PM

8:20-11898 Louis Sandoval

Chapter 7

Adv#: 8:20-01110 Myers v. Sandoval

#27.00 CON'TD STATUS CONFERENCE RE: Complaint to Object to Debtor's Discharge and Complaint to Determine Non-Dischargeability of Debt Under Section 523(A) (2) of The Bankruptcy Code and For Denial of Discharge Under Section 727(A)(4) of The Bankruptcy Code (Another Summons Issued 10/30/2020)

FR: 1-14-21; 4-15-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 14, 2021

No answer or other response to the Complaint has been filed by the defendant, Louis Sandoval. Accordingly, this Status Conference will be continued to April 15, 2021 at 9:30 a.m. to allow Plaintiff to file a motion for entry of a default judgment against the defendant which provides evidence to support the required elements of fraud under Bankruptcy Code Section 523(a)(2)(A). (XX)

Special Note:

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

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

Tuesday, May 11, 2021

Hearing Room 5A

2:00 PM

CONT... Louis Sandoval

Chapter 7

Conference for failure to prosecute.

The court strongly suggests that Plaintiff seek legal counsel regarding the preparation of a motion for default judgment.

Note: If Plaintiff accepts the foregoing tentative ruling, appearance at today's hearing is not required; Plaintiff to serve the defendant by mail with notice of the continued hearing date/time.

April 15, 2021

Continue this hearing to May 11, 2021 at 2:00 p.m., same date and time as the hearing on Defendant's motion to dismiss the adversary so that all matters can be heard in the same hearing. (XX)

Note: No appearances for the April 15, 2021 hearing are required.

May 6, 2021

Continue the Status Conference to August 19, 2021. A Joint Status Report must be filed by August 5, 2021

Party Information

Debtor(s):

Louis Sandoval

Represented By
Steven B Lever

Defendant(s):

Louis Sandoval

Pro Se

Plaintiff(s):

Charlotte Cysner Myers

Pro Se

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

Tuesday, May 11, 2021

Hearing Room 5A

2:00 PM

CONT... Louis Sandoval

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, May 20, 2021

Hearing Room 5A

9:30 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1607972848>

Meeting ID: 160 797 2848

Password: 852143

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM
CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.

Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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

Thursday, May 20, 2021

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; 5-21-20; 9-17-20; 1-20-21

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)

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, May 20, 2021

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. (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. (XX)

Note: Appearance at this hearing is not required; non appearance at today's hearing shall be deemed acceptance of the tentative ruling.

September 17, 2020

Continue Status Conference to January 21, 2021; updated joint status report must be filed by January 7, 2021. (XX)

Special note: Starting 10/8/20 all hearings before Judge Smith will be by Zoom. See Court's website for details.

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

January 21, 2021

Continue the Status Conference to May 20, 2021 at 9:30 a.m.; updated

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... John Jean Bral

Chapter 11

Status Report must be filed by May 6, 2021. (XX)

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

May 20, 2021

Continue Status Conference to September 30, 2021 at 9:30 a.m.; updated Status Report must be filed by September 16, 2021.

Note: Appearances at this hearing are not required; 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

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

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; 5-21-20; 9-17-20; 1-21-21

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, May 20, 2021

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. (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. (XX)

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.

September 17, 2020

Continue Status Conference to January 21, 2021 at 9:30 am; updated joint status report must be filed by January 7, 2021. (XX)

Special note: Starting 10/8/20 all hearings before Judge Smith will be by Zoom. See Court's website for details.

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

January 21, 2021

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... John Jean Bral

Chapter 11

Continue the Status Conference to May 20, 2021 at 9:30 a.m.; updated Status Report must be filed by May 6, 2021. (XX)

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

May 20, 2021

Continue Status Conference to September 30, 2021 at 9:30 a.m.; updated Status Report must be filed by September 16, 2021.

Note: Appearances at this hearing are not required; 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

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... John Jean Bral

Chapter 11

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, May 20, 2021

Hearing Room 5A

9:30 AM

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; 5-21-20; 9-17-20; 1-21-21

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.***

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

Thursday, May 20, 2021

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. (XX)

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.

September 17, 2020

Continue Status Conference to January 21, 2021 at 9:30 am; updated joint status report must be filed by January 7, 2021.(XX)

Special note: Starting 10/8/20 all hearings before Judge Smith will be by Zoom. See Court's website for details.

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

January 21, 2021

Continue the Status Conference to May 20, 2021 at 9:30 a.m.; updated Status Report must be filed by May 6, 2021. (XX)

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... John Jean Bral

Chapter 11

Special Note: Re the comments of the parties in Section G of the Status Report, it is not clear what relief from the Court is sought. The court will entertain any properly filed motion.

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

May 20, 2021

Continue Status Conference to September 30, 2021 at 9:30 a.m.; updated Status Report must be filed by September 16, 2021.

Note: Appearances at this hearing are not required; 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

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... John Jean Bral

Chapter 11

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 20, 2021

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; 5-21-20; 9-17-20; 1-21-21

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 20, 2021

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. (XX)

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.

September 17, 2020

Continue Status Conference to January 21, 2021 at 9:30 am; updated joint status report must be filed by January 7, 2021. (XX)

Special note: Starting 10/8/20 all hearings before Judge Smith will be by Zoom. See Court's website for details.

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

January 21, 2021

Continue the Status Conference to May 20, 2021 at 9:30 a.m.; updated Status Report must be filed by May 6, 2021. (XX)

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... John Jean Bral

Chapter 11

Special Note: Re the comments of the parties in Section G of the Status Report, it is not clear what relief from the Court is sought. The court will entertain any properly filed motion.

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

May 20, 2021

Continue Status Conference to September 30, 2021 at 9:30 a.m.; updated Status Report must be filed by September 16, 2021.

Note: Appearances at this hearing are not required; 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

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... John Jean Bral

Chapter 11

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, May 20, 2021

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

#5.00 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; 7-23-20; 10-22-20; 1-21-21; 4-8-21

Docket 1

***** VACATED *** REASON: CONTINUED: Status Conference
Continued to 8/19/2021 at 9:30 a.m., Per Order Entered 5/17/2021 (XX)**

Courtroom Deputy:

**SPECIAL NOTE: Notice of Voluntary Dismissal of Only Defendant
Byungwhan Chung, an individual, filed 3/25/2021 - td (3/26/2021)**

**CONTINUED: Status Conference Continued to 8/19/2021 at 9:30 a.m., Per
Order Entered 5/17/2021 (XX) - td (5/17/2021)**

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

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... Prime Metals U.S.A., Inc.
date.

Chapter 7

Note: Appearances at this hearing are not required.

January 21, 2021

Continue status conference to April 8, 2021 at 9:30 a.m.; updated status report must be filed by March 25, 2021 if the adversary is still pending by such date. (XX)

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

April 8, 2021

Continue status conference one final time to May 20, 2021 at 9:30 a.m.; updated status report must be filed by May 6, 2021.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall serve notice of the continued hearing date/time.

Party Information

Debtor(s):

Prime Metals U.S.A., Inc.

Represented By
Steven Werth

Defendant(s):

Minho An

Represented By
Michael H Yi

Byungwhan Chung

Pro Se

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

Thursday, May 20, 2021

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, May 20, 2021

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 CONTD PRE-TRIAL CONFERENCE RE: Complaint for: 1. Breach of Fiduciary Duty; 2. Accounting; and 3. Defalcation of Trust **(as to Defendant Minho An)**

FR: 2-6-20; 10-8-20; 1-21-21; 4-22-21

Docket 1

***** VACATED *** REASON: CONTINUED TO 8/19/2021 AT 9:30 A.M.,
Per Order Entered 5/17/2021 (XX)**

Courtroom Deputy:

SPECIAL NOTE: Notice of Voluntary Dismissal of Only Defendant Ik Dong Kim, aka Kim Zk Dong, an individual, with Prejudice, filed 2/3/2021 - td (2/3/2021); Notice of Voluntary Dismissal of Only Defendant Gill Su Sun, an individual, with Prejudice, filed 3/25/2021 - td (3/26/2021)

**CONTINUED: Pretrial Conference Continued to 8/19/2021 at 9:30 a.m.,
Per Order Entered 5/17/2021 (XX) - td (5/17/2021)**

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.
(XX)	
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, Minho An, was granted an extension of time to January 7, 2020 to file an answer. An's answer was timely filed.

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

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
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, May 20, 2021

Hearing Room 5A

9:30 AM

8:18-13001 Mohsen Masoudfar

Chapter 7

Adv#: 8:18-01206 Sakhai v. Masoudfar

#7.00 CONT STATUS CONFERENCE RE: Complaint to determine dischargeability of debt and for denial of discharge (11 U.S.C. section 523(a)(15); 727(a)(2)(A) & (B);(a)(3) & (a)(4)(A))

[fr: 2/12/19, 7/23/19, 10/22/19, 1/21/20, 3/24/20, 6/30/20]; 9/29/20, Rm 5D; 10-1-20; 1-21-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 1, 2020

In light of pending settlement negotiations, continue this Status Conference to January 21, 2021 at 9:30 a.m.; an updated Status Report must be filed by January 7, 2021. (XX)

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

January 21, 2021

Continue the Status Conference one final time to May 20, 2021 at 9:30 a.m.; updated Status Report must be filed by May 6, 2021. (XX)

Special Note: An updated Status Report was not filed by January 7, 2021 as ordered by the Court. If an updated Status Report is not filed by May 6, 2021, monetary sanctions of not less than \$100 will be imposed against Plaintiff's counsel.

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, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... Mohsen Masoudfar

Chapter 7

notice of the continued hearing date/time.

May 20, 2021

Continue Status Conference to July 1, 2021 at 9:30 a.m. Court to issue an Order To Show Cause why this adversary should not be dismissed for lack of prosecution to be heard on July 1, 2021 at 9:30 a.m. Sanctions in the amount of \$100.00 shall be imposed on Plaintiff's counsel for failing to timely file a Status Report by May 6, 2021, payable to the Clerk of the Court by June 21, 2021.

Basis for Tentative Ruling:

The court ruled re the January 21, 2021 Status Conference that sanctions would be imposed if a Status Report was not filed for this hearing by May 6, 2021.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing not required and Plaintiff shall serve notice of the continued hearing date/time.

Party Information

Debtor(s):

Mohsen Masoudfar

Represented By
D Edward Hays

Defendant(s):

Mohsen Masoudfar

Pro Se

Plaintiff(s):

Parastou Sakhai

Represented By
Jeffrey S Shinbrot

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... Mohsen Masoudfar

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, May 20, 2021

Hearing Room 5A

9:30 AM

8:18-14603 Sean Pate

Chapter 7

Adv#: 8:20-01122 Kosmala v. Chandar et al

#8.00 CON'TD STATUS CONFERENCE RE: Complaint for Avoidance of Fraudulent Transfers (11 U.S.C. §544); Breach of Contract Note; and Turnover (11 U.S.C. § 542)

FR: 11-5-20; 2-18-21

Docket 1

***** VACATED *** REASON: CONTINUED TO 7/22/2021 AT 9:30 A.M.,
Per Order Entered 5/19/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 7/22/2021 at 9:30 a.m., Per
Order Entered 5/19/2021 (XX) - td (5/19/2021)**

Tentative Ruling:

February 18, 2021

In light of pending mediation, continue this status conference to May 20, 2021 at 9:30 a.m.; updated joint status report must be filed by May 6, 2021. (XX)

Note: Appearances at this status conference are not required; Plaintiff shall serve notice of the continued status conference.

Party Information

Debtor(s):

Sean Pate

Represented By
Anerio V Altman

Defendant(s):

Deepak Chandar

Pro Se

Reena A. Shah

Pro Se

Spherebase, LLC

Pro Se

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... **Sean Pate**
Spherebase, LLC

Pro Se

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, May 20, 2021

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 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)
[Trial is Currently Set for 5/26/21 at 9:30 am and 5/27/21 at 9:30 am]**

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Order Approving Stipulation for Entry of Judgment and Stipulated Judgment Entered 5/14/2021**

Courtroom Deputy:

OFF CALENDAR: Order Approving Stipulation for Entry of Judgment and Stipulated Judgment Entered 5/14/2021 - td (5/14/2021)

Tentative Ruling:

May 6, 2021

Off-Calendar. This matter has settled.

Note: Appearances at this Status Conference are not required.

Party Information

Debtor(s):

Peter Woo Sik Kim

Represented By
David Brian Lally

Defendant(s):

Peter Kim

Represented By
David Brian Lally

Sharon Kim

Represented By
David Brian Lally

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... Peter Woo Sik Kim

Chapter 7

Joint Debtor(s):

Sharon Soyun Kim

Represented By
David Brian Lally

Plaintiff(s):

Kang Family 2007 Revocable Trust

Represented By
Edmond Richard McGuire

Trustee(s):

Weneta M.A. 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 20, 2021

Hearing Room

5A

9:30 AM

8:19-11546 Joseph Ra

Chapter 7

Adv#: 8:19-01163 O'Gara Coach Company, LLC v. Ra

#10.00 CON'TD STATUS CONFERENCE RE: Complaint To Determine
NonDischargeability Of Debt [11 U.S.C. Section 523(a)(4) And 523(a)(6)]

FR: 11-7-19; 5-21-20; 10-22-20; 11-19-20

Docket 1

***** VACATED *** REASON: Plaintiff's Notice of Voluntary Dismissal of
Adversary Proceeding filed 5/11/21**

Courtroom Deputy:

**OFF CALENDAR: Plaintiff's Notice of Voluntary Dismissal of Adversary
Proceeding filed 5/11/21- mp(5/17/21)**

Tentative Ruling:

November 7, 2019

Discovery Cut-off Date:	Mar. 13, 2020
Deadline to File Summary Judgment Motion:	Mar. 31, 2020
Pretrial Conference Date: (XX)	May 21, 2020 at 9:30 a.m.
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.***

November 19, 2020

In light of the chapter 7 trustee's pending 727 denial of discharge action,
continue this Status Conference to May 20, 2021 at 9:30 a.m.; an updated
Status Report must be filed by May 6, 2021. (XX)

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... Joseph Ra

Chapter 7

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
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, May 20, 2021

Hearing Room 5A

9:30 AM

8:19-11546 Joseph Ra

Chapter 7

Adv#: 8:19-01164 Laplant v. Ra

#11.00 CON'TD STATUS 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; 7-23-20; 9-17-20; 12-17-20

Docket 1

Courtroom Deputy:

- NONE LISTED -

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.

September 17, 2020

[This tentative ruling has been modified since its original posting]

Continue hearing to December 17, 2020 at 9:30 a.m.; Updated status report must be filed by December 3, 2020. (XX)

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT...

Joseph Ra

Chapter 7

Special Note: The Status Conference is being continued because the deadline for the chapter 7 trustee to file a 727 action has been extended to November 2, 2020. It is Plaintiff's responsibility to track the status of any further extensions and/or 727 filing and to report such status in a timely filed updated Status Report. Failure to do so by December 3, 2020 may result in the imposition of sanctions against Plaintiff's counsel in an amount of not less than \$100.00.

Additional note: Starting 10/8/20 all hearings before Judge Smith will be by Zoom. See Court's website for details.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall serve notice of the continued hearing date/time.

December 17, 2020

In light of the pending 727 adversary proceeding filed by the Chapter 7 Trustee, continue this Status Conference to May 20, 2021 at 9:30 a.m.; updated Status Report must be filed by May 6, 2021 (XX)

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.

May 20, 2021

Plaintiff to appear and advise the court if he intends to proceed with his declaratory relief claim for relief.

Special Note: On March 8, 2021, this court entered its order granting the chapter 7 trustee's motion for default judgment re denial of discharge under 727, mooted Plaintiff's 523 nondischargeability claims for relief. However, the declaratory claim for relief remains.

Note: Appearance at this Status Conference is required.

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... Joseph Ra

Chapter 7

Party Information

Debtor(s):

Joseph Ra

Represented By
David B Golubchik

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, May 20, 2021

Hearing Room 5A

9:30 AM

8:19-11551 Richard Allen Rietveld

Chapter 7

Adv#: 8:19-01162 Becharoff Capital Corporation v. Rietveld

#12.00 CONT'D 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; 8-20-20; 10-1-20; 12-17-20; 4-1-21

Docket 1

Courtroom Deputy:

SPECIAL NOTE: Notice that the CAsE has been Settled, filed 5/19/2021 - td (5/20/2021)

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.

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. (XX)

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

Thursday, May 20, 2021

Hearing Room

5A

9:30 AM

CONT...

Richard Allen Rietveld

Chapter 7

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.

October 1, 2020

Continue this Pretrial Conference to December 17, 2020 at 9:30 a.m. as a Status Conference; an updated Status Report must be filed by December 3, 2020. (XX)

Special Note: A Status Report was not timely filed by September 17, 2020 as previously ordered by the Court [docket #14]. If this adversary proceeding remains pending as of December 3, 2020 and no Status Report is filed by such date, sanctions in an amount of not less than \$200 will be imposed on Plaintiff's counsel for failure to do so.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time on Defendant.

December 17, 2020

Set Pretrial Conference for April 1, 2021 at 9:30 a.m.; Joint Pretrial Stipulation must be filed by March 18, 2021. (XX)

Special note: As the first Status Conference was held more than one year ago, the court will not simply continue the Status Conference any further. Either the matter will settle or proceed to trial.

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.

May 20, 2021

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... Richard Allen Rietveld

Chapter 7

Impose sanctions against Plaintiff's counsel in the amount of \$100 for failure to timely file either a Joint Pretrial Stipulation or Status Report by May 6, 2021 (See Order at docket #29).

Note: Appearance at this hearing is required.

Party Information

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, May 20, 2021

Hearing Room 5A

9:30 AM

8:19-13130 Mark Jeffrey Berry

Chapter 7

Adv#: 8:20-01175 Casey v. Banuelos, III

#13.00 CON'TD STATUS CONFERENCE RE: Chapter 7 Trustee's Complaint to Avoid and Recover Transfers of Property of the Estate

FR: 3-11-21

Docket 1

*** VACATED *** REASON: OFF CALENDAR: Order Approving Chapter 7 Trustee's Request for Voluntary Dismissal of Complaint Against Defendant and Request to Take Status Conference Off Calendar ENTERED 5/19/21

Courtroom Deputy:

OFF CALENDAR: Order Approving Chapter 7 Trustee's Request for Voluntary Dismissal of Complaint Against Defendant and Request to Take Status Conference Off Calendar ENTERED 5/19/21. --eas/td (5/19/2021)

Tentative Ruling:

March 11, 2021

Continue Status Conference to May 20, 2021 at 9:30 a.m.; updated Status Report must be filed by May 6, 2021. (XX)

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

Party Information

Debtor(s):

Mark Jeffrey Berry

Represented By
Francis Guilardi

Defendant(s):

Benjamin Banuelos, III

Pro Se

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... Mark Jeffrey Berry

Chapter 7

Plaintiff(s):

Thomas H. Casey 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 20, 2021

Hearing Room 5A

9:30 AM

8:19-13858 Bruce Elieff

Chapter 7

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

#14.00 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; 8-20-20; 11-19-20; 12-17-20; 1-21-21; 2-18-21

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 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. (XX)

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.

November 19, 2020

Continue the hearing to December 17, 2020 at 9:30 a.m.; the court's order re the SJ Motion will be issued in the near future. (XX)

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

Thursday, May 20, 2021

Hearing Room

5A

9:30 AM

CONT... Bruce Elieff

Chapter 7

Note: Appearances at this hearing are not required.

December 17, 2020

Continue Status Conference one final time to January 21, 2021 at 9:30 a.m.
(XX)

Note: Appearances at this hearing are not required.

January 21, 2021

Continue the hearing to February 18, 2021 at 9:30 a.m.; the court's order re
SJ will be issued on January 25, 2021. (XX)

Note: Appearances at this hearing are not required.

February 18, 2021

Continue status conference to May 20, 2021 at 9:30 a.m.; updated joint status
report must be filed by May 6, 2021. (XX)

***Note: Appearances at this hearing are not required; Plaintiff serve
notice of the continued hearing date/time.***

May 20, 2021

Continue the Status Conference to November 18, 2021 at 9:30 a.m.; updated
Joint Status Report must be filed by November 4, 2021.

Special note: The court will not *sua sponte* dismiss the remaining claims. If
either party is dissatisfied with the tentative ruling, he can file a properly

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... Bruce Elieff
noticed motion for relief.

Chapter 7

Note: If both parties accept the tentative ruling, appearances at this hearing are not required and Plaintiff shall service of the continued hearing date/time.

Party Information

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
Sean A OKeefe

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

8:19-13858 Bruce Elieff

Chapter 7

Adv#: 8:20-01046 Ehrenberg (TR) v. Benice et al

#15.00 CON'TD STATUS CONFERENCE RE: Complaint for Injunctive Relief

FR: 7-16-20; 9-17-20; 11-19-20; 2-18-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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.

September 17, 2020

[This tentative ruling has been modified since its original posting]

Continue this matter to November 19, 2020 at 9:30 a.m.; updated status report must be filed by November 5, 2020. (XX)

Special note: Starting 10/8/20 all hearings before Judge Smith will be by Zoom. See Court's website for details.

Note: Appearances at this hearing are not required.

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... **Bruce Elieff**

Chapter 7

November 19, 2020

An updated Status Report was not filed as ordered at the September 17, 2020 hearing. Therefore, the parties must appear at the hearing and advise the court re the status of this matter.

February 18, 2021

Continue status conference to May 20, 2021 at 9:30 a.m.; updated joint status report must be filed by May 6, 2021. The Plaintiff's request to consolidate the Disgorgement Motion [docket no. 381] with this adversary proceeding is granted. Plaintiff to lodge an order consistent with the same.(XX)

Note: Appearances at this hearing are not required; Plaintiff serve notice of the continued hearing date/time.

May 20, 2021

Continue the Status Conference to August 19, 2021 at 9:30 a.m.; updated Joint Status Report must be filed by August 4, 2021.

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson

Defendant(s):

Jeffrey S. Benice

Represented By
Jeffrey S Benice

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... Bruce Elieff
Benice Law

Represented By
Jeffrey S Benice

Chapter 7

Plaintiff(s):

Howard M Ehrenberg (TR)

Pro Se

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

8:19-14169 Gary Clesceri

Chapter 7

Adv#: 8:20-01091 Payday Loan, LLC v. Clesceri

#16.00 PRE-TRIAL CONFERENCE RE: Complaint to Determine Dischargeability of Debt

(Another Summons Issued 9/17/2020)
FR: 12-3-20

Docket 1

Courtroom Deputy:

Tentative Ruling:

December 3, 2020

Discovery Cut-off Date:	Apr. 2, 2021
Deadline to Attend Mandatory Mediation:	Mar. 1, 2021
Pretrial Conference Date:	May 20, 2021 at 9:30 a.m.
(XX)	
Deadline to file Joint Pretrial Stipulation:	May 6, 2021

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.

May 20, 2021

Both parties must appear for today's Pretrial Conference and explain why they have not complied with deadlines ordered in this court's December 3, 2020 Scheduling Order, including the requirement that a Joint Pretrial Stipulation be filed by May 6, 2021.

Basis for Tentative Ruling

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

Thursday, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... Gary Clesceri

Chapter 7

This court issued a Scheduling Order on December 3, 2020 ordering as follows: 1) March 1, 2021 as the deadline for the parties to attend mandatory mediation, 2) April 2, 2021 as the deadline to complete discovery and 3) May 6, 2021 as the deadline for the filing of the joint pre-trial stipulation.

Apparently, neither party has complied with the court-ordered deadlines. For example, in the unilateral status report filed by Plaintiff on May 6, 2021, Plaintiff indicates that it won't complete discovery until "120 days from conclusion of Status Conference." Today's hearing is not a Status Conference -- it is a Pretrial Conference. No explanation is provided as to why Plaintiff did not complete discovery by April 1, 2021 or whether *any* discovery has been done since December 3, 2020 (over five months ago).

Defendant filed a separate unilateral Status Report on May 12, 2020 indicating that he has no money and that he has received his bankruptcy discharge. However, lack of money is not a defense to a dischargeability complaint and the bankruptcy discharge order did not discharge Plaintiff's claim because Defendant did not list Defendant as a creditor. See Bankruptcy Code Section 523(c)(3)(A).

Note: Appearances at this hearing are required.

Party Information

Debtor(s):

Gary Clesceri

Represented By
Michael G Spector

Defendant(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, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... Gary Clesceri

Chapter 7

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, May 20, 2021

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

#17.00 CONT'D STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt [11 U.S.C. Section 523]

FR: 4-16-20; 6-11-20; 7-16-20; 9-17-20; 10-22-20; 12-10-20; 2-18-21

Docket 1

*** VACATED *** REASON: CONTINUED TO 7/22/2021 AT 9:30 A.M.,
Per Order Entered 5/19/2021 (XX)

Courtroom Deputy:

CONTINUED: Status Conference Continued to 7/22/2021 at 9:30 a.m., Per Order Entered 5/19/2021 (XX) - td (5/19/2021)

Tentative Ruling:

February 18, 2021

Continue this status conference to May 20, 2021 at 9:30 a.m.; an updated joint status report must be filed by May 6, 2021. (XX)

Note: Appearances at this hearing are not required if all the parties accept the foregoing tentative ruling and Plaintiff shall serve notice of the continued hearing date/time.

May 20, 2021

Continue Status Conference to August 19, 2021 at 9:30 a.m.; updated Joint Status Report must be filed by August 5, 2021.

Note: Appearances at this hearing are not required if all the parties accept the foregoing tentative ruling and 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, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... Jason M. Barrette

Chapter 7

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, May 20, 2021

Hearing Room 5A

9:30 AM

8:20-11319 Vincent Dwyne Howard

Chapter 7

Adv#: 8:20-01115 Ray Hodge & Associates, L.L.C. v. Howard

#18.00 PRE-TRIAL CONFERENCE RE: Complaint to Determine Dischargeability of Debt Pursuant to 11 U.S.C. Section 523(a)(2)

FR: 11-5-20

Docket 1

***** VACATED *** REASON: CONTINUED TO 12/2/2021 AT 9:30 A.M.,
PER ORDER ENTERED 4/2/2021 (XX)**

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

November 5, 2020

Discovery Cut-off Date: Apr. 1, 2021
Deadline to Attend Mediation: Feb.15, 2021
Pretrial Conference Date: May 20, 2021 at 9:30 am (XX)

Deadline to Lodge Joint Pretrial Stipulation: May 5, 2021

Special Note: The court commends the parties for timely filing a complete and thoughtful joint status report. Good job!

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, May 20, 2021

Hearing Room 5A

9:30 AM

CONT... Vincent Dwyne Howard

Chapter 7

Debtor(s):

Vincent Dwyne Howard

Represented By
Anerio V Altman

Defendant(s):

Vincent Dwyne Howard

Pro Se

Plaintiff(s):

Ray Hodge & Associates, L.L.C.

Represented By
James R Selth

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, May 20, 2021

Hearing Room 5A

10:00 AM

8:15-15096 Darshan Upadhyaya

Chapter 7

Adv#: 8:16-01024 Floorit Financial, Inc. v. Upadhyaya

#19.00 CONT'D Examination of Third Person Amanda Upadhyaya aka Amanda C. Ramos Upadhyaya Re: Enforcement of Judgment

FR: 4-9-20; 6-4-20; 9-10-20; 11-19-20; 1-14-21

Docket 20

***** VACATED *** REASON: CONTINUED TO 8/5/2021 AT 10:00 A.M.,
Per Order Entered 5/19/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 8/5/2021 at 10:00 a.m., Per Order
Entered 5/19/2021 (XX) - td (5/19/2021)**

Tentative Ruling:

June 4, 2020

Continue the examination to September 10, 2020 at 10:00 a.m. (XX)

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.

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.

September 10, 2020

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

Thursday, May 20, 2021

Hearing Room 5A

10:00 AM

CONT... **Darshan Upadhyaya**

Chapter 7

Continue the examination to November 19, 2020 at 10:00 a.m. (XX)

Basis for Tentative Ruling

The courthouse is currently 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 November 19, 2020. Depending on the status of pandemic-related rules and policies in place on November 19, 2020, the examination 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.

November 19, 2020

This tentative ruling applies to #s 15 and 16 on today's calendar:

The courthouse is currently closed to in-person court appearances and on-site in-person judgment debtor examinations. However, as this court now conducts hearings on the Zoom platform, the examination may be accommodated by placing the parties in a separate private Zoom "room" after the examinees are sworn in by the courtroom clerk. It will be the responsibility of the Judgment Creditor to either have the court reporter call into the Zoom hearing at the commencement of the hearing or to make other arrangements for the participation of the court reporter. Alternatively, the Judgment Creditor is free to schedule an examination outside the courthouse, including by video conference, in which case this hearing will be continued to January 14, 2021 at 10:00 a.m.

The Judgment Creditor shall advise the courtroom clerk of its choice at the time of the calendar roll call.

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

Thursday, May 20, 2021

Hearing Room 5A

10:00 AM

CONT... Darshan Upadhyaya

Chapter 7

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, May 20, 2021

Hearing Room

5A

10:00 AM

8:15-15096 Darshan Upadhyaya

Chapter 7

Adv#: 8:16-01024 Floorit Financial, Inc. v. Upadhyaya

#20.00 CONT'D Examination of Judgment Debtor Darshan Upadhyaya Re:
Enforcement of Judgment

FR: 4-2-20; 6-4-20; 9-10-20; 11-19-20; 1-14-21

Docket 23

***** VACATED *** REASON: CONTINUED TO 8/5/2021 AT 10:00 A.M.,
Per Order Entered 5/19/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 8/5/2021 at 10:00 a.m., Per Order
Entered 5/19/2021 (XX) - td (5/19/2021)**

Tentative Ruling:

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.

June 4, 2020

Continue the examination to September 10, 2020 at 10:00 a.m. (XX)

Basis for Tentative Ruling

The courthouse remains closed to in-person court appearances and on-site

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

Thursday, May 20, 2021

Hearing Room 5A

10:00 AM

CONT... Darshan Upadhyaya

Chapter 7

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.

September 10, 2020

Continue the examination to November 19, 2020 at 10:00 a.m. (XX)

Basis for Tentative Ruling

The courthouse is currently 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 November 19, 2020. Depending on the status of pandemic-related rules and policies in place on November 19, 2020, the examination 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.

November 19, 2020

This tentative ruling applies to #s 15 and 16 on today's calendar:

The courthouse is currently closed to in-person court appearances and on-

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

Thursday, May 20, 2021

Hearing Room 5A

10:00 AM

CONT... Darshan Upadhyaya

Chapter 7

site in-person judgment debtor examinations. However, as this court now conducts hearings on the Zoom platform, the examination may be accommodated by placing the parties in a separate private Zoom "room" after the examinees are sworn in by the courtroom clerk. It will be the responsibility of the Judgment Creditor to either have the court reporter call into the Zoom hearing at the commencement of the hearing or to make other arrangements for the participation of the court reporter. Alternatively, the Judgment Creditor is free to schedule an examination outside the courthouse, including by video conference, in which case this hearing will be continued to January 14, 2021 at 10:00 a.m.

The Judgment Creditor shall advise the courtroom clerk of its choice at the time of the calendar roll call.

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, May 20, 2021

Hearing Room 5A

10:00 AM

8:21-10115 Lael Gonzales

Chapter 13

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

CHARLES SULAHIAN

VS.

DEBTOR

Docket 27

***** VACATED *** REASON: OFF CALENDAR: Order of Dismissal
Arising from Chapter 13 Confirmation Hearing Entered 5/3/2021**

Courtroom Deputy:

**OFF CALENDAR: Order of Dismissal Arising from Chapter 13
Confirmation Hearing Entered 5/3/2021 - td (5/3/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lael Gonzales

Pro Se

Movant(s):

Charles Sulahian

Represented By
Stephen E Ensberg

Trustee(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 20, 2021

Hearing Room 5A

10:00 AM

8:21-10280 Mary Lou Ham

Chapter 7

#22.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]
BANK OF AMERICA, N.A.
VS.
DEBTOR

Docket 11

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 20, 2021

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):

Mary Lou Ham

Represented By
Thomas E Brownfield

Movant(s):

Bank of America, N.A.

Represented By
Robert P Zahradka

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

Thursday, May 20, 2021

Hearing Room 5A

10:00 AM

CONT... Mary Lou Ham

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 20, 2021

Hearing Room 5A

10:00 AM

8:21-10525 The Source Hotel, LLC

Chapter 11

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

CORDES & COMPANY, LLC

VS.

DEBTOR

Docket 101

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 20, 2021 [Tentative Ruling has been modified since original posting]

Grant with 4001(a)(3) waiver.

Special Note: The tentative ruling has been modified to reflect Debtor's non-opposition to 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):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

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

Thursday, May 20, 2021

Hearing Room 5A

10:00 AM

CONT... The Source Hotel, LLC

Chapter 11

Movant(s):

Cordes & Company, by and through

Represented By
Peter F Jazayeri

Cordes & Company, by and through

Represented By
Peter F Jazayeri

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

Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

8:01-16577 California Power Exchange Corp

Chapter 11

#24.00 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;
5-21-20

Docket 1596

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

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

Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

CONT... California Power Exchange Corp

Chapter 11

status report shall be filed by November 29, 2004.

If there are no outstanding U. S. Trustee issues, appearances at today's hearing are waived.

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.

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.

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 20, 2021

Hearing Room

5A

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)

Note: If Debtor is in full compliance with the requirements of the U.S.

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

Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

CONT... California Power Exchange Corp Chapter 11
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

Continue status conference to April 8, 2010 at 1030 a.m. ; updated status report due March 25, 2010. (XX)

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

Thursday, May 20, 2021

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 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.

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.

May 8, 2014

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

Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

CONT... California Power Exchange Corp 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)

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

Continue status conference to May 10, 2018 at 10:30 a.m.; updated report to be filed by April 26, 2018 (XX)

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

Thursday, May 20, 2021

Hearing Room

5A

10:30 AM

CONT... California Power Exchange Corp

Chapter 11

Note: Appearance at today's hearing is not required.

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.

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. (XX)

Note: Appearance at today's hearing is not required.i

May 20, 2021

An updated Status Report was not timely filed. Appearance at this hearing is required.

Party Information

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

Thursday, May 20, 2021

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

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

Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

8:08-17206 Palmdale Hills Property, LLC

Chapter 11

#25.00 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; 5-21-20; 11-19-20

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

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)

**United States Bankruptcy Court
Central District of California
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Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

CONT... Palmdale Hills Property, LLC

Chapter 11

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.

May 21, 2020

Continue status conference to November 19, 2020 at 10:30 a.m.; updated report to be filed by November 5, 2020. (XX)

Note: Appearance at today's hearing is not required.

November 19, 2020

Continue status conference to May 20, 2021 at 10:30 a.m.; updated status report must be filed by May 6, 2021. (XX)

Note: Appearance at today's hearing is not required.

United States Bankruptcy Court
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Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

CONT... Palmdale Hills Property, LLC

Chapter 11

May 20, 2021

Continue Status Conference to November 18, 2021 at 10:30 a.m.; updated Status Report must be filed by November 4, 2021.

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 20, 2021

Hearing Room 5A

10:30 AM

CONT... Palmdale Hills Property, LLC

Lei Lei Wang Ekvall

Chapter 11

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

Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

8:16-12854 Paul Edward Rubio

Chapter 13

#26.00 CON'TD Hearing RE: Debtor's Motion for Order Allowing Creditor to Put Forbearance Payments on Back End of Mortgage Loan

FR: 8-6-20; 9-17-20; 10-22-20; 11-19-20; 12-17-20; 2-18-21

Docket 167

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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.

October 22, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Grant the motion. If the parties require a further continuance of the hearing, a

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

Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

CONT...

Paul Edward Rubio

Chapter 13

request may be made during the calendar roll call by the Court Clerk just prior to the hearing. Available continued hearing dates are: 11/5/20, 11/12/20, and 11/19/20 at 10:30 a.m.

Note: This matter appears to be uncontested. Accordingly, no court appearances are required if the parties accept the tentative ruling to grant the Motion.

November 19, 2020

Grant the Motion, unless the parties require another continued hearing, in which case they may request a final continuance to December 17, 2020 at 10:30 a.m. during the courtroom clerk's calendar roll call just prior to today's hearing. No further continuances beyond December 17, 2020 will be granted unless a supplemental pleading or stipulation is filed explaining the reason(s) for the necessity of a further hearing.

February 18, 2021

Deny motion for failure to prosecute.

Basis for Tentative Ruling:

This matter has been pending for six months with no resolution. The parties were warned that the December 17, 2020 hearing would be the final hearing on the matter. The court, nevertheless, continued the December 17, 2020 hearing for an additional two months to this date. No further continuances will be granted.

May 20, 2021

Deny motion without prejudice.

Basis for Tentative Ruling

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

Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

CONT... Paul Edward Rubio

Chapter 13

This matter has been pending for more than ten months. The hearing will not be further continued under any circumstances.

Note: Appearances at this hearing are not required.

Party Information

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, May 20, 2021

Hearing Room 5A

10:30 AM

8:17-10706 John Jean Bral

Chapter 11

#27.00 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; 8-20-20; 1-21-21

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.

August 20, 2020

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,

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CONT... **John Jean Bral** **Chapter 11**

2020 or monetary sanctions of not less than \$100 will be imposed on Debtor's counsel.

January 21, 2021

Continue the status conference to May 20, 2021 at 10:30 a.m.; updated Status Report must be filed by May 6, 2021. (XX)

Note: Appearances at this status conference are not required.

May 20, 2021

Continue the status conference to September 30, 2021 at 10:30 a.m.; updated status report must be filed by September 16, 2021.

Note: Appearances at this status conference are not required.

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
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Courtroom 5A Calendar**

Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

8:18-10548 Lenore LuAnn Albert-Sheridan

Chapter 7

#28.00 CON'TD Hearing RE: Chapter 7 Trustee's Objection to Debtor's Amended Claims of Exemption

FR: 8-20-20; 1-21-21

Docket 607

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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].

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

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Chapter 7

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 lowers 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 F3d. 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. 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.

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Chapter 7

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 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

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CONT... Lenore LuAnn Albert-Sheridan

Chapter 7

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.

January 21, 2021

Continue hearing to May 20, 2021 at 10:30 a.m.; status report regarding the status of the pending appeal before the Ninth Circuit must be filed by the Trustee on or before May 6, 2021 or sanctions in the amount of \$400 will be imposed on Trustee's counsel. (XX)

Basis for Tentative Ruling:

The court previously ordered the Trustee to file a status report by January 14, 2021. No status report was timely filed by such date.

Note: If the parties accept the tentative ruling, appearances will not be required and the Trustee shall serve notice of the continued hearing date/time.

May 20, 2021

In light of pending appeal, continue the hearing to September 16, 2021 at 10:30 a.m.; an updated status report must be filed by September 2, 2021 if the Ninth Circuit has not issued a decision by such date.

Note: Appearances at this hearing are not required; Trustee shall serve

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CONT... Lenore LuAnn Albert-Sheridan
notice of the continued hearing date/time.

Chapter 7

Party Information

Debtor(s):

Lenore LuAnn Albert-Sheridan	Pro Se
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Trustee(s):

Jeffrey I Golden (TR)	Represented By Jonathan A. Michaels Eric P Israel Aaron E de Leest Sonia Singh
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**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

8:19-13242 10827 Studebaker LLC, a California limited liabili

Chapter 11

#29.00 Hearing RE: Motion of Debtor for Order Dismissing Chapter 11 Case

Docket 218

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 20, 2021

Grant motion. Debtor shall remit to counsel for Buchanan Mortgage Holdings, LLC whatever funds are in its bank account as of May 20, 2021.

Basis for Tentative Ruling

In its response, Buchanan seeks turnover of the sum of approximately \$11,000.00, the amount represented to remaining according to Motion as of April 26, 2021. However, Debtor filed a monthly operating report for the period ending April 30, 2021 on May 4, 2021 [docket #225] indicating a balalnce of only \$5,509.08. The amount may or may not be less than that as of the time of the hearing.

Note: If the parties accept the tentative ruling, appearances at this hearing are not required and Movant shall lodge an order consistent with the same within 7 days of the hearing.

Party Information

Debtor(s):

10827 Studebaker LLC, a California

Represented By
Steven Werth
Alan G Tippie

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Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

8:19-13242 10827 Studebaker LLC, a California limited liabili

Chapter 11

**#29.10 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; 6-18-20; 9-17-20; 12-17-20; 4-1-21; 5-6-21

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

Continue Status Conference to April 30, 2020 at 10:30 a.m., the same

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CONT... 10827 Studebaker LLC, a California limited liabi

Chapter 11

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 17, 2020 at 10:30 a.m.; 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.

September 17, 2020

Continue status conference to November 5, 2020 at 10:30 a.m.; court to issue order to show cause why this case should not be dismissed or converted due to Debtor's inability to confirm a plan within a reasonable period of time. Hearing on such OSC shall be scheduled for November 5, 2020 at 10:30 a.m.

December 17, 2020

Continue Status Conference to April 1, 2021 at 10:30 a.m.; An updated Status report must be filed by March 18, 2021 unless Debtor has filed a

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CONT... 10827 Studebaker LLC, a California limited liability Chapter 11

motion to dismiss the case by such date, in which case the requirement of a report will be waived. (XX)

Special Note: Regarding Buchanan's request in its statement that any funds on hand be distributed to it, the court shall rule on that matter in context of a motion to dismiss the case.

Note: If the parties accept the tentative ruling, appearances at this hearing are not required.

April 1, 2021

Continue status conference to May 6, 2021 at 10:30 a.m. in light of Debtor's intent to move for dismissal of the case. (XX)

May 6, 2021

Continue the status conference to May 20, 2021 at 10:30 a.m., same date/time set for hearing on Debtor's motion to dismiss the case. (XX)

Note: Appearances at today's hearing are not required.

May 20, 2021

Take Status Conference off calendar in light of the granting of Debtor's motion to dismiss the case.

Note: Appearances at today's hearing are not required.

Party Information

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Central District of California
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Judge Erithe Smith, Presiding
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Thursday, May 20, 2021

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CONT... 10827 Studebaker LLC, a California limited liabili

Chapter 11

Debtor(s):

10827 Studebaker LLC, a California

Represented By
Steven Werth

**United States Bankruptcy Court
Central District of California
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Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

8:19-13441 Alpha Floors, Inc.

Chapter 7

Adv#: 8:20-01156 Kosmala v. Xia

#30.00 Hearing RE: Plaintiff's Motion for Entry of Default Judgment Against Defendant, Feiyu Xia

Docket 15

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 20, 2021 [Tentative Ruling has been expanded since original post]

Partially grant, and partially deny the Motion. Grant the Motion as to the second claim for relief under § 548(a)(1)(A), the third claim for relief under § 548(a)(1) (B), and the fourth claim for relief under § 550 in the total amount of \$123,001.77. Deny the Motion as to the first claim for relief under § 547, the fifth claim for relief under § 551, and the sixth claim for relief under § 542. Deny the request for attorneys' fees and costs set forth in the Complaint.

Basis for Tentative Ruling:

Alpha Floors, Inc. ("Debtor") filed a voluntary chapter 7 petition on September 24, 2019. Weneta Kosmala was appointed as the Chapter 7 Trustee ("Plaintiff"). On September 2, 2021, Plaintiff filed a complaint ("Complaint") alleging the following 6 causes of action against the sole defendant, Mr. Feiyu Xia ("Defendant"): (1) avoidance of preferential transfer, (2) avoidance of intentional fraudulent transfer under § 548(a)(1) (A); (3) avoidance of constructive fraudulent transfer under § 548(a)(1)(B); (4) recovery of avoided transfers under § 550, (5) preservation of the transfer under § 551, and (6) turnover of estate property under § 542. Default was entered against Defendant on April 9, 2021.

Plaintiff moves for entry of default judgment against Defendant under FRBP 7055 and LBR 7055-1 ("Motion")[dkt. 15]. Plaintiff is seeking

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CONT... **Alpha Floors, Inc.**

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to avoid and recover the following three transfers that were made to Defendant: \$14,643 payment on February 28, 2019 ("Transfer I"), \$7,897.28 payment on August 26, 2019 ("Transfer II"), \$100,461.49 payment on September 4, 2019 ("Transfer III" and collectively with Transfer I and Transfer II, the "Transfers"). See Mot., Ex. 1, ¶¶ 15-17 (Compl.), Ex. 3 (Payroll Report).

Legal standard

Under FRBP 7055(b), the court may require a plaintiff to demonstrate a *prima facie* case by competent evidence in a prove-up trial to obtain a default judgment. See *In re Liu*, 282 B.R. 904 (Bankr. C.D. Cal. 2002); *In re Villegas*, 132 B.R. 742, 746 (9th Cir. BAP 1991); *TeleVideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). In such a hearing, the plaintiff must demonstrate each of the elements of a cause of action to support a *prima facie* case. See *In re Bui*, 188 B.R. 274, 276 (Bankr. N.D. Cal. 1995). The court has wide discretion under FRBP 7055 to consider whether the evidence presented supports a claim and warrants judgment for the plaintiff. See *In re Beltran*, 182 B.R. 820, 823-24 (9th Cir. BAP 1995).

Applying the foregoing standard and as explained below, Plaintiff has presented a *prima facie* case with as to the claims for relief under §§ 548 and 550 but not as to the claims under § 547, 551, and 542.

A. Plaintiff has not demonstrated a *prima facie* case for relief under § 547(b)

Plaintiff's first claim for relief is under § 547(b). See Compl., 4-5. For a transfer to constitute an avoidable preference under § 547(b), five elements will have to be proven: (1) that the transfers were made for the benefit of a creditor; (2) the transfers were on account of an antecedent debt; (3) the transfers were made while Debtor was insolvent; (4) the transfers were made within 90 days of the petition date; and (5) the transfers enabled Defendant to receive a larger share of the estate than if the transfers had not been made. *Union Bank v. Wolas*, 502 U.S. 151, 154-55 (1991). A creditor will be found to have received more under the transfer whenever distribution in a hypothetical chapter 7 bankruptcy is less than 100%. *In re Lewis W.*

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CONT...

Alpha Floors, Inc.

Chapter 7

Shurtleff, Inc., 778 F.2d 1416, 1421 (9th Cir. 1985). Once the trustee proves his *prima facie* case under § 547(b), the creditor may raise one of the defenses set out in § 547(c). *In re Jan Weilert RV, Inc.*, 315 F.3d 1192, 1197 (9th Cir. 2003).

Here, Plaintiff failed to present a *prima facie* case as to the element of antecedent debt. The Complaint merely states on conclusory fashion that the Transfers were made on account of an antecedent debt but there are no factual allegations in the Complaint regarding that antecedent debt. See Compl., 4, ¶23. The Motion states that Defendant was a creditor of Debtor because she was listed on the SOFA as receiving salary and severance pay, but the Complaint actually undermines this argument because the Transfers were payments that were made *in addition to* Defendant's normal salary. See Mot., 5; Compl., 3, ¶14. Thus, per Plaintiff's own Complaint, the Transfers were not payments made on account of any employment related antecedent debt.

Moreover, with respect to Transfer I, which was made more than 90 days after the petition date but within one year of the petition date, Plaintiff has failed to show that Debtor was insolvent on the date of Transfer I. Plaintiff attempts to rely on the 90-day prior to the petition date presumption of insolvency to lump all of the individual transfers together to argue that all of the Transfers were made while insolvent. See Mot., 6:1-11. This argument fails though because although preference avoidance period increases from 90 days to 1 year if the preference is made to an insider of the debtor (like in this case since Defendant is a statutory insider of Debtor as its CEO), Plaintiff has not provided any legal authority that the presumption of insolvency within 90 days of the petition date also increases to 1 year in cases of preferences to insiders. And since Plaintiff has not demonstrated that there was an antecedent debt, Plaintiff has not demonstrated a *prima facie* case regarding the element that the transfer be for the benefit of a creditor since Plaintiff has not demonstrated that Defendant was a creditor.

With regard to the other elements of § 547(b), Plaintiff has demonstrated a *prima facie* case as follows: (1) Transfer II and Transfer II (not Transfer I as discussed above) were made while Debtor was insolvent,

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CONT... **Alpha Floors, Inc.**

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(2) the Transfers were of Debtor's property- Debtor's funds in its bank account, (3) the Transfers were made during the preference period which was increased to 1 year because Defendant was an insider of Debtor, and (4) Defendant received a larger share of the estate because the bankruptcy case was a no-asset case. See Mot., 6-7.

A. Plaintiff has presented a *prima facie* case under § 548(a)(1)(A)

Under 11 U.S.C. § 548(a)(1), a trustee may avoid transfers made with "actual intent to hinder, delay, or defraud" creditors made "within 2 years before the date of the filing of the petition." The Code in § 101(54)(D) defines "transfers" as "each mode, direct and indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—(i) property; or (ii) an interest in property." The necessary intent to "hinder, delay or defraud" creditors may be inferred based on the traditional "badges of fraud". See *In re Acequia, Inc.*, 34 F.3d 800, 805-06 (9th Cir. 1994)("[C]ourts applying...§ 548(a)(1) frequently infer fraudulent intent from the circumstances surrounding the transfer, taking particular note of certain recognized indicia or badges of fraud.").

Plaintiff has also made a *prima facie* showing that, with regard to Transfers II and III, Debtor was insolvent at the time of those transfers. While Plaintiff attempts to rely on the 90-day presumption of insolvency to demonstrate insolvency, see Mot., 9:17-23, that presumption is only applicable to § 547, not § 548. See 11 U.S.C. § 547(f)("For the purposes of *this section*, the debtor is presumed to have been insolvent on and during the 90 days immediately preceding the date of the filing of the petition.") (emphasis added). Nonetheless, the timing of Transfer II and III, within 1 ½ week prior to the petition date and on the petition date, indicates that Debtor was more likely than not insolvent since it filed for bankruptcy so soon thereafter based on the filed schedules listing Debtor's total assets at \$1,170,683.67 but unsecured claims totaling \$1,861,860.28. See Schedule E/F [dkt. 5, case no. 19-13441]. And while Plaintiff did not include Schedule E/F with the Motion, the court may take judicial notice on its own. See FRE 201(c)(1) and (d)("The court...may take judicial notice on its own... at any stage of the proceeding. "); *In re Blumer*, 95 B.R. 143, 146 (BAP 9th Cir. 1988)("It is well established that a court may take judicial notice of its own

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CONT... Alpha Floors, Inc.
records...").

Chapter 7

B. Plaintiff has presented a *prima facie* case under § 548(a)(1)(B) as to Transfers II and III

The trustee may avoid constructively fraudulent transfers of debtor's interest in property made within 2 years of the petition date under § 548(a)(1)(B). "A transfer is a constructive fraudulent transfer if the debtor receives less than reasonably equivalent value in exchange for the transfer, and the transfer is made while the debtor is in financial distress. *In re Fink*, 217 B.R. 614, 618–19 (Bankr. C.D. Cal. 1997). The Bankruptcy Code defines insolvent as a "financial condition such that the sum of the entity's debts is greater than all such entity's property, at a fair valuation, exclusive of" certain property transferred, concealed or removed or exempt property. 11 U.S.C. § 101(32).

With respect to Transfers II and III Plaintiff has demonstrated a *prima facie* case under § 548(a)(1)(B) as follows: (1) Debtor received less than equivalent value in exchange for the Transfers because Defendant did not perform any services in exchange for the Transfers, (2) the transfers were of Debtor's property- its funds in its bank account, and (3) Debtor was insolvent at the time of the Transfers II and III which were both made within 1 ½ weeks of the petition date. As discussed above, the timing of Transfer II and III, within 1 ½ week prior to the petition date and on the petition date, indicates that Debtor was more likely than not insolvent since it filed for bankruptcy soon thereafter and its schedules indicate that it was insolvent on the petition date. No such showing has been made with regard to Transfer I, however, which was made approximately 7 months prior to the petition date and Plaintiff's reliance on the presumption of insolvency is without merit since § 547(f) is not applicable to § 548.

C. Plaintiff has presented a *prima facie* case under § 550

Under § 550(a) , a 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

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Chapter 7

courts with discretion to first determine whether to award any recovery under § 550, 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). "The purpose of § 550(a) is 'to restore the estate to the financial condition it would have enjoyed if the transfer had not occurred.'" *Taylor*, 599 F.3d at 890. "The statute does not explain when a court should award the trustee recovery of the actual property and when it should, in the alternative, award the trustee recovery of the value of the property" but only states that a "court must issue a 'single satisfaction.'" *Id.* Property recovered under § 550 is retained for the benefit of the estate and becomes property of the estate per § 541(a)(3). *In re Allen*, 768 F.3d 274, 282-84 (3rd. 2014) (finding that § 550(a) recovered property is property of the estate under § 541(a)(3) irrespective of actual possession of the property transferred).

In this case, because Plaintiff has demonstrated a *prima facie* case under § 548(a)(1)(A) for the Transfers, and § 548(a)(1)(B) for the Transfers (except Transfer I), Plaintiff has demonstrated a *prima facie* case under § 550 for the *value of* the property transferred (\$14,643 + \$7,897.28 + \$100,461.49 = \$123,001.77) but not recovery of the actual property transferred, i.e., the same dollars that were actually transferred since Plaintiff has not made a *prima facie* showing of which actual dollars that were transferred to Defendant.

D. Plaintiff has not presented a *prima facie* case under § 551

"Any transfer avoided under section... 548... is preserved for the benefit of the estate but only with respect to property of the estate." "The preservation under section 551, by its express terms, applies 'only ... to property of the estate.'" 5 Collier on Bankruptcy P 551.02 (16th 2021); *Heintz v. Carey (In re Heintz)*, 198 B.R. 581, 585 (B.A.P. 9th Cir. 1996)("The literal words of the statute mean that a trustee cannot preserve an avoided transfer for the benefit of the estate if the lien or other avoided transfer relates to property that is not property of the estate."). As discussed above under § 550, Plaintiff is not recovering any specific asset but rather the value of the Debtor's funds that were transferred. And as discussed below under § 542, the funds transferred prepetition were not estate property since no estate existed

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CONT... Alpha Floors, Inc.
prepetition.

Chapter 7

Therefore, because there is no specific asset that is estate property that must be preserved for the benefit of the estate so Plaintiff has failed to demonstrate a *prima facie* case under § 551.

E. Plaintiff has not presented a *prima facie* case under § 542

"Bankruptcy Code § 542(a) grants a bankruptcy trustee the power to recover property of the debtor's estate or such property's value." *Shapiro v. Henson*, 739 F.3d 1198, 1199 (9th Cir. 2014). Under § 542(a), an entity in possession or control of estate property that the trustee may use, sell, or lease under § 363 of this title, or that the debtor may exempt under § 522, must turnover the estate property to the trustee "unless such property is of inconsequential value or benefit to the estate." "To prevail in a turnover action under § 542(a), a trustee must establish: (1) that property of the estate is or was in the possession, custody, or control of an entity during the pendency of the case; (2) that the property may be used by the trustee under § 363; and (3) that the property has more than inconsequential value or benefit to the estate." *In re Chantel*, 2015 WL 3988985, at *8 (BAP 9th Cir. July 1, 2015)(citing *In re Bailey*, 380 B.R. 486, 492 (BAP 6th Cir. 2008)). Furthermore, "an essential element of a turnover order, necessarily decided in every turnover ruling, is that the property to be turned over is property of the estate," *In re White*, 389 B.R. 693, 699 (BAP 9th Cir. 2008). But property of the estate does not apply to property which has been fraudulently or preferentially transferred before the bankruptcy filing, because such property does not become "property of the estate until it has been recovered by the estate. *In re BMT-NW Acquisitions, Inc.*, 582 B.R. 846, 865-66 (Bankr.Del.2018) (Court held that the chapter 7 trustee could not state a claim for relief under § 542(a) in an avoidance action for relief under §§ 547 and 548.)

Here, Plaintiff has failed to make a *prima facie* showing that Defendant is in possession of estate property during the pendency of the case. The Transfers occurred prepetition, so the funds from Debtor's bank account could not be estate property since no bankruptcy estate was in existence at the time. See 11 U.S.C. § 541(a)(1)("The commencement of a case...

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CONT... **Alpha Floors, Inc.**

Chapter 7

creates an estate... comprised of ... all legal or equitable interests of the debtor in property as of the commencement of the case.") Plaintiff argues that because Debtor has an interested in the funds transferred, once the Transfers are avoided, the funds transferred will be property of the estate become estate property. See Mot., 10:15-24. This argument is unpersuasive for two reasons. First, on the petition date, Debtor (and thus Trustee) did not have an interest in the specific funds transferred to Defendant; rather, the estate had an interest in avoidance causes of action to recover Debtor's property or the value of such property transferred. Second, because Plaintiff has not recovered any specific asset that becomes estate property but is rather recovering the value of such funds transferred, the funds previously transferred to Defendant do not become estate property under § 541. See 11 U.S.C. § 541(a)(3)("Such estate is comprised of all the following property...Any interest in property that the trustee recovers under section...550[.]"). Stated differently even after entry of this default judgment, the estate's interest is in the default judgment (and collecting on that default judgment), not the actual funds that were transferred to Defendant.

F. Deny the Motion as to any claim for attorney's fees and costs

The Complaint requests attorneys' fees and costs. See Compl., 9, ¶7. However, the Motion does not mention this request. The court is addressing this issue to the extent there is an implicit request for such an award. In this regard, Plaintiff has not presented any legal authority to support the request in the Complaint for an award of fees and costs.

Party Information

Debtor(s):

Alpha Floors, Inc.

Represented By
Eric J Fromme

Defendant(s):

Feiyu Xia

Pro Se

**United States Bankruptcy Court
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CONT... Alpha Floors, Inc.

Chapter 7

Plaintiff(s):

Weneta Kosmala

Represented By
Reem J Bello
Ryan W Beall

Trustee(s):

Weneta M.A. Kosmala (TR)

Represented By
Reem J Bello

**United States Bankruptcy Court
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10:30 AM

8:20-10206 Danny Huynh

Chapter 7

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

[THOMAS H. CASEY, CHAPTER 7 TRUSTEE]

Docket 54

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 20, 2021

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):

Danny Huynh

Represented By
Phu D Nguyen

Trustee(s):

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court
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Santa Ana
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Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

8:20-10206 Danny Huynh

Chapter 7

#32.00 Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses From November 5, 2020 through February 16, 2021

[HAHN FIFE & COMPANY, LLP, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]

Docket 52

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 20, 2021

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):

Danny Huynh

Represented By
Phu D Nguyen

Trustee(s):

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

8:20-10704 Gustavo Gomez Gonzalez and Rocio Ramirez De Gomez

Chapter 7

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

[THOMAS H. CASEY, CHAPTER 7 TRUSTEE]

Docket 48

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 20, 2021

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):

Gustavo Gomez Gonzalez

Represented By
Daniel King

Joint Debtor(s):

Rocio Ramirez De Gomez

Represented By
Daniel King

Trustee(s):

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

8:20-10936 Vantage Point Apparel Software, Inc.

Chapter 11

#34.00 Hearing RE: Confirmation of Debtor's Second Amended SubChapter V Chapter 11 Plan of Reorganization Dated January 25, 2021

(Set at DS Hrg Held 3/11/2021)

Docket 84

Courtroom Deputy:

SPECIAL NOTE: Stipulation Resolving Chapter 11 Plan Treatment of IRS Claim, filed 5/5/2021; Order Approving Stipulation Lodged in LOU on 5/5/2021, Order #10307622 - td (5/5/2021)

Tentative Ruling:

May 20, 2021

Confirm the consensual Second Amended Plan, including the stipulated treatment of the IRS claim, on condition that Debtor pays the Subchapter V Trustee's fees (on terms acceptable to the Trustee), as well as any outstanding UST and court fees on or before the Effective Date of the Plan. Post-confirmation Status Conference shall be heard on November 18, 2021 at 10:30 a.m. and the post-confirmation Status Report must be filed by or before November 4, 2021.

Special Note: If Debtor and the Trustee reach a resolution of the payment of the Trustee's fees prior to the hearing, such payment terms may be included in the Confirmation Order.

Note: If all parties agree with the tentative ruling and special note, appearances at this hearing are not required.

Party Information

Debtor(s):

Vantage Point Apparel Software, Inc.

Represented By
Michael Jones

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10:30 AM

CONT... Vantage Point Apparel Software, Inc.

Chapter 11

Trustee(s):

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

8:20-10936 Vantage Point Apparel Software, Inc.

Chapter 11

#35.00 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; 7-23-20; 9-3-20; 11-19-20; 12-10-20; 2-18-21; 3-11-21

Docket 7

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 12, 2020

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 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

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

CONT... **Vantage Point Apparel Software, Inc.** **Chapter 11**

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.

September 3, 2020

Continue 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. (XX)

Note: Appearance at today's hearing is not required. The court will issue its own order re the tentative ruling.

November 19, 2020

Continue the Status Conference to December 10, 2020 at 10:30 a.m., the same date/time as hearing on the the approval of Debtor's disclosure statement; updated status report is not required for that hearing. (XX)

Note: Appearances at this hearing are not required.

December 10, 2020

**United States Bankruptcy Court
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Santa Ana
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Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

CONT... Vantage Point Apparel Software, Inc.

Chapter 11

Continue Status Conference to February 18, 2021 at 10:30 a.m.; updated Status Report must be filed by February 4, 2021 unless an amended disclosure statement has been timely filed, in which case the requirement of a status report will be waived and the Status Conference continued to the same date/time as hearing on such amended disclosure statement. (XX)

Note: If Debtor is in substantial compliance with the requirements of the U.S. Trustee, appearances at this hearing will not be required. It is Debtor's responsibility to confirm substantial compliance in advance of the hearing.

February 18, 2021

Continue status conference to March 11, 2021 at 10:30 a.m., same date/time set for hearing on approval Debtor's disclosure statement. (XX)

Special note: The court appreciates the updated status report filed by the Subchapter V Trustee [docket # 70]

Note: Appearances at this hearing are not required.

March 11, 2021

Continue Status Conference to May 20, 2021 at 10:30 a.m.; updated Status Report not required. (XX)

May 20, 2021

Take Status Conference off calendar if the Second Amended Plan is confirmed.

Note: Appearances at this hearing are not required.

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Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

CONT... Vantage Point Apparel Software, Inc.

Chapter 11

Party Information

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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Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

8:20-11507 HCA West, Inc

Chapter 11

#36.00 Hearing RE: Motion of Debtor HNA, Inc. for the Entry of an Order Authorizing Rejection, Pursuant to 11 U.S.C. Section 365(A), of ADP TotalSource Client Services Agreement

Docket 479

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 20, 2021

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):

HCA West, Inc

Represented By
John W Lucas
Jason H Rosell
Victoria Newmark

**United States Bankruptcy Court
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Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

8:20-12488 Christopher Summers

Chapter 11

#37.00 CON'TD Hearing RE: Debtor's Chapter 11 Disclosure Statement

FR: 4-1-21

Docket 35

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 1, 2021

[This Tentative Ruling has been modified since the original posting to add Comment #1a]

Continue this hearing to May 20, 2021 at 10:30 a.m. to allow Debtor to correct service and other issues. Amended Disclosure Statement must be filed no later than April 22, 2021; any opposition must be filed by May 6, 2021; any reply must be filed by May 13, 2021. (XX)

Basis for Tentative Ruling:

1. Service issue: Notice was improper because Debtor did not serve a separate notice of the disclosure statement hearing which provided notice of the 14-day opposition deadline. Per LBR 9013-1(c)(2), 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." See 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."). Debtor only filed the supplemental Zoom notice [dkt. 37] which does not include the opposition deadline information.

1a. Debtor needs to address all of the comments raised by the U.S.

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Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

CONT... Christopher Summers
Trustee

Chapter 11

2. The secured claim in Class 1 also is impaired because the Plan alters claimant's prepetition contractual rights to proceed with nonjudicial foreclosure of the Property. See DS, p. 6:16-20. Under the broad definition of "impairment" under § 1124, "*any alteration* of the rights constitutes impairment even if the value of the rights is enhanced." *In re L & J Anaheim Assocs.*, 995 F.2d 940, 942 -943(9th Cir. 1993)(emphasis added)(holding that secured creditor was impaired when that creditor could not "invoke the substantive remedies or procedural mechanisms available to it at state law" pursuant to its contractual rights under the loan agreement and its collateral would be sold under the chapter 11 plan). This section should be revised.

3. Because the Effective Date of the Plan will be 30 days after the confirmation order is entered, this raises feasibility issues since it is unclear whether there will be sufficient time file and obtain court approval of an employment application for a broker for the Dana Point Property, adequately market the property, and file and obtain approval of a sale motion before the confirmation order is entered. See DS, p. 2:16-17 and p. 6:25-7:2.

4. Pg. 8:12: TWF needs to be defined

5. Pg. 10:3-13: Either identify the general unsecured creditors or attache a list of the same as an exhibit.

6. Pg. 11:10-11: Provide a list of executory contracts that may be subject to assumption

7. Pg. 13:24; 17:5: The claims bar date was January 8, 2021

8. Pg. 15:18-19; 19:15-8: Delete discussion re the pledging of projected disposable income if this provision is not applicable.

Note: If Debtor and the UST accept the foregoing tentative ruling,

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10:30 AM

CONT...

Christopher Summers
appearances at this hearing are not required.

Chapter 11

May 20, 2021

Deny approval of disclosure statement.

Basis for Tentative Ruling

Debtor has filed a status report indicating that he is unable to formulate a viable chapter 11 plan.

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

Christopher Summers

Represented By
J Scott Williams

**United States Bankruptcy Court
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10:30 AM

8:20-12488 Christopher Summers

Chapter 11

#38.00 CON'TD STATUS CONFERENCE Hearing RE: (1) Status of Chapter 11 Case;
and (2) Requiring Report on Status of Chapter 11 Case

FR: 11-5-20; 2-4-21; 4-1-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

November 5, 2020

Claims bar date:	Jan. 8, 2021 (notice by Nov. 9, 2020)
Deadline to file plan/DS:	1/15/21
Continued Status Conf:	Feb. 4, 2021 at 10:30 am (XX)
Updated Status Report due: filed)	Jan. 21, 2021 (waived if plan/DS timely filed)

Note: Appearance at this hearing is not required if Debtor accepts the foregoing tentative ruling and Debtor is in substantial compliance with the requirements of the U.S. Trustee. It is Debtor's responsibility to confirm such compliance with the U.S. Trustee prior to the hearing. The court will prepare its own Order re the status conference.

February 4, 2021

Continue Status Conference to April 1, 2021 at 10:30 a.m.; updated Status Report not required. (XX)

Note: Appearance at this hearing is not required.

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10:30 AM

**CONT... Christopher Summers
April 1, 2021**

Chapter 11

Continue status conference to May 20, 2021 at 10:30 a.m.; updated status report is not required if the amended disclosure statement is timely filed on April 22, 2021. (XX)

Note: Appearances at this hearing are not required.

May 20, 2021

Continue status conference to June 3, 2021 at 10:30 a.m.; updated status report not required.

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

Christopher Summers

Represented By
J Scott Williams

**United States Bankruptcy Court
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Santa Ana
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Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

8:21-10135 Chase Merritt Global Fund LLC

Chapter 11

#39.00 Hearing RE:Debtor and Debtor-in-Possession's Motion for Order: (1) Approving the Sale of Assets of the Estate Free and Clear of Liens and Other Interests; (2) Finding Purchaser is a Good Faith Purchase; (3) Authorizing Payment to Brokers; and (4) Waiving 14-Day Stay of FRBP 6004(h)

Docket 64

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 20, 2021

Grant the motion subject to overbid and subject to the terms requested by Green Rock II, except that 1) all ordinary costs of sale shall be paid out of escrow, whether or not they exceed 8%, and 2) monthly adequate protection payments starting June 1, 2021 shall be reduced to \$1500/mo.

Basis for Tentative Ruling:

1. Cost of Sale of 8% is an estimate. If the COS turns out to be 8.5% or 9%, it should be paid.

2. With a payment of \$1.4M of its \$1.6M claim, Green Rock will be receiving payment of approximately 87% of its claim from the Fisher Lane property, leaving approximately \$200,000 owing and secured by the Mar Vista property, which has a value of between \$450,000 [Green Rock's estimate} and \$700,000 [Debtor's estimate]. Under these circumstances, \$10,937.50 is not an appropriate adequate protection payment. \$1,500/mo (14% of 10,937.50) is fair given a) the substantial paydown of the claim (which could be less than \$200,000 depending on the outcome of the claim objection hearing) and b) the security of the Mar Vista property.

Party Information

**United States Bankruptcy Court
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CONT... Chase Merritt Global Fund LLC

Chapter 11

Debtor(s):

Chase Merritt Global Fund LLC

Represented By
W. Derek May

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

8:21-10233 John Benyamin and Jacklin Bettaryouren

Chapter 13

#40.00 Hearing RE: Chapter 13 Trustee's Objection to Claim of Homestead Exemption

Docket 18

***** VACATED *** REASON: OFF CALENDAR: NOTICE OF
VOLUNTARY DISMISSAL OF MOTION, FILED 5/17/2021**

Courtroom Deputy:

**OFF CALENDAR: Notice of Voluntary Dismissal of Motion, filed
5/17/2021 - td (5/17/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John Benyamin

Represented By
James G. Beirne

Joint Debtor(s):

Jacklin Bettaryouren

Represented By
James G. Beirne

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 5A

10:30 AM

8:21-11264 Synrgo, Inc.

Chapter 11

#40.10 Hearing RE: Emergency Motion of Debtor and Debtor in Possession for an Order Limiting Scope of Notice

Docket 6

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 20, 2021

Court's Comments re the Motion:

1. As a general matter, the court is not opposed to limiting notice in certain circumstances. However, the court is concerned that in this case a significant percentage of the creditors are governmental units, i.e., county recorders and that such creditors may have an interest in, for example, the timing of the filing of a plan and disclosure statement or the sale or use of property of the estate and the compromise or settlement of controversies.

2. Some of the notices for which Debtor seeks limitation are not onerous, causing the court to question the necessity of the same. For example, motions governed by FRBP 4001 need only be noticed to the 20 largest unsecured creditors (absent a creditors' committee). Similarly, objections to claims need only be served on the affected claimant under FRBP 3007; same for reconsideration of claims under FRBP 3008. In the same vein, notice re the employment of professionals under FRBP 2014 does not require notice to all creditors (just the 20 largest unsecured or creditors committee members). So why is a limitation notice re the same necessary?

3. The court does not understand the necessity for limitation of notice re disclosures under FRBP 2019.

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CONT... Synrgo, Inc.

Chapter 11

4. The court does not understand why all creditors should not receive notice of fee applications pursuant to FRBP 2002(a)(6) -- the entire fee application need not be served on all creditors.

5. Bottom line: Debtor's counsel needs to clarify the scope/necessity of the requested limit notice order.

Party Information

Debtor(s):

Synrgo, Inc.

Represented By
Sean A OKeefe

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

Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

8:21-11264 Synrgo, Inc.

Chapter 11

#40.20 Hearing RE: Emergency Motion of Debtor and Debtor in Possession for an Order Authorizing Payment of the Prepetition Debts Owed to Certain Critical to Vendors to the Extent Necessary

Docket 7

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 20, 2021

Grant, subject to Plaintiff clarifying that it is not seeking to pay wage claims to employees that exceed the \$13,650.00 per employee priority limitation set forth in Section 507(a)(4) and 507(a)(5).

Party Information

Debtor(s):

Synrgo, Inc.

Represented By
Sean A OKeefe

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10:30 AM

8:21-11264 Synrgo, Inc.

Chapter 11

#40.30 Hearing RE: Emergency Motion for Order Authorizing Debtor to Pay Pre-Petition: (1) Wages, Salaries, and Other Compensation; (2) Employee Medical, Workers' Compensation, and Similar Benefits; (3) Employee Deductions; (4) Authorizing and Directing Applicable Banks and Other Financial Institution to Receive, Process, Honor, and Pay Checks Presented for Payment and to Honor Funds Transfer Request Relating to the Foregoing; and (5) Authorizing the Debtor Retain its Existing Payroll Funding Account for Thirty Days

Docket 8

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Synrgo, Inc.

Represented By
Sean A OKeefe

**United States Bankruptcy Court
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Judge Erithe Smith, Presiding
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Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

8:21-11264 Synrgo, Inc.

Chapter 11

#40.40 Hearing RE: Emergency Motion of Debtor and Debtor in Possession for an Order: (1) Directing All Parties Owing Funds to Debtor or Holding Funds of the Debtor to Remit These Funds to Debtor; (2) Authorizing Use of Cash Collateral on an interim Basis; (3) Granting Replacement Liens; (4) Scheduling a Final Hearing on Permanent Use of Cash Collateral; and (5) After Hearing, Authorizing Permanent Use of Cash Collateral

Docket 9

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Synrgo, Inc.

Represented By
Sean A OKeefe

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

Thursday, May 20, 2021

Hearing Room 5A

10:30 AM

8:21-11264 Synrgo, Inc.

Chapter 11

#40.50 Hearing RE: Emergency Motion of Debtor and Debtor in Possession for Entry of Interim and Final Orders (A) Prohibiting Utility Providers From Altering, Refusing or Discontinuing Service; (B) Approving the Debtor's Proposed Adequate Assurance of Payment for Postpetition Services; and (C) Establishing Procedures for Resolving Requests for Additional Adequate Assurance of Payment

Docket 11

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Synrgo, Inc.

Represented By
Sean A OKeefe

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

Thursday, May 20, 2021

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

#41.00 Hearing RE: Defendant Hyundai Steel Company's Motion For A Protective Order And Clarification Of Courts October 14, 2020 Order

Docket 59

***** VACATED *** REASON: CONTINUED TO 5/27/2021 AT 10:00 A.M.,
Per Order Entered 5/17/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 5/27/2021 at 10:00 a.m., Per Order
Entered 5/17/2021 (XX) - td (5/17/2021)**

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

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

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

Thursday, May 20, 2021

Hearing Room 5A

2:00 PM

CONT... Prime Metals U.S.A., Inc.

Robert P Goe
David Wood

Chapter 7

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

Thursday, May 20, 2021

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: Plaintiff's Motion for an Order: (1) Compelling Production of Documents in Response to Plaintiff Richard A. Marshack's First Set of Requests for Production of Documents Propounded on Defendant Hyundai Steel Company; and (2) Overruling Objections of Hyundai Steel Company; and (3) Awarding Sanctions Against Hyundai Steel Company

Docket 64

***** VACATED *** REASON: CONTINUED TO 5/27/2021 AT 10:00 A.M.,
Per Order Entered 5/17/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 5/27/2021 at 10:00 a.m., Per Order
Entered 5/17/2021 (XX) - td (5/17/2021)**

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

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, May 20, 2021

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
David Wood

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

Tuesday, May 25, 2021

Hearing Room 5A

1:30 PM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1600393910>

Meeting ID: 160 039 3910

Password: 530130

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Tuesday, May 25, 2021

Hearing Room 5A

1:30 PM
CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.

Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

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

Tuesday, May 25, 2021

Hearing Room 5A

1:30 PM

8:21-10742 John R Godlewski and Ashley Godlewski

Chapter 13

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

Docket 22

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

John R Godlewski

Represented By
Julie J Villalobos

Joint Debtor(s):

Ashley Godlewski

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 25, 2021

Hearing Room 5A

1:30 PM

8:21-10676 Ray 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 Plan Entered 4/1/2021**

Courtroom Deputy:

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,
Statements, and/or Plan Entered 4/1/2021 - td (5/4/2021)**

Party Information

Debtor(s):

Ray 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 25, 2021

Hearing Room 5A

1:30 PM

8:21-10612 Arnulfo Alatorre

Chapter 13

#3.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 12

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Arnulfo Alatorre

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 25, 2021

Hearing Room 5A

1:30 PM

8:21-10590 Aaron Gail Espiritu

Chapter 13

#4.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Aaron Gail Espiritu

Represented By
Ethan Kiwhan Chin

Trustee(s):

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 25, 2021

Hearing Room 5A

1:30 PM

8:21-10572 Ronaldo Marquez and Cristina Marquez

Chapter 13

#5.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 21

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Ronaldo Marquez

Represented By
Stephen L Burton

Joint Debtor(s):

Cristina 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, May 25, 2021

Hearing Room 5A

1:30 PM

8:21-10556 Robert G Campoy

Chapter 13

#6.00 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 5/6/2021**

Courtroom Deputy:

**OFF CALENDAR: Order of Dismissal Arising from Debtor's Request for
Voluntary Dismissal of Chapter 13 Entered 5/6/2021 - adm (5/6/2021)**

Party Information

Debtor(s):

Robert G Campoy

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 25, 2021

Hearing Room 5A

1:30 PM

8:21-10544 Jennifer Kay LaBounty

Chapter 13

#7.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 6

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Jennifer Kay LaBounty

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, May 25, 2021

Hearing Room 5A

1:30 PM

8:21-10485 Alan Dickinson

Chapter 7

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

Docket 28

*** VACATED *** REASON: OFF CALENDAR: Debtor's Notice of
Conversion of Bankruptcy Case from Chapter 13 to Chapter 7 filed
5/14/2021; Case Converted to Chapter 7

Courtroom Deputy:

**OFF CALENDAR: Debtor's Notice of Conversion of Bankruptcy Case
from Chapter 13 to Chapter 7 filed 5/14/2021; Case Converted to Chapter
7 - td (5/14/2021)**

Party Information

Debtor(s):

Alan Dickinson

Represented By
Christopher J Langley

Trustee(s):

Weneta M.A. Kosmala (TR)

Pro Se

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

Tuesday, May 25, 2021

Hearing Room

1:30 PM

8:21-10233 John Benyamin and Jacklin Bettaryouren

Chapter 13

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

FR: 4-27-21

Docket 2

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

John Benyamin

Represented By
James G. Beirne

Joint Debtor(s):

Jacklin Bettaryouren

Represented By
James G. Beirne

Movant(s):

John Benyamin

Represented By
James G. Beirne

Jacklin Bettaryouren

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, May 25, 2021

Hearing Room 5A

1:30 PM

8:21-10157 Michael Collins and Lyann Courant

Chapter 13

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

FR: 4-27-21

Docket 19

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Michael Collins

Represented By
Douglas A. Crowder

Joint Debtor(s):

Lyann Courant

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 Calendar**

Tuesday, May 25, 2021

Hearing Room

1:30 PM

8:21-10111 Roman Israel Pacheco

Chapter 13

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

FR: 4-27-21

Docket 2

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Roman Israel Pacheco

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, May 25, 2021

Hearing Room 5A

1:30 PM

8:21-10083 Shantel Higgs Oloju

Chapter 13

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

Docket 31

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Shantel Higgs Oloju

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 25, 2021

Hearing Room 5A

1:30 PM

8:21-10049 Julio Cesar Pichardo and Rocio Pichardo

Chapter 13

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

FR: 4-27-21

Docket 2

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Julio Cesar Pichardo

Represented By
Christopher J Langley

Joint Debtor(s):

Rocio Pichardo

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 25, 2021

Hearing Room 5A

2:30 PM

8:20-12181 Karolynne Johnson

Chapter 13

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

Docket 58

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Karolynne 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, May 25, 2021

Hearing Room 5A

2:30 PM

8:19-14032 Maria Guadalupe Canales

Chapter 13

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

Docket 36

Courtroom Deputy:

- 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, May 25, 2021

Hearing Room 5A

2:30 PM

8:19-13600 Ellie Elape Lam

Chapter 13

#16.00 Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Complete the Plan Within its Terms

Docket 68

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Ellie Elape Lam

Represented By
Christopher J Langley
Michael 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 25, 2021

Hearing Room 5A

2:30 PM

8:19-11671 Zeta Jayectin Besas

Chapter 13

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

Docket 42

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Zeta Jayectin Besas

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 25, 2021

Hearing Room 5A

2:30 PM

8:19-11497 Francine Rosu

Chapter 13

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

Docket 49

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Francine Rosu

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 25, 2021

Hearing Room 5A

2:30 PM

8:18-14641 Richard Thomas McPhee

Chapter 13

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

FR: 1-26-21; 2-23-21; 4-27-21

Docket 50

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 25, 2021

Hearing Room 5A

2:30 PM

8:18-14562 Mary Guenther

Chapter 13

#20.00 CONT'D Hearing RE: Trustee's Verified Motion for Order Dismissing Case Due to Material Default of a Plan Provision

FR: 4-27-21

Docket 42

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Mary Guenther

Represented By
Timothy McFarlin

Trustee(s):

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 25, 2021

Hearing Room 5A

2:30 PM

8:18-14252 Kayleen R Hittesdorf

Chapter 13

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

Docket 61

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Kayleen R Hittesdorf

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 25, 2021

Hearing Room 5A

2:30 PM

8:18-11407 John M. MacDonald

Chapter 13

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

Docket 113

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

John M. MacDonald

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, May 25, 2021

Hearing Room 5A

2:30 PM

8:18-11352 Hong-Hai Thi Tran

Chapter 7

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

Docket 59

*** VACATED *** REASON: OFF CALENDAR: Order on Debtor's Motion to Convert Case Under 11 U.S.C. §§706(a) or 1112(a) Entered 5/21/2021; Case Converted from Chapter 13 to Chapter 7

Courtroom Deputy:

OFF CALENDAR: Order on Debtor's Motion to Convert Case Under 11 U.S.C. §§706(a) or 1112(a) Entered 5/21/2021; Case Converted from Chapter 13 to Chapter 7 - td (5/21/2021)

Party Information

Debtor(s):

Hong-Hai Thi Tran

Represented By
Brian J Soo-Hoo

Movant(s):

Amrane (SA) Cohen (TR)

Pro Se

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, May 25, 2021

Hearing Room 5A

2:30 PM

8:17-13650 Giuseppe Galietta and Heldia F. De Galietta

Chapter 13

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

FR: 10-27-20; 11-24-20; 12-18-20; 1-26-21; 2-23-21; 4-27-21

Docket 148

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Giuseppe Galietta

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Heldia F. De Galietta

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, May 25, 2021

Hearing Room 5A

2:30 PM

8:16-13383 Jerome W. Harney and Jamie L. Harney

Chapter 13

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

Docket 79

***** VACATED *** REASON: Voluntary Dismissal of Motion filed 5/6/21**

Courtroom Deputy:

OFF CALENDAR: Voluntary Dismissal of Motion filed 5/6/21- mp(5/11/21)

Party Information

Debtor(s):

Jerome W. Harney

Represented By
Joseph A Weber

Joint Debtor(s):

Jamie L. Harney

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 25, 2021

Hearing Room 5A

2:30 PM

8:15-15338 Michael A. Balogh and Brenda R. Julian

Chapter 13

#26.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Complete the Plan Within its Terms

FR: 12-18-20

Docket 41

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Michael A. Balogh

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Brenda R. Julian

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**

Wednesday, May 26, 2021

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 TRIAL 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)

(Set at SC held 1-14-21)

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Order Approving
Stipulation for Entry of Judgment and Stipulated Judgment Entered
5/14/2021**

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

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 27, 2021

Hearing Room 5A

9:30 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1619838094>

Meeting ID: 161 983 8094

Password: 688987

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Thursday, May 27, 2021

Hearing Room 5A

9:30 AM

CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.

Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

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

Thursday, May 27, 2021

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 CON'TD TRIAL 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)

(Set at SC held 1-14-21)
FR: 5-26-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Order Approving
Stipulation for Entry of Judgment and Stipulated Judgment Entered
5/14/2021**

Courtroom Deputy:

**OFF CALENDAR: Order Approving Stipulation for Entry of Judgment
and Stipulated Judgment Entered 5/14/2021 - td (5/14/2021)**

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

Plaintiff(s):

Kang Family 2007 Revocable Trust

Represented By
Edmond Richard McGuire

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

Thursday, May 27, 2021

Hearing Room 5A

9:30 AM

CONT... Peter Woo Sik Kim

Chapter 7

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 27, 2021

Hearing Room 5A

10:00 AM

8:21-11264 Synrgo, Inc.

Chapter 11

**#1.10 Hearing RE: Emergency Motion of Debtor and Debtor in Possession for Order
Dismissing Chapter 11 Case**

Docket 48

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Synrgo, Inc.

Represented By
Sean A OKeefe

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

Thursday, May 27, 2021

Hearing Room 5A

10:00 AM

8:17-14535 Prime Metals U.S.A., Inc.

Chapter 7

Adv#: 8:19-01216 Marshack v. Hyundai Steel Company

#2.00 CON'TD Hearing RE: Defendant Hyundai Steel Company's Motion For A Protective Order And Clarification Of Courts October 14, 2020 Order

FR: 5-20-21

Docket 59

Courtroom Deputy:

- 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

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
David Wood

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

Thursday, May 27, 2021

Hearing Room 5A

10:00 AM

8:17-14535 Prime Metals U.S.A., Inc.

Chapter 7

Adv#: 8:19-01216 Marshack v. Hyundai Steel Company

#3.00 CONT'D Hearing RE: Plaintiff's Motion for an Order: (1) Compelling Production of Documents in Response to Plaintiff Richard A. Marshack's First Set of Requests for Production of Documents Propounded on Defendant Hyundai Steel Company; and (2) Overruling Objections of Hyundai Steel Company; and (3) Awarding Sanctions Against Hyundai Steel Company

FR: 5-20-21

Docket 64

Courtroom Deputy:

- 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

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

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

Thursday, May 27, 2021

Hearing Room 5A

10:00 AM

CONT... Prime Metals U.S.A., Inc.

Robert P Goe
David Wood

Chapter 7

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

Thursday, May 27, 2021

Hearing Room 5A

2:00 PM

8:21-11264 Synrgo, Inc.

Chapter 11

#4.00 CON'TD Hearing RE: Emergency Motion of Debtor and Debtor in Possession for an Order Authorizing Payment of the Prepetition Debts Owed to Certain Critical to Vendors to the Extent Necessary

FR: 5-20-21

Docket 7

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Synrgo, Inc.

Represented By
Sean A OKeefe

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

Thursday, May 27, 2021

Hearing Room 5A

2:00 PM

8:21-11264 Synrgo, Inc.

Chapter 11

#5.00 CON'TD Hearing RE: Emergency Motion for Order Authorizing Debtor to Pay Pre-Petition: (1) Wages, Salaries, and Other Compensation; (2) Employee Medical, Workers' Compensation, and Similar Benefits; (3) Employee Deductions; (4) Authorizing and Directing Applicable Banks and Other Financial Institution to Receive, Process, Honor, and Pay Checks Presented for Payment and to Honor Funds Transfer Request Relating to the Foregoing; and (5) Authorizing the Debtor Retain its Existing Payroll Funding Account for Thirty Days

FR: 5-20-21

Docket 8

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Synrgo, Inc.

Represented By
Sean A OKeefe

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

Thursday, May 27, 2021

Hearing Room 5A

2:00 PM

8:21-11264 Synrgo, Inc.

Chapter 11

#6.00 CON'TD Hearing RE: Emergency Motion of Debtor and Debtor in Possession for Entry of Interim and Final Orders (A) Prohibiting Utility Providers From Altering, Refusing or Discontinuing Service; (B) Approving the Debtor's Proposed Adequate Assurance of Payment for Postpetition Services; and (C) Establishing Procedures for Resolving Requests for Additional Adequate Assurance of Payment

FR: 5-20-21

Docket 11

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Synrgo, Inc.

Represented By
Sean A OKeefe

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

Thursday, May 27, 2021

Hearing Room 5A

2:00 PM

8:21-11264 Synrgo, Inc.

Chapter 11

#7.00 Hearing RE: Creditor UMB Bank, N.A.'s Emergency Motion for an Appointment of Trustee

Docket 28

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Synrgo, Inc.

Represented By
Sean A OKeefe

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

Thursday, June 3, 2021

Hearing Room 5A

9:30 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1616390777>

Meeting ID: 161 639 0777

Password: 314314

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Thursday, June 3, 2021

Hearing Room 5A

9:30 AM

CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
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- Say your name every time you speak.
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Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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

Thursday, June 3, 2021

Hearing Room 5A

9:30 AM
CONT...

Chapter

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

Thursday, June 3, 2021

Hearing Room 5A

9:30 AM

8:18-11594 George Carl Natzic

Chapter 7

Adv#: 8:18-01170 Add2Net, Inc. v. Natzic et al

#1.00 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; 7-16-20; 9-17-20; 11-5-20; 1-8-21; 4-1-21

Docket 1

***** VACATED *** REASON: CONTINUED TO 7/22/2021 AT 9:30 A.M.,
Per Order Entered 5/21/201 (XX)**

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 7/22/2021 at 9:30 a.m., Per
Order Entered 5/21/2021 (XX) - td (5/21/2021)**

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

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, June 3, 2021

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, June 3, 2021

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 CON'TD PRE-TRIAL 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: 3-5-20; 9-10-20; 12-17-20; 4-1-21

Docket 1

Courtroom Deputy:

SPECIAL NOTE: Unilateral Notice of Settlement of Matter and Request to Continue Status Conference filed 5/31/2021 - td (6/1/2021)

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.
(XX)
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.

December 17, 2020

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

Thursday, June 3, 2021

Hearing Room 5A

9:30 AM

CONT...

Francis J Marzec

Chapter 7

Continue the hearing as a Status Conference to April 1, 2021 at 9:30 a.m.; an updated Status Report must be filed by March 18, 2021 if the adversary proceeding is still pending as of such date. (XX)

Note: Appearances at this hearing are not required; Plaintiff shall serve notice of the continued hearing date/time.

April 1, 2021

In light of pending settlement, continue this hearing to June 3, 2021 at 9:30 a.m. as a holding date; updated status report must be filed by May 20, 2021 if the matter is still pending as of that date. (XX)

Note: Appearances at this hearing are not required; Plaintiff shall serve notice of the continued hearing date/time.

June 3, 2021

Continue as a Status Conference to July 15, 2021 at 9:30 a.m.; updated Status Report must be filed by July 8, 2021 if the adversary has not been dismissed by such date.

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

Francis J Marzec

Represented By
Christine A Kingston

Defendant(s):

Anita Sweeney

Pro Se

Tori Sweeney

Pro Se

Michael Marzec

Pro Se

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

Thursday, June 3, 2021

Hearing Room 5A

9:30 AM

CONT... Francis J Marzec

Chapter 7

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, June 3, 2021

Hearing Room 5A

9:30 AM

8:19-13858 Bruce Elieff

Chapter 7

Adv#: 8:20-01178 Banning Bench Community of Interest Association, I v. Elieff

#3.00 CON'TD STATUS CONFERENCE RE: Complaint To Determine Dischargeability of Debt and Denial of Discharge

FR: 3-11-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 11, 2021

Continue Status Conference to June 3, 2021 at 9:30 a.m.; updated Status Report must be filed by May 20, 2021. (XX)

Note: Appearances at this hearing are not required; Plaintiffs to serve notice of the continued hearing date/time.

June 3, 2021

Continue Status Conference to July 15, 2021 at 9:30 a.m.; Court to issue Order to Show Cause why this adversary should not be dismissed for failure of Plaintiff to file an amended complaint by March 25, 2021 as ordered by the court [docket #26]. The hearing on the OSC will be heard on July 15, 2021 at 9:30 a.m.

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, June 3, 2021

Hearing Room 5A

9:30 AM

CONT... Bruce Elieff

Chapter 7

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Defendant(s):

Bruce Elieff

Pro Se

Plaintiff(s):

Banning Bench Community of

Represented By
John G McClendon

Highland Springs Conference and

Represented By
John G McClendon

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

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

Thursday, June 3, 2021

Hearing Room 5A

10:00 AM

8:19-10553 Christine Martinez

Chapter 13

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

U.S. BANK N.A.

VS.

DEBTOR

Docket 38

***** VACATED *** REASON: Order approving APO Entered 6/1/21- mp
(6/1/21)**

Courtroom Deputy:

OFF CALENDAR: Order approving APO Entered 6/1/21- mp/td (6/1/21)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christine Martinez

Represented By
Julie J Villalobos

Movant(s):

U. S. Bank National Association as

Represented By
Christina J Khil

Trustee(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 3, 2021

Hearing Room 5A

10:00 AM

8:20-10682 Kim-Lan T Nguyen

Chapter 13

#5.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]
COMMUNITY LOAN SERVICING, LLC
VS.
DEBTOR

Docket 50

***** VACATED *** REASON: OFF CALENDAR: Movant's Notice of
Withdrawal of Motion, filed 5/26/2021**

Courtroom Deputy:

**OFF CALENDAR: Movant's Notice of Withdrawal of Motion, filed
5/26/2021 - td (5/26/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kim-Lan T Nguyen

Represented By
Thinh V Doan

Movant(s):

Community Loan Servicing, LLC

Represented By
Jenelle C Arnold

Trustee(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 3, 2021

Hearing Room 5A

10:00 AM

8:21-10513 Rosa A Fridman

Chapter 7

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

KARL AVETOOM

VS.

DEBTOR

Docket 56

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 3, 2021

Grant relief from the automatic on the following conditions: 1) Movant must seek a finding from the state court as to whether Debtor agreed on the record to a voluntary lien on the subject property or whether she agreed to the enforcement of the underlying judgment; and 2) Movant may not enforce any lien without further order of the court. The court's Order To Grant Debtor's Motion to Avoid Lien entered on April 28, 2021 [docket #45], which is currently on appeal, remains in full force and effect and is not in any way affected by the granting of this motion for relief from stay. Debtor, along with the chapter 7 trustee, has standing to appear in the hearing in state court regarding the amendment of the subject judgment.

Basis for Tentative Ruling:

The court has closely reviewed the transcript from the July 19, 2019 state court hearing in which the terms of the settlement agreement were read into the record [Exh. 1 to the Motion], the state court's Minute Order of February 13, 2020 [Exh. 2 to the Motion], and the Judgment entered August 13, 2020

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

Thursday, June 3, 2021

Hearing Room 5A

10:00 AM

CONT... Rosa A Fridman

Chapter 7

[Exh. 3 to the Motion]. Nothing in any of the documents indicate that Debtor agreed to a consensual lien against the subject property, i.e., independent of the agreement to a judgment that may be enforced by the recordation of a lien against the subject property. That said, this court shall defer to the state court to make that factual determination.

Party Information

Debtor(s):

Rosa A Fridman

Represented By
Scott Talkov

Movant(s):

Karl Avetoom

Pro Se

Trustee(s):

Karl T Anderson (TR)

Represented By
Melissa Davis Lowe

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

Thursday, June 3, 2021

Hearing Room 5A

10:00 AM

8:21-10758 Emad Eldin Ahmed Elhasany and Noha Abdel Kader

Chapter 7

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

Docket 14

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 3, 2021

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):

Emad Eldin Ahmed Elhasany

Represented By
Kevin J Kunde

Joint Debtor(s):

Noha Abdel Kader Hamad

Represented By
Kevin J Kunde

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

Thursday, June 3, 2021

Hearing Room 5A

10:00 AM

CONT... Emad Eldin Ahmed Elhasany and Noha Abdel Kader

Chapter 7

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, June 3, 2021

Hearing Room 5A

10:00 AM

8:21-10767 Linda Lindgren

Chapter 7

#8.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]
AMERICAN HONDA FINANCE CORPORATION
VS.
DEBTOR

Docket 8

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 3, 2021

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):

Linda Lindgren

Represented By
Julie J Villalobos

Movant(s):

AMERICAN HONDA FINANCE

Represented By
Vincent V Frounjian

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

Thursday, June 3, 2021

Hearing Room 5A

10:00 AM

CONT... Linda Lindgren

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, June 3, 2021

Hearing Room 5A

10:30 AM

8:16-13537 Darryl L. Cazares and DeAnna J. Cazares

Chapter 13

#9.00 Hearing RE: Debtors' Motion to Avoid Junior Lien on Principal Residence

Docket 133

***** VACATED *** REASON: CONTINUED TO 7/1/2021 AT 10:30 A.M.,
PER ORDER ENTERED 5/12/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 7/1/2021 at 10:30 a.m., Per Order
Entered 5/12/2021 (XX) - td (5/12/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Darryl L. Cazares

Represented By
Joseph Arthur Roberts

Joint Debtor(s):

DeAnna J. Cazares

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**

Thursday, June 3, 2021

Hearing Room 5A

10:30 AM

8:20-10566 Eric C. Bryant and Gina K Bryant

Chapter 7

#10.00 Hearing RE: Motion for Approval of Debtor's Waiver of Attorney-Client Privilege

Docket 119

***** VACATED *** REASON: CONTINUED TO 6/10/2021 AT 10:30 A.M.,
Per Order Entered 5/26/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 6/10/2021 at 10:30 a.m., Per Order
Entered 5/26/2021 (XX) - td (5/26/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

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
Thomas H Casey

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

Thursday, June 3, 2021

Hearing Room 5A

10:30 AM

8:20-12488 Christopher Summers

Chapter 11

#11.00 Hearing RE: Secured Creditor's Motion to Dismiss Debtor's Chapter 11 Pursuant to Bankruptcy Code Section 1112(b)(1)

Docket 58

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 3, 2021

Deny motion without prejudice.

Basis for Tentative Ruling

1. Service

All creditors were not served as required by FRBP 2002(a)(4). In addition, a supplemental Zoom notice was not served on all creditors.

2. Merits

In a chapter 11 case, a creditor is only required to file a proof of claim if its claim is not scheduled or is scheduled as disputed, contingent or unliquidated. FRBP 3003(c)(2). Any creditor whose claim does not fall into those categories may elect not to file a proof of claim and will still be treated as a creditor of the estate. Here, Debtor did not schedule any of his debt as disputed, contingent or unliquidated. Accordingly, Movant's position that Debtor only has allowed claims of \$2400 is incorrect.

2. Debtor's schedules show real property with a combined value of approximately \$3.7M, leaving potential equity in excess of \$1M even assuming post-petition interest, charges etc of \$160,000. Movant has not countered the property values with its own evidence.

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CONT... Christopher Summers

Chapter 11

3. Based on the pleadings, conversion to chapter 7 would appear to be in the best interests of all creditors. Chapter 7 trustees are adept at investigating the value of estate assets and employing real estate professionals who are skilled in marketing distressed properties. The court cannot, as urged by Movant, assume that a chapter 7 trustee will be unable to sell the properties simply because Debtor has been unable to do so.

Note: If Movant accepts the tentative ruling, appearance at this hearing is not required.

Party Information

Debtor(s):

Christopher Summers

Represented By
J Scott Williams

**United States Bankruptcy Court
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10:30 AM

8:20-12488 Christopher Summers

Chapter 11

#12.00 CON'TD STATUS CONFERENCE Hearing RE: (1) Status of Chapter 11 Case;
and (2) Requiring Report on Status of Chapter 11 Case

FR: 11-5-20; 2-4-21; 4-1-21; 5-20-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

November 5, 2020

Claims bar date:	Jan. 8, 2021 (notice by Nov. 9, 2020)
Deadline to file plan/DS:	1/15/21
Continued Status Conf:	Feb. 4, 2021 at 10:30 am (XX)
Updated Status Report due: filed)	Jan. 21, 2021 (waived if plan/DS timely filed)

Note: Appearance at this hearing is not required if Debtor accepts the foregoing tentative ruling and Debtor is in substantial compliance with the requirements of the U.S. Trustee. It is Debtor's responsibility to confirm such compliance with the U.S. Trustee prior to the hearing. The court will prepare its own Order re the status conference.

February 4, 2021

Continue Status Conference to April 1, 2021 at 10:30 a.m.; updated Status Report not required. (XX)

Note: Appearance at this hearing is not required.

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CONT... Christopher Summers
April 1, 2021

Chapter 11

Continue status conference to May 20, 2021 at 10:30 a.m.; updated status report is not required if the amended disclosure statement is timely filed on April 22, 2021. (XX)

Note: Appearances at this hearing are not required.

May 20, 2021

Continue status conference to June 3, 2021 at 10:30 a.m.; updated status report not required. (XX)

Note: Appearances at this hearing are not required.

June 3, 2021

No tentative ruling. Disposition depends on the outcome of #11 on today's calendar.

Party Information

Debtor(s):

Christopher Summers

Represented By
J Scott Williams

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Hearing Room 5A

10:30 AM

8:20-13201 American Sterling Corporation

Chapter 11

#13.00 Hearing RE: Confirmation of Liquidation Plan for Small Business Under Chapter 11

Docket 43

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 3, 2021

Confirm plan -- all applicable requirements of Sections 1129 and 1191(a).
Approve abandonment of certain Residual Interests. Post-confirmation Status Conference is set for December 2, 2021 at 10:30 a.m.; a post-confirmation Status Report must be filed by November 18, 2021.

Note: As this matter is uncontested, appearances at the hearing are not required.

Party Information

Debtor(s):

American Sterling Corporation

Represented By
Nanette D Sanders

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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Hearing Room 5A

10:30 AM

8:20-13201 American Sterling Corporation

Chapter 11

#14.00 CONT'D STATUS CONFERENCE Hearing on Status of Subchapter V Case; (2) Requiring Report on Status of Subchapter V Case by Debtor and Subchapter V Trustee

FR: 1-7-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 7, 2021

Deadline to file plan*: Feb. 16, 2021

Plan Confirmation Hearing/
Continued Status Conference: Apr. 15, 2021 at 10:30 a.m.

Deadline to serve plan/
deadline notices/ballot: Feb. 23, 2021

Deadline for return of ballots/
filing objections to plan: Mar. 23, 2021

Deadline to file confirmation
brief/ballots/ tally analysis Apr. 6, 2021

*The court will not require a disclosure statement. However, the plan must include a brief statement discussing the circumstances precipitating the filing and the purpose of the plan. An updated chapter 11 status report is not required if a plan is timely filed by February 16, 2021.

Special Note: The court does not typically set a deadline for the filing of

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CONT... American Sterling Corporation

Chapter 11

proofs of claim unless a deadline is specifically requested.

Note: If Debtor is in substantial compliance with the requirements of the U.S. Trustee, accepts the confirmation schedule proposed above, and there have been no significant developments in the case since the status report was filed, appearances at this hearing will not be required. It is Debtor's responsibility to confirm substantial compliance with the U.S. Trustee in advance of the hearing. The Court will issue its own order re the continuance of the Status Conference.

June 3, 2021

Off calendar in light of confirmation of Subchapter V Plan.

Party Information

Debtor(s):

American Sterling Corporation

Represented By
Nanette D Sanders

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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Hearing Room 5A

10:30 AM

8:21-10135 Chase Merritt Global Fund LLC

Chapter 11

#15.00 Hearing RE: Motion to Disallow Secured Creditor Green Rock II, LLC's Proof of Claim (Claim No. 2)

Docket 59

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 3, 2021

Grant the Motion only as to the forced place insurance in the amount of \$1511.70 plus accrued interest claimed thereon; Deny the Motion in all other respects.

Basis for Tentative Ruling

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, 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.

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CONT... Chase Merritt Global Fund LLC

Chapter 11

1991). Under 11 U.S.C. § 502(b)(1), a proof of claim shall be disallowed if it 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."

Under 11 U.S.C. § 502(b)(1), Debtor objects to the portion of the Claim that seeks default interest, fees, and other improper charges in excess of \$323,703.71 ("Motion")[dkt. 59] and ("Reply")[dkt. 82]. Accordingly, Debtor argues that the interest charges should be limited to the contract rate of 10.5% per annum, which would allow for 12 months additional interest at \$10,937.50 per month or a total of \$131,250 in total interest, plus principal of \$1,250,000 and foreclosure fees and expenses of \$10,910.56 for a total reduced allowed claim of \$1,392,160.56. Green Rock Opposes the Motion ("Opposition")[dkt. 77].

As the Claim is entitled to *prima facie* validity, Debtor is required to present affirmative evidence to overcome this presumption of validity. Debtor has failed to do so. Debtor argues that the Note is ambiguous as to whether the Default Interest Addendum is part of the Note because the Default Interest Addendum was executed by Nguyen in his individual capacity only, the Note and the Default Interest Addendum do not cross reference each other, and Nguyen was listed as the "borrower" on the first page of the Default Interest Addendum. See Mot., 4-7 and Ex. A (Ex. 1, p. 12-16 bates stamp). Relying on Civil Code § 1649 ("If the terms of a promise are in any respect ambiguous or uncertain, it must be interpreted in the sense in which the promisor believed, at the time of making it, that the promisee understood it."), Debtor contends that the court should construe the note as Nguyen understood it, and against Green Rock as the drafter of the Note and Default Interest Addendum, and that Nguyen understood that the Default Interest Addendum was not part of the Note but rather part of his discussions to act as co-borrower and guarantor of the loan. See Mot., 2:26-3:6. This argument is unpersuasive for several reasons, however, even assuming that the listing of Nguyen as "borrower" on the Default Interest Addendum creates an ambiguity. First, the signature block of the Default Interest Addendum clearly identifies Nguyen as the "Manager" for Debtor and the "borrower" in the signature block is Debtor. This indicates that it was the intention of both Debtor and Nguyen that Debtor was to be the

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CONT... Chase Merritt Global Fund LLC

Chapter 11

sole borrower since there is no separate signature line for Nguyen individually. Second, the signature block for the Default Interest Addendum matches the signature block for all of the other documents executed, including the Note. Next, both the Note and the Default Interest Addendum were dated August 1, 2019 which indicates that the documents were executed as part of the same transaction. The Note and Default Interest Addendum are the fourth round of loan documents executed by Debtor who executed similar documents in October 2017, May 2018, and November 2018. These earlier loan transactions also listed Nguyen as the "borrower" in the default interest addendum, but there is no testimony that Nguyen contested those prior default interest addendum becoming part of the underlying promissory notes. This indicates that the parties at all times intended the default interest addendums to be part of the underlying promissory notes under the four rounds of loan documents executed. Finally, Nguyen's testimony does not state that he ever actually borrowed money from Green Rock. Nguyen testified that he had "discussions" and "executed a number of documents" but no such other documents are provided by Debtor. See Mot., 12, ¶¶8-9. This is significant because without any promissory note executed by Nguyen in his individual capacity, there is no other promissory note that the Default Interest Addendum relates to other than the Note.

Relying on *In re Crystal Properties, Ltd., L.P.*, 268 F.3d 743, 750 (9th Cir. 2001), Debtor argues that the default interest provisions of the Default Interest Addendum were not triggered because the loan was not accelerated before it matured on March 1, 2020. See Mot., 7-8. Importantly, the default interest provision is not tied to the acceleration clause; rather, the default interest rate is automatically triggered by Debtor's default under the Note. In *Crystal Properties*, the relevant language stated that "[s]hould default be made in any payment provided for in this note, ... at the option of the holder hereof and without notice or demand, the entire balance of principal and accrued interest then remaining unpaid shall become immediately due and payable, and *thereafter* bear interest, until paid in full, at the increased rate...." *Id.* at 753. Thus, only after lender accelerated the loan could the default interest "thereafter" begin to accrue in *Crystal Properties*. Unlike that case, in section 2 of the Default Interest Addendum, an event of default gives Green Rock the option to accelerate the loan but there is no mention of

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default interest in that section. In section 3 of the Default Interest Addendum, the default interest "shall automatically" start to accrue upon any event of default. See Mot., Ex. A (Ex. 1, p. 12 bates stamp). Thus, the triggering event for the default interest provision in this case was drafted differently from *Crystal Properties* and the Ninth Circuit recognized in *Crystal Properties* that parties could draft different "triggering" events for default interest. *Crystal Properties, supra*, at 754 (listing cases). The Note unambiguously describes the nonpayment of any monthly payment as a default. "If I do not pay the full amount of each monthly payment on the date it is due, I will be in default." Mot., Ex. A (Ex. 1, p. 6 bates stamp). Debtor defaulted on its January 2020 payment after prepaying interest for October – December 2019. See Opp'n, 9 and 13-14. Accordingly, the Note and Default Interest provided that default interest of 20.875% began after section 3 of the Default Interest Addendum was "triggered" by Debtor's failure to pay the January 2020 payment. Whether the loan was accelerated before the maturity date of March 1, 2021 is not relevant in this case because the default interest provision is not connected to the acceleration clause.

Debtor's other arguments regarding the attorney fee provision and appraisal are overruled because the plain terms of the Note- which Debtor admits are valid- provides for the inclusion of attorney fees to Green Rock and the appraisal is a litigation expense incurred by Green Rock. See Mot., 8-9; Opp'n, 10-12. Debtor's argument that this provision was not "triggered" because there as no payment default is erroneous because, as discussed above, Debtor defaulted under the Note by failing to make the January 2020 payment.

In sum, with regard to the default interest, attorney fee provision and appraisal, Debtor has failed to rebut the prima facie validity of the Claim and the Motion is partially denied. With regard to the forced place insurance amount of \$1,511.70 plus 20.875% monthly interest, Debtor has successfully rebutted the *prima facie* validity of the Claim. Debtor has provided a copy of an insurance policy for the Fisher Lane Property that was valid from September 4, 2020 to September 4, 2021. Green Rock is claiming forced placed insurance from February 19, 2021 to April 6, 2021. See Mot., Ex. A (Ex. 7, p. 122 bates stamp). Debtor has therefore presented affirmative evidence showing that Fisher Lane Property was insured and that there was

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CONT... Chase Merritt Global Fund LLC Chapter 11

no need for Green Rock to force place insurance thereby shifting the burden of persuasion onto Green Rock. See Mot., 9:13-15. Because the Opposition is silent on this point, Green Rock has failed to carry its burden to prove the ultimate validity of the \$1,511.70 plus 20.875% monthly interest claimed for forced placed insurance. See *generally*, Opp'n.

Party Information

Debtor(s):

Chase Merritt Global Fund LLC

Represented By
W. Derek May

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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10:30 AM

8:21-10157 Michael Collins and Lyann Courant

Chapter 13

#16.00 Hearing RE: Debtors' Objection to Claim No. 12-1 Filed by Zhejiang Crafab Electric Co. Ltd.

Docket 33

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 3, 2021

Sustain the objection. For purposes of plan confirmation, the Claim is estimated at \$0.00 pursuant to 11 U.S.C. 502(c)(1)

Basis for Tentative Ruling

A proof of claim executed and filed in accordance with FRBP 3001(f) constitutes prima facie evidence of the validity and amount of the claim. Rule 3001(f); *Lundell v. Anchor Const. Specialists, Inc.*, 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. A party who seeks to defeat a claim must provide sufficient evidence and show facts which have probative force equal to that of the "allegations of the proofs of claims themselves." *Id.* 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, 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*, 223 F.3d at 1039. The ultimate

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CONT... **Michael Collins and Lyann Courant** **Chapter 13**

burden of persuasion remains at all times upon the claimant. *Id.*; *Holm*, 931 F.2d 620 (9th Cir. 1991).

In this matter, Debtors have provided sufficient evidence to negate personal liability for the \$900k claim through the Memorandum of Understanding attached to the proof of claim which clearly indicates the agreement between the corporate entity Advantage Manufacturing Inc and Claimant. The ultimate burden of persuasion then shifted to Claimant.

Claimant has not met its ultimate burden of proof based on the following:

1. Allegations in a complaint do not constitute evidence.
2. Statements based on information and belief do not constitute evidence.
3. Claimant has presented a 182-page deposition of Debtors' accountant, Elaine Han, without even marking the testimony that it believes somehow supports a finding of *alter ego*. See LBR 7030-1(b)(2) (requiring the marking of testimony offered in a contested hearing).
4. In sum, Claimant has provided no evidence of alter ego liability.

Pursuant to Bankruptcy Code Section 502(c)(1), this court must estimate, for purpose of allowance for plan confirmation purposes, "any contingent or unliquidated claim, the fixing or liquidation of which, as the case may be, would unduly delay the administration of the case;" See, *In re Corey*, 892 F.2d 829, 834 (9th Cir. 1989). The discretion of the court in this regard is broad. *Id.*

Though Claimant provides no information re the status of the case pending in District Court, it appears the case was filed more than three years ago in 2017 and is not yet ready for trial (jury trial demanded). Debtors have listed numerous other creditors, including the IRS. As the litigation in District Court could take several months to years, such a delay would unduly delay the administration of this chapter 13 case. Accordingly, based on the lack of

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CONT... Michael Collins and Lyann Courant Chapter 13

evidence presented in support of the alter ego claim, the court determines that, for plan confirmation purposes, the amount of the claim is estimated at zero. Obviously, Debtors' discharge could be adversely affected if they are later determined to be liable in the District Court action.

Party Information

Debtor(s):

Michael Collins

Represented By
Douglas A. Crowder

Joint Debtor(s):

Lyann Courant

Represented By
Douglas A. Crowder

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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10:30 AM

8:21-10635 Alicia Marie Richards

Chapter 7

#17.00 Hearing RE: Application to Employ Richard G. Heston of Heston & Heston as Trustee's Special Counsel

Docket 12

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 3, 2021

Approve the application. Overrule objections thereto.

Basis for Tentative Ruling:

Neither the objections raised by Debtor or Lawrence Remsen state grounds sufficient to deny the Application. The court incorporates by reference the Trustee's analysis in the Application and Reply.

Special Note: The court is aware that on May 31, 2021 Debtor filed a motion to convert the case to chapter 13, which is set for hearing on July 1, 2021. The filing of the Motion does not moot the Application or this hearing.

Party Information

Debtor(s):

Alicia Marie Richards Pro Se

Trustee(s):

Richard A Marshack (TR) Pro Se

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8:21-10635 Alicia Marie Richards

Chapter 7

#18.00 Hearing RE: Application by Chapter 7 Trustee to Employ Real Estate Agent (Clarence Yoshikane of Berkshire Hathaway HomeServices California Properties)

Docket 18

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 1, 2021

Approve Application to Employ Real Estate Agent. Overrule Objections except with respect to paragraph 7 of Trustee's Addendum to Exclusive Authorization and Right to Sell Agreement which erroneously include the name of a bankruptcy estate unrelated to this case.

Basis for Tentative Ruling

Under 11 U.S.C. § 327(a), a professional may not be employed by a trustee unless the professional does not "hold or represent an interest adverse to the estate, and that are disinterested persons" and may assist the trustee in carrying out the trustee's duties. To be a "disinterested person," the professional person cannot be a creditor, equity security holder, insider, or an investment banker for any outstanding security of the debtor. 11 U.S.C. § 101(14). Here, the Firm is qualified to represent Trustee as special counsel based on the Firm's specialized experience in family law and bankruptcy law. See App., 6, ¶¶ 2-4 (C. Yoshikane Decl.). Employment of the Firm is in the best interest of creditors because Agent will assist Trustee in monetizing the estate's interest in the Property by marketing and selling the Property. Agent's proposed compensation of 5.8% of the purchase, with 2.9% to be shared with any buyer's agent, is reasonable given the fact that Agent has agreed that the estate must net as much. Agent is also "disinterested person" within the meaning of § 101(14) because Agent represents no

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10:30 AM

CONT...

Alicia Marie Richards

Chapter 7

interest which would be adverse to Debtors, the estate, creditors, or any party in interest in this proceeding. See App., 6-7, ¶¶ 8-10.

The Objections are overruled for several reasons. First, Debtor's argument that the Application as being premature because there are no valid claims to pay due to Debtor's cross-claims against creditors is without merit because a review of the Claims Register indicates that there are already two claims filed by Merrick Bank and Eugene Zech in the total amount of \$70,869.01. See FRE 201(c)(1) and (d)("The court...may take judicial notice on its own... at any stage of the proceeding."); *In re Blumer*, 95 B.R. 143, 146 (BAP 9th Cir. 1988)("It is well established that a court may take judicial notice of its own records..."); Reply, 4. These two claims are presumptively valid under § 502 since there have been no objections to those filed claims and because the claims bar of August 10, 2021 has not yet passed, other claims may still be filed. Debtor's objection to the reasonableness of Agent's proposal to incur up to \$15,000 to repair and prepare the Property for marketing is also overruled because such expenses will remain subject to court approval. There is also no evidence that Agent is engaged in any house flipping scheme. These unsupported allegations are insufficient to rebut the discretion provided to chapter 7 trustees to select their own professionals. See Reply, 5-7. Accordingly, the Application is approved.

The court will sustain Debtor's objection to paragraph 7 of Trustee's Addendum to Exclusive Authorization and Right to Sell Agreement ("Addendum"), however, because it includes a reference to the bankruptcy estate of "Igor Shabanets" which appears to be a typographical error. See App., Ex. 1, 12, ¶ 7. Thus, paragraph 7 of the Addendum will be interlined to refer to the bankruptcy estate of Alicia Marie Richards.

Special Note: The court is aware that on May 31, 2021 Debtor filed a motion to convert the case to chapter 13, which is set for hearing on July 1, 2021. The filing of the Motion does not moot the Application or this hearing.

Party Information

Debtor(s):

Alicia Marie Richards

Pro Se

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CONT... Alicia Marie Richards

Chapter 7

Trustee(s):

Richard A Marshack (TR)

Pro Se

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2:00 PM

8:21-10525 The Source Hotel, LLC

Chapter 11

#19.00 CON'TD Hearing RE: Motion of Shady Bird Lending, LLC for Order Excusing State Court Receiver from Turnover of Assets Pursuant to 11 U.S.C. Section 543

FR: 4-15-21

Docket 51

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

Deny Motion.

A more detailed tentative ruling may be posted at any time prior to the hearing.

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

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2:00 PM

8:21-10525 The Source Hotel, LLC

Chapter 11

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

SHADY BIRD LENDING, LLC

VS.

DEBTOR

FR: 4-22-21

Docket 62

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 22, 2021

Continue hearing to June 3, 2021 at 2:00 p.m., same date and time as the hearing on Movant's motion to excuse the state court receiver from the turnover requirements of 11 U.S.C. Section 543. Ordinary 21/14/7 briefing deadlines under LBR 9013-1 apply. (XX)

Special Note:

Tentative ruling for 6/3/21: Based on the evidence presented thus far, the court is inclined to deny the Motion due to the lack of evidence that the property has declined in value since the petition date and the lack of evidence to refute the owner's opinion as to the value of the property. Despite the tentative ruling, the court declines to rule at today's hearing or to entertain oral argument because it would like to view the Motion in the context of the turnover motion.

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CONT... The Source Hotel, LLC

Chapter 11

Additional note to the parties: In this court, pleadings rife with snide, petty, snarky hyperbole is unpleasantly distracting and degrades the quality of one's argument and position.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

Movant(s):

Shady Bird Lending, LLC

Represented By
Daniel A Lev
Ronald N Richards

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9:30 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1602379265>

Meeting ID: 160 237 9265

Password: 967736

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.

Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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

Thursday, June 10, 2021

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

#1.00 TRIAL PROCEDURES STATUS 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; 6-11-20; 9-17-20; 12-17-20; 1-21-21

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 10, 2021

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.

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.

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 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

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

Thursday, June 10, 2021

Hearing Room 5A

9:30 AM

CONT... Cassandra Dean Duerscheidt

Chapter 7

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.

December 17, 2020

The Joint Pretrial Stipulation filed on 12/12/20 is approved. Unless a party requests otherwise, the court's ordinary procedures requiring direct testimony by declaraton (exclusive of adverse or rebuttal testimony) will apply.

January 21, 2021 (Modified since original posting)

Set trial for June 23-25, 2021 at 9:00 a.m.; direct testimony by declaration (see the court's trial procedures re direct testimony set forth on the court's website). Set Trial Procedures Conference for May 6, 2021 at 9:30 a.m.

Comments:

The parties are to appear and advise the court of any stipulations re the

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, June 10, 2021

Hearing Room 5A

9:30 AM

CONT... Cassandra Dean Duerscheidt Chapter 7

authentication and/or admission of certain exhibits, particularly those requiring testimony by a custodian or records.

The purpose of the Trial Procedures Conference is to go over trial logistics in a remote, Zoom environment. The court will issue its own Order Establishing Remote Trial Procedures in advance of the Trial Procedures Conference.

Note: Appearances at this hearing are required.

June 10, 2021

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

Basis for Tentative Ruling

1. Parties to advise the court re the status of stipulations re the admission of documents, specifically the Wells Fargo letter that was still an issue as of the last hearing.
2. Whether the parties prefer a virtual Zoom hearing on the currently scheduled dates of July 28, 29 and 30, 2021 or an in-person trial on
3. If the parties prefer the virtual Zoom trial, a trial procedures hearing may be set for July 21, 2021 at 1:30 p.m. to address any technical issues such as the electronic submission of evidence, screen sharing, etc.

Party Information

Debtor(s):

Cassandra Dean Duerscheidt

Represented By
Brian J Soo-Hoo

Defendant(s):

Cassandra Dean Duerscheidt

Pro Se

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

Thursday, June 10, 2021

Hearing Room 5A

9:30 AM

CONT... Cassandra Dean Duerscheidt

Chapter 7

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 10, 2021

Hearing Room 5A

9:30 AM

8:19-11546 Joseph Ra

Chapter 7

Adv#: 8:19-01157 Caraveo et al v. Ra

#2.00 CON'TD PRE-TRIAL CONFERENCE RE: Complaint to Determine
Dischargeability of Debt

FR: 10-17-19; 4-16-20; 7-16-20; 10-22-20; 2-4-21

Docket 1

*** VACATED *** REASON: OFF CALENDAR: Order Granting
Plaintiff's Voluntary Dismissal of Adversary Proceeding, Without Prejudice
Entered 5/26/2021

Courtroom Deputy:

**OFF CALENDAR: Order Granting Plaintiff's Voluntary Dismissal of
Adversary Proceeding, Without Prejudice Entered 5/26/2021 - td
(5/26/2021)**

Tentative Ruling:

October 17, 2019

Discovery Cut-off Date:	Mar. 16, 2020
Deadline to Attend Mediation:	Feb. 7, 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 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, June 10, 2021

Hearing Room 5A

9:30 AM

CONT... Joseph Ra

Chapter 7

Jaenam J Coe

Defendant(s):

Joseph Ra

Represented By
Jaenam J Coe

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
Thomas J Polis

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

Thursday, June 10, 2021

Hearing Room 5A

10:00 AM

8:18-11361 Khanh Tien Tran

Chapter 13

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

NEWREZ LLC

vs.

DEBTOR

Docket 53

***** VACATED *** REASON: CONTINUED TO 7/15/2021 AT 10:00 A.M.,
Per Order Entered 6/2/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 7/15/2021 at 10:00 a.m., Per Order
Entered 6/2/2021 (XX) - td (6/2/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Khanh Tien Tran

Represented By
Halli B Heston

Movant(s):

NewRez LLC d/b/a Shellpoint

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 10, 2021

Hearing Room 5A

10:00 AM

8:18-12499 Katrina Barrientos and James Wee

Chapter 13

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

TD AUTO FINANCE LLC

VS.

DEBTORS

Docket 94

***** VACATED *** REASON: OFF CALENDAR: Order Granting Motion
for Relief from the Automatic Stay Under 11 U.S.C. §362 (Settled by
Stipulation) Entered 5/26/2021**

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic
Stay Under 11 U.S.C. §362 (Settled by Stipulation) Entered 5/26/2021 - td
(5/26/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Katrina Barrientos

Represented By
Amanda G. Billyard
Andy C Warshaw

Joint Debtor(s):

James Wee

Represented By
Amanda G. Billyard
Andy C Warshaw

Movant(s):

TD Auto Finance LLC

Represented By
Jennifer H Wang

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

Thursday, June 10, 2021

Hearing Room 5A

10:00 AM

CONT... Katrina Barrientos and James Wee

Chapter 13

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 10, 2021

Hearing Room 5A

10:00 AM

8:21-10635 Alicia Marie Richards

Chapter 7

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

RYAL W. RICHARDS

VS.

DEBTOR

Docket 34

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 10, 2021

Grant the Motion to allow all matters pending before the family law court EXCEPT matters relating to the sale of the subject Newport Beach real property and/or eviction of Debtor from the property.

Basis for Tentative Ruling:

. Granting relief from the automatic stay to allow family law related litigation to be fully adjudicated in state court is entirely consistent with the law of this circuit. See, *MacDonald v. MacDonald (In re MacDonald)*, 755 F.2d 715, 717 (9th Cir.1985) ("It is appropriate for bankruptcy courts to avoid incursions into family law matters "out of consideration of court economy, judicial restraint, and deference to our state court brethren and their established expertise in such matters." ... *Schulze v. Schulze*, 15 B.R. 106, 109 (Bankr.S.D.Ohio 1981) (granting debtor's wife relief from stay to complete state proceedings for divorce, child custody and property division)").

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

Thursday, June 10, 2021

Hearing Room 5A

10:00 AM

CONT... Alicia Marie Richards

Chapter 7

2. The bankruptcy court is a court of limited jurisdiction and cannot be used to avoid state court rulings/orders that a party believes were wrongfully decided or unjust -- the appropriate avenue is the appeal of such rulings or orders. Under 28 U.S.C. 1334(c)(1), this court has the discretion to abstain from hearing matters where 1) state law predominates over bankruptcy issues, 2) there is an existing related proceeding in state court (at either the trial or appellate level), 3) there is no federal jurisdiction other than the filing of the bankruptcy petition, 4) the likelihood that the filing of the bankruptcy case involved forum shopping by the debtor, 5) the presence of nondebtor parties, and 6) the lack of any substantive effect on the administration of the bankruptcy case if abstention is exercised. *See, In re Tucson Estates*, 912 F.2d 1162, 1166-68 (9th Cir. 1990). As the issues to be adjudicated in this case involve all state law issues regarding marital property division and distribution, there is an existing related state court proceeding, there is no federal jurisdiction beyond the filing of the bankruptcy petition, there are affected nondebtor parties, the adjudication in state court will not substantively impact the administration of this estate because this is essentially a two-party dispute between Debtor and her former spouse that cannot be resolved through the chapter 7 case.

3. Under 11 U.S.C. § 362(a), a bankruptcy filing imposes an automatic stay of virtually all civil litigation against the debtor. A bankruptcy court “shall” lift the automatic stay “for cause.” 11 U.S.C. § 362(d)(1); *Tucson Estates*, 912 F.2d at 1166. “ ‘Cause’ has no clear definition and is determined on a case-by-case basis.” *Id.* “Where a bankruptcy court may abstain from deciding issues in favor of an imminent state court trial involving the same issues, cause may exist for lifting the stay as to the state court trial.” *Id.*, citing *Piombo Corp. v. Castlerock Props. (In re Castlerock Props.)*, 781 F.2d 159, 163 (9th Cir.1986).

4. Contrary to Debtor's assertions, Movant has standing to bring the Motion as he is a party in the family law marital dissolution matters.

5. Relief from the automatic stay will not be allowed for the purpose of selling or otherwise taking control over the real property, irrespective of any outstanding state court orders. The property is now property of the bankruptcy estate under the exclusive control of the chapter 7 trustee who has exclusive authority to sell the property, subject to any community property

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

Thursday, June 10, 2021

Hearing Room 5A

10:00 AM

CONT... Alicia Marie Richards Chapter 7

interest of Movant. 11 U.S.C. 541(a). Indeed, this court approved the chapter 7 trustee's application for the employment of a real estate broker to sell the subject property at a hearing held on June 3, 2021. While the state court may determine the respective interest of Movant and Debtor according to California law, the sale of the property is under the control of the chapter 7 trustee and, therefore, relief from stay is not granted for that purpose. Similarly, relief from stay is not granted for the purpose of evicting Debtor from the property -- only the chapter 7 trustee has authority to demand turnover of the property from Debtor.

Party Information

Debtor(s):

Alicia Marie Richards	Pro Se
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Movant(s):

Ryal W. Richards	Represented By Kevin E Robinson
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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 10, 2021

Hearing Room 5A

10:00 AM

8:21-10794 Barry M Schleider

Chapter 13

#6.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]

1520 NUTMEG LP

VS.

DEBTOR

Docket 22

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 10, 2021

Continue hearing to July 1, 2021 to allow Movant to correct defective service -- Debtor was not served with the Motion as required by Local Bankruptcy Rule 4001-1(c)(1)(C). Service must be completed this date.

Special Note: Tentative ruling for 7/1/21 hearing (if unopposed): Grant with 4001(a)(3) waiver; deny request for annulment of other extraordinary prospective relief (i.e., relief request #s4, 7, 9, 210, and 11). Movant has not identified any actions taken postpetition that would warrant annulment, nor has Movant stated any grounds for prospective or *in rem* relief.

Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required.

Party Information

Debtor(s):

Barry M Schleider

Represented By
Christopher C Barsness

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

Thursday, June 10, 2021

Hearing Room 5A

10:00 AM

CONT... Barry M Schleider

Chapter 13

Movant(s):

1520 Nutmeg LP

Represented By
Steven A Fink

Trustee(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 10, 2021

Hearing Room 5A

10:00 AM

8:21-10935 Linda Lee Rock

Chapter 7

#7.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]
CREDIT UNION OF SOUTHERN CALIFORNIA
VS.
DEBTOR

Docket 12

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 10, 2021

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):

Linda Lee Rock

Pro Se

Movant(s):

Credit Union of Southern California

Represented By
Karel G Rocha

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 10, 2021

Hearing Room 5A

10:00 AM

CONT... Linda Lee Rock

Chapter 7

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

Thursday, June 10, 2021

Hearing Room 5A

10:00 AM

8:21-11157 Mahmoud Hosho

Chapter 7

#8.00 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:

June 10, 2021

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):

Mahmoud Hosho

Represented By
Julie J Villalobos

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, June 10, 2021

Hearing Room 5A

10:00 AM

CONT... Mahmoud Hoso

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, June 10, 2021

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

Adv#: 8:20-01136 Marshack v. Levy et al

#9.00 CONT'D Hearing RE: Defendants' Motion (1) To Dismiss Plaintiff's First Amended Complaint; (2) To Strike Plaintiff's Prayer for Specific Performance or, Alternatively, for Reconsideration of Defendants' Prior Motion to Dismiss

FR: 4-8-21

Docket 30

***** VACATED *** REASON: Order granting stipulation to dismiss case entered 6/10/21**

Courtroom Deputy:

OFF CALENDAR: Order granting stipulation to dismiss case entered 6/10/21- mp/td(6/10/21)

Tentative Ruling:

June 10, 2021

It appears this matter has been resolved and is mooted by this Court's Order entered May 12, 2021 in the main case which approves a compromise between the parties. Plaintiff to advise the court if he intends to dismiss this adversary proceeding pursuant to the compromise. If so, he must file a notice of dismissal within 7 days of this hearing. If not, he must appear at today's hearing and advise the court of the status of the settlement.

Party Information

Debtor(s):

Friendly Village MHP Associates LP

Represented By
Howard Camhi

Defendant(s):

Shaoul J. Levy

Represented By
Howard Steinberg

Levy Affiliated Holdings LLC

Represented By

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, June 10, 2021

Hearing Room 5A

10:30 AM

CONT... Friendly Village MHP Associates LP

Chapter 7

Howard Steinberg

LEVY FRIENDLY VILLAGE, LLC

Represented By
Howard Steinberg

5450 PARAMOUNT LP

Represented By
Howard Steinberg

Plaintiff(s):

Richard A Marshack

Represented By
Shant Kabateck LLP Karnikian
Joana Fang
Nineli Sarkissian
Brian Kabateck

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
Kristine A Thagard
Arthur Grebow
David Wood
Tinho Mang
Stefan Perovich

**United States Bankruptcy Court
Central District of California
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Judge Erithe Smith, Presiding
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Thursday, June 10, 2021

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

Adv#: 8:20-01136 Marshack v. Levy et al

#10.00 CON'TD STATUS CONFERENCE RE: Complaint For: 1) Specific Performance;
and 2) Breach of Contract

FR: 12-10-20; 2-18-21, 4-8-21

Docket 1

***** VACATED *** REASON: Order granting stipulation to dismiss case
entered 6/10/21**

Courtroom Deputy:

**OFF CALENDAR: Order granting stipulation to dismiss case entered
6/10/21- mp/td(6/10/21)**

Tentative Ruling:

December 10, 2020

No tentative ruling -- disposition will depend on the outcome of Defendants'
motion to dismiss also set for this date.

June 10, 2021

Same tentative ruling as for #10 on today's calendar.

Party Information

Debtor(s):

Friendly Village MHP Associates LP

Represented By
Howard Camhi

Defendant(s):

Shaoul J. Levy

Pro Se

Levy Affiliated Holdings LLC

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, June 10, 2021

Hearing Room 5A

10:30 AM

CONT... Friendly Village MHP Associates LP Chapter 7

LEVY FRIENDLY VILLAGE, LLC Pro Se

5450 PARAMOUNT LP Pro Se

Plaintiff(s):

Richard A Marshack

Represented By
Shant Kabateck LLP Karnikian
Joana Fang
Nineli Sarkissian
Brian Kabateck

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, June 10, 2021

Hearing Room 5A

10:30 AM

8:20-10436 Chandra Marie Adam

Chapter 7

Adv#: 8:20-01174 Chicago Title Insurance Company v. Adam

#11.00 Hearing RE: Defendant Chandra Marie Adam's Motion for an Award of Attorney's Fees

Docket 23

Courtroom Deputy:

SPECIAL NOTE: Order Granting Defendant, Chandra Marie Adam's Motion to Dismiss Adversary Complaint Entered 5/19/2021 - td (5/19/2021)

Tentative Ruling:

June 10, 2021

Deny the Motion on the ground that the subject debt is not consumer debt within the meaning of Section 523(d) of the Bankruptcy Code

Basis for the Tentative Ruling:

The State Court Judgment was not a "consumer debt" under 11 U.S.C. § 523(d) for several reasons. First, the State Court Judgment is unambiguously a judgment based on fraud. See Pl. RJN, Ex. I, p. 2-3 of the Order Granting Summary Adjudication (finding Defendant liable for fraud and conspiracy to defraud). Thus, this case is similar to the *Tinajero* case where the court found that state court judgment based on fraudulent conduct in a real estate purchase was not a consumer debt for 11 U.S.C. § 523(d). *Tinajero, supra* at 1, 8. As noted by the Ninth Circuit BAP, "Tort liability judgments, for example, do not fit within either category of § 101(8)'s definition of a consumer debt." *Id.* at 7; See Opp'n, 4-7. Next, Defendant's attempts to frame Defendant's liability as arising from her HELOC application- a consumer transaction- mischaracterizes the facts of this case. Plaintiff was not the lender under the HELOC; rather, Wachovia was the lender and Plaintiff was the title insurance company. Defendant was therefore only liable

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

Thursday, June 10, 2021

Hearing Room 5A

10:30 AM

CONT... **Chandra Marie Adam** Chapter 7

to Wachovia- not Plaintiff- in 2007 when the HELOC was taken out. Years later, in 2010, the chapter 7 trustee in Defendant's parents bankruptcy case successfully avoided the postpetition transfer of the deed of trust securing the HELOC by Defendant to Wachovia, and Plaintiff was required to reimburse Wachovia under the title insurance policy. Even at that point, however, Defendant was not liable to Plaintiff. It was only after Plaintiff sued Defendant in state court for fraud and obtained the State Court Judgment that Defendant became liable to Plaintiff. Defendant's liability to Plaintiff could not have arisen in 2007 when the HELOC was taken out. Third, Defendant has failed to show that Defendant voluntarily incurred her liability for the State Court Judgment because the State Court Judgment was entered *against* Defendant. See Pl. RJN, Ex. I. Finally, Defendant has failed to explain how the fraud judgment served any "personal, family, or household purpose" when it was entered against Defendant.

Party Information

Debtor(s):

Chandra Marie Adam	Pro Se
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Defendant(s):

Chandra Marie Adam	Represented By Eugene S Fu
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Plaintiff(s):

Chicago Title Insurance Company	Represented By Karen A Ragland
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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, June 10, 2021

Hearing Room 5A

10:30 AM

8:20-10566 Eric C. Bryant and Gina K Bryant

Chapter 7

#12.00 CONTD Hearing RE: Motion for Approval of Debtor's Waiver of Attorney-Client Privilege

FR: 6-3-21

Docket 119

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 10, 2021

Grant the Motion.

Basis for Tentative Ruling:

Oregon Pacific Bank, trustee of the Pedigo Living Trust (the "Trust") moves for court approval of the waiver executed by debtor Gina Bryant ("Gina") and the Trust waiving Gina's attorney-client privilege with the Mahaffey Law Group, P.C. ("Mahaffey") ("Motion")[dkt. 119] and ("Reply")[dkt. 136]. See Mot., Ex. 4 (Waiver). Mahaffey opposes the Motion ("Opposition") [dkt. 124]. The purpose of the attorney-client privilege waiver is to allow the Trust and Angela Pedigo (through her guardian and conservator Susan Calzaretta of Rogue Valley Fiduciary Services, LLC) to defend against fee claims filed by Mahaffey in Oregon state court for the total sum of \$113,620.17. Mahaffey has refused to turnover the client files that the Trust requires in order to defend itself in Oregon state court.

1. Mahaffey does not have standing to oppose the Motion

As preliminary matter, there is an ambiguity as to who Mahaffey's client is in the retainer agreement because "Client" is defined as debtor Gina Bryant ("Gina") individually and signed by Gina individually, but the scope of

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Thursday, June 10, 2021

Hearing Room 5A

10:30 AM

CONT... **Eric C. Bryant and Gina K Bryant**

Chapter 7

services appears to pertain to Gina as trustee of the Trust. The scope of services was defined as, "Legal Services for Trustee/Attorney in Fact issues regarding Gina Bryant as successor Trustee and attorney in fact for the Pedigo Living Trust, and Jim and Angela Pedigo." See Mot., Ex. 1 (Retainer agreement). Accordingly, there is an ambiguity over whether Gina, individually or as trustee of the Trustee, was Mahaffey's client in addition to Angela Pedigo. See Reply 5-7.

In either event, none of his clients appear to have authorized Mahaffey to oppose the Motion. If Gina was Mahaffey's client, she signed the Waiver and therefore did not authorize Gina. If the Trust was Mahaffey's client, the Trust also did not authorize Mahaffey to oppose the Motion filed by the Trust. See Reply, 7-8. And the attorney-client privilege is held by the client- not Mahaffey. See *U.S. v. Fisher*, 692 F.Supp. 488, 494 (E.D.Pa. 1988) ("It is well established that the attorney-client privilege belongs to the client."); see also *Devlyne v. Lassen Mun. Utility Dist.*, 2011 WL 4905672, at *5 (E.D.Cal. 2011); Reply 5-7.

2. The Waiver is approved as any interest the estate may have in the attorney-client privilege is abandoned

The distinction of whether Gina or the Trust is Mahaffey's client is important because Mahaffey appears to be mixing the two by seeking payment from the Trust in Oregon state court (who would presumably then be the client and hold the attorney-client privilege) but arguing here that Gina, in her individual capacity, is the holder of the attorney-client privilege that should not be waived. See Reply, 5:27-28; see *generally*, Opp'n. If Gina was the client, the Trust has no obligation under the fee agreement to pay Mahaffey and Gina, as the holder of the privilege has voluntarily waived the attorney-client privilege in the Waiver. See Reply, 8:7-12. Conversely, if Gina was the client, as trustee of the Trust, the Trust may be liable for the payment of Mahaffey's fees and the Trust is the holder of the attorney-client privilege.

Further adding to the confusion is that there is a split of authority over whether the Chapter 7 Trustee is the holder of the attorney-client privilege if Gina was the client:

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Chapter 7

"Some courts hold that an individual chapter 7 debtor's privileges transfer to the trustee and the trustee controls the privileges as a matter of law... other courts hold that an individual chapter 7 debtor's privileges do not transfer to the trustee and therefore remain under the debtor's control...And still other courts take a balancing approach which weighs potential harm to the individual chapter 7 debtor by allowing the trustee to control the debtor's privileges against the trustee's need for privileged information in the administration of the estate."

In re Chandar, 2017 WL 5484315, at *1 (Bankr. E.D. Cal. Nov. 13, 2017)(citations omitted); *See also In re Miller*, 247 B.R. 704, 708 (Bankr. N.D. Ohio 2000) (citing *Gresk v. Brown (In re Brown)*, 227 B.R. 875, 879 (Bankr. S.D. Ind. 1998)) (examining "three approaches to a trustee's power to waive the attorney-client privilege of an individual debtor": "1) the bankruptcy trustee as a matter of law succeeds to the attorney-client privilege; 2) the attorney-client privilege cannot be waived at all by the trustee on behalf of the debtor; and 3) the particular circumstances of the case must be examined to determine the extent of the trustee's power to waive the attorney-client privilege").

To the extent the estate holds the attorney-client privilege with Mahaffey, the Waiver is approved and the Chapter 7 Trustee's abandonment (via consent to the Waiver) of the attorney-client privilege is approved. *See* Reply, 8-9 (requesting approval of the Waiver under either Rule 9019 or § 554(b)). The court declines to analyze this Motion under Rule 9019 because, as the Trust admits, there has been "no litigation or dispute specifically over the attorney-client privilege between the Estate and the Debtors or the [Trust]." *See* Reply, 9:2-4. Under 11 U.S.C. § 554(b), "the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate" at the request of a party in interest. Thus, in "order to approve a motion to abandon property, the bankruptcy court must find either that (1) the property is burdensome to the estate or (2) of inconsequential value and inconsequential benefit to the estate." *In re Viet Vu*, 245 B.R. 644, 647 (BAP 9th Cir. 2000) (citation omitted). Once a bankruptcy court has determined whether "the factual predicates for abandonment ... are present, the court's decision to authorize or deny abandonment is reviewed for an abuse of discretion." *Id.* (citing *In re Johnston*, 49 F.3d 538, 540 (9th Cir. 1995)). However, "[a]n order

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compelling abandonment is the exception, not the rule." *Viet Vu*, 245 B.R. at 647. The party requesting abandonment has the burden of proof under the preponderance of evidence standard. See, *id.* at 650; 5 Collier on Bankruptcy P 554.02 (16th 2018).

In this case, the attorney-client privilege is of inconsequential value and benefit to the estate because Mahaffey has not filed a claim against the estate. Waiving the privilege, however, is in the best interest of the estate because it helps to preserve the global settlement that was previously approved by the court in which the estate received \$50,000 since the waiver of the attorney-client privilege was a settlement term. See Reply, 9-10.

Party Information

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
Thomas H Casey

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10:30 AM

8:20-10936 Vantage Point Apparel Software, Inc.

Chapter 11

#13.00 Hearing RE: First and Final Application of Mark M. Sharf, SubChapter V Trustee, for Approval of Compensation and Reimbursement of Expenses for the Period From March 18, 2020 Through May 19, 2021

[MARK SHARF, SUBCHAPTER V TRUSTEE]

Docket 101

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 10, 2021

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):

Vantage Point Apparel Software, Inc.

Represented By
Michael Jones

Trustee(s):

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 5A

10:30 AM

8:20-10936 Vantage Point Apparel Software, Inc.

Chapter 11

#14.00 Hearing RE: M. Jones and Associates' Final Application for Allowance of Professional Fees and Costs

[M. JONES AND ASSOCIATES, ATTORNEY FOR DEBTORS]

Docket 107

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 10, 2021

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):

Vantage Point Apparel Software, Inc.

Represented By
Michael Jones

Trustee(s):

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 5A

10:30 AM

8:21-10525 The Source Hotel, LLC

Chapter 11

#15.00 Hearing RE: Debtor and Debtor-in-Possession's Motion for Order Extending Debtor's Exclusive Periods to File Plan of Reorganization and Obtain Acceptances Thereof

Docket 122

***** VACATED *** REASON: TRAILED TO 2:00 PM (XX)**

Courtroom Deputy:

TRAILED TO 2:00 PM (XX) - td (6/4/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

**United States Bankruptcy Court
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10:30 AM

8:21-10525 The Source Hotel, LLC

Chapter 11

#16.00 Hearing RE: Motion for Entry of an Order (A) Authorizing Debtor to Use Cash Collateral; and (B) Authorizing Debtor to Obtain Post-petition Financing from M+D Properties on an Unsecured Basis

Docket 123

***** VACATED *** REASON: TRAILED TO 2:00 PM (XX)**

Courtroom Deputy:

TRAILED TO 2:00 PM (XX) - td (6/4/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

**United States Bankruptcy Court
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Thursday, June 10, 2021

Hearing Room 5A

10:30 AM

8:21-10608 DEA Brothers Sisters LLC

Chapter 11

#17.00 Hearing RE: Debtor's Final Motion Pursuant to Section 363(C) of the Bankruptcy Code and Rule 4001(B) of the Federal Rules of Bankruptcy Procedure for an Order Authorizing the Use of Cash Collateral for the Shopping Center Located at 16502 S. Main St., Gardena, CA 90248; Request to Commence Monthly Payments to Secured 1st Loan Pursuant to 11 U.S.C. 362(D)(3)

Docket 100

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 10, 2021

Continue hearing to July 16, 2021 at 10:00 a.m., same date/time set for evidentiary hearing re the value of the subject property (see tentative ruling for #19 on today's calendar).

Party Information

Debtor(s):

DEA Brothers Sisters LLC

Represented By
John H Bauer

**United States Bankruptcy Court
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10:30 AM

8:21-10608 DEA Brothers Sisters LLC

Chapter 11

#18.00 Final Hearing RE: Debtor's Motion Pursuant to Section 363(C) of the Bankruptcy Code and Rule 4001(B) of the Federal Rules of Bankruptcy Procedure for an Order Authorizing the Use of Cash Collateral for the Shopping Center Located at 16502 S. Main St., Carson CA90248; Request for Order of Adequate Protection

FR: 4-8-21

Docket 18

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 8, 2021

Grant motion on an interim basis on the terms set forth in the Motion, except that no postpetition cash collateral shall be used to pay legal fees, through and including June 10, 2021. All secured creditors will retain their liens in the same priority as existed as of the petition date. A final hearing shall be held on June 10, 2021 at 10:30 a.m.; Debtor must file any supplemental pleadings in support of the Motion by May 20, 2021; any further opposition or response must be filed by May 27, 2021; any reply must be filed by June 3, 2021. Debtor to self-calendar a hearing on any motion to value property on its own. (XX)

Court's Comments re the Motion and Opposition:

1. Payment of operating expenses on the property maintains the value of the property to benefit of objecting creditor A&G. A&G's objection to the use of cash collateral to pay utilities, landscaping, repairs, etc. is unreasonable. Moreover, Debtor has offered a replacement lien in the cash collateral expended (in order of priority).

2. Because net rents are insufficient to pay the contractual payments to the

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10:30 AM

CONT... **DEA Brothers Sisters LLC**

Chapter 11

senior, 1st position lender, Debtor is not required to apportion the net rents between such senior lender and the junior lender A&G.

3. A&G has not established a diminution in the value of its interest in the subject property entitling it to adequate protection payments. See *US v. Timbers of Inwood Forest*, 484 U.S. 365 (1988).

4. The court accepts Debtor's valuation of the property on an interim basis as it is the only admissible evidence of value that has been presented at this point. As aptly stated in *In re Russell*, 567 B.R. 833, 840 (Bankr.Mont.2017): "an owner is competent to give his or her opinion on the value of his or her property, most often simply by stating the conclusion without stating a reason. See Hon. Barry Russell, BANKRUPTCY EVIDENCE MANUAL, 2016–2017 ed. § 701:2; *South Central Livestock Dealers, Inc. v. Security State Bank of Hedley, Tex.*, 614 F.2d 1056, 1061 (5th Cir. 1980). While a debtor's estimate of value may be acceptable in certain cases, the Court may give little weight to an opinion if not based upon sufficient facts. *In re Plummer*, 20 Mont. B.R. 468, 478 (Bankr. D. Mont. 2003). . . ." See also, Fed.R.Evid. 701. A&G's citation to Zillow is, as it has acknowledged, completely inadmissible. It's evidentiary objections to the statement of value by Enayat Ali Jiwani are, therefore, overruled.

5. A&G's evidentiary objection to the exhibits attached to the Motion on the basis of insufficient authentication are well-taken. Mr. Jiwani's declaration should have specifically addressed and authenticated each exhibit. **Proper authentication/personal knowledge/foundation will need to be provided for the final hearing.**

6. The court does not base its decision to grant the motion on an interim basis on the declaration of real estate broker David Pai as Mr. Pai is 1) not the owner of the property and 2) the conclusory declaration does not rise to the level of even a broker's opinion (e.g., no cap rate, comparables, etc.).

7. Pursuant to LBR 1001-1(a), the court waives the requirement of the use of Statement Regarding Cash Collateral or Debtor in Possession Financing as required by LBR 4001-2(a) in this instance but cautions Debtor's counsel to utilize this form in the future.

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CONT... DEA Brothers Sisters LLC

Chapter 11

June 10, 2021

Continue hearing to July 16, 2021 at 10:00 a.m., same date/time set for evidentiary hearing re the value of the subject property (see tentative ruling for #19 on today's calendar). Interim use of cash collateral permitted on the same basis as for the April 8, 2021 hearing.

Party Information

Debtor(s):

DEA Brothers Sisters LLC

Represented By
Roger J Plasse

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8:21-10608 DEA Brothers Sisters LLC

Chapter 11

#19.00 Hearing RE: Debtor's Motion to Value Real Property Located at 16502 S. Main St., Carson, CA 90248

Docket 86

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 10, 2021

This matter needs to be set for an evidentiary hearing re the value of the property due to conflicting testimony. Evidentiary hearing date: July 16, 2021 at 10:00 a.m. via Zoom. All declarants must be present at the hearing for cross examination. The parties are to review the Court's Zoom policy for trials.

Special Note: The court strongly suggests that the parties meet and confer regarding a resolution of the value issue prior to the July 16, 2021 hearing.

Party Information

Debtor(s):

DEA Brothers Sisters LLC

Represented By
Roger J Plasse
John H Bauer

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Thursday, June 10, 2021

Hearing Room 5A

2:00 PM

8:21-10525 The Source Hotel, LLC

Chapter 11

#20.00 CON'TD Hearing RE: Motion of Shady Bird Lending, LLC for Order Excusing State Court Receiver from Turnover of Assets Pursuant to 11 U.S.C. Section 543

FR: 4-15-21; 6-3-21

Docket 51

***** VACATED *** REASON: Matter Continued to June 17, 2021 at 2:00 pm at Request of Parties (XX)**

Courtroom Deputy:

CONTINUED: Matter Continued to June 17, 2021 at 2:00 pm at Request of Parties (XX)- mp/td(6/10/21)

Tentative Ruling:

April 15, 2021

Deny Motion.

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

**United States Bankruptcy Court
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Thursday, June 10, 2021

Hearing Room 5A

2:00 PM

8:21-10525 The Source Hotel, LLC

Chapter 11

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

SHADY BIRD LENDING, LLC

VS.

DEBTOR

FR: 4-22-21; 6-3-21

Docket 62

***** VACATED *** REASON: Matter Continued to June 17, 2021 at 2:00
pm at Request of Parties (XX)**

Courtroom Deputy:

**CONTINUED: Matter Continued to June 17, 2021 at 2:00 pm at Request
of Parties (XX)- mp/td(6/10/21)**

Tentative Ruling:

April 22, 2021

Continue hearing to June 3, 2021 at 2:00 p.m., same date and time as the hearing on Movant's motion to excuse the state court receiver from the turnover requirements of 11 U.S.C. Section 543. Ordinary 21/14/7 briefing deadlines under LBR 9013-1 apply. (XX)

Special Note:

Tentative ruling for 6/3/21: Based on the evidence presented thus far, the court is inclined to deny the Motion due to the lack of evidence that the property has declined in value since the petition date and the lack of evidence to refute the owner's opinion as to the value of the property. Despite the tentative ruling, the court declines to rule at today's hearing or to entertain oral

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2:00 PM

CONT... The Source Hotel, LLC

Chapter 11

argument because it would like to view the Motion in the context of the turnover motion.

Additional note to the parties: In this court, pleadings rife with snide, petty, snarky hyperbole is unpleasantly distracting and degrades the quality of one's argument and position.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

Movant(s):

Shady Bird Lending, LLC

Represented By
Daniel A Lev
Ronald N Richards

**United States Bankruptcy Court
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2:00 PM

8:21-10525 The Source Hotel, LLC

Chapter 11

#22.00 Hearing RE: Debtor and Debtor-in-Possession's Motion for Order Extending Debtor's Exclusive Periods to File Plan of Reorganization and Obtain Acceptances Thereof

(Trailed from 10:30 am)

Docket 122

***** VACATED *** REASON: Matter Continued to June 17, 2021 at 2:00 pm at Request of Parties (XX)**

Courtroom Deputy:

CONTINUED: Matter Continued to June 17, 2021 at 2:00 pm at Request of Parties (XX)- mp/td(6/10/21)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

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2:00 PM

8:21-10525 The Source Hotel, LLC

Chapter 11

#23.00 Hearing RE: Motion for Entry of an Order (A) Authorizing Debtor to Use Cash Collateral; and (B) Authorizing Debtor to Obtain Post-petition Financing from M+D Properties on an Unsecured Basis

(Trailed from 10:30 a.m.)

Docket 123

*** VACATED *** REASON: Matter Continued to June 17, 2021 at 2:00 pm at Request of Parties (XX)

Courtroom Deputy:

CONTINUED: Matter Continued to June 17, 2021 at 2:00 pm at Request of Parties (XX)- mp/td(6/10/21)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

**United States Bankruptcy Court
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8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1600394567>

Meeting ID: 160 039 4567

Password: 345174

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.

Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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9:30 AM

8:13-17920 Donald Woo Lee

Chapter 7

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

#1.00 PRE-TRIAL 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; 1-30-20; 10-8-20; 2-18-21

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. (XX)
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.*

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CONT... Donald Woo Lee

Chapter 7

October 8, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Continue as a STATUS CONFERENCE to February 18, 2021 at 9:30 a.m.; an updated Joint Status report must be filed by February 4, 2021. A new pretrial conference will be scheduled at the February 18, 2021 Status Conference. In the meantime, Defendants Sammy and Anke Ciling must provide Rule 26 disclosures to Plaintiff no later than November 9, 2020 and the parties must attend mediation no later than December 18, 2020. (XX)

Basis for Tentative Ruling:

1. The continued hearing date, February 18, 2021 takes into account the current January 19, 2021 sentencing date of Plaintiff Donald Lee ("Lee").
2. Defendant Sammy Ciling ("Ciling") has requested dismissal of the adversary proceeding due to the anticipated sentencing of Lee. First, the request is not properly before the court as it was not presented as a noticed motion in accordance with applicable federal and local rules. Second, absent evidence that a plaintiff is unable to participate in litigation while incarcerated, such incarceration alone is not a basis for dismissal of a civil action. Accordingly, the request for dismissal is denied.
3. Defendants Ciling and Mrs. Ciling must comply with Rule 26 disclosure requirements.
4. The attendance at mediation is mandatory. Despite pandemic restrictions, mediations are now routinely conducted by video conference. Therefore, there should be no reason why mediation cannot take place in the timeframe set by the court.

Note: If ALL parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall, within 7 days, lodge an order consistent with the tentative ruling.

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CONT... Donald Woo Lee

Chapter 7

February 18, 2021

Discovery Cut-off Date: April 30, 2021
Deadline to Attend Mediation: March 31, 2021
Pretrial Conference Date: June 17, 2021 at 9:30 am (XX)
Deadline to File Pretrial Stipulation: June 3, 2021

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.

June 17, 2021

Impose sanctions in the amount of \$100 against Plaintiffs' counsel for failure to file a pretrial stipulation as required by Local Bankruptcy Rule 7016-1(b), The court shall issue an order to show cause why this adversary proceeding should not be dismissed due to lack of prosecution.

Basis for Tentative Ruling:

This adversary proceeding appears to be languishing. The parties were ordered to attend mediation by March 31, 2021. However, no notice of the status of the mediation has been filed by any mediator, suggesting that the mediation did not take place. In addition, not only was the pretrial stipulation not filed, Plaintiffs did not even file a status report advising the court of the status of this matter. Finally, this adversary has been pending for several years.

Note: Appearances at this hearing ARE required.

Party Information

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9:30 AM

CONT... Donald Woo Lee

Chapter 7

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

Plaintiff(s):

Donald Woo Lee

Represented By
Norma Ann Dawson
Robert B Rosenstein

Linda Bae Lee

Represented By

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

Thursday, June 17, 2021

Hearing Room 5A

9:30 AM

CONT... Donald Woo Lee

Chapter 7

Norma Ann Dawson
Robert B Rosenstein

Prime Partners Medical Group, Inc.

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, June 17, 2021

Hearing Room 5A

9:30 AM

8:17-12373 Todd Leroy Hinker

Chapter 7

Adv#: 8:17-01153 Hinker v. Hinker

#2.00 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; 5-21-20; 12-17-20

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 29, 2018

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)

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

Thursday, June 17, 2021

Hearing Room

5A

9:30 AM

CONT... Todd Leroy Hinker

Chapter 7

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

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)

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

Thursday, June 17, 2021

Hearing Room 5A

9:30 AM

CONT... Todd Leroy Hinker

Chapter 7

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. (XX)

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.

December 17, 2020

Due to pending state court litigation, continue the Status Conference to June 17, 2021 at 9:30 a.m.; an updated Joint Status Report must be filed by June 3, 2021. (XX)

Note: Appearances at this hearing are not required; Plaintiff shall serve notice of the continued hearing date/time.

June 17, 2021

In light of the pending state court action, continue the Status Conference to December 16, 2021 at 9:30 a.m.; updated Status Report must be filed no later than December 2, 2021.

Note: Appearances at this hearing re 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, June 17, 2021

Hearing Room 5A

9:30 AM

CONT... Todd Leroy Hinker

Chapter 7

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

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

Thursday, June 17, 2021

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

#3.00 PRE-TRIAL 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; 6-4-20; 9-3-20; 11-19-20

Docket 1

***** VACATED *** REASON: CONTINUED: Continued to 10/21/2021 at 9:30 a.m. as a Status Conference, Per Order Entered 6/14/2021 (XX)**

Courtroom Deputy:

SPECIAL NOTE: Status conference set for 6/17/2021 at 9:30 a.m. re: Complaint in intervention - td (11/23/2020)

CONTINUED: Continued to 10/21/2021 at 9:30 a.m. as a Status Conference, Per Order Entered 6/14/2021 (XX) - td (6/14/2021)

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).

September 19, 2019

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

Thursday, June 17, 2021

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.

September 3, 2020

Continue Status Conference to November 19, 2020 at 9:30 a.m.; updated

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

Thursday, June 17, 2021

Hearing Room 5A

9:30 AM

CONT... **Lillian Sikanovski Dulac**

Chapter 7

joint status report must be filed by November 5, 2020. (XX)

November 19, 2020

Discovery Cut-off Date:	May 14, 2021
Deadline to Attend Mediation:	Apr. 2, 2021
Pretrial Conference Date:	Jun. 17, 2021 at 9:30 a.m.
(XX)	
Deadline to File Joint Pretrial Stipulation:	Jun. 3, 2021

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):

Lillian Sikanovski Dulac	Represented By Michael Jones Sara Tidd
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Defendant(s):

Ronald H. Dulac	Pro Se
Lillian Sikanovski	Pro Se

Plaintiff(s):

Bertrand H Dulac and Georgette C	Represented By Ronald Appel
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Trustee(s):

Weneta M Kosmala (TR)	Represented By Erin P Moriarty
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**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, June 17, 2021

Hearing Room 5A

9:30 AM

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 17, 2021

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

#4.00 PRE-TRIAL 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; 6-4-20; 9-3-20; 11-19-20

Docket 16

***** VACATED *** REASON: CONTINUED: Continued to 10/21/2021 at 9:30 a.m. as a Status Conference, Per Order Entered 6/14/2021 (XX)**

Courtroom Deputy:

SPECIAL NOTE: Status conference set for 6/17/2021 at 9:30 a.m. re: Original Complaint - td (11/23/2020)

CONTINUED: Continued to 10/21/2021 at 9:30 a.m. as a Status Conference, Per Order Entered 6/14/2021 (XX) - td (6/14/2021)

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.

September 3, 2020

Continue Status Conference to November 19, 2020 at 9:30 a.m.; updated joint status report must be filed by November 5, 2020. (XX)

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

Thursday, June 17, 2021

Hearing Room 5A

9:30 AM

CONT... Lillian Sikanovski Dulac

Chapter 7

November 19, 2020

Discovery Cut-off Date:	May 14, 2021
Deadline to Attend Mediation:	Apr. 2, 2021
Pretrial Conference Date:	Jun. 17, 2021 at 9:30 a.m.
(XX)	
Deadline to File Joint Pretrial Stipulation:	Jun. 3, 2021

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

Party Information

Debtor(s):

Lillian Sikanovski Dulac	Represented By Michael Jones Sara Tidd
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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
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Trustee(s):

Weneta M Kosmala (TR)	Represented By Erin P Moriarty
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**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, June 17, 2021

Hearing Room 5A

9:30 AM

8:19-10898 Alicia K Pipitone

Chapter 13

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

#5.00 CONT'D 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; 8-6-20; 9-10-20; 11-5-20; 12-17-20; 4-22-21

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, June 17, 2021

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. (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.

November 5, 2020

Continue the Pretrial Conference to December 17, 2020 at 9:30 a.m. Plaintiff must file and serve any motion for leave to amend the Complaint by or before November 19, 2020, such that the motion can be decided and/or heard by December 17, 2020. (XX)

Note: If both parties accept the foregoing tentative ruling, appearances at today's hearing are not required.

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

Thursday, June 17, 2021

Hearing Room 5A

9:30 AM

CONT... Alicia K Pipitone

Chapter 13

December 17, 2020

Continue the Pretrial Conference to April 22, 2021 at 9:30 a.m.; Joint Pretrial Stipulation must be filed by April 8, 2021. (XX)

June 17, 2021

Continue Pretrial Conference one final time to August 19, 2021 at 9:30 a.m. to allow the parties to file an amended Pretrial Stipulation by or before August 5, 2021. Any motion re the Request for Admissions must be filed so that a hearing can be held by or before July 22, 2021 on regular notice.

Basis for Tentative Ruling:

It is not clear that all of the issues of fact set forth in Section B are all really in dispute. Practice Tip: The parties should start each issue of fact with the word "Whether" in order to focus the parties on whether the particular matter is really contested or not. The court has the following comments re a few of the items in Section B to illustrate the point:

1. Par. 1 - Does Plaintiff dispute that she only made one payment re the Equity Loan?
2. Par. 1 - Does Plaintiff dispute that the Equity Loan became delinquent on or about December 25, 2017 and remained in default until November 21, 2018?
3. Par. 3 - Which, if any, party disputes that the Amended Equity Loan includes the provisions set forth in subparagraphs a - d?
4. Par. 4 - Which, if any, party disputes the facts stated in this paragraph?
5. Par. 19 - Does Defendant really dispute that Plaintiff's chapter 13 plan was confirmed on May 12, 2019? Or just that it did not receive notice of the same?

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

Thursday, June 17, 2021

Hearing Room 5A

9:30 AM

CONT... Alicia K Pipitone

Chapter 13

The court declines to go through each and every one of the 53 paragraphs but directs the parties to do so to determine which facts really are in dispute and must be determined at trial.

Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

Alicia K Pipitone

Represented By
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, June 17, 2021

Hearing Room 5A

9:30 AM

8:19-13260 Simon Szwachowicz

Chapter 7

Adv#: 8:20-01090 Kosmala v. Szwachowicz

#6.00 CONT'D 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

FR: 8-6-20; 11-19-10; 3-4-21

Docket 3

***** VACATED *** REASON: OFF CALENDAR: Order Approving Stipulation for Order Dismissing Adersary Proceeding with Prejudice Entered 5/17/2021**

Courtroom Deputy:

OFF CALENDAR: Order Approving Stipulation for Order Dismissing Adersary Proceeding with Prejudice Entered 5/17/2021 - td

Tentative Ruling:

- NONE LISTED -

Party Information

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

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

Thursday, June 17, 2021

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, June 17, 2021

Hearing Room 5A

9:30 AM

8:19-13441 Alpha Floors, Inc.

Chapter 7

Adv#: 8:20-01065 Kosmala v. U.S. Customs and Border Protection

#7.00 CON'TD 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
[Set per another summons issued on 7/7/2020]

FR: 9-29-20, Rm 5D; 10-1-20; 12-10-20; 2-11-21; 4-15-21

Docket 1

***** VACATED *** REASON: CONTINUED TO 9/30/2021 AT 9:30 A.M.,
PER ORDER ENTERED ON 6-2-2021 (XX)**

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 9/30/2021 at 9:30 a.m., Per
Order Entered 6/2/2021 (XX) - adm (6/2/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alpha Floors, Inc.

Represented By
Eric J Fromme

Defendant(s):

U.S. Customs and Border Protection

Pro Se

Plaintiff(s):

Weneta M.A. Kosmala

Represented By
Jeffrey I Golden
Reem J Bello
Ryan W Beall

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

Thursday, June 17, 2021

Hearing Room 5A

9:30 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, June 17, 2021

Hearing Room 5A

9:30 AM

8:19-13441 Alpha Floors, Inc.

Chapter 7

Adv#: 8:20-01156 Kosmala v. Xia

#8.00 CON'TD STATUS CONFERENCE RE: Complaint: (1) To Avoid Preferential Transfer Pursuant To 11 U.S.C. § 547; (2) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. § 548(A)(1)(A); (3) To Avoid Fraudulent Transfer Pursuant To 11 U.S.C. § 548(A)(1)(B); (4) For Recovery Of Avoided Transfers Under 11 U.S.C. § 550; (5) To Preserve Transfer For The Benefit Of The Estate Pursuant To 11 U.S.C. § 551; (6) Turnover Of The Property Of The Estate Pursuant To 11 U.S.C. § 542 Nature of Suit: (11 (Recovery of money/property - 542 turnover of property))

(Another Summons Issued 2-3-21)
FR: 4-22-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Order Granting Motion for Default Judgment Under Local Bankruptcy Rule 7055-1 and Judgment Entered 5/28/2021**

Courtroom Deputy:

OFF CALENDAR: Order Granting Motion for Default Judgment Under Local Bankruptcy Rule 7055-1 and Judgment Entered 5/28/2021 - td (5/28/2021)

Tentative Ruling:

April 22, 2021

In light of default entered against Defendant on April 9, 2021, continue the Status Conference to June 17, 2021 at 9:30 a.m. (XX)

Special Note:

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

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

Thursday, June 17, 2021

Hearing Room 5A

9:30 AM

CONT... Alpha Floors, Inc.

Chapter 7

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 shall serve Defendant with notice of the continued hearing date/time.

Party Information

Debtor(s):

Alpha Floors, Inc.

Represented By
Eric J Fromme

Defendant(s):

Feiyu Xia

Pro Se

Plaintiff(s):

Weneta Kosmala

Represented By
Reem J Bello

Trustee(s):

Weneta M.A. 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 17, 2021

Hearing Room 5A

9:30 AM

8:19-14169 Gary Clesceri

Chapter 7

Adv#: 8:20-01091 Payday Loan, LLC v. Clesceri

#9.00 CON'TD PRE-TRIAL CONFERENCE RE: Complaint to Determine Dischargeability of Debt

(Another Summons Issued 9/17/2020)
FR: 12-3-20; 5-20-21

Docket 1

Courtroom Deputy:

Tentative Ruling:

December 3, 2020

Discovery Cut-off Date:	Apr. 2, 2021
Deadline to Attend Mandatory Mediation:	Mar. 1, 2021
Pretrial Conference Date:	May 20, 2021 at 9:30 a.m.
(XX)	
Deadline to file Joint Pretrial Stipulation:	May 6, 2021

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.

May 20, 2021

Both parties must appear for today's Pretrial Conference and explain why they have not complied with deadlines ordered in this court's December 3, 2020 Scheduling Order, including the requirement that a Joint Pretrial Stipulation be filed by May 6, 2021.

Basis for Tentative Ruling

This court issued a Scheduling Order on December 3, 2020 ordering as

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

Thursday, June 17, 2021

Hearing Room 5A

9:30 AM

CONT...

Gary Clesceri

Chapter 7

follows: 1) March 1, 2021 as the deadline for the parties to attend mandatory mediation, 2) April 2, 2021 as the deadline to complete discovery and 3) May 6, 2021 as the deadline for the filing of the joint pre-trial stipulation.

Apparently, neither party has complied with the court-ordered deadlines. For example, in the unilateral status report filed by Plaintiff on May 6, 2021, Plaintiff indicates that it won't complete discovery until "120 days from conclusion of Status Conference." Today's hearing is not a Status Conference -- it is a Pretrial Conference. No explanation is provided as to why Plaintiff did not complete discovery by April 1, 2021 or whether *any* discovery has been done since December 3, 2020 (over five months ago).

Defendant filed a separate unilateral Status Report on May 12, 2020 indicating that he has no money and that he has received his bankruptcy discharge. However, lack of money is not a defense to a dischargeability complaint and the bankruptcy discharge order did not discharge Plaintiff's claim because Defendant did not list Defendant as a creditor. See Bankruptcy Code Section 523(c)(3)(A).

Note: Appearances at this hearing are required.

June 17, 2021

The court approves the unilateral pretrial stipulation filed by Plaintiff, except that the issues set forth in Section 3(A) (1) - (4) are issues of fact that should be included in Section 2. The trial date shall be October 25, 2021 at 9:00 a.m. *in person* in Courtroom 5A unless a party files a request to appear via Zoom by or before September 24, 2021. Except for adverse or rebuttal testimony, direct testimony shall be submitted by declaration in accordance with this court's Trial Procedures (see court website for details).

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required. Plaintiff shall lodge an order consistent with the same within 7 days of today's hearing.

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

Thursday, June 17, 2021

Hearing Room 5A

9:30 AM

CONT... Gary Clesceri

Chapter 7

Party Information

Debtor(s):

Gary Clesceri

Represented By
Michael G Spector

Defendant(s):

Gary Clesceri

Represented By
Michael G Spector

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, June 17, 2021

Hearing Room 5A

10:00 AM

8:20-12013 Grace Bradshaw

Chapter 7

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

AMERIHOM MORTGAGE COMPANY, LLC

VS.

DEBTOR

Docket 39

*** VACATED *** REASON: CONTINUED TO 8/19/2021 AT 10:00 A.M.,
Per Order Entered 6/15/2021 (XX)

Courtroom Deputy:

**CONTINUED: Hearing Continued to 8/19/2021 at 10:00 a.m., Per Order
Entered 6/15/2021 (XX) - td (6/15/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Grace Bradshaw

Represented By
Joon M Khang

Movant(s):

AmeriHome Mortgage Company,

Represented By
Robert P Zahradka

Trustee(s):

Weneta M.A. 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 17, 2021

Hearing Room 5A

10:00 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#11.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]
BCORE RETAIL BROOKHURST ADAMS LLC
VS.
DEBTOR

Docket 82

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 17, 2021

No tentative ruling -- disposition will depend upon the outcome of motions set for 10:30 a.m. on today's calendar. This matter will be trailed to the 10:30 a.m. calendar.

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By

Andy C Warshaw

Richard L. Sturdevant

Movant(s):

BCORE RETAIL BROOKHURST

Represented By

George B Blackmar

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, June 17, 2021

Hearing Room 5A

10:00 AM

8:21-11151 Urbana Foote

Chapter 13

#11.10 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]
(OST Entered 6/9/2021)

CAM XI TRUST, its successors and/or assignees

vs.

DEBTOR

Docket 20

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 17, 2021

Continue the hearing to July 22, 2021 at 10:00 a.m. to allow Movant to file and serve supplemental evidence re 1) the monthly payment amount, 2) the number of missed payments, and 3) the date of the first default under the promissory note. The supplemental pleading must be filed by June 24, 2021; any opposition by Debtor must be filed and served by July 8, 2021; any reply to the opposition must be filed by July 15, 2021.

Basis for Tentative Ruling

The court is inclined to grant the motion with all extraordinary relief requested in light of 1) the fact that 17 prior bankruptcy cases have been filed affecting this case, 2) The junior lien recorded by Debtor in 2010 includes beneficiaries who are known to the courts in the District for engaging in fraudulent activity concerning distressed real property and 3) Debtor's chapter 13 plan appears to be infeasible as it does not provide for payment in full of the arrearages over 60 months plus payment of current postpetition mortgage payments.

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

Thursday, June 17, 2021

Hearing Room 5A

10:00 AM

CONT... Urbana Foote

Chapter 13

However, the Motion fails to include the following critical evidence:

1. The amount of the monthly payment
2. A ledger that establishes the dates and amount of missed payments

This information is necessary to determine whether the payments were in default at the time of the recordation of the 2010 junior deed of trust.

Note: If Movant accepts the tentative ruling, it must provide notice of the continued hearing date/time and the deadlines therein as well as the Zoom notice, including the call-in telephone number information.

Party Information

Debtor(s):

Urbana Foote

Pro Se

Movant(s):

CAM XI TRUST, its successors

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, June 17, 2021

Hearing Room 5A

10:30 AM

8:09-20845 Commercial Services Building Inc

Chapter 7

#12.00 Hearing RE: Fifth and Final Interim Application for Fees and Reimbursement of Expenses by Polis & Associates, APLC, Chapter 7 Trustee's Special Litigation Counsel Consistent with the Court's Recent Order Re: Polis & Associates Fees Compromise and Settlement Agreement (ECF No. 517)

[POLIS & ASSOCIATES, APLC, CHAPTER 7 TRUSTEE'S SPECIAL LITIGATION COUNSEL]

Docket 519

***** VACATED *** REASON: OFF CALENDAR: Polis & Associates' Withdrawal of its Final Application for Fees and Reimbursement of Expenses as Chapter 7 Trustee's Special Litigation Counsel, filed 6/7/2021**

Courtroom Deputy:

OFF CALENDAR: Polis & Associates' Withdrawal of its Final Application for Fees and Reimbursement of Expenses as Chapter 7 Trustee's Special Litigation Counsel, filed 6/7/2021 - td (6/7/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Commercial Services Building Inc

Represented By
Phillip B Greer

Trustee(s):

Karl T Anderson (TR)

Represented By
Misty A Perry Isaacson
Misty A Perry Isaacson
Thomas J Polis
Robert M Dato
Jason E Goldstein

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

Thursday, June 17, 2021

Hearing Room 5A

10:30 AM

8:20-12864 Beck & Chase Enterprises, Inc.

Chapter 11

#13.00 Hearing RE: Confirmation of Plan of Reorganization for Small Business Under Chapter 11 (Subchapter V)

(Set per Order Entered 3/15/2021)

Docket 59

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 17, 2021

Continue the hearing to July 22, 2021 at 10:30 a.m. to allow Debtor to 1) serve, by June 18, 2021, all creditors with the Amended Plan filed [dkt # 74] with notice that the deadline to file an objection to confirmation of the same is July 8, 2021; 2) propose remedies for default under the Amended Plan as required by Bankruptcy Code Section 1191(c)(3).

Basis for Tentative Ruling

1. The Amended Plan includes a material term change -- the extension of the term from three to five years -- that all creditors did not receive notice of. The court has no way of knowing whether a creditor (other than the two secured creditors) might have filed an objection to the modification of the term.
2. The Amended Plan does not satisfy 1191(c)(3).
3. Clarify whether insider claims will be paid pro rata with unsecured creditors.

Note: If the parties accept the 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, June 17, 2021

Hearing Room 5A

10:30 AM

CONT... Beck & Chase Enterprises, Inc.

Chapter 11

Debtor(s):

Beck & Chase Enterprises, Inc.

Represented By
Jeffrey B Smith

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, June 17, 2021

Hearing Room 5A

10:30 AM

8:20-12864 Beck & Chase Enterprises, Inc.

Chapter 11

#14.00 CON'TD STATUS CONFERENCE Hearing RE: Status of SubChapter V Case; and (2) Requiring Report on Status of SubChapter V Case by Debtor and SubChapter V Trustee

FR: 12-3-20; 3-11-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 3, 2020

Deadline to file plan*:	Feb. 16, 2021
Continued Status Conf:	Mar. 11, 2021 at 10:30 a.m. (XX)
Updated Status Report due: (Trustee)	Feb. 25, 2021 (Debtor); Mar. 4, 2021

*The court will not require a disclosure statement. However, the plan must include 1) a brief history of Debtor's business operations and the circumstances precipitating the filing; 2) a liquidation analysis; and 3) projections supporting Debtor's ability to make payments during the term of the plan.

Note: If Debtor is in substantial compliance with the requirements of the U.S. Trustee and there have been no significant developments in the case since the status reports were filed, appearances at this hearing will not be required. The Court will issue its own order re the Status Conference. It is Debtor's responsibility to confirm substantial compliance with the U.S. Trustee in advance of the hearing.

March 11, 2021

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

Thursday, June 17, 2021

Hearing Room 5A

10:30 AM

CONT... Beck & Chase Enterprises, Inc.

Chapter 11

Continue Status Conference to May 6, 2021 at 10:30 a.m. Debtor may schedule a hearing on approval of its plan for the same date/time. If so, a confirmation brief must be filed by or before April 22, 2021.

Special note to Subchapter V Trustee: The court did not require Debtor to file a disclosure statement. See tentative ruling for December 3, 2021.

Note: Appearances at this Status Conference are not required.

June 17, 2021

Continue hearing to July 22, 2021 at 10:30 a.m.; updated Status Report not required.

Note: Appearances at this Status Conference are not required.

Party Information

Debtor(s):

Beck & Chase Enterprises, Inc.

Represented By
Jeffrey B Smith

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

Thursday, June 17, 2021

Hearing Room 5A

10:30 AM

8:21-10135 Chase Merritt Global Fund LLC

Chapter 11

#15.00 Hearing RE: Debtor's Subchapter V Plan of Reorganization

Docket 60

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 17, 2020

Continue confirmation hearing to August 5, 2021 at 10:30 a.m. to allow Debtor to address the following issues: feasibility, treatment of Green Rock's claim re default interest in light of this court's June 15, 2021 Order, and entitlement to discharge. Amended Confirmation Brief must be filed by July 15, 2021; responses by July 22, 2021; reply by July 29, 2021. In addition, the parties are ordered to meet and confer re a possible resolution of the outstanding issues no later than July 8, 2021.

Basis for Tentative Ruling

Green Rock raises valid arguments re the treatment of its remaining claim and applicable default interest, eligibility of Debtor for discharge, and feasibility. That said, the court believes that a resolution of the issues are achievable if all parties meet in good faith. Green Rock has now received nearly 90% of its secured claim and should be negotiating from that standpoint and not as if it is still owed \$1.6M. In this regard, the court is not inclined to entertain any oral argument against the granting of a continuance.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

Chase Merritt Global Fund LLC

Represented By

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

Thursday, June 17, 2021

Hearing Room 5A

10:30 AM

CONT... Chase Merritt Global Fund LLC

Chapter 11

W. Derek May

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, June 17, 2021

Hearing Room 5A

10:30 AM

8:21-10135 Chase Merritt Global Fund LLC

Chapter 11

#16.00 CONT'D STATUS CONFERENCE Hearing on (1) Status of Subchapter V Case; (2) Requiring Report on Status of Subchapter V Case by Debtor and Subchapter V Trustee; and (3) Requiring Subchapter V Trustee to Appear at the Status Conference

FR: 3-4-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 4, 2021

Deadline to file plan/disclosure stmt:	April 20, 2021
Continued Status Conference: 10:30am	June 17, 2021 at (XX)
Deadline to file Updated Status Report (Debtor)	June 3, 2021
Deadline to file Update Status Report (Trustee)	June 10, 2021

An Updated Status Report need not be filed by either Debtor or Trustee if a plan and disclosure statement is filed by or before June 3, 2021.

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required. The Court will issue it's own order.

June 17, 2021

Continue status conference to August 5, 2021 at 10:30 a.m.; updated status report not required.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

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

Thursday, June 17, 2021

Hearing Room 5A

10:30 AM

CONT... Chase Merritt Global Fund LLC

Chapter 11

Party Information

Debtor(s):

Chase Merritt Global Fund LLC

Represented By
W. Derek May

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, June 17, 2021

Hearing Room 5A

10:30 AM

8:21-10635 Alicia Marie Richards

Chapter 7

#17.00 Hearing RE: Trustee's Motion For Order Abandoning the Estate's Interest, if Any, in Certain Litigation

Docket 22

***** VACATED *** REASON: OFF CALENDAR: Notice of Withdrawal of Motion, filed 6/14/2021**

Courtroom Deputy:

**OFF CALENDAR: Notice of Withdrawal of Motion, filed 6/14/2021 - td
(6/14/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alicia Marie Richards

Pro Se

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 17, 2021

Hearing Room 5A

10:30 AM

8:21-10635 Alicia Marie Richards

Chapter 7

#18.00 Hearing RE: Debtor's Motion to Compel the Trustee to Abandon Claim

Docket 27

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 17, 2021

Grant the Motion.

Note: In light of the Trustee's withdrawal of his motion to abandon the subject claims, there does not appear to be any substantive opposition to Debtor's motion.

Party Information

Debtor(s):

Alicia Marie Richards

Pro Se

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 17, 2021

Hearing Room 5A

10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#19.00 CON'TD Hearing RE: PCH Restaurant & Marina, LLC's Motion to Compel Rejection of Terminated Nonresidential Lease

FR: 5-11-21

Docket 26

***** VACATED *** REASON: OFF CALENDAR: Order Granting PCH Restaurant & Marina, LLC's Motion to Compel Rejection of Terminated Nonresidential Lease Entered 5/17/2021**

Courtroom Deputy:

OFF CALENDAR: Order Granting PCH Restaurant & Marina, LLC's Motion to Compel Rejection of Terminated Nonresidential Lease Entered 5/17/2021 - td (5/17/2021)

Tentative Ruling:

May 11, 2021

Grant Motion for the reasons stated in the Motion and Reply, which the court adopts by reference herein.

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By
Andy C Warshaw

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, June 17, 2021

Hearing Room 5A

10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#20.00 CON'TD Hearing RE: Motion for relief from the automatic stay
[UNLAWFUL DETAINER]

PCH RESTAURANT & MARINA, LLC

VS.

DEBTOR

FR: 5-11-21

Docket 28

***** VACATED *** REASON: OFF CALENDAR: Declaration of Ryan D.
O'Dea in Support of Entry of Order Filed 5/14/2021; Order Granting Motion
for Relief from Stay Entered 5/17/2021**

Courtroom Deputy:

**OFF CALENDAR: Declaration of Ryan D. O'Dea in Support of Entry of
Order Filed 5/14/2021; Order Granting Motion for Relief from Stay
Entered 5/17/2021 - td (6/15/2021)**

Tentative Ruling:

May 11, 2021

Grant Motion for the reasons stated in the Motion and Reply, which the court
adopts by reference herein.

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By
Andy C Warshaw

Movant(s):

PCH Restaurant & Marina, LLC

Represented By

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

Thursday, June 17, 2021

Hearing Room 5A

10:30 AM

CONT... Mehr Group of Companies Holding Inc.

Chapter 11

Ryan D O'Dea

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, June 17, 2021

Hearing Room 5A

10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#21.00 Hearing RE: Creditor BCORE Retail Brookhurst Adams LLC's Motion to Compel Rejection of Terminated Nonresidential Lease

Docket 72

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 17, 2021

Grant Motion for the reasons stated and the legal authority presented in the Motion and Reply

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By

Andy C Warshaw

Richard L. Sturdevant

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, June 17, 2021

Hearing Room 5A

10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#22.00 Hearing RE: Debtor in Possession's Motion Authorizing the Assumption of Commercial Lease

Docket 78

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 17, 2021

Deny motion if the court grants lessor's motion to compel rejection [See # 21 on today's calendar]

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By

Andy C Warshaw

Richard L. Sturdevant

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, June 17, 2021

Hearing Room 5A

10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#23.00 CON'TD STATUS CONFERENCE Hearing on Status of Subchapter V Case; (2) Requiring Report on Status of Subchapter V Case by Debtor and Subchapter V Trustee; and (3) Requiring Subchapter V Trustee to Appear at the Status Conference

FR: 5-11-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

No tentative ruling; disposition will depend on outcome of other matters on today's calendar.

June 17, 2021

No tentative ruling; disposition will depend on outcome of other matters on today's calendar.

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By
Andy C Warshaw

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, June 17, 2021

Hearing Room 5A

10:30 AM

8:21-10860 Erica Duarte Bruce

Chapter 13

#24.00 Hearing RE: Debtor's Objection to Claim #8-1 of Garden Valley Homeowners Association filed in the amount of \$66,632.79

Docket 32

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 17, 2021

Sustain the Objection as follows: Claimant shall have an allowed secured claim in the amount of \$10,596.28 should be secured and an unsecured claim in the amount of \$56,036.51. The Objection to attorneys fees and other charges as unreasonable is overruled.

Basis for Tentative Ruling

Under the Davis-Stirling Act, associations "shall levy regular and special assessments sufficient to perform its obligations under the governing documents and this act." Cal. Civ. Code § 5600 (West). Homeowners associations may collect reasonable attorney's fees. Cal. Civ. Code § 5650 (West). To protect homeowners, the Legislature required notice to homeowners before an association could foreclose on an assessment lien. See *Diamond v. Superior Ct.*, 217 Cal. App. 4th 1172, 1191, 159 Cal. Rptr. 3d 110, 123 (2013), as modified on denial of reh'g (July 12, 2013). Focusing on the Legislature's intent to protect homeowners, the court in *In re Basave De Guillen* held that an association's lien on a home is limited to the amount stated in the notice. *In re Basave De Guillen*, 604 B.R. 826, 837 (B.A.P. 9th Cir. 2019). Further, the notice must include "an itemized statement showing the delinquent assessments (and related fees and costs) owing at the time of the notice." *Id.* Continuing liens following the notice could not be assessed. *Id.* at 838. Homeowners wishing the assess amounts following the notice of lien would have to file

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

Thursday, June 17, 2021

Hearing Room 5A

10:30 AM

CONT... Erica Duarte Bruce
successive liens. *Id.* at 839.

Chapter 13

In *In re Basave De Guillen*, the court upheld the bankruptcy court's ruling that only the amount stated in the homeowner association's recorded notice of lien, \$29,970.65 (principal of \$21,398.02 plus pre-petition interest of \$8,572.63) was secured. *In re Basave De Guillen*, 604 B.R. at 831. The rest of the balance, \$34,166.55, which consisted of fees following the notice of lien, was unsecured. *Id.* Here, the Court should hold similarly. The amount listed in the HOA's recorded notice of lien is \$10,596.28 See Claim 8-1, p. 27. The subsequent legal fees and fees of collection incurred after the 2015 Assessment Lien that were not listed in the notice of lien cannot be secured under because notice was not provided to Debtor as required by the Davis-Stirling Act. Rather. Accordingly, only \$10,596.28 of the HOA's claim is secured and the remaining balance, \$56,036.51 (\$66,632.79- \$10,596.28), that is, is allowed as an unsecured claim.

Party Information

Debtor(s):

Erica Duarte Bruce

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**

Thursday, June 17, 2021

Hearing Room 5A

10:30 AM

8:21-10958 Plamex Investment, LLC

Chapter 11

**#25.00 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:

June 17, 2021

Claims Bar Date: 8/20/21

Deadline to file plan/DS
(subject to any motion to
extend exclusivity) 9/30/21

Continued Ch 11 Status Conf.: 10/14/21 at 10:30 a.m.

Updated Status Report due: 9/30/21 (waived if plan and DS filed)

***Note: If Debtors are in substantial compliance with the requirements of
the UST, appearance at this hearing is not required. Court to issue its
own order.***

Party Information

Debtor(s):

Plamex Investment, LLC

Represented By
Ron Bender
Juliet Y Oh
Monica Y Kim

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

Thursday, June 17, 2021

Hearing Room 5A

2:00 PM

8:19-13858 Bruce Elieff

Chapter 7

Adv#: 8:20-01161 Kurtin v. Elieff

#26.00 CON'TD Hearing RE: Plaintiff's Motion for Summary Judgment or Partial Summary Judgment

FR: 5-6-21

Docket 10

***** VACATED *** REASON: CONTINUED TO 8/19/2021 AT 2:00 P.M.,
Per Order Entered 5/24/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 8/19/2021 at 2:00 pm, Per Order
Entered 5/24/2021 (XX) - td (5/24/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Defendant(s):

Bruce Elieff

Represented By
Robert P Goe

Plaintiff(s):

Todd Kurtin

Represented By
Lewis R Landau

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, June 17, 2021

Hearing Room 5A

2:00 PM

CONT...

Bruce Elieff

Sean A OKeefe
Claire K Wu

Chapter 7

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

Thursday, June 17, 2021

Hearing Room 5A

2:00 PM

8:21-10525 The Source Hotel, LLC

Chapter 11

#27.00 CON'TD Hearing RE: Motion of Shady Bird Lending, LLC for Order Excusing State Court Receiver from Turnover of Assets Pursuant to 11 U.S.C. Section 543

FR: 4-15-21; 6-3-21; 6-10-21

Docket 51

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 15, 2021

Deny Motion.

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

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

Thursday, June 17, 2021

Hearing Room 5A

2:00 PM

8:21-10525 The Source Hotel, LLC

Chapter 11

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

SHADY BIRD LENDING, LLC

VS.

DEBTOR

FR: 4-22-21; 6-3-21; 6-10-21

Docket 62

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 22, 2021

Continue hearing to June 3, 2021 at 2:00 p.m., same date and time as the hearing on Movant's motion to excuse the state court receiver from the turnover requirements of 11 U.S.C. Section 543. Ordinary 21/14/7 briefing deadlines under LBR 9013-1 apply. (XX)

Special Note:

Tentative ruling for 6/3/21: Based on the evidence presented thus far, the court is inclined to deny the Motion due to the lack of evidence that the property has declined in value since the petition date and the lack of evidence to refute the owner's opinion as to the value of the property. Despite the tentative ruling, the court declines to rule at today's hearing or to entertain oral argument because it would like to view the Motion in the context of the turnover motion.

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

Thursday, June 17, 2021

Hearing Room 5A

2:00 PM

CONT... The Source Hotel, LLC

Chapter 11

Additional note to the parties: In this court, pleadings rife with snide, petty, snarky hyperbole is unpleasantly distracting and degrades the quality of one's argument and position.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

Movant(s):

Shady Bird Lending, LLC

Represented By
Daniel A Lev
Ronald N Richards

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

Thursday, June 17, 2021

Hearing Room 5A

2:00 PM

8:21-10525 The Source Hotel, LLC

Chapter 11

#29.00 CONT'D Hearing RE: Debtor and Debtor-in-Possession's Motion for Order Extending Debtor's Exclusive Periods to File Plan of Reorganization and Obtain Acceptances Thereof

FR: 6-10-21

Docket 122

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

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

Thursday, June 17, 2021

Hearing Room 5A

2:00 PM

8:21-10525 The Source Hotel, LLC

Chapter 11

#30.00 CONT'D Hearing RE: Motion for Entry of an Order (A) Authorizing Debtor to Use Cash Collateral; and (B) Authorizing Debtor to Obtain Post-petition Financing from M+D Properties on an Unsecured Basis

FR: 6-10-21

Docket 123

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

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

Tuesday, June 22, 2021

Hearing Room 5A

1:30 PM

8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1601503097>

Meeting ID: 160 150 3097

Password: 199468

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for

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

Tuesday, June 22, 2021

Hearing Room 5A

1:30 PM
CONT...

Chapter

Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.

Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

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

Tuesday, June 22, 2021

Hearing Room 5A

1:30 PM

8:21-11035 Evelyn Ahumada

Chapter 13

#1.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Evelyn Ahumada

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, June 22, 2021

Hearing Room 5A

1:30 PM

8:21-10973 Vanessa Allison Tunks

Chapter 13

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

Docket 19

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Vanessa Allison Tunks

Represented By
Rex 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, June 22, 2021

Hearing Room 5A

1:30 PM

8:21-10959 Sina Krause

Chapter 13

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

Docket 13

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Sina Krause

Represented By
Trang Phuong 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, June 22, 2021

Hearing Room 5A

1:30 PM

8:21-10860 Erica Duarte Bruce

Chapter 13

#4.00 Hearing RE: Confirmation of 3rd Amended Chapter 13 Plan

Docket 45

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Erica Duarte Bruce

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, June 22, 2021

Hearing Room 5A

1:30 PM

8:21-10794 Barry M Schleider

Chapter 13

#5.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 17

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Barry M Schleider

Represented By
Christopher C Barsness

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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

Tuesday, June 22, 2021

Hearing Room 5A

1:30 PM

8:21-10742 John R Godlewski and Ashley Godlewski

Chapter 13

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

FR: 5-25-21

Docket 22

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

John R Godlewski

Represented By
Julie J Villalobos

Joint Debtor(s):

Ashley Godlewski

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, June 22, 2021

Hearing Room 5A

1:30 PM

8:21-10612 Arnulfo Alatorre

Chapter 13

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

FR: 5-25-21

Docket 12

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Arnulfo Alatorre

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, June 22, 2021

Hearing Room 5A

1:30 PM

8:21-10572 Ronaldo Marquez and Cristina Marquez

Chapter 13

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

FR: 5-25-21

Docket 21

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Ronaldo Marquez

Represented By
Stephen L Burton

Joint Debtor(s):

Cristina 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, June 22, 2021

Hearing Room 5A

1:30 PM

8:21-10133 John Steven Domingos

Chapter 13

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

FR: 4-27-21

Docket 20

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

John Steven Domingos

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, June 22, 2021

Hearing Room 5A

2:30 PM

8:19-13468 Eric Anthony Perez

Chapter 13

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

Docket 73

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Eric Anthony Perez

Represented By
Christopher J Langley
Michael 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, June 22, 2021

Hearing Room 5A

2:30 PM

8:19-12914 Thana Eddik

Chapter 13

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

Docket 38

***** VACATED *** REASON: OFF CALENDAR: Notice of Voluntary Dismissal of Motion, filed 6/14/2021**

Courtroom Deputy:

OFF CALENDAR: Notice of Voluntary Dismissal of Motion, filed 6/14/2021 - td (6/14/2021)

Party Information

Debtor(s):

Thana Eddik

Represented By
Gregory M Shanfeld

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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

Tuesday, June 22, 2021

Hearing Room 5A

2:30 PM

8:19-11497 Francine Rosu

Chapter 13

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

FR: 5-25-21

Docket 49

***** VACATED *** REASON: OFF CALENDAR; Notice of Voluntary Dismissal of Motion, filed 6/10/2021**

Courtroom Deputy:

OFF CALENDAR: Notice of Voluntary Dismissal of Motion, filed 6/10/2021 - td (6/10/2021)

Party Information

Debtor(s):

Francine Rosu

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, June 22, 2021

Hearing Room 5A

2:30 PM

8:18-14641 Richard Thomas McPhee

Chapter 13

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

FR: 1-26-21; 2-23-21; 4-27-21; 5-25-21

Docket 50

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, June 22, 2021

Hearing Room 5A

2:30 PM

8:18-14562 Mary Guenther

Chapter 13

#14.00 CONT'D Hearing RE: Trustee's Verified Motion for Order Dismissing Case Due to Material Default of a Plan Provision

FR: 4-27-21; 5-25-21

Docket 42

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Mary Guenther

Represented By
Timothy McFarlin

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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

Tuesday, June 22, 2021

Hearing Room 5A

2:30 PM

8:17-13650 Giuseppe Galietta and Heldia F. De Galietta

Chapter 13

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

FR: 10-27-20; 11-24-20; 12-18-20; 1-26-21; 2-23-21; 4-27-21; 5-25-21

Docket 148

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Giuseppe Galietta

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Heldia F. De Galietta

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**

Wednesday, June 23, 2021

Hearing Room 5A

9:00 AM

8:19-10275 Michael J Duff

Chapter 7

Adv#: 8:19-01084 Constantin et al v. Duff

#1.00 CON'TD TRIAL RE: Complaint to Deny Debtor's Discharge

(Set at PTC held 6-18-20)

FR: 2-24-21 & 2-25-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR - ORDER APPROVING
PLAINTIFF'S MOTION TO DISMISS 11 U.S.C. SECTION 727
ADVERSARY ACTION ENTERED 5-6-21.**

Courtroom Deputy:

**OFF CALENDAR: Order approving plaintiff's motion to dismiss 11 U.S.C
section 727 adversary action entered 5-6-21 - adm (5/6/21).**

Party Information

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

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

Thursday, June 24, 2021

Hearing Room 5A

9:00 AM

8:19-10275 Michael J Duff

Chapter 7

Adv#: 8:19-01084 Constantin et al v. Duff

#1.00 CONT'D TRIAL RE: Complaint to Deny Debtor's Discharge

(Set at PTC held 6-18-20)

FR: 2-24-21; 6-23-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR - ORDER APPROVING
PLAINTIFF'S MOTION TO DISMISS 11 U.S.C. SECTION 727
ADVERSARY ACTION ENTERED 5-6-21.**

Courtroom Deputy:

**OFF CALENDAR: Order approving plaintiff's motion to dismiss 11 U.S.C
section 727 adversary action entered 5-6-21 - adm (5/6/21).**

Party Information

Debtor(s):

Michael J Duff	Pro Se
----------------	--------

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, July 1, 2021

Hearing Room 5A

9:30 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

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Meeting URL: <https://cacb.zoomgov.com/j/1618789446>

Meeting ID: 161 878 9446

Password: 071371

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the

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

Thursday, July 1, 2021

Hearing Room 5A

9:30 AM
CONT...

Chapter

"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

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- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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

Thursday, July 1, 2021

Hearing Room 5A

10:00 AM

8:18-10135 Harry K. James

Chapter 13

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

DEUTSCHE BANK NATIONAL TRUST COMPANY

VS.

DEBTOR

FR: 5-11-21

Docket 60

*** VACATED *** REASON: OFF CALENDAR: Order Granting Motion
for Relief from the Automatic Stay Under 11 U.S.C. Section 362 (Settled by
Stipulation) Entered 5/19/2021

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic
Stay Under 11 U.S.C. Section 362 (Settled by Stipulation) Entered
5/19/2021 - td (5/19/2021)**

Tentative Ruling:

May 6, 2021

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 1, 2021

Hearing Room 5A

10:00 AM

CONT... Harry K. James

Chapter 13

Debtor(s):

Harry K. James

Represented By
Julie J Villalobos

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, July 1, 2021

Hearing Room 5A

10:00 AM

8:18-14252 Kayleen R Hittesdorf

Chapter 13

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

THE BANK OF NEW YORK MELLON

VS.

DEBTOR

Docket 73

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 1, 2021

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

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):

Kayleen R Hittesdorf

Represented By
Julie J Villalobos

Movant(s):

THE BANK OF NEW YORK

Represented By
Jenelle C Arnold
Dane W Exnowski

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

Thursday, July 1, 2021

Hearing Room 5A

10:00 AM

CONT... Kayleen R Hittesdorf

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, July 1, 2021

Hearing Room 5A

10:00 AM

8:21-10794 Barry M Schleider

Chapter 13

#3.00 CONT'D Hearing RE: Motion for relief from the automatic stay
[UNLAWFUL DETAINER]

1520 NUTMEG LP

VS.

DEBTOR

FR: 6-10-21

Docket 22

***** VACATED *** REASON: OFF CALENDAR: Order of Dismissal
Arising from Chapter 13 Confirmation Hearing Entered 6/23/2021**

Courtroom Deputy:

**OFF CALENDAR: Order of Dismissal Arising from Chapter 13
Confirmation Hearing Entered 6/23/2021 - td (6/23/2021)**

Tentative Ruling:

June 10, 2021

Continue hearing to July 1, 2021 at 10:00 a.m. to allow Movant to correct defective service -- Debtor was not served with the Motion as required by Local Bankruptcy Rule 4001-1(c)(1)(C). Service must be completed this date.
(XX)

Special Note: Tentative ruling for 7/1/21 hearing (if unopposed): Grant with 4001(a)(3) waiver; deny request for annulment of other extraordinary prospective relief (i.e., relief request #s4, 7, 9, 210, and 11). Movant has not identified any actions taken postpetition that would warrant annulment, nor has Movant stated any grounds for prospective or *in rem* relief.

Note: If Movant accepts the foregoing tentative ruling, 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, July 1, 2021

Hearing Room 5A

10:00 AM

CONT... Barry M Schleider

Chapter 13

Party Information

Debtor(s):

Barry M Schleider

Represented By
Christopher C Barsness

Movant(s):

1520 Nutmeg LP

Represented By
Steven A Fink

Trustee(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 1, 2021

Hearing Room 5A

10:30 AM

8:09-21634 Saul San Elias

Chapter 7

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

[THOMAS H. CASEY, CHAPTER 7 TRUSTEE]

Docket 25

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 1, 2021

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):

Saul San Elias

Represented By
Stephen D Brittain

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 1, 2021

Hearing Room 5A

10:30 AM

8:12-19829 Structured Investments Co., LLC

Chapter 7

#5.00 Hearing RE: Chapter 7 Trustee's Final Report and Application for Final Fees and Expenses

[RICHARD A. MARSHACK, CHAPTER 7 TRUSTEE]

Docket 515

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 1, 2021

Approve total fees and expenses as requested on a final basis.

Basis for Tentative Ruling

Objecting creditors have not stated a basis for a specific reduction in the trustee's statutory fees.

Party Information

Debtor(s):

Structured Investments Co., LLC

Pro Se

Trustee(s):

Richard A Marshack (TR)

Represented By
Leonard M Shulman
Franklin J Contreras

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

Thursday, July 1, 2021

Hearing Room 5A

10:30 AM

8:12-19829 Structured Investments Co., LLC

Chapter 7

#6.00 Hearing RE: Fourth and Final Fee Application of Hahn Fife & Company LLP For Allowance of Fees and Expenses From March 22, 2021 Through February 27, 2021

[HAHN FIFE & COMPANY LLP, ACCOUNTANT TO THE CHAPTER 7 TRUSTEE]

Docket 511

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 1, 2021

Approve fees and expenses on a final basis 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):

Structured Investments Co., LLC

Pro Se

Trustee(s):

Richard A Marshack (TR)

Represented By
Leonard M Shulman
Franklin J Contreras

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

Thursday, July 1, 2021

Hearing Room 5A

10:30 AM

8:12-19829 Structured Investments Co., LLC

Chapter 7

#7.00 Hearing RE: Third and Final Application for Approval of Fees and Reimbursement of Expenses

[SHULMAN HODGES & BASTIAN LLP, ATTORNEYS FOR THE CHAPTER 7 TRUSTEE]

Docket 451

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 1, 2021

Approve total fees in the amount of \$722,034.35 and expenses as requested on a final basis.*

Basis for Tentative Ruling

The approved amount represents a reduction of \$127,417.65 or 15% of total fees requested.

The court believes that the firm should accept the proposed reduction as a gesture of fairness to the unsecured creditors. The reduction could be higher or lower if the court takes the matter under submission and does a line-by-line analysis of the fees.

The court believes the objecting creditors should accept the proposed amount because 1) the objection does not provide specific instances where the fees were unreasonable justifying a reduction of more than 50%, and 2) there is no question that there was much legal work to be done in this case. Put another way, the vague objection to the imbalance of distribution does not assist the court in its evaluation of the reasonableness of the fees which, as a matter of

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

Thursday, July 1, 2021

Hearing Room 5A

10:30 AM

CONT... Structured Investments Co., LLC
law, have priority over unsecured claims.

Chapter 7

*Caveat to the tentative ruling: The final fee application filed by the Firm indicates on page 7 that it has received \$376,671.67 and seeks the holdback of \$209,256.83 plus fees not previously approved in the amount of \$263,523.50. These three figures add up to \$849,452.00 with the total current new request being \$472,780.33. However, the Trustee's final report in Exh D indicates that the Firm has already received \$709,115.40 and that no additional payments will be made. This apparent discrepancy needs to be explained. If in fact, the Firm is being paid \$709,115.40 against total fees of \$849,452.00 (a 17% reduction), then the 15% reduction suggested in the tentative ruling would not apply.

Party Information

Debtor(s):

Structured Investments Co., LLC	Pro Se
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Trustee(s):

Richard A Marshack (TR)	Represented By Leonard M Shulman Franklin J Contreras
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**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, July 1, 2021

Hearing Room 5A

10:30 AM

8:16-11882 Stephen J Haythorne
Adv#: 8:16-01247 Damon v. Haythorne

Chapter 7

#8.00 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; 6-11-20; 9-10-20;
11-19-20; 1-14-21; 3-11-21; 5-11-21

Docket 128

***** VACATED *** REASON: CONTINUED TO 9/2/2021 AT 10:30 A.M.,
Per Order Entered 6/28/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Judgment Debtor Examination Continued to 9/2/2021 at
10:30 a.m., Per Order Entered 6/28/2021 (XX) - td (6/28/2021)**

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, 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

**United States Bankruptcy Court
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10:30 AM

CONT... Stephen J Haythorne

Chapter 7

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 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 10:00 a.m.

Basis for Tentative Ruling

The courthouse remains closed to in-person court appearances and on-site

United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, July 1, 2021

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5A

10:30 AM

CONT... Stephen J Haythorne

Chapter 7

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.

September 10, 2020

Continue the examination to November 19, 2020 at 10:00 a.m. (XX)

Basis for Tentative Ruling

The courthouse is currently 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 November 19, 2020. Depending on the status of pandemic-related rules and policies in place on November 19, 2020, the examination 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.

Party Information

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

Thursday, July 1, 2021

Hearing Room 5A

10:30 AM

CONT... Stephen J Haythorne

Chapter 7

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
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Thursday, July 1, 2021

Hearing Room 5A

10:30 AM

8:16-11882 Stephen J Haythorne

Chapter 7

Adv#: 8:16-01247 Damon v. Haythorne

#9.00 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; 6-11-20; 9-10-20;
11-19-20; 1-14-21; 3-11-21; 5-11-21

Docket 130

***** VACATED *** REASON: CONTINUED: Judgment Debtor
Examination Continued to 9/2/2021 at 10:30 a.m., Per Order Entered
6/28/2021 (XX) - td (6/28/2021)**

Courtroom Deputy:

**CONTINUED: Judgment Debtor Examination Continued to 9/2/2021 at
10:30 a.m., Per Order Entered 6/28/2021 (XX) - td (6/28/2021)**

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, 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

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, July 1, 2021

Hearing Room 5A

10:30 AM

CONT... Stephen J Haythorne

Chapter 7

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 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).

June 4, 2020

Continue the examination to September 10, 2020 at 10:00 a.m.

Basis for Tentative Ruling

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, July 1, 2021

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.

September 10, 2020

Continue the examination to November 19, 2020 at 10:00 a.m. (XX)

Basis for Tentative Ruling

The courthouse is currently 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 November 19, 2020. Depending on the status of pandemic-related rules and policies in place on November 19, 2020, the examination 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.

Party Information

Debtor(s):

Stephen J Haythorne

Represented By
David S Henshaw

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

Thursday, July 1, 2021

Hearing Room 5A

10:30 AM

CONT... Stephen J Haythorne

Chapter 7

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, July 1, 2021

Hearing Room 5A

10:30 AM

8:16-13537 Darryl L. Cazares and DeAnna J. Cazares

Chapter 13

#10.00 CON'TD Hearing RE: Debtors' Motion to Avoid Junior Lien on Principal Residence

FR: 6-3-21

Docket 133

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 1, 2021

Set the matter for an evidentiary hearing regarding the value of the property. Available date: October 27, 2021 at 10:00 a.m. The hearing will be IN PERSON in Courtroom 5A unless the parties request otherwise.

Basis for Tentative Ruling

The court cannot assess the factual dispute without an evidentiary hearing. Both appraisers will need to be present for cross examination. Any discovery must be done in accordance with the adversary rules as set forth in the FRBP and LBRs.

Note: If both parties accept the tentative ruling, appearances at this hearing are not required and Movant shall give notice of the evidentiary hearing.

Party Information

Debtor(s):

Darryl L. Cazares

Represented By
Joseph Arthur Roberts

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

Thursday, July 1, 2021

Hearing Room 5A

10:30 AM

CONT... Darryl L. Cazares and DeAnna J. Cazares

Chapter 13

Joint Debtor(s):

DeAnna J. Cazares

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**

Thursday, July 1, 2021

Hearing Room 5A

10:30 AM

8:18-11899 Dennis Ulrich

Chapter 7

#11.00 Hearing RE: Chapter 7 Trustee's Motion for Order: (1) Authorizing Sale of Real Property Free and Clear of Liens, Claims, and Interests Pursuant to 11 U.S.C. Sections 363(b)(1) and (f)(2) and (5); (2) Approving Buyer as Good-Faith Purchaser Pursuant to 11 U.S.C. Section 363(m); and (3) Authorizing Payment of Undisputed Liens, Real Estate Broker's Commissions and Other Ordinary Costs of Sale

Docket 53

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 1, 2021

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):

Dennis Ulrich

Represented By
William P White

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, July 1, 2021

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#12.00 Hearing RE: Trustee's Motion for Order Authorizing Interim Distribution to Non-Plaintiff, Non-Claimant, Non-Individual Parties

Docket 607

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 1, 2021

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):

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
Stefan Perovich

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

Thursday, July 1, 2021

Hearing Room 5A

10:30 AM

8:18-13864 Friendly Village GP, LLC

Chapter 7

#13.00 Hearing RE: Trustee's Motion for Order Authorizing Interim Distribution to Non-Plaintiff, Non-Claimant, Non-Individual Parties

Docket 312

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 1, 2021

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):

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 1, 2021

Hearing Room 5A

10:30 AM

8:20-11141 Richard Mark Wood and Georgina Ayala Wood

Chapter 7

#14.00 Hearing RE: Chapter 7 Trustee's Final Report and Application for Final Fees and Expenses

[JEFFREY I. GOLDEN, CHAPTER 7 TRUSTEE]

Docket 31

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 1, 2021

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):

Richard Mark Wood

Represented By
Richard G Heston

Joint Debtor(s):

Georgina Ayala Wood

Represented By
Richard G Heston

Trustee(s):

Jeffrey I Golden (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, July 1, 2021

Hearing Room 5A

10:30 AM

8:20-12488 Christopher Summers

Chapter 11

#15.00 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 64

*** VACATED *** REASON: OFF CALENDAR: Voluntary Dismissal of U.S. Trustee's Motion to Dismiss or Convert Debtor's Case Under 11 U.S.C. §1112(b) filed 6/4/2021

Courtroom Deputy:

OFF CALENDAR: Voluntary Dismissal of U.S. Trustee's Motion to Dismiss or Convert Debtor's Case Under 11 U.S.C. §1112(b) filed 6/4/2021 - td (6/4/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christopher Summers

Represented By
J Scott Williams

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

Thursday, July 1, 2021

Hearing Room 5A

10:30 AM

8:20-12488 Christopher Summers

Chapter 11

#16.00 Hearing RE: Secured Creditor's Motion to Convert From Chapter 11 to Chapter 7 Pursuant to 11 U.S.C. Section 1112(b)(1)

Docket 79

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 1, 2021

Continue hearing to August 5, 2021 at 10:30 a.m. in light of 1) improper service to creditors (County of Orange was not served) and 2) Debtor has filed evidence of a pending purchase agreement that would be sufficient to pay the Movant's claim.

Party Information

Debtor(s):

Christopher Summers

Represented By
J Scott Williams

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

Thursday, July 1, 2021

Hearing Room 5A

10:30 AM

8:21-10635 Alicia Marie Richards

Chapter 7

#17.00 Hearing RE: Debtor's Motion for an Order to Convert Chapter 7 Case to Chapter 13 Under 11 U.S.C. Sections 706(a) or 1112(a)

Docket 55

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 1, 2021

Continue this hearing to July 15, 2021 at 10:30 a.m. to allow Debtor to file a substantive reply to the Trustee's supplemental opposition. Any supplemental reply must be filed no later than July 8, 2021 and must be limited to issues raised in the supplemental opposition. No new issues may be raised in the reply. If Debtor does not wish to file a reply to the supplemental opposition, the court will hear oral argument at today's hearing and take the matter under submission, with a ruling to be issued by or before July 8, 2021 (no new pleadings by any party).

Party Information

Debtor(s):

Alicia Marie Richards

Pro Se

Trustee(s):

Richard A Marshack (TR)

Represented By
Richard G Heston

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

Thursday, July 1, 2021

Hearing Room 5A

10:30 AM

8:21-10525 The Source Hotel, LLC

Chapter 11

#17.10 Hearing RE: Application of Debtor and Debtor in Possession to Employ NAI Capital Commercial, Inc. as Real Estate Broker Pursuant to 11 U.S.C. Sections 327 and 328

Docket 151

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 1, 2021

The court is inclined to approve the Application but is not entirely comfortable with the plan not to include a listing price for Debtor's property. A minimum value for Debtor's property should be disclosed.

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

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

Thursday, July 1, 2021

Hearing Room 5A

2:00 PM

8:19-13858 Bruce Elieff

Chapter 7

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

#18.00 Hearing RE: Plaintiff's Motion for Order Approving Dismissal of Remaining Claims in Adversary Without Prejudice and Subject to an Extension of the Statute of Limitations or in the Alternative for a Discretionary Litigation Stay Pending the Conclusion of the Defendant's Appeal

Docket 221

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 1, 2021

The court is inclined to either 1) grant the motion for the dismissal of the subject claims without prejudice and for the extension of Section 546(a) as requested in the Motion, OR 2) suspend further litigation of this adversary proceeding pending exhaustion of the appeal process and suspend the distributions of estate funds to all creditors pending the same.

Basis for Tentative Ruling:

Short Answer:

There is Eleventh Circuit authority for extending the 546(a) statutory period. However, Plaintiff takes the risk that, on appeal, the Ninth Circuit may not follow the Eleventh Circuit and the estate's claims will be forever barred.

Alternatively, if the court holds the adversary in abeyance pending completion of the appeal process, 1) a second appeal is avoided, 2) the estate's claims remain viable, and 3) Defendant is not harmed by distributions that he would be entitled to if he prevails in his current appeal.

Long Answer

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, July 1, 2021

Hearing Room 5A

2:00 PM

CONT...

Bruce Elieff

Chapter 7

On January 26, 2021, the court entered its Memorandum of Decision and Order ("Decision")[dkt. 167] on the Motion for Summary Judgment on Plaintiff's Mandatory Subordination of Claim ("MSJ") and Plaintiff's Motion for Reconsideration of the Dismissal Order ("Reconsideration Motion"). The court partially granted Trustee's MSJ as to his mandatory subordination claim under § 510(b) and denied Trustee's claim under § 510(c)(2). As for the Reconsideration Motion, the court denied Trustee's request of the earlier dismissal of Trustee's § 510(c)(2) claims with prejudice and for certification under 28 U.S.C. § 1292(b), but the court granted Trustee's request for entry of partial final judgment under FRCP 54(b).

By orders entered April 5, 2021, the court granted Defendant's motion to amend the Decision [dkt. 208] and denied Plaintiff's cross-motion to amend the Decision as moot [dkt. 206]. Based on the court's Decision, as amended, final judgment in Plaintiff's favor, and against Defendant, was entered on the First, Sixth, and Ninth claims for relief ("Judgment")[dkt. 207]. Defendant has appealed the Judgment to the BAP ("Appeal").

Plaintiff now moves for an order dismissing the remaining unadjudicated claims for relief (5th, 7th, 8th, and 10th-16th)(collectively, "Avoidance Claims") without prejudice and an extension of the § 546(a) two-year deadline until the later of 12 months or 30 days after any appeal of the Judgment with respect to the 1st, 6th, and 9th claims for relief (collectively, "Subordination Claims"). Alternatively, Plaintiff requests a discretionary stay holding in abeyance all further litigation related to the Avoidance Claims until the appeal of the Judgment is concluded ("Motion")[dkt. 221]. Defendant opposes the Motion ("Opposition")[dkt. 227].

- A. Plaintiff's request to voluntarily dismiss the case under FRCP 41(a)(2) can be granted because the § 546(a) statute of limitations can be extended by FRCP 9006(b) according to non-binding Circuit authority.

Under FRCP 41(a)(2), made applicable herein by FRBP 7041, "an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper." The Ninth Circuit has long held that the

**United States Bankruptcy Court
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2:00 PM

CONT...

Bruce Elieff

Chapter 7

decision to grant a voluntary dismissal under Rule 41(a)(2) is addressed to the sound discretion of the District Court, and its order will not be reversed unless the District Court has abused its discretion." *Hamilton v. Firestone Tire & Rubber Co.*, 679 F.2d 143, 145 (9th Cir. 1982). The Ninth Circuit plainly stated the standard for the application of FRCP 41(a)(2) as follows: "A district court should grant a motion for voluntary dismissal under Rule 41(a)(2) unless a defendant can show that it will suffer some plain legal prejudice as a result. *Waller v. Fin. Corp. of Am.*, 828 F.2d 579, 583 (9th Cir.1987); see also *Hamilton*, 679 F.2d at 145–46.

In this case, Defendant argues that the voluntary dismissal of the Avoidance Claims should be denied because Plaintiff's request is contingent on the court also extending the § 546(a) statute of limitation to allow Plaintiff to refile the Avoidance Claims in the event the Judgment is later reversed but § 546(a) cannot be extended under Rule 9006(b). See Mot., 4:16-20; Opp'n, 3. In relevant part, § 546(a) states that avoidance claims "may not be commenced after the later of... 2 years after the entry of the order for relief; or... 1 year after the appointment or election of the first trustee under section 702, 1104..." 11 U.S.C. § 546(a). Defendant cites to *In re Walnut Hill, Inc.*, 2018 WL 2672242 * 1 (Bankr. D. Conn. 2018) which held that § 546(a) cannot be extended by Rule 9006(d) since that rule only allows a bankruptcy court to extend a deadline imposed by the FBRP or a court order. See *Walnut Hill, supra*, at * 1 ("By its plain language, Rule 9006(b) only applies to deadlines set "by these rules or by a notice given thereunder[,] [sic] or by order of court". Nowhere in the Rule does it mention statutory deadlines."). And Defendant accurately notes that *In re Omect, Inc.*, 349 B.R. 620, 623 (Bankr. N.D. Cal. 2006) is in apposite to this case because, unlike that case, there is no stipulation to extend the § 546(a) deadline here.

However, there is persuasive authority that supports Plaintiff's position. In *In re Fundamental Long Term Care, Inc.*, 501 B.R. 784, 788 (Bankr. M.D. Fla. 2013), the bankruptcy court, relying on the Eleventh Circuit, stated:

"There is no question the Court has the authority to enlarge the two-year limitations period under section 546(a). Rule 9006(b) specifically provides that the Court, in its discretion, may enlarge the time period for

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, July 1, 2021

Hearing Room 5A

2:00 PM

CONT...

Bruce Elieff

Chapter 7

completing any act required under the Federal Rules of Bankruptcy Procedure. Section 546, of course, is a statute—not a bankruptcy rule. Nevertheless, the Eleventh Circuit Court of Appeals has expressly held that bankruptcy courts can enlarge the § 546(a) two-year limitations period under Rule 9006."

Id. at 787–88 (internal citations omitted)(citing *In re Int'l Admin. Servs., Inc.*, 408 F.3d 689, 699 (11th Cir. 2005)). In *International Administrative*, which was cited by the *Fundamental Long Term* court, the Eleventh Circuit held in that case that § 546(a) can be extended under Rule 9006(b). *Int'l Admin., supra*, at 699; *In re Campbellton-Graceville Hosp. Corp.*, 616 B.R. 177, 182 (Bankr. N.D. Fla. 2019)("Bankruptcy Courts have authority to enlarge the two-year statute of limitations period under Section 546 for cause, pursuant to Rule 9006(b) and binding Eleventh Circuit precedent in *In re International Administrative Services, Inc.*"); *In re ThermoView Indus., Inc.*, 381 B.R. 225, 229 (Bankr. W.D. Ky. 2008)(agreeing with the prior court's extension of the § 546(a) deadline by application of Rule 9006(b)). In light of *International Administrative* which the court finds more persuasive than *Walnut Hill*, the court finds that § 546(a) may be extended under Rule 9006(b). Accordingly, Defendant will not suffer legal prejudice by the dismissal of the Avoidance Claims and an extension of the § 546(a) deadline.

Voluntary dismissal will also benefit Defendant because Defendant will avoid incurring additional legal fees and costs adjudicating the Avoidance Claims which may ultimately be moot if the Judgment is affirmed. See Mot., 6-7. Finally, in opposition to the *Landis* stay, Defendant argued that there is a fair possibility of harm to Defendant if the adversary proceeding is stayed because Plaintiff's objection to Defendant's claims under § 502(d) will remain pending. See Opp'n, 5. Defendant will therefore benefit from voluntary dismissal of the adversary proceeding (instead of a stay of the adversary proceeding) because these § 502(d) claim objections in the FAC will be dismissed.

B. Plaintiff alternative request for abeyance of adversary proceeding while the Appeal is pending

The Supreme Court has made clear that all courts have the inherent

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

CONT...

Bruce Elieff

Chapter 7

power to stay civil cases before them "in a manner which will promote economy of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254–55 (1936). When considering a motion for a *Landis* stay, courts weigh a series of competing interests, including (1) "the possible damage that may result from the granting of a stay," (2) "the hardship or inequity which a party may suffer in being required to go forward," and (3) "the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which could be expected to result from a stay." *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005). The party seeking the stay "bears the burden of establishing its need." *Clinton v. Jones*, 520 U.S. 681, 708 (1997). A "court may decide in its discretion to stay civil proceedings... 'when the interests of justice seem...to require such action[.]'" *SEC v. Dresser Indus., Inc.*, 628 F.2d 1368, 1375 (D.C. Cir. 1980)(*quoting U.S. v. Kordel*, 397 U.S. 1, 12 n.27 (1970)).

Though Plaintiff did not address any of the *Landis* factors in the Motion, this court has the inherent power to stay the adversary proceeding *sua sponte*. Here, if the adversary is held in abeyance and the distribution of estate assets is also held in abeyance, all of the *Landis* factors are satisfied.

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Defendant(s):

Todd Kurtin

Represented By
Lewis R Landau
Edward O Morales

Plaintiff(s):

Bruce Elieff

Pro Se

Morse Properties, LLC

Pro Se

4627 Camden, LLC

Pro Se

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

Thursday, July 1, 2021

Hearing Room 5A

2:00 PM

CONT... Bruce Elieff

Chapter 7

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

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

Thursday, July 15, 2021

Hearing Room 5A

9:30 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1606573957>

Meeting ID: 160 657 3957

Password: 964459

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at:

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

Thursday, July 15, 2021

Hearing Room 5A

9:30 AM
CONT...

Chapter

<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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

Thursday, July 15, 2021

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.

#1.00 CON'TD 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

(Another Summons Issued 2/16/2021)

FR: 5/6/21

Docket 1

***** VACATED *** REASON: CONTINUED TO 8/19/2021 AT 9:30 A.M.,
Per Order Entered 6/9/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 8/19/2021 at 9:30 a.m., Per
Order Entered 6/9/2021 (XX) - td (6/9/2021)**

Tentative Ruling:

May 6, 2021

Continue the Status Conference to July 15, 2021 at at 9:30 a.m.; updated Joint Status Report must be filed by July 1, 2021.(XX)

Note: If the parties accept the tentative ruling, appearance at this hearing is not required.

Party Information

Debtor(s):

Prime Metals U.S.A., Inc.

Represented By
Steven Werth

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

Thursday, July 15, 2021

Hearing Room 5A

9:30 AM

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

Thursday, July 15, 2021

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.

FR: 3-5-20; 9-10-20; 12-17-20; 4-1-21; 6-3-21

Docket 1

Courtroom Deputy:

SPECIAL NOTE: Unilateral Notice of Settlement of Matter and Request to Continue Status Conference filed 5/31/2021 - td (6/1/2021). Order Approving Compromise Between Chapter 7 Trustee Richard A. Marshack and Defendants Michael and Beth Marzec Entered on Main Case on 6/16/2021 - td (6/16/2021)

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.
(XX)
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.

December 17, 2020

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

Thursday, July 15, 2021

Hearing Room 5A

9:30 AM

CONT...

Francis J Marzec

Chapter 7

Continue the hearing as a Status Conference to April 1, 2021 at 9:30 a.m.; an updated Status Report must be filed by March 18, 2021 if the adversary proceeding is still pending as of such date. (XX)

Note: Appearances at this hearing are not required; Plaintiff shall serve notice of the continued hearing date/time.

April 1, 2021

In light of pending settlement, continue this hearing to June 3, 2021 at 9:30 a.m. as a holding date; updated status report must be filed by May 20, 2021 if the matter is still pending as of that date. (XX)

Note: Appearances at this hearing are not required; Plaintiff shall serve notice of the continued hearing date/time.

June 3, 2021

Continue as a Status Conference to July 15, 2021 at 9:30 a.m.; updated Status Report must be filed by July 8, 2021 if the adversary has not been dismissed by such date. (XX)

Note: Appearances at this hearing are not required.

July 15, 2021 [UPDATED]

Continue Status Conference to December 16, 2021 at 9:30 a.m.; updated status report must be filed by December 9, 2021.

Note: Appearances at this hearing are not required.

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, July 15, 2021

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, July 15, 2021

Hearing Room 5A

9:30 AM

8:19-11546 Joseph Ra

Chapter 7

Adv#: 8:19-01164 Laplant v. Ra

#3.00 Hearing RE: Order to Show Cause Why Adversary Proceeding Should Not Be Dismissed for Lack of Prosecution (OSC Issued 5/20/2021)

Docket 21

***** VACATED *** REASON: OFF CALENDAR; Order approving stipulation to dismiss adversary action without prejudice entered 7/1/2021, dkt#27.**

Courtroom Deputy:

- NONE LISTED -

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, July 15, 2021

Hearing Room 5A

9:30 AM

8:19-11546 Joseph Ra

Chapter 7

Adv#: 8:19-01164 Laplant v. Ra

#4.00 CON'TD STATUS 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; 7-23-20; 9-17-20; 12-17-20; 5-20-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR; Order approving stipulation to dismiss adversary action without prejudice entered 7/1/2021, dkt#27.**

Courtroom Deputy:

- NONE LISTED -

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.

September 17, 2020

[This tentative ruling has been modified since its original posting]

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

Thursday, July 15, 2021

Hearing Room 5A

9:30 AM

CONT...

Joseph Ra

Chapter 7

Continue hearing to December 17, 2020 at 9:30 a.m.; Updated status report must be filed by December 3, 2020. (XX)

Special Note: The Status Conference is being continued because the deadline for the chapter 7 trustee to file a 727 action has been extended to November 2, 2020. It is Plaintiff's responsibility to track the status of any further extensions and/or 727 filing and to report such status in a timely filed updated Status Report. Failure to do so by December 3, 2020 may result in the imposition of sanctions against Plaintiff's counsel in an amount of not less than \$100.00.

Additional note: Starting 10/8/20 all hearings before Judge Smith will be by Zoom. See Court's website for details.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall serve notice of the continued hearing date/time.

December 17, 2020

In light of the pending 727 adversary proceeding filed by the Chapter 7 Trustee, continue this Status Conference to May 20, 2021 at 9:30 a.m.; updated Status Report must be filed by May 6, 2021 (XX)

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.

May 20, 2021

Plaintiff to appear and advise the court if he intends to proceed with his declaratory relief claim for relief.

Special Note: On March 8, 2021, this court entered its order granting the chapter 7 trustee's motion for default judgment re denial of discharge under 727, mooted Plaintiff's 523 nondischargeability claims for relief. However,

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

Thursday, July 15, 2021

Hearing Room 5A

9:30 AM

CONT... **Joseph Ra**
the declaratory claim for relief remains.

Chapter 7

Note: Appearance at this Status Conference is required.

Party Information

Debtor(s):

Joseph Ra

Represented By
David B Golubchik

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 15, 2021

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 CONT'D 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; 8-20-20; 10-1-20; 12-17-20; 4-1-21; 5-20-21

Docket 1

Courtroom Deputy:

SPECIAL NOTE: Notice that the CAsE has been Settled, filed 5/19/2021 - td (5/20/2021)

SPECIAL NOTE: Notice that the case has been settled and the plaintiff intends to dismiss its objection to debtor/defendant's discharge, filed 7/6/21 - adm (7/7/2021)

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.

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

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

Thursday, July 15, 2021

Hearing Room

5A

9:30 AM

CONT...

Richard Allen Rietveld

Chapter 7

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. (XX)

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.

October 1, 2020

Continue this Pretrial Conference to December 17, 2020 at 9:30 a.m. as a Status Conference; an updated Status Report must be filed by December 3, 2020. (XX)

Special Note: A Status Report was not timely filed by September 17, 2020 as previously ordered by the Court [docket #14]. If this adversary proceeding remains pending as of December 3, 2020 and no Status Report is filed by such date, sanctions in an amount of not less than \$200 will be imposed on Plaintiff's counsel for failure to do so.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time on Defendant.

December 17, 2020

Set Pretrial Conference for April 1, 2021 at 9:30 a.m.; Joint Pretrial Stipulation must be filed by March 18, 2021. (XX)

Special note: As the first Status Conference was held more than one year ago, the court will not simply continue the Status Conference any further. Either the matter will settle or proceed to trial.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall lodge an order

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, July 15, 2021

Hearing Room 5A

9:30 AM

CONT... Richard Allen Rietveld
consistent with the same.

Chapter 7

May 20, 2021

Impose sanctions against Plaintiff's counsel in the amount of \$100 for failure to timely file either a Joint Pretrial Stipulation or Status Report by May 6, 2021 (See Order at docket #29).

Note: Appearance at this hearing is required.

July 15, 2021

Continue this hearing one final time to September 2, 2021 at 9:30 a.m. to allow Plaintiff to re-notice creditors re the intent to dismiss the 727 claims.

Basis for Tentative Ruling:

The notice given by Plaintiff does not provide a 14-day notice of the opportunity to object to the dismissal of 727 claims.

Note: If the parties accept the foregoing tentative ruling, appearances at today's hearing are not required.

Party Information

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

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

Thursday, July 15, 2021

Hearing Room 5A

9:30 AM

CONT... Richard Allen Rietveld

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, July 15, 2021

Hearing Room 5A

9:30 AM

8:19-13858 Bruce Elieff

Chapter 7

Adv#: 8:20-01178 Banning Bench Community of Interest Association, I v. Elieff

#6.00 Hearing RE: Order to Show Cause Why Adversary Proceeding Should Not Be Dismissed for Lack of Prosecution (OSC Issued 6/3/2021)

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 15, 2021

Dismiss adversary proceeding -- no response to OSC was filed.

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Defendant(s):

Bruce Elieff

Represented By
Robert P Goe

Plaintiff(s):

Banning Bench Community of

Represented By
John G McClendon

Highland Springs Conference and

Represented By
Josh Chatten-Brown

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 15, 2021

Hearing Room 5A

9:30 AM

CONT...

Bruce Elieff

Chapter 7

Daniel A Lev
Sean A OKeefe
Claire K Wu

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

Thursday, July 15, 2021

Hearing Room 5A

9:30 AM

8:19-13858 Bruce Elieff

Chapter 7

Adv#: 8:20-01178 Banning Bench Community of Interest Association, I v. Elieff

#7.00 CON'TD STATUS CONFERENCE RE: Complaint To Determine Dischargeability of Debt and Denial of Discharge

FR: 3-11-21; 6-3-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 11, 2021

Continue Status Conference to June 3, 2021 at 9:30 a.m.; updated Status Report must be filed by May 20, 2021. (XX)

Note: Appearances at this hearing are not required; Plaintiffs to serve notice of the continued hearing date/time.

June 3, 2021

Continue Status Conference to July 15, 2021 at 9:30 a.m.; Court to issue Order to Show Cause why this adversary should not be dismissed for failure of Plaintiff to file an amended complaint by March 25, 2021 as ordered by the court [docket #26]. The hearing on the OSC will be heard on July 15, 2021 at 9:30 a.m. (XX)

Note: Appearances at this hearing are not required.

July 15, 2021

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

Thursday, July 15, 2021

Hearing Room 5A

9:30 AM

CONT... **Bruce Elieff**

Chapter 7

Take Status Conference off calendar in light of dismissal of the adversary proceeding.

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Defendant(s):

Bruce Elieff

Pro Se

Plaintiff(s):

Banning Bench Community of

Represented By
John G McClendon

Highland Springs Conference and

Represented By
John G McClendon

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

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

Thursday, July 15, 2021

Hearing Room 5A

10:00 AM

8:18-11361 Khanh Tien Tran

Chapter 13

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

NEWREZ LLC

vs.

DEBTOR

FR: 6-10-21

Docket 53

*** VACATED *** REASON: OFF CALENDAR: Order Granting Motion
for Relief from the Automatic Staty Under 11 U.S.C. §362 (Settled by
Stipulation) Entered 6/4/2021

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic
Staty Under 11 U.S.C. §362 (Settled by Stipulation) Entered 6/4/2021 - td
(6/4/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Khanh Tien Tran

Represented By
Halli B Heston

Movant(s):

NewRez LLC d/b/a Shellpoint

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, July 15, 2021

Hearing Room 5A

10:00 AM

8:18-13073 Bonifacio A. Baquiran and Virginia Prenda Baquiran

Chapter 13

#9.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]
SERVICING, INC.
VS.
DEBTORS

Docket 65

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 15, 2021

If Debtor is now current with postpetition payments, immediate relief from stay will be denied but an adequate protection order will be granted. The court encourages the parties to work out the terms of any adequate protection order.

Party Information

Debtor(s):

Bonifacio A. Baquiran

Represented By
Tina H Trinh

Joint Debtor(s):

Virginia Prenda Baquiran

Represented By
Tina H Trinh

Movant(s):

Select Portfolio Servicing Inc., as

Represented By
Jenelle C Arnold

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

Thursday, July 15, 2021

Hearing Room 5A

10:00 AM

CONT... Bonifacio A. Baquiran and Virginia Prenda Baquiran

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, July 15, 2021

Hearing Room 5A

10:00 AM

8:19-14807 Kalani James Robert Green

Chapter 13

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

WILMINGTON SAVINGS FUND SOCIETY, FSB

VS.

DEBTOR

Docket 46

***** VACATED *** REASON: Order Approving APO signed 7/9/21**

Courtroom Deputy:

OFF CALENDAR: Order Approving APO signed 7/9/21- mp(7/9/21)

Tentative Ruling:

Party Information

Debtor(s):

Kalani James Robert Green

Represented By
Rabin J Pournazarian

Movant(s):

Wilmington Savings Fund Society,

Represented By
Dane W Exnowski

Trustee(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 15, 2021

Hearing Room 5A

10:00 AM

8:21-11068 Debbi Lopez

Chapter 7

#11.00 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 9

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 15, 2021

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):

Debbi Lopez

Represented By
Bert Briones

Movant(s):

AMERICAN HONDA FINANCE

Represented By
Vincent V Frounjian

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

Thursday, July 15, 2021

Hearing Room 5A

10:00 AM

CONT... Debbi Lopez

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, July 15, 2021

Hearing Room 5A

10:00 AM

8:21-11243 Catalina Palomino

Chapter 7

#12.00 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:

July 15, 2021

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):

Catalina Palomino

Represented By
Michael Smith

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 15, 2021

Hearing Room 5A

10:00 AM

CONT... Catalina Palomino

Chapter 7

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

Thursday, July 15, 2021

Hearing Room 5A

10:00 AM

8:21-11496 Jose Andres Garcia and Regina Enedina Garcia

Chapter 7

#13.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]
AMERICAN HONDA FINANCE CORPORATION
VS.
DEBTORS; AND JEFFREY I. GOLDEN, CHAPTER 7 TRUSTEE

Docket 11

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 15, 2021

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 Andres Garcia

Represented By
Thinh V Doan

Joint Debtor(s):

Regina Enedina Garcia

Represented By
Thinh V Doan

Movant(s):

AMERICAN HONDA FINANCE

Represented By

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

Thursday, July 15, 2021

Hearing Room 5A

10:00 AM

**CONT... Jose Andres Garcia and Regina Enedina Garcia
Vincent V Frounjian**

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, July 15, 2021

Hearing Room 5A

10:30 AM

8:16-11577 Cristhian Contador and Paige Contador

Chapter 11

#14.00 Hearing RE: Debtors' Motion to Reopen Case and for Order Modifying Confirmed Chapter 11 Plan

Docket 216

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 15, 2021

Grant motion to modify plan pursuant to Bankruptcy Code Section 1127(e).

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):

Cristhian Contador

Represented By
Arnold P Peter
Christopher C Barsness

Joint Debtor(s):

Paige Contador

Represented By
Arnold P Peter
Christopher C Barsness

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

Thursday, July 15, 2021

Hearing Room 5A

10:30 AM

8:16-11577 Cristhian Contador and Paige Contador

Chapter 11

#15.00 Hearing RE: Debtors' Motion for Order Approving Sale of Real Property, Overbid Procedure and Employment of Broker

Docket 218

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 15, 2021

Grant Motion in its entirety as well as the terms requested by E*Trade Bank except request #5 under "Response."

Basis for Tentative Ruling:

E*Trade requests the following language: "In the event that the property is destroyed or damaged prior to the close of escrow, pursuant to the Deed of Trust, the creditor shall be entitled to its full rights as a loss payee with respect to the insurance proceeds and shall retain its security interest in such proceeds up to the entire balance due on the Deed of Trust." As the insurance policy has not been provided, the court declines to affirmatively grant such relief. The creditor's rights under any insurance policy will remain whatever they are.

Special Note: This motion is likely unnecessary in light of the following:

1. Pursuant to 11 U.S.C. 1141(b), unless otherwise provided in the plan or the confirmation order, "the confirmation of a plan vests all of the property of the estate in the debtor." Accordingly, court approval to sell non-estate property is not required.
2. Upon plan confirmation, Debtor becomes a "reorganized debtor" and is no longer a "debtor in possession." Accordingly, in the court's view Section 327

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

Thursday, July 15, 2021

Hearing Room 5A

10:30 AM

CONT... Cristhian Contador and Paige Contador Chapter 11

(employment of professionals) no longer applies and the reorganized debtor is free to employ professionals without court approval. See *In re Mullendore*, 517 B.R. 232, 238 (Bankr.D. Mont. 2014).

3. In light of the comments in paragraph 2 above, there would appear to be no need for Debtor to apply for the employment of the broker (or new general counsel). That said, the court will sign a "comfort" order re the sale and employment applications.

Party Information

Debtor(s):

Cristhian Contador

Represented By
Arnold P Peter
Christopher C Barsness

Joint Debtor(s):

Paige Contador

Represented By
Arnold P Peter
Christopher C Barsness

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

Thursday, July 15, 2021

Hearing Room 5A

10:30 AM

8:20-10566 Eric C. Bryant and Gina K Bryant

Chapter 7

#16.00 Hearing RE: Motion of Chapter 7 Trustee for Approval of Auction Bidding Procedures for Trustee's Sale of Mobile Home Located at 36 Drake Street, Newport Beach, CA 92663

Docket 145

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 15, 2021

Grant the Motion except that paragraph 14(b) is denied as to the following language: "The trustee has the discretion to shorten the deadline to submit overbids."

Basis for Tentative Ruling:

The trustee states no business reason for setting a deadline for the submission of bids (which is only four days following this hearing) and then reserving the right to shorten the 4-day deadline.

Party Information

Debtor(s):

Eric C. Bryant

Represented By
Christine A Kingston

Joint Debtor(s):

Gina K Bryant

Represented By
Christine A Kingston

Movant(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, July 15, 2021

Hearing Room 5A

10:30 AM

CONT... Eric C. Bryant and Gina K Bryant

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, July 15, 2021

Hearing Room 5A

10:30 AM

8:20-12985 Geoff Owen Delabar

Chapter 13

#17.00 Hearing RE: Debtor's Objection to Proof of Claim 5-1 Filed by County of Orange

Docket 37

*** VACATED *** REASON: OFF CALENDAR: Debtor's Notice of
Withdrawal of Objection to Claim #5, filed 6/22/2021

Courtroom Deputy:

**OFF CALENDAR: Debtor's Notice of Withdrawal of Objection to Claim #
5, filed 6/22/2021 - td (6/22/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Geoff Owen Delabar

Represented By
Christopher J Langley
Michael 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**

Thursday, July 15, 2021

Hearing Room 5A

10:30 AM

8:20-13201 American Sterling Corporation

Chapter 11

#18.00 Hearing RE: First and Final Pre-Confirmation Fee Application of Subchapter V Trustee Robert P. Goe

[ROBERT P. GOE, SUBCHAPTER V TRUSTEE]

Docket 79

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 15, 2021

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):

American Sterling Corporation

Represented By
Nanette D Sanders

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, July 15, 2021

Hearing Room 5A

10:30 AM

8:20-13201 American Sterling Corporation

Chapter 11

#19.00 Hearing RE: Application for Payment of Final Fees and Expenses

[RINGSTAD & SANDERS LLP, ATTORNEY FOR DEBTOR-IN-POSSESSION]

Docket 75

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 15, 2021

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):

American Sterling Corporation

Represented By
Nanette D Sanders

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, July 15, 2021

Hearing Room 5A

10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#20.00 Hearing RE: Debtor's Motion for Order Disallowing Claim #3 as Filed by BCORE Brookhurst Adams LLC

Docket 98

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 15, 2021

Continue hearing to August 19, 2021 at 10:30 a.m. to allow Debtor to correct defective service to Claimant.

Basis for Tentative Ruling:

The Motion was not served at the exact address indicated on the proof of claim as required by FRBP 3007. The address on the proof of claim is "BCORE Retail Brookhurst Adams LLC c/o Blackmar, Principe & Schmelter, APC, 600 B Street, Suite 2250, San Diego, CA 92101." The Motion was served at the correct address but not in care of BP&S.

Tentative ruling for 8/19/21 hearing (if unopposed):

Disallow the sum of \$137,954 (\$57,954 + \$80,000) and allow the claim in the amount of \$155,762.01 (\$293,716.01- \$137,954).

Note: If Debtor accepts the tentative ruling, appearance at this hearing is not required and Debtor shall re-serve the Motion.

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By
Andy C Warshaw

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

Thursday, July 15, 2021

Hearing Room 5A

10:30 AM

CONT... Mehr Group of Companies Holding Inc.

Chapter 11

Richard L. Sturdevant

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, July 15, 2021

Hearing Room 5A

10:30 AM

8:21-10794 Barry M Schleider

Chapter 13

#21.00 Hearing RE: Chapter 13 Trustee's Objection to Claim of Homestead Exemption

Docket 27

***** VACATED *** REASON: OFF CALENDAR: Order of Dismissal
Arising from Chapter 13 Confirmation Hearing Entered 6/23/2021**

Courtroom Deputy:

**OFF CALENDAR: Order of Dismissal Arising from Chapter 13
Confirmation Hearing Entered 6/23/2021 - td (6/23/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Barry M Schleider

Represented By
Christopher C Barsness

Trustee(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 15, 2021

Hearing Room 5A

10:30 AM

8:21-10958 Plamex Investment, LLC

Chapter 11

#22.00 Hearing RE: Application of Debtors and Debtors in Possession to Jointly Employ NAI Capital Commercial, Inc. as Real Estate Broker Pursuant to 11 U.S.C. Sections 327 and 328

Docket 84

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 15, 2021

This matter will be called on the regular calendar.

Basis for Tentative Ruling/ Comments re the Application

1. Notice of the Application does not include all salient compensation terms, e.g., 1% of financing and 1% of equity investment.
2. The court is concerned about NAI's lack of a substantive shopping center portfolio, especially in light of the fact that NAI is also listed as the broker for the Source Hotel.
3. The court is concerned about what appears to be a pattern of this broker not disclosing a listing price (e.g., Source Hotel). Moreover, it appears Debtor has previously obtained a broker's opinion as to the value of the subject property. The may require that the opinion be provided to the court to ensure that any sale offers are not "low ball" offers.
4. The court is concerned about the fact that the proposed broker NAI owes money to the bankruptcy estate of its predecessor NAI Capital Inc. The court is less concerned about any nefarious motivation on the part of Debtor's counsel than it is about the potential motivation of NAI to take any and all listings (regardless of expertise) in order to satisfy the debt. No information is

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

Thursday, July 15, 2021

Hearing Room 5A

10:30 AM

CONT... Plamex Investment, LLC

Chapter 11

provided regarding the time frame for payment of the promissory note to the NCI bankruptcy estate.

Party Information

Debtor(s):

Plamex Investment, LLC

Represented By
Ron Bender
Juliet Y Oh
Monica Y Kim

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

Thursday, July 15, 2021

Hearing Room 5A

10:30 AM

8:21-11144 Scott Peter Hamilton

Chapter 7

#23.00 Hearing RE: Debtor's Motion to Convert Case Under 11 U.S.C. Sections 706(a) or 1112(a)

Docket 36

Courtroom Deputy:

Tentative Ruling:

July 15, 2021

Deny motion. Debtor's Schedule J show *negative* monthly income of \$182. As such, Debtor does not have regular disposable income from which to fund a chapter 13 plan as required by Bankruptcy Code Section 109(e).

Basis for tentative ruling:

1. Not only does Debtor's schedule J show negative monthly income of \$182.00, his schedule J fails to provide information regarding the expenses associated with the (four?) rentals.
2. Objecting Creditor and Trustee have raised an additional eligibility issue concerning the true balance of Debtor's secured debt. At a minimum, Debtor should have filed a reply with documentary proof of the current balance of the secured debt.

Party Information

Debtor(s):

Scott Peter Hamilton

Represented By
Julie Nong

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 15, 2021

Hearing Room 5A

2:00 PM

8:21-11422 Nelson Yen

Chapter 7

#24.00 Hearing RE: Motion for Protective Prohibiting or Limiting Cathay Bank's Rule 2004 Oral Examination and Demand for Document Production

Docket 18

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 15, 2021 [UPDATED SINCE ORIGINAL POSTING]

Continue the hearing to August 12, 2021 at 2:00 p.m. to allow Movant to comply with LBR 2004-f which requires compliance with LBR 7026-1(c)(2) and (c)(3). A joint stipulation addressing each objectionable document request must filed no later than August 2, 2021. The current 2004 examination and productions dates are suspended and will be re-set at the August 12, 2021 hearing. The deadline for the Bank to file a 523 or 727 complaint will be extended from September 13, 2021 to October 13, 2021.

Court's General Comments re the Motion

1. Bank has not established sufficient nexus between Gryphon's activities dating back to 2014 and representations made by Debtor. Bank also seeks all of debtor's bank statements going back to 2014 (not just that of Gryphons).
2. Bank admits it may already have documents -- Debtor need not provide those documents again -- this is a debtor in a chapter 7 case. Bank must identify all documents it already has.
3. Regarding the documents from Gryphon -- Bank can obtain such documents in the pending District Court action against Gryphon.
4. The court is concerned that the scope of the document production is designed to assist the Bank in its action pending in District Court.

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

Thursday, July 15, 2021

Hearing Room 5A

2:00 PM

CONT... Nelson Yen

Chapter 7

Note: If all parties accept the tentative ruling, appearances at today's hearing are not required.

4. Re Debtor's demand for witness fees for third parties -- Debtor does not appear to have standing to make such a demand. The affected person would have such standing.

4. Bank needs to scale back its discovery substantially or the court will do so. The purpose of a 2004 examination is to permit a creditor to examine Debtor's assets and liabilities.

Party Information

Debtor(s):

Nelson Yen

Represented By
Jonathan J. Lo

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 15, 2021

Hearing Room 5A

2:00 PM

8:21-11422 Nelson Yen

Chapter 7

#25.00 Hearing RE: Motion to Quash and/or Modify Rule 2004 Examinations or in the Alternative for Protective

Docket 19

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 15, 2021

Deny motion to quash. As to the request to modify the 2004 examination order or for protective order, continue the hearing to August 12, 2021 at 2:00 p.m. to allow Movant to comply with LBR 2004-f which requires compliance with LBR 7026-1(c)(2) and (c)(3). A joint stipulation addressing each objectionable document request must be filed no later than August 2, 2021. The current 2004 examination and productions dates are suspended and will be re-set at the August 12, 2021 hearing. The deadline for the Bank to file a 523 or 727 complaint will be extended from September 13, 2021 to October 13, 2021.

Basis for Tentative Ruling:

1. Insufficient grounds/evidence presented to support the request to quash the subpoena. Notably, there is no declaration by Ms. Ko confirming her position with Gryphon, i.e., was/is she an officer (CFO) or not? She has not met her initial burden of proof.

2. See comments for #24 on today's calendar.

Note: If all parties accept the tentative ruling, appearances at today's 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 15, 2021

Hearing Room 5A

2:00 PM

CONT... Nelson Yen

Chapter 7

Debtor(s):

Nelson Yen

Represented By
Jonathan J. Lo

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**

Friday, July 16, 2021

Hearing Room 5A

10:00 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1611287329>

Meeting ID: 161 128 7329

Password: 072510

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at:

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

Friday, July 16, 2021

Hearing Room 5A

10:00 AM

CONT...

Chapter

<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

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

Friday, July 16, 2021

Hearing Room 5A

10:00 AM

8:21-10608 DEA Brothers Sisters LLC

Chapter 11

#1.00 EVIDENTIARY Hearing RE: Debtor's Motion to Value Real Property Located at 16502 S. Main St., Carson, CA 90248 (re: value of the property)

(Set at hrg. held 6-10-21)

Docket 86

***** VACATED *** REASON: CONTINUED TO 8/25/2021 AT 10:00 A.M.,
Per Order Entered 7/15/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Evidentiary Hearing is Continued to 8/25/2021 at 10:00
a.m., Per Order Entered 7/15/2021 (XX) - td (7/15/2021)**

Party Information

Debtor(s):

DEA Brothers Sisters LLC

Represented By
Roger J Plasse
John H Bauer

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

Friday, July 16, 2021

Hearing Room 5A

10:00 AM

8:21-10608 DEA Brothers Sisters LLC

Chapter 11

#2.00 CON'TD Hearing RE: Debtor's Final Motion Pursuant to Section 363(C) of the Bankruptcy Code and Rule 4001(B) of the Federal Rules of Bankruptcy Procedure for an Order Authorizing the Use of Cash Collateral for the Shopping Center Located at 16502 S. Main St., Gardena, CA 90248; Request to Commence Monthly Payments to Secured 1st Loan Pursuant to 11 U.S.C. 362(D)(3)

FR: 6-10-21

Docket 100

***** VACATED *** REASON: CONTINUED TO 8/25/2021 AT 10:00 A.M.,
Per Order Entered 7/15/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing is Continued to 8/25/2021 at 10:00 a.m., Per Order
Entered 7/15/2021 (XX) - td (7/15/2021)**

Party Information

Debtor(s):

DEA Brothers Sisters LLC

Represented By
John H Bauer

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

Friday, July 16, 2021

Hearing Room 5A

10:00 AM

8:21-10608 DEA Brothers Sisters LLC

Chapter 11

#3.00 CON'TD Final Hearing RE: Debtor's Motion Pursuant to Section 363(C) of the Bankruptcy Code and Rule 4001(B) of the Federal Rules of Bankruptcy Procedure for an Order Authorizing the Use of Cash Collateral for the Shopping Center Located at 16502 S. Main St., Carson CA90248; Request for Order of Adequate Protection

FR: 4-8-21; 6-10-21

Docket 18

***** VACATED *** REASON: CONTINUED TO 8/25/2021 AT 10:00 A.M.,
Per Order Entered 7/15/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing is Continued to 8/25/2021 at 10:00 a.m., Per Order
Entered 7/15/2021 (XX) - td (7/15/2021)**

Party Information

Debtor(s):

DEA Brothers Sisters LLC

Represented By
Roger J Plasse

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

Wednesday, July 21, 2021

Hearing Room 5A

9:00 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

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Meeting URL: <https://cacb.zoomgov.com/j/1614519958>

Meeting ID: 161 451 9958

Password: 724093

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at:

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

Wednesday, July 21, 2021

Hearing Room 5A

9:00 AM
CONT...

Chapter

<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

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- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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

Wednesday, July 21, 2021

Hearing Room 5A

9:30 AM

8:21-10387 Mark A. Trebon and Mary Kay Trebon

Chapter 7

#1.00 Hearing RE: Reaffirmation Hearing Between Debtors and VW Credit, Inc. (RE: 2015 Audi Q5 - \$3,826.50)

Docket 17

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark A. Trebon

Represented By
Richard L Barnett

Joint Debtor(s):

Mary Kay Trebon

Represented By
Richard L Barnett

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, July 21, 2021

Hearing Room 5A

9:30 AM

8:21-10515 Gustavo Martinez Enriquez

Chapter 7

#2.00 Hearing RE: Reaffirmation Agreement Between Debtor and Toyota Motor Acceptance Corporation (RE: 2016 Toyota Camry - \$14,092.44)
[TA CASE]

Docket 10

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gustavo Martinez Enriquez

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**

Wednesday, July 21, 2021

Hearing Room 5A

9:30 AM

8:21-10551 Jose Luis Arriaga

Chapter 7

#3.00 Hearing RE: Reaffirmation Agreement Between Debtor and American Honda Finance Corporation (RE: 2016 Honda Crv - Amount: \$11,053.70)
[SC CASE]

Docket 10

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Luis Arriaga

Represented By
Christopher P Walker

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, July 21, 2021

Hearing Room 5A

9:30 AM

8:21-10889 Justin Vernon Mills and Susan Alicia Mills

Chapter 7

#4.00 Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Santander Consumer USA Inc. (RE: 10 Cadillac SRX - \$3,375.40)

Docket 11

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Justin Vernon Mills

Represented By
Marshall S Tierney

Joint Debtor(s):

Susan Alicia Mills

Represented By
Marshall S Tierney

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, July 21, 2021

Hearing Room 5A

9:30 AM

8:21-10902 Viet Dinh Huynh

Chapter 7

#5.00 Hearing RE: Reaffirmation Agreement Between Debtor and Global Lending Services, LLC (2017 Nissan Rogue SPOR - \$23,655.26)

Docket 13

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Viet Dinh Huynh

Represented By
Timothy McFarlin

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, July 21, 2021

Hearing Room 5A

9:30 AM

8:21-10938 Carey Lee Sharp

Chapter 7

#6.00 Hearing RE: Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (RE: 2015 Toyota Camry - \$14,287.27)
[SC CASE]

Docket 10

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carey Lee Sharp

Represented By
Marlin Branstetter

Trustee(s):

Weneta M.A. Kosmala (TR)

Pro Se

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

Wednesday, July 21, 2021

Hearing Room 5A

9:30 AM

8:21-11056 Eliazar Salazar Tapia

Chapter 7

#7.00 Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (RE: 2020 Toyota Tacoma - \$36,280.82)
[SC CASE]

Docket 7

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eliazar Salazar Tapia	Pro Se
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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**

Wednesday, July 21, 2021

Hearing Room 5A

9:30 AM

8:21-11149 Israel J Alas

Chapter 7

#8.00 Hearing RE: Pro se Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation (RE: 2018 Telsa Model 3 Sedan - \$51,315.27)
[SC CASE]

Docket 8

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Israel J Alas

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**

Wednesday, July 21, 2021

Hearing Room 5A

9:30 AM

8:21-11218 Sammy Dale James and Elizabeth Kathryn James

Chapter 7

#9.00 Hearing RE: Reaffirmation Agreement Between Debtor and VCFS Auto Leasing Company (RE: 2019 Volvo Xc60 - \$2,151.00) [TA CASE]

Docket 16

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sammy Dale James

Represented By
Bert Briones

Joint Debtor(s):

Elizabeth Kathryn James

Represented By
Bert Briones

Trustee(s):

Weneta M.A. Kosmala (TR)

Pro Se

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

Wednesday, July 21, 2021

Hearing Room 5A

9:30 AM

8:21-11237 Norberto Tadeo

Chapter 7

#10.00 Hearing RE: Reaffirmation Agreement Between Debtor and American Honda Finance Corporation (RE: 2018 Honda CRV - \$16,842.91 [**TA CASE**])

Docket 9

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Norberto Tadeo

Represented By
Bert Briones

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 22, 2021

Hearing Room 5A

9:30 AM

8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1613799670>

Meeting ID: 161 379 9670

Password: 137003

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at:

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

Thursday, July 22, 2021

Hearing Room 5A

9:30 AM
CONT...

Chapter

<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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

Thursday, July 22, 2021

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; 7-16-20; 10-22-20, 4-22-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR Per Stipulated Order
Entered 7/8/2021, dkt#189**

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)

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
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.

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

Thursday, July 22, 2021

Hearing Room

5A

9:30 AM

CONT... Chad Paul Delannoy

Chapter 7

(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.

March 21, 2019

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

Thursday, July 22, 2021

Hearing Room 5A

9:30 AM

CONT... Chad Paul Delannoy

Chapter 7

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.

Party Information

Debtor(s):

Chad Paul Delannoy

Represented By
Robert P Goe
Charity J Manee

Defendant(s):

Chad Paul Delannoy

Represented By
Robert P Goe
Charity J Manee
Thomas J Eastmond

Plaintiff(s):

Woodlawn Colonial, L P

Represented By
Howard M Bidna
Evan Rothman

Trustee(s):

Thomas H Casey (TR)

Represented By
Thomas H Casey
Kathleen J McCarthy

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

Thursday, July 22, 2021

Hearing Room 5A

9:30 AM

8:17-10706 John Jean Bral

Chapter 11

Adv#: 8:17-01095 Steward Financial LLC v. Bral

#2.00 CON'TD STATUS CONFERENCE Hearing regarding the status of any pending appeal

(Set at hrg. held 4-9-20)
FR: 10-8-20; 2-18-21

Docket 121

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 8, 2020

Continue Status Conference to February 18, 2021 at 9:30 a.m.; updated Joint Status Report must be filed by February 4, 2021. (XX)

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall notice of the continued hearing date/time.

February 18, 2021

In light of the pending appeal, continue this matter as a status conference to July 22, 2021 at 9:30 a.m.; updated status report must be filed by July 8, 2021. (XX)

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall notice of the continued hearing date/time.

July 22, 2021

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

Thursday, July 22, 2021

Hearing Room 5A

9:30 AM

CONT... John Jean Bral

Chapter 11

In light of the pending appeal, continue this Status Conference to December 16, 2021 at 9:30 a.m.; updated Joint Status Report must be filed by December 2, 2021.

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall notice of the continued hearing date/time.

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

Movant(s):

Steward Financial LLC

Represented By
Krikor J Meshefejian
Gary E Klausner

Plaintiff(s):

Steward Financial LLC

Represented By
Krikor J Meshefejian

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

Thursday, July 22, 2021

Hearing Room 5A

9:30 AM

CONT...

John Jean Bral

Gary E Klausner

Chapter 11

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

Thursday, July 22, 2021

Hearing Room 5A

9:30 AM

8:18-11594 George Carl Natzic

Chapter 7

Adv#: 8:18-01170 Add2Net, Inc. v. Natzic et al

#3.00 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; 7-16-20; 9-17-20; 11-5-20; 1-8-21; 4-1-21; 6-3-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Order (A) Approving Joint Stipulation and Motion for Entry of Dismissal Without Prejudice and (B) Dismissing Adversary Proceeding Without Prejudice Entered 6/25/2021**

Courtroom Deputy:

OFF CALENDAR: Order (A) Approving Joint Stipulation and Motion for Entry of Dismissal Without Prejudice and (B) Dismissing Adversary Proceeding Without Prejudice Entered 6/25/2021 - td (6/25/2021)

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

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

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

Thursday, July 22, 2021

Hearing Room 5A

9:30 AM

CONT... George Carl Natzic

Chapter 7

notice of the continued hearing date/time.

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 22, 2021

Hearing Room 5A

9:30 AM

8:18-13001 Mohsen Masoudfar

Chapter 7

Adv#: 8:18-01206 Sakhai v. Masoudfar

#4.00 PRE-TRIAL CONFERENCE RE: Complaint to determine dischargeability of debt and for denial of discharge (11 U.S.C. section 523(a)(15); 727(a)(2)(A) & (B);(a)(3) & (a)(4)(A))

[fr: 2/12/19, 7/23/19, 10/22/19, 1/21/20, 3/24/20, 6/30/20]; 9/29/20, Rm 5D; 10-1-20; 1-21-21; 5-20-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 1, 2020

In light of pending settlement negotiations, continue this Status Conference to January 21, 2021 at 9:30 a.m.; an updated Status Report must be filed by January 7, 2021. (XX)

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

January 21, 2021

Continue the Status Conference one final time to May 20, 2021 at 9:30 a.m.; updated Status Report must be filed by May 6, 2021. (XX)

Special Note: An updated Status Report was not filed by January 7, 2021 as ordered by the Court. If an updated Status Report is not filed by May 6, 2021, monetary sanctions of not less than \$100 will be imposed against Plaintiff's counsel.

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, July 22, 2021

Hearing Room 5A

9:30 AM

CONT... Mohsen Masoudfar

Chapter 7

notice of the continued hearing date/time.

May 20, 2021

Continue Status Conference to July 1, 2021 at 9:30 a.m. Court to issue an Order To Show Cause why this adversary should not be dismissed for lack of prosecution to be heard on July 1, 2021 at 9:30 a.m. Sanctions in the amount of \$100.00 shall be imposed on Plaintiff's counsel for failing to timely file a Status Report by May 6, 2021, payable to the Clerk of the Court by June 21, 2021.

Basis for Tentative Ruling:

The court ruled re the January 21, 2021 Status Conference that sanctions would be imposed if a Status Report was not filed for this hearing by May 6, 2021.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing not required and Plaintiff shall serve notice of the continued hearing date/time.

July 22, 2021 [UPDATED SINCE ORIGINAL POSTING]

The court has now reviewed the unilateral pretrial order filed on 7/22/21. Counsel for Plaintiff needs to revise the order to include a short description of the nature of the testimony of each witness, indicate whether Debtor will be called as an adverse witness, and delete the "phantom" exhibit and witness numbers. Revised order to be lodged by July 26, 2021. Trial date: October 27 at 9:00 a.m. via Zoom; the court's Trial Procedures will apply.

Party Information

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

Thursday, July 22, 2021

Hearing Room 5A

9:30 AM

CONT... Mohsen Masoudfar

Chapter 7

Debtor(s):

Mohsen Masoudfar

Represented By
D Edward Hays

Defendant(s):

Mohsen Masoudfar

Pro Se

Plaintiff(s):

Parastou Sakhai

Represented By
Jeffrey S Shinbrot

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 22, 2021

Hearing Room 5A

9:30 AM

8:18-14603 Sean Pate

Chapter 7

Adv#: 8:20-01122 Kosmala v. Chandar et al

#5.00 CON'TD STATUS CONFERENCE RE: Complaint for Avoidance of Fraudulent Transfers (11 U.S.C. §544); Breach of Contract Note; and Turnover (11 U.S.C. § 542)

FR: 11-5-20; 2-18-21; 5-20-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 18, 2021

In light of pending mediation, continue this status conference to May 20, 2021 at 9:30 a.m.; updated joint status report must be filed by May 6, 2021. (XX)

Note: Appearances at this status conference are not required; Plaintiff shall serve notice of the continued status conference.

July 22, 2021

In light of the pending settlement, continue his matter this Status Conference to September 30, 2021 at 9:30 a.m.; updated Status Report must be filed by September 16, 2021 if the adversary proceeding is still pending by such date.

Note: Appearances at this Status Conference are not required; Plaintiff shall serve notice of the continued status conference.

Party Information

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

Thursday, July 22, 2021

Hearing Room 5A

9:30 AM

CONT... Sean Pate

Chapter 7

Debtor(s):

Sean Pate

Represented By
Anerio V Altman

Defendant(s):

Deepak Chandar

Pro Se

Reena A. Shah

Pro Se

Spherebase, LLC

Pro Se

Spherebase, LLC

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 22, 2021

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

#6.00 CON'TD PRE-TRIAL CONFERENCE RE: Complaint Seeking Non-Dischargeability of Debt in Core Adversary Proceeding.

FR: 4-2-20; 6-11-20; 11-5-20; 1-14-21; 4-1-21

Docket 1

***** VACATED *** REASON: CONTINUED TO 10/14/2021 AT 9:30 A.M.,
PER ORDER ENTERED 7/7/2021 (XX)**

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 2, 2020

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.

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

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

Thursday, July 22, 2021

Hearing Room

5A

9:30 AM

CONT... Catherine Melissa-Ann Guinto

Chapter 7

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

November 5, 2020

Continue the Pretrial Conference to December 10, 2020 to allow Defendant one final opportunity to participate in the drafting of the Pretrial Stipulation. Defendant must advise Plaintiff's counsel of her suggested revisions to the Pretrial Stipulation no later than November 19, 2020 and Plaintiff will provide Defendant with a copy of the revised Pretrial Stipulation no later than November 30, 2020. The final version of the Joint Pretrial Stipulation must be filed no later than December 3, 2020.

Court's Comments

1. It is Defendant's best interest to participate in the drafting of the Joint Pretrial Stipulation ("Stipulation") because the Stipulation establishes all issues that will be decided at trial as well as the exhibits and witness that may be presented. Defendant is advised to review Local Bankruptcy Rule 7016-1 re the preparation of joint pretrial stipulations. Unless Defendant participates in the process, the unilateral Joint Pretrial Stipulation (except as noted below) will stand. Defendant is strongly advised to communicate with Plaintiff's counsel regarding the Stipulation.

2. On pages 2 and 3 of the Stipulation, Plaintiff lists all facts it believes are not in dispute. See paragraphs 1 (a) through (j). If Defendant disagrees with any of those facts, she needs to advise Plaintiff's counsel so that the disputed fact(s) can be included in paragraph 2 (starting at p.3, lines 15-27 to p. 4, lines 1-4). For example, if Defendant agrees that she filed a chapter 7 bankruptcy case on September 26, 2019, that is an "agreed" fact that need not be determined at trial. It is Defendant's responsibility to identify any facts in paragraph 1 that genuinely disputes and communicate that to Defendant.

3. Paragraph 2 includes facts that the parties do not agree on that must be

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

Thursday, July 22, 2021

Hearing Room 5A

9:30 AM

CONT... Catherine Melissa-Ann Guinto

Chapter 7

decided by the court at trial, such as whether Defendant made false statements regarding the loan, etc.

4. Plaintiff states as an undisputed fact on p. 3 at lines 3-7 that a "default judgment for *fraud* was entered." However, though the complaint attaches several exhibits, a copy of the actual judgment (showing fraud) was not attached. This is important because the state court complaint also includes a cause of action for breach of contract (which is dischargeable) and there is at least a possibility that the judgment could be solely for breach of contract. The court notes that the judgment is not included on Plaintiff's list of exhibits.

5. Defendant needs to provide to Plaintiff's counsel by November 19, 2020 a) her list of witnesses (even if its just herself) and a short summary of what the witnesses will testify to; and b) her list of exhibits that she will present in her defense. If Defendant does not provide a list of witnesses or exhibits by November 19, 2020, she will not be allowed to present them at trial.

6. The trial date will be provided at the December 10, 2020 hearing.

Note: If the both parties accept the tentative ruling, appearances at this hearing are not required and Plaintiff shall serve notice of the continued hearing date and deadlines. Plaintiff is also encouraged to provide Defendant with a copy of the the tentative ruling prior to the hearing.

Party Information

Debtor(s):

Catherine Melissa-Ann Guinto

Represented By
Lawrence B Yang

Defendant(s):

Catherine Melissa-Ann Guinto

Pro Se

Plaintiff(s):

Upstream Capital Investments LLC

Represented By
Lynda E Jacobs

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

Thursday, July 22, 2021

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, July 22, 2021

Hearing Room 5A

9:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#7.00 CON'TD Hearing RE: Chapter 7 Trustee's Motion for Order Cancelling Alleged Retainer Agreements and Requiring Jeffery S. Benice and Benice Law to Immediately Disgorge \$4,182,244.73
(Chapter 7 Trustee is Substituted in Place of Kurtin as Moving Party in Respect to Motion, Per Order Entered 10/9/2020)

FR: 5-7-20; 5-21-20; 6-25-20; 7-16-20; 9-17-20; 11-19-20; 2-18-21

July 22, 2021

Continue this hearing to August 19, 2021 at 9:30 a.m., same date/time as the next hearing in Adv. No. 20-01046 (this matter has been consolidated with Adv No. 20-01046)

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

Docket 381

***** VACATED *** REASON: Order Consolidating Motion with Adversary #20-01046 Entered 2/23/21**

Courtroom Deputy:

OFF CALENDAR: Order Consolidating Motion with Adversary #20-01046 Entered 2/23/21- mp(7/12/21)

Tentative Ruling:

June 25, 2020

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

Note: Appearance at this hearing is not required.

July 16, 2020

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

Thursday, July 22, 2021

Hearing Room 5A

9:30 AM

CONT... Bruce Elieff

Chapter 7

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.

September 17, 2020

Continue this matter to November 19, 2020 at 10:30 a.m.; updated status report must be filed by November 5, 2020. (XX)

Note: Appearances at this hearing are not required.

November 19, 2020

No new pleadings have been filed in this matter. Trustee shall appear and advise the court regarding the status.

February 18, 2021

Continue hearing to July 22, 2021 at 9:30 a.m. in light of the court's granting of the chapter 7 trustee's request to consolidate this matter with Adversary No. 20-01046, pursuant to FRBP 7042 and FRCP 42. (XX)

Note: Appearances at this hearing are not required.

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

Thursday, July 22, 2021

Hearing Room 5A

9:30 AM

CONT... Bruce Elieff

Chapter 7

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson

Movant(s):

Todd Kurtin

Represented By
Lewis R Landau
Edward O Morales

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe

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

Thursday, July 22, 2021

Hearing Room 5A

9:30 AM

8:19-13858 Bruce Elieff

Chapter 7

Adv#: 8:20-01161 Kurtin v. Elieff

#8.00 PRE-TRIAL CONFERENCE RE: Complaint To Determine Dischargeability of Debt and Denial of Discharg 11 U.S.C. Section 523(a)(2)(A); 11 U.S.C.Section 727(a)

FR: 2-4-21

Docket 1

*** VACATED *** REASON: CONTINUED TO 9/16/2021 AT 9:30 A.M.,
PER ORDER ENTERED 4/2/2021 (XX)

Courtroom Deputy:

SPECIAL NOTE: Stipulation to Continue Haering on Plaintiff's Motion for Summary Judgment to 6/17/21 at 2:00 pm; and (2) Extending Discovery Cutoff and Related Scheduling Order Dates and Deadlines filed 3/31/21; and to Continue Pre-trial Conference to 9/16/21 at 9:30 a.m.; Order Approving Stipulation Lodged in LOU on 3/31/21, Order #10304773 - td (3/31/2021)

Tentative Ruling:

February 4, 2021

Discovery Cut-off Date:	June 1, 2021
Deadline to file Summary Jgmt Motion:	March 4, 2021
Pretrial Conference Date: (XX)	July 22, 2021 at 9:30 a.m.
Deadline to file Joint Pretrial Stipulation:	July 8, 2021

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, July 22, 2021

Hearing Room 5A

9:30 AM

CONT... Bruce Elieff

Chapter 7

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Defendant(s):

Bruce Elieff

Pro Se

Plaintiff(s):

Todd Kurtin

Represented By
Lewis R Landau

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

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

Thursday, July 22, 2021

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

#9.00 CONT'D STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt [11 U.S.C. Section 523]

FR: 4-16-20; 6-11-20; 7-16-20; 9-17-20; 10-22-20; 12-10-20; 2-18-21; 5-20-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

February 18, 2021

Continue this status conference to May 20, 2021 at 9:30 a.m.; an updated joint status report must be filed by May 6, 2021. (XX)

Note: Appearances at this hearing are not required if all the parties accept the foregoing tentative ruling and Plaintiff shall serve notice of the continued hearing date/time.

May 20, 2021

Continue Status Conference to August 19, 2021 at 9:30 a.m.; updated Joint Status Report must be filed by August 5, 2021.

Note: Appearances at this hearing are not required if all the parties accept the foregoing tentative ruling and Plaintiff shall serve notice of the continued hearing date/time.

July 22, 2021

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

Thursday, July 22, 2021

Hearing Room 5A

9:30 AM

CONT... Jason M. Barrette

Chapter 7

Discovery Cut-off Date: Jan. 21, 2022
Pretrial Conference Date: Feb. 17, 2022 at 9:30 a.m.
Deadline to Lodge Joint Pretrial Stipulation: Feb. 3, 2022

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):

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 22, 2021

Hearing Room 5A

9:30 AM

8:20-11224 Mazin M. Yehia

Chapter 7

Adv#: 8:20-01113 Dawam v. Yehia

#10.00 CON'TD STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt Pursuant to 11 U.S.C. §523(a)(2)(A), (a)(2)(B), and (a)(4)

FR: 10-22-20; 11-5-20; 1-14-21

Docket 1

Courtroom Deputy:

SPECIAL NOTE: Main Case Closed 8/11/2020 - td (8/25/2020). Order on Motion for Order Abstaining and Abating Adversary Proceeding Pending Trial of State Court Proceeding After Grant of Relief from Automatic Stay Entered 1/27/2021 - td (1/27/2021)

Tentative Ruling:

October 22, 2020

Continue Status Conference to November 5, 2020 at 2:00 p.m., same date/time as hearing on Defendant's motion to dismiss. Updated Status Report not required for the November 5, 2020 hearing. (XX)

Note: If all parties accept the foregoing tentative ruling, appearances at today's hearing are not required.

January 14, 2021

Continue Status Conference to May 20, 2021 at 9:30 a.m.; updated Joint Status Report must be filed by May 6, 2021.

Note: If all parties accept the foregoing tentative ruling, appearances at today's hearing are not required.

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

Thursday, July 22, 2021

Hearing Room 5A

9:30 AM

CONT... Mazin M. Yehia

Chapter 7

July 22, 2021

Continue Status Conference to August 19, 2021 at 9:30 a.m. as a holding date pending completion of the settlement; updated Status Report must be filed by August 12, 2021 if the adversary is still pending as of such date.

Note: If all parties accept the foregoing tentative ruling, appearances at today's hearing are not required. Plaintiff shall give notice of the continued hearing date/time.

Party Information

Debtor(s):

Mazin M. Yehia

Represented By
Christine A Kingston

Defendant(s):

Mazin M. Yehia

Pro Se

Plaintiff(s):

Naeel Hamdy Dawam

Represented By
Benjamin R Heston

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 22, 2021

Hearing Room 5A

10:00 AM

8:21-11151 Urbana Foote

Chapter 13

#11.00 CON'TD Hearing RE: Motion for relief from the automatic stay
[REAL PROPERTY]
(OST Entered 6/9/2021)

CAM XI TRUST, its successors and/or assignees

VS.

DEBTOR

FR: 6-17-21

Docket 20

***** VACATED *** REASON: OFF CALENDAR: Order of Dismissal
Arising from Debtor's Request for Voluntary Dismissal of Ch 13 with
Restrictions (11 U.S.C. Sections 109(g)(2) and 1307(b) Entered 7/21/2021**

Courtroom Deputy:

**OFF CALENDAR: Order of Dismissal Arising from Debtor's Request for
Voluntary Dismissal of Ch 13 with Restrictions (11 U.S.C. Sections
109(g)(2) and 1307(b) Entered 7/21/2021 - (7/21/2021)**

Tentative Ruling:

June 17, 2021

Continue the hearing to July 22, 2021 at 10:00 a.m. to allow Movant to file and serve supplemental evidence re 1) the monthly payment amount, 2) the number of missed payments, and 3) the date of the first default under the promissory note. The supplemental pleading must be filed by June 24, 2021; any opposition by Debtor must be filed and served by July 8, 2021; any reply to the opposition must be filed by July 15, 2021. (XX)

Basis for Tentative Ruling

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

Thursday, July 22, 2021

Hearing Room 5A

10:00 AM

CONT... Urbana Foote

Chapter 13

The court is inclined to grant the motion with all extraordinary relief requested in light of 1) the fact that 17 prior bankruptcy cases have been filed affecting this case, 2) The junior lien recorded by Debtor in 2010 includes beneficiaries who are known to the courts in the District for engaging in fraudulent activity concerning distressed real property and 3) Debtor's chapter 13 plan appears to be infeasible as it does not provide for payment in full of the arrearages over 60 months plus payment of current postpetition mortgage payments.

However, the Motion fails to include the following critical evidence:

1. The amount of the monthly payment
2. A ledger that establishes the dates and amount of missed payments

This information is necessary to determine whether the payments were in default at the time of the recordation of the 2010 junior deed of trust.

Note: If Movant accepts the tentative ruling, it must provide notice of the continued hearing date/time and the deadlines therein as well as the Zoom notice, including the call-in telephone number information.

July 22, 2021

Take matter off calendar in light of Debtor's voluntary dismissal of the bankruptcy case. The case is being dismissed with a 180-day restriction against re-filing another bankruptcy case pursuant to 11 U.S.C. 109(g)(2).

Party Information

Debtor(s):

Urbana Foote

Pro Se

Movant(s):

CAM XI TRUST, its successors

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, July 22, 2021

Hearing Room 5A

10:00 AM

CONT... Urbana Foote

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, July 22, 2021

Hearing Room 5A

10:30 AM

8:09-20845 Commercial Services Building Inc

Chapter 7

#12.00 CONT'D Hearing RE: Creditor Douglas J. Patrick's Objection to Proof of Claim No. 8-1 Filed by State Fund in the Amount of \$1,350,389.47

FR: 11-19-20; 2-4-20; 4-1-21; 5-6-21

Docket 441

***** VACATED *** REASON: OFF CALENDAR: Order Approving Settlement Between State Compensation Insurance Fund and Douglas J. Patrick Entered 6/15/2021**

Courtroom Deputy:

OFF CALENDAR: Order Approving Settlement Between State Compensation Insurance Fund and Douglas J. Patrick Entered 6/15/2021 - td (6/15/2021)

Tentative Ruling:

November 19, 2020

Continue this hearing to January 21, 2021 at 10:30 a.m. to allow a) Objecting Party to take discovery as permitted by FRBP 9014 for contested matters and b) additional briefing by the parties to address the issues set forth in the the court's "Basis for Tentative Ruling" comments.

Basis for Tentative Ruling

Creditor State Compensation Insurance Fund ("Claimant") filed proof of claim no. 8-1 (the "Claim") in the general unsecured amount of \$1,350,389.47 for "Insurance Policy" for unpaid workers' compensation insurance premiums for policy years 2002-2006.

Creditor Douglas Patrick ("Patrick") objects to the Claim and requests disallowance in full because the Claim includes several errors that increased the premium amounts (the "Objection")[dkt. 441]. Claimant opposes the Objection (the "Opposition")[dkt. 454].

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

Thursday, July 22, 2021

Hearing Room 5A

10:30 AM

CONT... Commercial Services Building Inc

Chapter 7

The Objection is continued for further briefing regarding statute of limitations and whether the Claim has already been fully adjudicated and liquidated prepetition

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, 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*, 223 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).

In this case, Claimant filed the Claim in accordance with Rule 3001. The Claim was filed with Official Form 410 and included supporting documentation. See, Obj., Ex. 1 (the Claim). Thus, Claimant has complied with Rule 3001 and the Claim is entitled to *prima facie* validity under Rule 3001(f).

Since the Claim is entitled to *prima facie* validity, Patrick must present affirmative evidence to overcome the Claim's presumption of validity. Patrick argues that the Claim includes the following errors: Claimant misclassified Debtor's employees as "electrical" workers resulting in higher insurance premiums, mistakenly charged for employees that worked outside of California and were not insured under the policy, and failed to explain why the "Experience Modifier" increased from 105% to 172% in one year. See, Obj., p. 2. Claimant counters that Patrick fails to rebut the *prima facie* validity of

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

Thursday, July 22, 2021

Hearing Room 5A

10:30 AM

CONT... **Commercial Services Building Inc** Chapter 7

the Claim because Patrick's arguments relate only to the 2006 policy year premiums (and not the 2002-2005 policy year premiums) underlying the claim and Claimant already conducted an internal, prepetition audit which confirmed the amounts claimed in the Claim. See, Opp'n, p. 4. Patrick's responds by challenging the reliability of the evidence provided by Claimant (such as pointing out that policy contract that was attached to the Opposition was "revised" in August 2010 and therefore cannot be the policy contract entered into by Debtor and Claimant in 2000), that Debtor was unaware that amounts were owed for policy years 2002-2005 until the Claim was filed, and stating that Claimant failed to attach its internal audit records so the accuracy of Claimant's figures cannot be confirmed because Debtor does not have access to those internal audit records. See, Reply, p. 3-4 and Opp'n, p. 6 of Ex. A. Claimant's argument that the Objection only raises arguments regarding the 2006 policy year is also undermined by Claimant's own exhibit of a letter from Debtor's prepetition counsel to Claimant dated January 23, 2007 that references the ongoing dispute over the final audits for the policy years 2003-2007. See, Opp'n, Ex. C.

Accordingly, there is a disputed question of fact regarding the accuracy of Claimant's calculation of the insurance premiums due for the policy years 2002-2006. Such dispute may warrant discovery as requested by Patrick. In addition, the parties must address the threshold issue regarding the statute of limitations and whether the Claim is already fully adjudicated and liquidated.

Patrick has raised the argument that any breach of the policy contract that occurred before October 7, 2005 may be barred by the 4-year statute of limitations for written contracts. See, Reply, p. 3, n. 1. As this argument was first raised in the Reply, Claimant has not had an opportunity to address it.

On the other hand, Claimant raises the argument that the Claim has been fully adjudicated and liquidated prepetition with following testimony from Kimberly Byrne: "State Fund's records do not indicate that Debtor requested reconsideration of State Fund's determination or appealed to the Administrative Hearing Bureau at the California Department of Insurance" and "State Fund's records do not show that Debtor disputed the revised experience modification with State Fund, the WCIRB or appealed to the Administrative Hearings Bureau of the California Department of Insurance

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

Thursday, July 22, 2021

Hearing Room

5A

10:30 AM

CONT... **Commercial Services Building Inc** **Chapter 7**
within the time prescribed by law." See, Kimberly Byrne Decl., p. 2-3, ¶15 and p. 3, ¶16 (emphasis added).

EVIDENTIARY OBJECTIONS

<u>Objection #*</u>	<u>Ruling</u>
1	Sustained
2 "final"	Overruled: the testimony identifies the documents as bills. The objection is in the nature of argument.
3	Overruled: the objection is in the nature of argument
4	Sustained: hearsay
5	Overruled: th testimony is in the nature of argument
6	Sustained: hearsay

*For ease of reference, the court has assigned a chronologica number to each objection .

May 6, 2021

If the settlement is still being finalized this hearing may be continued one final time by the parties requesting a continuance during the calendar roll call prior to the hearing. Available continued hearing dates are July 15, 2021 or **July 22, 2021 at 10:30 a.m. (XX)**

Party Information

Debtor(s):

Commercial Services Building Inc

Represented By
Phillip B Greer

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

Thursday, July 22, 2021

Hearing Room 5A

10:30 AM

CONT... Commercial Services Building Inc

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Represented By

Misty A Perry Isaacson

Misty A Perry Isaacson

Thomas J Polis

Robert M Dato

Jason E Goldstein

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

Thursday, July 22, 2021

Hearing Room 5A

10:30 AM

8:17-10706 John Jean Bral

Chapter 11

#13.00 CON'TD Hearing RE: Reorganized Debtor John Bral's Motion to Extend Time to Object to Cannae Financial, LLC's Proof of Claim [Claim No. 17]

FR: 2-11-21, 2-18-21; 3-4-21; 4-1-21; 5-6-21

Docket 962

***** VACATED *** REASON: CONTINUED TO 10/21/2021 AT 10:30
A.M., Per Order Entered 7/14/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 10/21/2021 at 10:30 a.m., Per Order
Entered 7/14/2021 (XX) - td (7/14/2021)**

Tentative Ruling:

May 6, 2021

If the matter is settled, deny motion as moot. Alternatively, Movant may voluntarily withdraw the motion. If the parties require more time to complete the settlement, the hearing may be continued one final time to June 3, 2021 or June 10, 2021 at 10:30 a.m. by requesting a continuance during the calendar roll call just prior to the hearing.

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
Shane M Biornstad

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

Thursday, July 22, 2021

Hearing Room 5A

10:30 AM

8:19-10898 Alicia K Pipitone

Chapter 13

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

#14.00 Hearing RE: Plaintiff's Motion for Order Permitting Plaintiff to Withdraw Admissions Made as a Result of Untimely Response to Requests for Admission

Docket 87

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 22, 2021

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):

Alicia K Pipitone

Represented By
Marc A Goldbach

Defendant(s):

Choice Motor Credit, LLC

Represented By
Misty A Perry Isaacson

Plaintiff(s):

Alicia Pipitone

Represented By
Douglas A. Crowder

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

Thursday, July 22, 2021

Hearing Room 5A

10:30 AM

CONT... Alicia K Pipitone

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, July 22, 2021

Hearing Room 5A

10:30 AM

8:19-14301 Richard A. Richards and Erin Richards

Chapter 7

#15.00 Hearing RE: Debtors' Motion to Compel Trustee to Abandon All Property

Docket 71

*** VACATED *** REASON: OFF CALENDAR: Notice of Withdrawal of
Debtors' Motion to Compel Trustee to Abandon All Property filed 7/21/2021

Courtroom Deputy:

**OFF CALENDAR: Notice of Withdrawal of Debtors' Motion to Compel
Trustee to Abandon All Property filed 7/21/2021 - td (7/21/2021)**

Tentative Ruling:

July 22, 2021

Grant the motion as to all unabandoned property except as to Debtors' interest in the Oracle stock options ("Stock Options"). Continue the hearing solely as to the Stock Options to September 16, 2021 at 10:30 a.m.. The Trustee shall file a pleading by or before August 19, 2021 advising the Court of the status of her administration of the Stock Options; Debtors may file a reply to such pleading by or before Sept. 2, 2021.

Basis for the Tentative Ruling:

1. The Trustee's opposition does not appear to oppose the abandonment of all assets other than the Stock Options. Notably, the real property has previously been abandoned and is, therefore, not the subject of this Motion.
2. Debtors have provided no legal authority for their position that the Stock Options are not property of the bankruptcy estate and have not met their burden of establishing that the Stock Options are of no or inconsequential value to the estate.
3. The court finds the legal authority cited in Trustee's Opposition persuasive, to wit *In re Dittmar*, 618 F/3d 1199)10th Cir. 210); *In re Dibiase*, 270 BR 673 (Bankr.W.D.Tex. 2001).

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

Thursday, July 22, 2021

Hearing Room 5A

10:30 AM

CONT... **Richard A. Richards and Erin Richards**

Chapter 7

4. The Court is not denying the Motion as to the Stock Options at this time because of its concern about the status of Trustee's administration of this asset. Trustee's counsel was approved by order of the Court on February 17, 2021 and yet Trustee's declaration in the Opposition is vague about the specifics of the progress that has been made in the past five months. If Trustee cannot show any progress in administering the subject asset in the next 28 days, the court might be inclined to grant the Motion as to the same.

Note: If all parties accept the tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

Richard A. Richards

Represented By
Timothy McFarlin

Joint Debtor(s):

Erin Richards

Represented By
Timothy McFarlin

Trustee(s):

Weneta M.A. 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 22, 2021

Hearing Room 5A

10:30 AM

8:20-10566 Eric C. Bryant and Gina K Bryant

Chapter 7

#16.00 Hearing RE: Chapter 7 Trustee's Motion for Order: (1) Authorizing the Trustee to Sell Mobile Home Located at 36 Drake Street, Newport Beach, CA 92663 Free and Clear of Liens Pursuant to 11 U.S.C. Section 363(b); (2) Approving Compensation of Real Estate Broker; (3) Authorizing Distribution of Sale Proceeds; (4) Waiving 14 Day Stay Imposed by Federal Rules of Bankruptcy Procedure 6004(h)

Docket 147

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 22, 2021

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):

Eric C. Bryant

Represented By
Christine A Kingston

Joint Debtor(s):

Gina K Bryant

Represented By
Christine A Kingston

Movant(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, July 22, 2021

Hearing Room 5A

10:30 AM

CONT... Eric C. Bryant and Gina K Bryant

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, July 22, 2021

Hearing Room 5A

10:30 AM

8:20-12864 Beck & Chase Enterprises, Inc.

Chapter 11

#17.00 CON'TD Hearing RE: Confirmation of Plan of Reorganization for Small Business Under Chapter 11 (Subchapter V)

(Set per Order Entered 3/15/2021)
FR: 6-17-21

Docket 59

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 17, 2021

Continue the hearing to July 22, 2021 at 10:30 a.m. to allow Debtor to 1) serve, by June 18, 2021, all creditors with the Amended Plan filed [dkt # 74] with notice that the deadline to file an objection to confirmation of the same is July 8, 2021; 2) propose remedies for default under the Amended Plan as required by Bankruptcy Code Section 1191(c)(3). (XX)

Basis for Tentative Ruling

1. The Amended Plan includes a material term change -- the extension of the term from three to five years -- that all creditors did not receive notice of. The court has no way of knowing whether a creditor (other than the two secured creditors) might have filed an objection to the modification of the term.
2. The Amended Plan does not satisfy 1191(c)(3).
3. Clarify whether insider claims will be paid pro rata with unsecured creditors.

Note: If the parties accept the tentative ruling, appearances at this hearing are not required.

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

Thursday, July 22, 2021

Hearing Room 5A

10:30 AM

CONT... Beck & Chase Enterprises, Inc.

Chapter 11

July 22, 2021

This hearing is off calendar in light of Debtor filing a second amended plan on July 2, 2021 and setting a confirmation hearing re the same on August 5, 2021 at 10:30 a.m.

Note: Appearances at today's hearing are not required.

Party Information

Debtor(s):

Beck & Chase Enterprises, Inc.

Represented By
Jeffrey B Smith

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, July 22, 2021

Hearing Room 5A

10:30 AM

8:21-10133 John Steven Domingos

Chapter 13

#18.00 Hearing RE: Debtor's Objection to the Proof of Claim No. 2-1; Clai of Unifund CCR, LLC

Docket 61

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 22, 2021

Sustain Objection

Note: This matter appears to be uncontested. Accordingly, no court appearance by or on behalf of 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):

John Steven Domingos

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 22, 2021

Hearing Room 5A

10:30 AM

8:21-10157 Michael Collins and Lyann Courant

Chapter 13

#19.00 CON'TD Hearing RE: Debtors' Objection to Claim No. 12-1 Filed by Zhejiang Crafab Electric Co. Ltd.

FR: 6-3-21

Docket 33

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 3, 2021

Sustain the objection. For purposes of plan confirmation, the Claim is estimated at \$0.00 pursuant to 11 U.S.C. 502(c)(1)

Basis for Tentative Ruling

A proof of claim executed and filed in accordance with FRBP 3001(f) constitutes prima facie evidence of the validity and amount of the claim. Rule 3001(f); *Lundell v. Anchor Const. Specialists, Inc.*, 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. A party who seeks to defeat a claim must provide sufficient evidence and show facts which have probative force equal to that of the "allegations of the proofs of claims themselves." *Id.* 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, 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

**United States Bankruptcy Court
Central District of California
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Thursday, July 22, 2021

Hearing Room 5A

10:30 AM

CONT... **Michael Collins and Lyann Courant**

Chapter 13

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).

In this matter, Debtors have provided sufficient evidence to negate personal liability for the \$900k claim through the Memorandum of Understanding attached to the proof of claim which clearly indicates the agreement between the corporate entity Advantage Manufacturing Inc and Claimant. The ultimate burden of persuasion then shifted to Claimant.

Claimant has not met its ultimate burden of proof based on the following:

1. Allegations in a complaint do not constitute evidence.
2. Statements based on information and belief do not constitute evidence.
3. Claimant has presented a 182-page deposition of Debtors' accountant, Elaine Han, without even marking the testimony that it believes somehow supports a finding of *alter ego*. See LBR 7030-1(b)(2) (requiring the marking of testimony offered in a contested hearing).
4. In sum, Claimant has provided no evidence of alter ego liability.

Pursuant to Bankruptcy Code Section 502(c)(1), this court must estimate, for purpose of allowance for plan confirmation purposes, "any contingent or unliquidated claim, the fixing or liquidation of which, as the case may be, would unduly delay the administration of the case;" See, *In re Corey*, 892 F.2d 829, 834 (9th Cir. 1989). The discretion of the court in this regard is broad. *Id.*

Though Claimant provides no information re the status of the case pending in District Court, it appears the case was filed more than three years ago in 2017 and is not yet ready for trial (jury trial demanded). Debtors have listed numerous other creditors, including the IRS. As the litigation in District

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CONT... **Michael Collins and Lyann Courant**

Chapter 13

Court could take several months to years, such a delay would unduly delay the administration of this chapter 13 case. Accordingly, based on the lack of evidence presented in support of the alter ego claim, the court determines that, for plan confirmation purposes, the amount of the claim is estimated at zero. Obviously, Debtors' discharge could be adversely affected if they are later determined to be liable in the District Court action.

July 22, 2021

Sustain the objection. For purposes of plan confirmation, the Claim is estimated at \$0.00 pursuant to 11 U.S.C. 502(c)(1).

Basis for Tentative Ruling:

Same comments as for the June 3, 2021 hearing (see above). The striking of the answer of the corporate entity and default judgment against the same has no legal impact on, and does nothing to advance Claimant's argument or evidence regarding Debtor's alleged liability under the equitable theory of *alter ego*.

Note: If Claimant accepts the tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

Michael Collins

Represented By
Douglas A. Crowder

Joint Debtor(s):

Lyann Courant

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

Thursday, July 22, 2021

Hearing Room 5A

10:30 AM

8:21-10608 DEA Brothers Sisters LLC

Chapter 11

#20.00 Hearing RE: First Interim Application for Attorney Fees

**[FINANCIAL RELIEF LEGAL ADVOCATES, INC. AND JOHN H. BAUER -
DEBTOR'S ATTORNEY]**

Docket 132

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 22, 2021

Approve fees and expenses on an interim basis 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):

DEA Brothers Sisters LLC

Represented By
John H Bauer

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

Thursday, July 22, 2021

Hearing Room 5A

10:30 AM

8:21-10635 Alicia Marie Richards

Chapter 7

#21.00 Hearing RE: Motion for an Order Extending the Deadline for the Chapter 7 Trustee to File Complaints Objecting to Discharge Under and Pursuant to 11 U.S.C. Section 727 and FRBP Rule 4004(b)(1)

Docket 80

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 22, 2021

The Trustee will have 10 minutes to highlight arguments in support of the Motion; Debtor will have 10 minutes to highlight arguments in opposition to the Motion; Trustee will have 5 minutes to respond. The matter will then be taken under submission. A written ruling will be issue by July 27, 2021.

Party Information

Debtor(s):

Alicia Marie Richards

Pro Se

Trustee(s):

Richard A Marshack (TR)

Represented By
Richard G Heston

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

Thursday, July 22, 2021

Hearing Room 5A

10:30 AM

8:21-10635 Alicia Marie Richards

Chapter 7

#22.00 CON'TD Hearing RE: Debtor's Motion for an Order to Convert Chapter 7 Case to Chapter 13 Under 11 U.S.C. Sections 706(a) or 1112(a)

FR: 7-1-21

Docket 55

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 1, 2021

Continue this hearing to July 15, 2021 at 10:30 a.m. to allow Debtor to file a substantive reply to the Trustee's supplemental opposition. Any supplemental reply must be filed no later than July 8, 2021 and must be limited to issues raised in the supplemental opposition. No new issues may be raised in the reply. If Debtor does not wish to file a reply to the supplemental opposition, the court will hear oral argument at today's hearing and take the matter under submission, with a ruling to be issued by or before July 8, 2021 (no new pleadings by any party).

July 22, 2021

Debtor will have 10 minutes to highlight arguments in support of the Motion; Opponents will each have 10 minutes to highlight arguments in opposition to the Motion;; Debtor will have 5 minutes to respond. The matter will then be taken under submission. A written ruling will be issue by July 27, 2021.

Party Information

Debtor(s):

Alicia Marie Richards

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, July 22, 2021

Hearing Room 5A

10:30 AM

CONT... Alicia Marie Richards

Chapter 7

Trustee(s):

Richard A Marshack (TR)

Represented By
Richard G Heston

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

Thursday, July 22, 2021

Hearing Room 5A

10:30 AM

8:21-11264 Synrgo, Inc.

Chapter 11

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

Docket 1

*** VACATED *** REASON: OFF CALENDAR: Order Granting
Emergency Motion of Debtor and Debtor in Possession For Order Dismissing
Chapter 11 Case Entered 5/27/2021

Courtroom Deputy:

**OFF CALENDAR: Order Granting Emergency Motion of Debtor and
Debtor in Possession For Order Dismissing Chapter 11 Case Entered
5/27/2021 - td (5/27/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Synrgo, Inc.

Represented By
Sean A OKeefe

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

Thursday, July 22, 2021

Hearing Room 5A

2:00 PM

8:17-12213 Solid Landings Behavioral Health, Inc.

Chapter 11

Adv#: 8:20-01010 Grobstein v. Degner

#24.00 Hearing RE: Third-Party Defendant Starr Indemnity & Liability Company's Motion for Partial Summary Judgment

Docket 117

***** VACATED *** REASON: CONTINUED TO 10/21/2021 AT 2:00 P.M.,
PER ORDER ENTERED 7/2/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 10/21/2021 at 2:00 p.m., Per Order
Entered 7/2/2021 (XX) - adm/td (7/12/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Solid Landings Behavioral Health,

Represented By
David L. Neale
Juliet Y Oh
Jeffrey S Kwong
David M Samuels

Defendant(s):

Gerik M. Degner

Represented By
Ismail Amin

Plaintiff(s):

Howard B Grobstein

Represented By
Rodger M. Landau
Monica Rieder

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

Monday, July 26, 2021

Hearing Room 5A

2:00 PM

8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1615439527>

Meeting ID: 161 543 9527

Password: 208696

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at:

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

Monday, July 26, 2021

Hearing Room 5A

2:00 PM
CONT...

Chapter

<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

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

Monday, July 26, 2021

Hearing Room 5A

2:00 PM

8:17-10706 John Jean Bral

Chapter 11

#1.00 CON'TD Hearing RE: Reorganized Debtor John Jean Bral's Motion for Attorneys' Fees Pursuant to Contract

FR 4-1-21

Docket 1011

***** VACATED *** REASON: CONTINUED TO 12/9/2021 AT 2:00 P.M.,
Per Order Entered 6/8/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 12/9/2021 at 2:00 pm, Per Order
Entered 6/8/2021 (XX) - td (6/8/2021)**

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
Shane M Biornstad

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

Monday, July 26, 2021

Hearing Room 5A

2:00 PM

8:17-10706 John Jean Bral

Chapter 11

#2.00 CON'TD Hearing RE: Barry Beitler's Motion for Sanctions Against John Jean Bral and His Bankruptcy Estate

FR: 4-1-21

Docket 1022

***** VACATED *** REASON: CONTINUED TO 12/9/2021 AT 2:00 PM,
Per Order Entered 6/8/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 12/9/2021 at 2:00 pm, Per Order
Entered 6/8/2021 (XX) - td (6/8/2021)**

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
Shane M Biornstad

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

Tuesday, July 27, 2021

Hearing Room 5A

1:30 PM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1602374863>

Meeting ID: 160 237 4863

Password: 496552

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at:

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

Tuesday, July 27, 2021

Hearing Room 5A

1:30 PM
CONT...

Chapter

<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

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- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

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

Tuesday, July 27, 2021

Hearing Room 5A

1:30 PM

8:21-11339 Lisa Michele Giannelli

Chapter 13

#1.00 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 7/6/2021**

Courtroom Deputy:

**OFF CALENDAR: Order Dismissing Case for Failure to File Schedules,
Statements, and/or Plan Entered 7/6/2021 - td (7/13/2021)**

Party Information

Debtor(s):

Lisa Michele Giannelli 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, July 27, 2021

Hearing Room 5A

1:30 PM

8:21-11331 Adam Paul Dunn

Chapter 13

#2.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Adam Paul Dunn

Represented By
Andy C Warshaw

Trustee(s):

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 27, 2021

Hearing Room 5A

1:30 PM

8:21-11322 Hector German Gabira

Chapter 13

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

Docket 18

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Hector German Gabira

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 27, 2021

Hearing Room 5A

1:30 PM

8:21-11239 Kelly Kristine Goodman

Chapter 13

#4.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Kelly Kristine Goodman

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, July 27, 2021

Hearing Room 5A

1:30 PM

8:21-11223 Bassam Istambouli

Chapter 13

#5.00 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 7/23/2021

Courtroom Deputy:

**OFF CALENDAR: Order of Dismissal Arising from Debtor's Request for
Voluntary Dismissal of Chapter 13 Entered 7/23/2021 - td (7/26/2021)**

Party Information

Debtor(s):

Bassam Istambouli

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 27, 2021

Hearing Room 5A

1:30 PM

8:21-11219 Phillip Kwan

Chapter 13

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

Docket 10

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Phillip Kwan

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 27, 2021

Hearing Room 5A

1:30 PM

8:21-11151 Urbana Foote

Chapter 13

#7.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 17

*** VACATED *** REASON: OFF CALENDAR: Order of Dismissal
Arising from Debtor's Request for Voluntary Dismissal of Ch 13 with
Restrictions (11 U.S.C. Sections 109(g)(2) and 1307(b) Entered 7/21/2021

Courtroom Deputy:

**OFF CALENDAR: Order of Dismissal Arising from Debtor's Request for
Voluntary Dismissal of Ch 13 with Restrictions (11 U.S.C. Sections
109(g)(2) and 1307(b) Entered 7/21/2021 - td (7/21/2021)**

Party Information

Debtor(s):

Urbana Foote

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, July 27, 2021

Hearing Room 5A

1:30 PM

8:21-11127 Rosie Aldaz

Chapter 13

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

Docket 15

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Rosie Aldaz

Represented By
Halli B 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 27, 2021

Hearing Room 5A

1:30 PM

8:21-11098 Christine Lee Miller

Chapter 13

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

Docket 13

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Christine Lee Miller

Represented By
Jonathan D 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 27, 2021

Hearing Room 5A

1:30 PM

8:21-11035 Evelyn Ahumada

Chapter 13

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

FR: 6-22-21

Docket 2

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Evelyn Ahumada

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 27, 2021

Hearing Room 5A

1:30 PM

8:21-10973 Vanessa Allison Tunks

Chapter 13

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

FR: 6-22-21

Docket 19

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Vanessa Allison Tunks

Represented By
Rex 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, July 27, 2021

Hearing Room 5A

1:30 PM

8:21-10959 Sina Krause

Chapter 13

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

FR: 6-22-21

Docket 13

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Sina Krause

Represented By
Trang Phuong 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 27, 2021

Hearing Room 5A

1:30 PM

8:21-10860 Erica Duarte Bruce

Chapter 13

#13.00 CON'TD Hearing RE: Confirmation of 3rd Amended Chapter 13 Plan

FR: 6-22-21

Docket 45

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Erica Duarte Bruce

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, July 27, 2021

Hearing Room 5A

1:30 PM

8:21-10572 Ronaldo Marquez and Cristina Marquez

Chapter 13

#14.00 CON'TD Hearing RE: Confirmation of 2nd Amended Chapter 13 Plan

FR: 5-25-21; 6-22-21

Docket 49

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Ronaldo Marquez

Represented By
Stephen L Burton

Joint Debtor(s):

Cristina 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 27, 2021

Hearing Room 5A

1:30 PM

8:21-10157 Michael Collins and Lyann Courant

Chapter 13

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

FR: 4-27-21; 5-25-21

Docket 19

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Michael Collins

Represented By
Douglas A. Crowder

Joint Debtor(s):

Lyann Courant

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 27, 2021

Hearing Room 5A

1:30 PM

8:21-10133 John Steven Domingos

Chapter 13

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

FR: 4-27-21; 6-22-21

Docket 20

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

John Steven Domingos

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 Calendar**

Tuesday, July 27, 2021

Hearing Room

1:30 PM

8:21-10111 Roman Israel Pacheco

Chapter 13

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

FR: 4-27-21; 5-25-21

Docket 2

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Roman Israel Pacheco

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, July 27, 2021

Hearing Room 5A

2:30 PM

8:19-13468 Eric Anthony Perez

Chapter 13

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

FR: 6-22-21

Docket 73

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Eric Anthony Perez

Represented By
Christopher J Langley
Michael 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 27, 2021

Hearing Room 5A

2:30 PM

8:19-11671 Zeta Jayectin Besas

Chapter 13

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

FR: 5-25-21

Docket 42

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Zeta Jayectin Besas

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, July 27, 2021

Hearing Room 5A

2:30 PM

8:19-10796 Mario Jonathan Saldivar and Alicia Marie Braddock

Chapter 13

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

Docket 94

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, July 27, 2021

Hearing Room 5A

2:30 PM

8:17-14768 Edgar Guzman

Chapter 13

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

Docket 97

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

Edgar Guzman

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, July 27, 2021

Hearing Room 5A

2:30 PM

8:16-13537 Darryl L. Cazares and DeAnna J. Cazares

Chapter 13

#22.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding

FR: 4-27-21

Docket 126

***** VACATED *** REASON: OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 7/20/2021**

Courtroom Deputy:

OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 7/20/2021 - td (7/20/2021)

Party Information

Debtor(s):

Darryl L. Cazares

Represented By
Joseph Arthur Roberts

Joint Debtor(s):

DeAnna J. Cazares

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, July 27, 2021

Hearing Room 5A

2:30 PM

8:16-12854 Paul Edward Rubio

Chapter 13

#23.00 CON'TD Hearing RE: Trustee's Verified Motion to Dismiss Case Due to Material Default of a Plan Provision

FR: 4-27-21

Docket 200

Courtroom Deputy:

- NONE LISTED -

Party Information

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**

Tuesday, July 27, 2021

Hearing Room 5A

2:30 PM

8:16-12017 David Hepburn and Kimberly Hepburn

Chapter 13

#24.00 Hearing RE: Trustee's Motion to Dismiss Case failure to complete the plan within its terms

Docket 94

Courtroom Deputy:

- NONE LISTED -

Party Information

Debtor(s):

David Hepburn

Represented By
Julie J Villalobos

Joint Debtor(s):

Kimberly Hepburn

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 27, 2021

Hearing Room 5A

2:30 PM

8:15-15338 Michael A. Balogh and Brenda R. Julian

Chapter 13

#25.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding for Failure to Complete the Plan Within its Terms

FR: 12-18-20; 5-25-21

Docket 41

***** VACATED *** REASON: OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 7/20/2021**

Courtroom Deputy:

OFF CALENDAR: Notice of Withdrawal of Trustee's Motion, filed 7/20/2021 - td (7/20/2021)

Party Information

Debtor(s):

Michael A. Balogh

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Brenda R. Julian

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**

Wednesday, July 28, 2021

Hearing Room 5A

9:00 AM

8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1603484434>

Meeting ID: 160 348 4434

Password: 124061

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the

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

Wednesday, July 28, 2021

Hearing Room

5A

9:00 AM

CONT...

Chapter

"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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

Wednesday, July 28, 2021

Hearing Room 5A

9:00 AM

8:19-10913 Cassandra Dean Duerscheidt

Chapter 7

Adv#: 8:19-01122 M.G.B. Construction, Inc. v. Duerscheidt

#1.00 TRIAL 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)]

(Set at PTC Held 1-21-21)

Docket 1

***** VACATED *** REASON: OFF CALENDAR; Trial Dates Set for 9/22/21, 9/23/21, and 9/24/21 at 9:00 each day, Per Trial Procedures Status Conference Held 6/10/21 (XX)**

Courtroom Deputy:

OFF CALENDAR: Trial Dates Set for 9/22/21, 9/23/21, and 9/24/21 at 9:00 each day, Per Trial Procedures Status Conference Held 6/10/21 (XX) - td (6/10/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cassandra Dean Duerscheidt

Represented By
Brian J Soo-Hoo

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**

Wednesday, July 28, 2021

Hearing Room 5A

10:00 AM

8:21-11144 Scott Peter Hamilton

Chapter 7

#2.00 Hearing RE: Emergency Motion by Chapter 7 Trustee for Order Authorizing Trustee: (1) To Operate the Estate's Rental Property Pursuant to 11 U.S.C. Section 721; and, (2) Use Property of the Estate Pursuant to 11 U.S.C. Sections 363(b)(1) and (c)(1), and Pay Necessary Expenses (**OST Entered 7/26/2021**)

Docket 60

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 28, 2021

Grant the Motion if unopposed.

Party Information

Debtor(s):

Scott Peter Hamilton

Represented By
Julie Nong

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, July 29, 2021

Hearing Room 5A

9:00 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1602122540>

Meeting ID: 160 212 2540

Password: 914753

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at:

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

Thursday, July 29, 2021

Hearing Room 5A

9:00 AM

CONT...

Chapter

<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

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

Thursday, July 29, 2021

Hearing Room 5A

9:00 AM

8:19-10913 Cassandra Dean Duerscheidt

Chapter 7

Adv#: 8:19-01122 M.G.B. Construction, Inc. v. Duerscheidt

#1.00 CON'TD TRIAL 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)]

(Set at PTC Held 1-21-21)

FR: 7-28-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Trial Dates Set for
9/22/21, 9/23/21, and 9/24/21 at 9:00 each day, Per Trial Procedures Status
Conference Held 6/10/21 (XX)**

Courtroom Deputy:

**OFF CALENDAR: Trial Dates Set for 9/22/21, 9/23/21, and 9/24/21 at 9:00
each day, Per Trial Procedures Status Conference Held 6/10/21 (XX) - td
(6/10/2021)**

Party Information

Debtor(s):

Cassandra Dean Duerscheidt

Represented By
Brian J Soo-Hoo

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**

Friday, July 30, 2021

Hearing Room 5A

9:00 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1611262825>

Meeting ID: 161 126 2825

Password: 944765

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at:

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

Friday, July 30, 2021

Hearing Room 5A

9:00 AM
CONT...

Chapter

<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

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

Friday, July 30, 2021

Hearing Room 5A

9:00 AM

8:19-10913 Cassandra Dean Duerscheidt

Chapter 7

Adv#: 8:19-01122 M.G.B. Construction, Inc. v. Duerscheidt

#1.00 CON'TD TRIAL 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)]

(Set at PTC Held 1-21-21)

FR: 7-28-21; 7-29-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Trial Dates Set for
9/22/21, 9/23/21, and 9/24/21 at 9:00 each day, Per Trial Procedures Status
Conference Held 6/10/21 (XX)**

Courtroom Deputy:

**OFF CALENDAR: Trial Dates Set for 9/22/21, 9/23/21, and 9/24/21 at 9:00
each day, Per Trial Procedures Status Conference Held 6/10/21 (XX) - td
(6/10/2021)**

Party Information

Debtor(s):

Cassandra Dean Duerscheidt

Represented By
Brian J Soo-Hoo

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, August 5, 2021

Hearing Room 5A

9:30 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1614347634>

Meeting ID: 161 434 7634

Password: 468034

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at:

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

Thursday, August 5, 2021

Hearing Room 5A

9:30 AM
CONT...

Chapter

<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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

Thursday, August 5, 2021

Hearing Room 5A

10:00 AM

8:15-15096 Darshan Upadhyaya

Chapter 7

Adv#: 8:16-01024 Floorit Financial, Inc. v. Upadhyaya

#1.00 CONT'D Examination of Third Person Amanda Upadhyaya aka Amanda C. Ramos Upadhyaya Re: Enforcement of Judgment

FR: 4-9-20; 6-4-20; 9-10-20; 11-19-20; 1-14-21; 5-20-21

Docket 20

***** VACATED *** REASON: CONTINUED TO 11/18/2021 AT 10:00 A.M., Per Order Approving Stipulation to Continue Examinations to November 18, 2021 Signed 7/28/2021 (XX)**

Courtroom Deputy:

CONTINUED: Order Approving Stipulation to Continue Examinations to November 18, 2021 at 10:00 a.m. Entered 7/28/2021- mp/td (7/28/2021)

Tentative Ruling:

June 4, 2020

Continue the examination to September 10, 2020 at 10:00 a.m. (XX)

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.

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.

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

Thursday, August 5, 2021

Hearing Room 5A

10:00 AM

CONT... **Darshan Upadhyaya**
September 10, 2020

Chapter 7

Continue the examination to November 19, 2020 at 10:00 a.m. (XX)

Basis for Tentative Ruling

The courthouse is currently 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 November 19, 2020. Depending on the status of pandemic-related rules and policies in place on November 19, 2020, the examination 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.

November 19, 2020

This tentative ruling applies to #s 15 and 16 on today's calendar:

The courthouse is currently closed to in-person court appearances and on-site in-person judgment debtor examinations. However, as this court now conducts hearings on the Zoom platform, the examination may be accommodated by placing the parties in a separate private Zoom "room" after the examinees are sworn in by the courtroom clerk. It will be the responsibility of the Judgment Creditor to either have the court reporter call into the Zoom hearing at the commencement of the hearing or to make other arrangements for the participation of the court reporter. Alternatively, the Judgment Creditor is free to schedule an examination outside the courthouse, including by video conference, in which case this hearing will be continued to January 14, 2021 at 10:00 a.m.

The Judgment Creditor shall advise the courtroom clerk of its choice at the time of the calendar roll call.

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

Thursday, August 5, 2021

Hearing Room 5A

10:00 AM

CONT... Darshan Upadhyaya

Chapter 7

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, August 5, 2021

Hearing Room 5A

10:00 AM

8:15-15096 Darshan Upadhyaya

Chapter 7

Adv#: 8:16-01024 Floorit Financial, Inc. v. Upadhyaya

#2.00 CONT'D Examination of Judgment Debtor Darshan Upadhyaya Re:
Enforcement of Judgment

FR: 4-2-20; 6-4-20; 9-10-20; 11-19-20; 1-14-21; 5-20-21

Docket 23

***** VACATED *** REASON: CONTINUED TO 11/18/2021 AT 10:00
A.M., Per Order Approving Stipulation to Continue Examinations to
November 18, 2021 Signed 7/28/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Order Approving Stipulation to Continue Examinations to
November 18, 2021 at 10:00 a.m. Entered 7/28/2021- mp/td (7/28/2021)**

Tentative Ruling:

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.

June 4, 2020

Continue the examination to September 10, 2020 at 10:00 a.m. (XX)

Basis for Tentative Ruling

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

Thursday, August 5, 2021

Hearing Room 5A

10:00 AM

CONT... Darshan Upadhyaya

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 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.

September 10, 2020

Continue the examination to November 19, 2020 at 10:00 a.m. (XX)

Basis for Tentative Ruling

The courthouse is currently 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 November 19, 2020. Depending on the status of pandemic-related rules and policies in place on November 19, 2020, the examination 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.

November 19, 2020

This tentative ruling applies to #s 15 and 16 on today's calendar:

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

Thursday, August 5, 2021

Hearing Room 5A

10:00 AM

CONT... Darshan Upadhyaya

Chapter 7

The courthouse is currently closed to in-person court appearances and on-site in-person judgment debtor examinations. However, as this court now conducts hearings on the Zoom platform, the examination may be accommodated by placing the parties in a separate private Zoom "room" after the examinees are sworn in by the courtroom clerk. It will be the responsibility of the Judgment Creditor to either have the court reporter call into the Zoom hearing at the commencement of the hearing or to make other arrangements for the participation of the court reporter. Alternatively, the Judgment Creditor is free to schedule an examination outside the courthouse, including by video conference, in which case this hearing will be continued to January 14, 2021 at 10:00 a.m.

The Judgment Creditor shall advise the courtroom clerk of its choice at the time of the calendar roll call.

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, August 5, 2021

Hearing Room 5A

10:00 AM

8:19-10440 Stephen B Fuller and Renee M Fuller

Chapter 13

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

WELLS FARGO BANK, N.A.

VS.

DEBTORS

Docket 123

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 5, 2021

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):

Stephen B Fuller

Represented By
Richard G Heston

Joint Debtor(s):

Renee M Fuller

Represented By
Richard G Heston

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

Thursday, August 5, 2021

Hearing Room 5A

10:00 AM

CONT... Stephen B Fuller and Renee M Fuller

Chapter 13

Movant(s):

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

Represented By
Jenelle C Arnold

Trustee(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 5, 2021

Hearing Room 5A

10:00 AM

8:20-10019 Jose Saavedra

Chapter 13

#4.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]
FREEDOM MORTGAGE CORPORATION
VS.
DEBTOR

Docket 42

***** VACATED *** REASON: OFF CALENDAR: Notice of Voluntary
Dismissal of Motion, filed 8/4/2021**

Courtroom Deputy:

**OFF CALENDAR: Notice of Voluntary Dismissal of Motion, filed
8/4/2021 - td (8/4/2021)**

Tentative Ruling:

August 5, 2021

Deny request for immediate relief from stay; grant standard adequate protection order.

Explanation of Tentative Ruling

1. Debtor has presented evidence of payment of the the amount referenced in the Motion as being delinquent.

2. The general terms of the adequate protection order a) 10-day notice to Debtor and Debtor's attorney if payment is not received by the grace period under the note up to three times; 2) if Debtor does not cure the default within 10 days of the date appearing on the notice, Movant may file a declaration re non-payment and lodge an order granting immediate relief from stay; 3) upon the fourth default, the Movant may immediately file and lodge a declaration re nonpayment and an order without a 10-day notice.

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

Thursday, August 5, 2021

Hearing Room 5A

10:00 AM

CONT... Jose Saavedra

Chapter 13

3. The parties are free to agree on adequate protection terms that are different from that in paragraph 2 above.

Note: If both parties accept the tentative ruling, appearances at today's hearing are not required.

Party Information

Debtor(s):

Jose Saavedra

Represented By
Chris T Nguyen

Movant(s):

Freedom Mortgage Corporation

Represented By
Dane W Exnowski

Trustee(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 5, 2021

Hearing Room 5A

10:00 AM

8:20-10855 Scott Bryan Sornbutnark

Chapter 13

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

US BANK TRUST NATIONAL ASSOCIATION

VS.

DEBTOR

Docket 38

*** VACATED *** REASON: OFF CALENDAR: Voluntary Dismissal of
Motion, filed 8/4/2021

Courtroom Deputy:

**OFF CALENDAR: Voluntary Dismissal of Motion, filed 8/4/2021 - td
(8/4/2021)**

Tentative Ruling:

August 5, 2021

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):

Scott Bryan Sornbutnark

Represented By
John D Sarai

Movant(s):

US Bank Trust National Association,

Represented By

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

Thursday, August 5, 2021

Hearing Room 5A

10:00 AM

CONT... Scott Bryan Sornbutnark

Chapter 13

Dane W Exnowski
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 5, 2021

Hearing Room 5A

10:00 AM

8:21-11308 Mario Alberto Martinez

Chapter 7

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

JPMORGAN CHASE BANK, N.A.

VS.

DEBTOR

Docket 13

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 5, 2021

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):

Mario Alberto Martinez

Represented By
Kevin J Kunde

Movant(s):

JPMorgan Chase Bank, N.A

Represented By
Jenelle C Arnold

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

Thursday, August 5, 2021

Hearing Room 5A

10:00 AM

CONT... Mario Alberto Martinez

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, August 5, 2021

Hearing Room 5A

10:00 AM

8:21-11486 Bill Ying Li

Chapter 7

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

NIRANJAN SHAH & BHARATIBEN SHAH, CO-TRUSTEES OF THE SHAH
FAMILY TRUST DTD 09/24/2008

vs.

DEBTOR

Docket 20

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 5, 2021

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):

Bill Ying Li

Represented By
Chunping Shen

Movant(s):

Niranjan & Bharatiben Shah, Tr

Represented By
Neil B Katz

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

Thursday, August 5, 2021

Hearing Room 5A

10:00 AM

CONT... Bill Ying Li

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, August 5, 2021

Hearing Room 5A

10:00 AM

8:21-11532 Bryan Dain

Chapter 7

#8.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]
AMERICREDIT FINANCIAL SERVICES, INC.
VS.
DEBTOR

Docket 11

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 5, 2021

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):

Bryan Dain

Represented By
Julie J Villalobos

Movant(s):

AmeriCredit Financial Services, Inc.

Represented By
Sheryl K Ith

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

Thursday, August 5, 2021

Hearing Room 5A

10:00 AM

CONT... Bryan Dain

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, August 5, 2021

Hearing Room 5A

10:30 AM

8:17-12213 Solid Landings Behavioral Health, Inc.

Chapter 11

**#9.00 CONT'D Post Confirmation Status Conference
(Set at s/c held 2/28/18)**

[fr: 6/21/17, 6/28/17, 6/30/17, 7/20/17, 7/26/17, 7/28/17, 10/25/17, 2/7/18,
2/28/18, 8/29/18, 1/9/19, 6/12/19, 10/2/19, 1/29/20, 6/24/20, 7/22/20]; 9/2/20,
Rm 5D; 9-3-20; 2-4-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

September 3, 2020

Continue Post-Confirmation Status Conference to February 4, 2021 at 10:30 a.m.; updated Status Report must be filed by January 21, 2021. (XX)

Note: Appearance at this hearing is not required.

February 4, 2021

Continue Status Conference to August 5, 2021 at 10:30 a.m.; updated Status Report must be filed by July 22, 2021. (XX)

Note: Appearance at this hearing is not required.

August 5, 2021

Continue Post-Confirmation Status Conference to February 10, 2022 at 10:30 a.m.; updated Status Report must be filed by January 27, 2022.

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, August 5, 2021

Hearing Room 5A

10:30 AM

CONT... Solid Landings Behavioral Health, Inc.

Chapter 11

Party Information

Debtor(s):

Solid Landings Behavioral Health,

Represented By
David L. Neale
Juliet Y Oh

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

Thursday, August 5, 2021

Hearing Room 5A

10:30 AM

8:17-14077 Team Business Solutions, Inc.

Chapter 7

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

[RICHARD A. MARSHACK, CHAPTER 7 TRUSTEE]

Docket 59

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 5, 2021

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):

Team Business Solutions, Inc.

Represented By
J Scott Williams

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 5, 2021

Hearing Room 5A

10:30 AM

8:17-14077 Team Business Solutions, Inc.

Chapter 7

#11.00 Hearing RE: First and Final Application for Fees and Costs

**[GOE FORSYTHE & HODGE LLP, ATTORNEYS FOR RICHARD A.
MARSHACK, CHAPTER 7 TRUSTEE]**

Docket 57

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 5, 2021

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):

Team Business Solutions, Inc.

Represented By
J Scott Williams

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 5, 2021

Hearing Room 5A

10:30 AM

8:20-11507 HCA West, Inc

Chapter 11

#12.00 Hearing RE: Motion for Order Further Extending the Time Periods During Which the Debtors Have the Exclusive Right to File a Plan and to Solicit Acceptances Thereof Pursuant to Section 1121(d) of the Bankruptcy Code

Docket 516

***** VACATED *** REASON: OFF CALENDAR: Order Regarding Motion for Order Further Extending the Time Periods During Which the Debtors Have the Exclusive Right to File a Plan and to Solicit Acceptances Thereof Pursuant to Section 1121(D) of the Bankruptcy Code Entered 7/30/2021**

Courtroom Deputy:

OFF CALENDAR: Order Regarding Motion for Order Further Extending the Time Periods During Which the Debtors Have the Exclusive Right to File a Plan and to Solicit Acceptances Thereof Pursuant to Section 1121(D) of the Bankruptcy Code Entered 7/30/2021 - td (7/30/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

HCA West, Inc

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 5, 2021

Hearing Room 5A

10:30 AM

8:20-12488 Christopher Summers

Chapter 11

#13.00 CON'TD Hearing RE: Secured Creditor's Motion to Convert From Chapter 11 to Chapter 7 Pursuant to 11 U.S.C. Section 1112(b)(1)

FR: 7-1-21

Docket 79

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 1, 2021

Continue hearing to August 5, 2021 at 10:30 a.m. in light of 1) improper service to creditors (County of Orange was not served) and 2) Debtor has filed evidence of a pending purchase agreement that would be sufficient to pay the Movant's claim. (XX)

August 5, 2021

Continue this hearing to September 9, 2021 at 10:30 a.m. as a holding date in the event that the pending sale of the real property does not close escrow.

Party Information

Debtor(s):

Christopher Summers

Represented By
J Scott Williams

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

Thursday, August 5, 2021

Hearing Room 5A

10:30 AM

8:20-12488 Christopher Summers

Chapter 11

#14.00 Hearing RE: Debtor-in-Possession's Motion For Order: 1) Approving Sale of Real Property at 24702 El Camino Capistrano, Dana Point, CA 92629 Pursuant to 11 USC Sec. 363(b); 2) Approving Compensation of Real Estate Broker; 3) Approving Overbid Procedures; and 4) Waiver of Rule 6004(h) Stay

Docket 85

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 5, 2021

Grant the motion, subject to overbid.

Party Information

Debtor(s):

Christopher Summers

Represented By
J Scott Williams

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

Thursday, August 5, 2021

Hearing Room 5A

10:30 AM

8:20-12864 Beck & Chase Enterprises, Inc.

Chapter 11

#15.00 Hearing RE: Confirmation of Second Amended Plan of Reorganization for Small Business Under Chapter 11 (Subchapter V)

(Set per Notice of Hearing filed 7/2/21)

Docket 83

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 5, 2021

Continue the hearing one final time to September 9, 2021 at 10:30 a.m. to all Debtor to address the following matters:: 1) treatment of the Class 2A claim of ASB and non-compliance with 11 U.S.C. 1129(a)(7); and 2) the comments of the Sub V Trustee to Debtor's Second Amended Plan [dkt. 86]. Debtor to file supplemental brief by August 19, 2021; any response to the same must be filed by August 26 , 2021, and any reply by Debtor must be filed by September 2, 2021.

Basis for Tentative Ruling

Though Debtor disputes the secured status of ASB, ASB currently holds an allowed secured claim. The Second Amended Plan (SAP) does not provide for interest (i.e., present value), in violation of Section 1129(a)(7). There is also the issue of "fair and equitable treatment" of the ASB claim due to the lack of interest provided. See Sections 1129(b)(2)(A), 1191(b) and 1191(c) (1). Although ASB has not filed an objection to its treatment under the SAP, this court has an independent duty to make a finding that the SAC complies with all applicable provisions of 1129(a).

2. Debtor needs to address the comments/requests for information

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

Thursday, August 5, 2021

Hearing Room 5A

10:30 AM

CONT... Beck & Chase Enterprises, Inc. Chapter 11
articulated by the Sub V Trustee in his comments to the SAP. [Dkt # 86]

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

Beck & Chase Enterprises, Inc.

Represented By
Jeffrey B Smith
Alexis Galindo

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, August 5, 2021

Hearing Room 5A

10:30 AM

8:20-12864 Beck & Chase Enterprises, Inc.

Chapter 11

#16.00 CON'TD STATUS CONFERENCE Hearing RE: Status of SubChapter V Case; and (2) Requiring Report on Status of SubChapter V Case by Debtor and SubChapter V Trustee

FR: 12-3-20; 3-11-21; 6-17-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

December 3, 2020

Deadline to file plan*:	Feb. 16, 2021
Continued Status Conf:	Mar. 11, 2021 at 10:30 a.m. (XX)
Updated Status Report due: (Trustee)	Feb. 25, 2021 (Debtor); Mar. 4, 2021

*The court will not require a disclosure statement. However, the plan must include 1) a brief history of Debtor's business operations and the circumstances precipitating the filing; 2) a liquidation analysis; and 3) projections supporting Debtor's ability to make payments during the term of the plan.

Note: If Debtor is in substantial compliance with the requirements of the U.S. Trustee and there have been no significant developments in the case since the status reports were filed, appearances at this hearing will not be required. The Court will issue its own order re the Status Conference. It is Debtor's responsibility to confirm substantial compliance with the U.S. Trustee in advance of the hearing.

March 11, 2021

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

Thursday, August 5, 2021

Hearing Room 5A

10:30 AM

CONT... Beck & Chase Enterprises, Inc.

Chapter 11

Continue Status Conference to May 6, 2021 at 10:30 a.m. Debtor may schedule a hearing on approval of its plan for the same date/time. If so, a confirmation brief must be filed by or before April 22, 2021.

Special note to Subchapter V Trustee: The court did not require Debtor to file a disclosure statement. See tentative ruling for December 3, 2021.

Note: Appearances at this Status Conference are not required.

June 17, 2021

Continue hearing to July 22, 2021 at 10:30 a.m.; updated Status Report not required.

Note: Appearances at this Status Conference are not required.

August 5, 2021

Continue status conference to September 9, 2021 at 10:30 a.m.; updated status report not required.

Party Information

Debtor(s):

Beck & Chase Enterprises, Inc.

Represented By
Jeffrey B Smith

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

Thursday, August 5, 2021

Hearing Room 5A

10:30 AM

8:21-10135 Chase Merritt Global Fund LLC

Chapter 11

#17.00 CON'TD Hearing RE: Debtor's Subchapter V Plan of Reorganization

FR: 6-17-21

Docket 60

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 17, 2020

Continue confirmation hearing to August 5, 2021 at 10:30 a.m. to allow Debtor to address the following issues: feasibility, treatment of Green Rock's claim re default interest in light of this court's June 15, 2021 Order, and entitlement to discharge. Amended Confirmation Brief must be filed by July 15, 2021; responses by July 22, 2021; reply by July 29, 2021. In addition, the parties are ordered to meet and confer re a possible resolution of the outstanding issues no later than July 8, 2021. (XX)

Basis for Tentative Ruling

Green Rock raises valid arguments re the treatment of its remaining claim and applicable default interest, eligibility of Debtor for discharge, and feasibility. That said, the court believes that a resolution of the issues are achievable if all parties meet in good faith. Green Rock has now received nearly 90% of its secured claim and should be negotiating from that standpoint and not as if it is still owed \$1.6M. In this regard, the court is not inclined to entertain any oral argument against the granting of a continuance.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

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

Thursday, August 5, 2021

Hearing Room 5A

10:30 AM

**CONT... Chase Merritt Global Fund LLC
August 5, 2021**

Chapter 11

Confirm the amended plan with certain additional provisions to be set forth in the confirmation order. Set postconfirmation Status Conference for February 10, 2022 at 10:30 a.m.; Postconfirmation Status Report must be filed by January 27, 2021.

Provisions to be included in the confirmation order:

1. Acknowledge that the County of Orange holds a secured claim against the Mira Vista proerty in the amount of \$22,555.78.
2. Acknowledge that Dung Ngo holds an unsecured claim in the amount of \$65,000.
3. The provisions requested by Green Rock in its pleading filed 7/22/21 [dkt. 100]

Note: If all parties accept the foregoing tentative ruling, appearance at this hearing is not required.

Party Information

Debtor(s):

Chase Merritt Global Fund LLC

Represented By
W. Derek May

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, August 5, 2021

Hearing Room 5A

10:30 AM

8:21-10135 Chase Merritt Global Fund LLC

Chapter 11

#18.00 CONT'D STATUS CONFERENCE Hearing on (1) Status of Subchapter V Case; (2) Requiring Report on Status of Subchapter V Case by Debtor and Subchapter V Trustee; and (3) Requiring Subchapter V Trustee to Appear at the Status Conference

FR: 3-4-21; 6-17-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

March 4, 2021

Deadline to file plan/disclosure stmt:	April 20, 2021
Continued Status Conference: 10:30am	June 17, 2021 at (XX)
Deadline to file Updated Status Report (Debtor)	June 3, 2021
Deadline to file Update Status Report (Trustee)	June 10, 2021

An Updated Status Report need not be filed by either Debtor or Trustee if a plan and disclosure statement is filed by or before June 3, 2021.

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required. The Court will issue it's own order.

June 17, 2021

Continue status conference to August 5, 2021 at 10:30 a.m.; updated status report not required. (XX)

Note: If the 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 5, 2021

Hearing Room 5A

10:30 AM

CONT... Chase Merritt Global Fund LLC
this hearing are not required.

Chapter 11

August 5, 2021

Take the status conference off calendar in light of confirmation of the amended plan.

Party Information

Debtor(s):

Chase Merritt Global Fund LLC

Represented By
W. Derek May

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Thursday, August 5, 2021

Hearing Room 5A

10:30 AM

8:21-10958 Plamex Investment, LLC

Chapter 11

#19.00 Hearing RE: Motion for Order Extending Debtors' Exclusive Periods to File Plan of Reorganization and Obtain Acceptances Thereof

Docket 114

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 5, 2021

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):

Plamex Investment, LLC

Represented By
Ron Bender
Juliet Y Oh
Monica Y Kim

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

Thursday, August 5, 2021

Hearing Room 5A

10:30 AM

8:21-11177 Tara Ann Russo

Chapter 7

#20.00 Hearing RE: U.S. Trustee's Amended Motion for Denial of Discharge Pursuant to 11 U.S.C. §727(a)(8)

Docket 16

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 5, 2021

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):

Tara Ann Russo

Represented By
Ethan D Kirschner

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 5, 2021

Hearing Room 5A

10:30 AM

8:18-12346 John W. Fox and Lisa D. Fox

Chapter 13

#20.10 Hearing RE: Debtors' Motion for Authority to Sell Real Property Under LBR 3015-1(p) **(OST Entered 7/30/2021)**

Docket 69

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 5, 2021

Grant the motion on the terms requested by the chapter 13 trustee if there is no opposition.

Party Information

Debtor(s):

John W. Fox

Represented By
Ali R Nader

Joint Debtor(s):

Lisa D. Fox

Represented By
Ali R Nader

Trustee(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 5, 2021

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

#21.00 Hearing RE: Defendants' Motion for Partial Summary Judgment of Plaintiff's Claims for Actual and Constructive Fraudulent Transfer; and for Summary Adjudication of Issues

Docket 678

***** VACATED *** REASON: CONTINUED TO 12/2/2021 AT 2:00 P.M.,
Per Order Entered 7/27/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 12/2/2021 at 2:00 p.m., Per Order
Entered 7/27/2021 (XX) - td (7/27/2021)**

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, August 5, 2021

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
Tara Castro Narayanan

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
Shane M Biornstad

Trustee(s):

Steven M Speier (TR)

Represented By
Louis R Miller
Mike D Neue
Lei Lei Wang Ekvall
Robert P Goe

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

Thursday, August 5, 2021

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

#22.00 Hearing RE: Defendants' Motion for Partial Summary Judgment of Plaintiff's Claims for Actual and Constructive Fraudulent Transfer; and for Summary Adjudication of Issues

Docket 628

***** VACATED *** REASON: CONTINUED TO 12/2/2021 AT 2:00 P.M.,
Per Order Entered 7/27/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 12/2/2021 at 2:00 p.m., Per Order
Entered 7/27/2021 (XX) - td (7/27/2021)**

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, August 5, 2021

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
Tara Castro Narayanan

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
Robert P Goe

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

Thursday, August 5, 2021

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

#23.00 Hearing RE: Defendants' Motion for Partial Summary Judgment of Plaintiff's Claims for Actual and Constructive Fraudulent Transfer; and for Summary Adjudication of Issues

Docket 592

***** VACATED *** REASON: CONTINUED TO 12/2/2021 AT 2:00 P.M.,
Per Order Entered 7/27/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 12/2/2021 at 2:00 p.m., Per Order
Entered 7/27/2021 (XX) - td (7/27/2021)**

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, August 5, 2021

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
Tara Castro Narayanan

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
Robert P Goe

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

Thursday, August 5, 2021

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

#24.00 Hearing RE: Defendants' Motion for Partial Summary Judgment of Plaintiff's Claims for Actual and Constructive Fraudulent Transfer; and for Summary Adjudication of Issues

Docket 594

*** VACATED *** REASON: CONTINUED TO 12/2/2021 AT 2:00 P.M.,
Per Order Entered 7/27/2021 (XX)

Courtroom Deputy:

CONTINUED: Hearing Continued to 12/2/2021 at 2:00 p.m., Per Order Entered 7/27/2021 (XX) - td (7/27/2021)

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, August 5, 2021

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
Tara Castro Narayanan

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
Robert P Goe

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

Thursday, August 5, 2021

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

#25.00 Hearing RE: Defendants' Motion for Partial Summary Judgment of Plaintiff's Claims for Actual and Constructive Fraudulent Transfer; and for Summary Adjudication of Issues

Docket 599

***** VACATED *** REASON: CONTINUED TO 12/2/2021 AT 2:00 P.M.,
Per Order Entered 7/27/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 12/2/2021 at 2:00 p.m., Per Order
Entered 7/27/2021 (XX) - td (7/27/2021)**

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, August 5, 2021

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
Tara Castro Narayanan

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
Robert P Goe

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

Thursday, August 12, 2021

Hearing Room 5A

9:30 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1608647285>

Meeting ID: 160 864 7285

Password: 578666

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at:

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

Thursday, August 12, 2021

Hearing Room 5A

9:30 AM
CONT...

Chapter

<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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

Thursday, August 12, 2021

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 Hearing RE: Order to Show Cause Why Adversary Proceeding Should Not Be Dismissed For Lack of Prosecution (OSC Issued 6/17/21)

Docket 204

***** VACATED *** REASON: OFF CALENDAR: Order Dismissing Adversary Proceeding Entered 7/30/2021**

Courtroom Deputy:

OFF CALENDAR: Order Dismissing Adversary Proceeding Entered 7/30/2021 - td (7/30/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

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

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

Thursday, August 12, 2021

Hearing Room 5A

9:30 AM

CONT... Donald Woo Lee Chapter 7

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

Plaintiff(s):

Donald Woo Lee Represented By
Norma Ann Dawson
Robert B Rosenstein

Linda Bae Lee Represented By
Norma Ann Dawson
Robert B Rosenstein

Prime Partners Medical Group, Inc. 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 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, August 12, 2021

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

#2.00 CON'TD PRE-TRIAL 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; 1-30-20; 10-8-20; 2-18-21; 6-17-21

Docket 59

***** VACATED *** REASON: OFF CALENDAR: Order Dismissing Adversary Proceeding Entered 7/30/2021**

Courtroom Deputy:

OFF CALENDAR: Order Dismissing Adversary Proceeding Entered 7/30/2021 - td (7/30/2021)

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. (XX)
Deadline to File Joint Pretrial Stipulation:	Sept. 24, 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 12, 2021

Hearing Room 5A

9:30 AM

CONT... Donald Woo Lee

Chapter 7

today's hearing are waived and Plaintiffs shall serve/lodge a scheduling order consistent with the same.

October 8, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Continue as a STATUS CONFERENCE to February 18, 2021 at 9:30 a.m.; an updated Joint Status report must be filed by February 4, 2021. A new pretrial conference will be scheduled at the February 18, 2021 Status Conference. In the meantime, Defendants Sammy and Anke Ciling must provide Rule 26 disclosures to Plaintiff no later than November 9, 2020 and the parties must attend mediation no later than December 18, 2020. (XX)

Basis for Tentative Ruling:

1. The continued hearing date, February 18, 2021 takes into account the current January 19, 2021 sentencing date of Plaintiff Donald Lee ("Lee").
2. Defendant Sammy Ciling ("Ciling") has requested dismissal of the adversary proceeding due to the anticipated sentencing of Lee. First, the request is not properly before the court as it was not presented as a noticed motion in accordance with applicable federal and local rules. Second, absent evidence that a plaintiff is unable to participate in litigation while incarcerated, such incarceration alone is not a basis for dismissal of a civil action. Accordingly, the request for dismissal is denied.
3. Defendants Ciling and Mrs. Ciling must comply with Rule 26 disclosure requirements.
4. The attendance at mediation is mandatory. Despite pandemic restrictions, mediations are now routinely conducted by video conference. Therefore, there should be no reason why mediation cannot take place in the timeframe set by the court.

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

Thursday, August 12, 2021

Hearing Room 5A

9:30 AM

CONT... Donald Woo Lee

Chapter 7

Note: If ALL parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall, within 7 days, lodge an order consistent with the tentative ruling.

February 18, 2021

Discovery Cut-off Date:	April 30, 2021
Deadline to Attend Mediation:	March 31, 2021
Pretrial Conference Date:	June 17, 2021 at 9:30 am (XX)
Deadline to File Pretrial Stipulation:	June 3, 2021

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.

June 17, 2021

Impose sanctions in the amount of \$100 against Plaintiffs' counsel for failure to file a pretrial stipulation as required by Local Bankruptcy Rule 7016-1(b), The court shall issue an order to show cause why this adversary proceeding should not be dismissed due to lack of prosecution.

Basis for Tentative Ruling:

This adversary proceeding appears to be languishing. The parties were ordered to attend mediation by March 31, 2021. However, no notice of the status of the mediation has been filed by any mediator, suggesting that the mediation did not take place. In addition, not only was the pretrial stipulation not filed, Plaintiffs did not even file a status report advising the court of the status of this matter. Finally, this adversary has been pending for several years.

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, August 12, 2021

Hearing Room 5A

9:30 AM

CONT... Donald Woo Lee

Chapter 7

Party Information

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

Plaintiff(s):

Donald Woo Lee

Represented By
Norma Ann Dawson
Robert B Rosenstein

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

Thursday, August 12, 2021

Hearing Room 5A

9:30 AM

CONT... Donald Woo Lee

Chapter 7

Linda Bae Lee

Represented By
Norma Ann Dawson
Robert B Rosenstein

Prime Partners Medical Group, Inc.

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, August 12, 2021

Hearing Room 5A

9:30 AM

8:20-11493 Kourosh Baniassad

Chapter 7

Adv#: 8:20-01111 Razaghi v. Baniassad et al

#3.00 PRE-TRIAL CONFERENCE RE: Complaint by Kamran Razaghi against Kourosh Baniassad, Ida Baniassad. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny))

FR: 10-22-20

Docket 1

***** VACATED *** REASON: CONTINUED TO 1/13/2022 AT 9:30 A.M.,
PER ORDER ENTERED 4/2/2021 (XX)**

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 22, 2020

[Special Notice: This hearing is being conducted by Zoomgov. See the first page of the calendar for today's hearings for participation details.]

Tentative Schedule:

Discovery Cut-off Date:	Mar. 15, 2021*
Deadline to Attend <u>Mandatory</u> Mediation:	Feb. 1, 2021
Pretrial Conference Date:	May 6, 2021 at 9:30 a.m.
Deadline to File Pretrial Stipulation:	Apr. 22, 2021

* Plaintiff's unilateral status report suggested a discovery cut-off date of July 2021, which does not appear to be warranted under the circumstances.

Special Note to Plaintiff's Counsel: Though this action appears to be one under 11 USC 523 (nondischargeability), the Third Cause of Action appears to assert a crime under California law, which is beyond the scope of the

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

Thursday, August 12, 2021

Hearing Room 5A

9:30 AM

CONT... **Kourosh Baniassad**
jurisdiction of this court.

Chapter 7

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):

Kourosh Baniassad

Represented By
Kaveh Ardalan

Defendant(s):

Kourosh Baniassad

Pro Se

Ida Baniassad

Pro Se

Joint Debtor(s):

Ida Baniassad

Represented By
Kaveh Ardalan

Plaintiff(s):

Kamran Razaghi

Represented By
Peter R Afrasiabi

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 12, 2021

Hearing Room 5A

9:30 AM

8:21-10323 Andrew Michael Murphy

Chapter 7

Adv#: 8:21-01021 Murphy v. Granite State Management et al

#4.00 STATUS CONFERENCE RE: Complaint/Motion to Include Student Loan and Bar Study Loan in Discharge §523(a)(8)

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 12, 2021

Continue this Status Conference to October 21, 2021 at 9:30 a.m. to allow Plaintiff the opportunity to re-serve the summons and complaint in accordance with Federal Rules of Bankruptcy Procedure 7004(b)(3). Continue the hearing on the Motion for Default Judgment now improperly set for August 20, 2020 to October 21, 2021 at 9:30 a.m.

Basis for Tentative Ruling:

1. The proof of service re service of the Summons and Complaint indicate that both corporate defendants were improperly served. FRBP 7004(b)(3) requires that a complaint filed against a corporate entity must be served by mailing a copy of the summons and complaint "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. Plaintiff needs to research the appropriate person to be served as to both defendants, as well as the proper address.
2. In order to re-serve the summons and complaint, Plaintiff must request the issuance of Another Summons from the court's clerk's office.
3. The motion for default judgment is also improperly served per FRBP 7004(b)(3). Further, the motion for default judgment will not be considered

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

Thursday, August 12, 2021

Hearing Room 5A

9:30 AM

CONT... Andrew Michael Murphy

Chapter 7

until the summons and complaint have been properly served and no responsive pleadings by the defendants have been filed.

4. If no answer or other responsive pleading is filed after proper service of the summons and complaint, any motion for default judgment must be supported by a declaration, along with any evidence in support of the complaint in order to establish a *prima facie* case for entry of default judgment.

Note: If Plaintiff accepts the foregoing tentative ruling, appearance at today's Status Conference is not required.

Party Information

Debtor(s):

Andrew Michael Murphy	Pro Se
-----------------------	--------

Defendant(s):

Granite State Management	Pro Se
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Sallie Mae	Pro Se
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Plaintiff(s):

Andrew Murphy	Pro Se
---------------	--------

Trustee(s):

Weneta M.A. Kosmala (TR)	Pro Se
--------------------------	--------

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

Thursday, August 12, 2021

Hearing Room 5A

9:30 AM

8:21-10513 Rosa A Fridman

Chapter 7

Adv#: 8:21-01023 Avetoom v. Fridman

#5.00 STATUS CONFERENCE RE: Complaint to Determine Discharge

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 12, 2021

Continue Status Conference to September 9, 2021 at 2:00 p.m., same date/time set for hearing on Plaintiff's motion for summary judgment. Updated Joint Status Report not required.

Note: If all parties accept the foregoing tentative ruling, appearances at this Status Conference are not required.

Party Information

Debtor(s):

Rosa A Fridman

Represented By
Scott Talkov

Defendant(s):

Rosa Fridman

Pro Se

Plaintiff(s):

Karl Avetoom

Pro Se

Trustee(s):

Karl T Anderson (TR)

Represented By
Melissa Davis Lowe

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar

Thursday, August 12, 2021

Hearing Room 5A

10:00 AM

8:19-10732 Gabriel John Torres and Julie Marie Torres

Chapter 7

#6.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

USB LEASING LT

VS.

DEBTORS

Docket 44

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 12, 2021

Grant with 4001(a)(3) waiver; deny request for co-debtor relief

Basis for Tentative Ruling

Co-debtor relief only applies in chapter 13 cases, not 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):

Gabriel John Torres

Represented By
Anthony B Vigil

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:00 AM

CONT... Gabriel John Torres and Julie Marie Torres

Chapter 7

Joint Debtor(s):

Julie Marie Torres

Represented By
Anthony B Vigil

Movant(s):

U.S. BANK NATIONAL

Represented By
Sean C Ferry

Trustee(s):

Weneta M.A. Kosmala (TR)

Represented By
Weneta Kosmala
Erin P Moriarty

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:00 AM

8:20-12985 Geoff Owen Delabar

Chapter 13

#7.00 Hearing RE: Motion for relief from the automatic stay [PERSONAL PROPERTY]

ALLY BANK

VS.

DEBTOR

Docket 43

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 12, 2021

If the moving party is agreeable to the terms of an adequate protection order, the hearing may be continued to 8/19, 9/9, or 9/16 at 10:00 a.m. by requesting a continuance the matter is called during the clerk's calendar roll call.

Party Information

Debtor(s):

Geoff Owen Delabar

Represented By
Christopher J Langley
Michael Smith

Movant(s):

Ally Bank

Represented By
Marjorie M Johnson

Trustee(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 12, 2021

Hearing Room 5A

10:00 AM

8:21-11144 Scott Peter Hamilton

Chapter 7

#8.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]

MARVIN OLSHI AS TRUSTEE OF THE MARVIN T. OLSHI TRUST; HAL SEARS AS TRUSTEE OF THE HAL MARSHALL SEARS REVOCABLE TRUST

VS.

DEBTOR

Docket 55

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 12, 2021

Grant the Motion with waiver of FRBP 4001(a)(3).

Basis for Tentative Ruling:

1. As Debtor admits in the opposition, the property was foreclosed on prepetition, i.e., in July 2020. Accordingly, Debtor did not hold legal title to the property as of the petition date and, as such, the property itself is not property of the estate and "equity" is a non-issue.
2. If Debtor is arguing that he, or the bankruptcy estate, has a claim against the foreclosing party for unlawful foreclosure, such is litigation that must be commenced by the chapter 7 trustee -- Debtor currently has no standing to bring such a motion.
3. Movant has provided proof of the unlawful detainer action brought against Debtor, including a writ of possession.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:00 AM

CONT... Scott Peter Hamilton

Chapter 7

4. Movant has relief from stay to recover the property in accordance with any applicable California state law, subject to applicable moratoriums, if any.

Party Information

Debtor(s):

Scott Peter Hamilton

Represented By
Julie Nong

Movant(s):

Marvin Oishi as trustee of the

Represented By
Barry L O'Connor

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 12, 2021

Hearing Room 5A

10:00 AM

8:21-11341 Sean Thanh Dao

Chapter 7

#9.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]

HUA ZHANG

VS.

DEBTOR

Docket 11

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 12, 2021

Grant with 4001(a)(3) waiver; Movant may proceed with unlawful detainer/eviction proceedings in accordance with applicable California law.

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):

Sean Thanh Dao

Represented By
Brian J Soo-Hoo

Movant(s):

Hua Zhang

Represented By
Barry L O'Connor

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:00 AM

CONT... Sean Thanh Dao

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 12, 2021

Hearing Room 5A

10:00 AM

8:21-11556 Elizabeth Nguyen Le

Chapter 13

#10.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

THE RAMA FUND, LLC

VS.

DEBTOR

Docket 13

Courtroom Deputy:

**SPECIAL NOTE: Debtor's Motion for Voluntary Dismissal of Chapter 13
Case filed 8/2/2021; Routed to Chambers - td (8/2/2021)**

Tentative Ruling:

August 12, 2021

Grant with 4001(a)(3) waiver and relief under 362(d)(4).

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):

Elizabeth Nguyen Le

Pro Se

Movant(s):

The Rama Fund, LLC

Represented By
Martin W. Phillips

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:00 AM

CONT... Elizabeth Nguyen Le

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 12, 2021

Hearing Room

5A

10:30 AM

8:14-14774 Clayton M. Anderson, APC

Chapter 7

#11.00 Hearing RE: Chapter 7 Trustee's Motion for Order Reclassifying Claims Pursuant to 11 U.S.C. Section 502:

Cl. #38-1	Robert D. Starr and Elvia Sanchez	\$2,721.25
Cl. #39-1	Shurise Knettel	\$25,000.00
Cl. #40-1	Mary L. Flyr	\$1,117.95
Cl. # 41-1	Nelson and Generosa Bisarra	\$3,306.07

Docket 422

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 12, 2021

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):

Clayton M. Anderson, APC

Represented By
Mufthiha Sabaratnam

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, August 12, 2021

Hearing Room 5A

10:30 AM

CONT... Clayton M. Anderson, APC

Chapter 7

Cicely T Ray
Beth Gaschen
Jeffrey I Golden

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#12.00 Hearing RE: Application for Payment of Final Fees and/or Expenses

**[KEESAL YOUNG & LOGAN, REAL ESTATE COUNSEL FOR RICHARD
MARSHACK, TRUSTEE FOR FRIENDLY VILLAGE MHP ASSOCIATES]**

Docket 618

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 12, 2021

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):

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 12, 2021

Hearing Room 5A

10:30 AM

CONT... Friendly Village MHP Associates LP

Chapter 7

Stefan Perovich

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#13.00 Hearing RE: Third Interim and Final Application for Compensation by Accountant for Chapter 7 Trustee for the Period October 14, 2020 through ay 18, 2021

[KARL T. ANDERSON, CPA, INC., ACCOUNTANT FOR CHAPTER 7 TRUSTEE]

Docket 622

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 12, 2021

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):

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

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

CONT... Friendly Village MHP Associates LP

Chapter 7

Tinho Mang
Stefan Perovich

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#14.00 Hearing RE: Application for Payment of Final Fees and/or Expenses

[GREBOW & RUBIN, LLP, SPECIAL COUNSEL FOR RICHARD A.
MARSHACK IN HIS CAPACITY AS CHAPTER 7 TRUSTEE RE CALIFORNIA
MOBILEHOME PARK LAWS]

Docket 630

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 12, 2021

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):

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 12, 2021

Hearing Room 5A

10:30 AM

CONT... Friendly Village MHP Associates LP

Chapter 7

Stefan Perovich

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#15.00 Hearing RE: Application for Payment of Final Fees and/or Expenses

[KABATECK LLP, FIELDS LAW, BANKRUPTCY TRUSTEE FOR FRIENDLY VILLAGE MHP ASSOCIATES, L.P.]

Docket 619

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 12, 2021

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):

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 12, 2021

Hearing Room 5A

10:30 AM

CONT...

Friendly Village MHP Associates LP

Stefan Perovich

Chapter 7

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

8:19-13149 Dubitec America Inc

Chapter 7

#16.00 Hearing on Trustee's Final Report and Applications for Compensation

[THOMAS H. CASEY, CHAPTER 7 TRUSTEE]

Docket 71

*** VACATED *** REASON: OFF CALENDAR: Rescheduled for
9/9/2021 at 10:30 a.m.; Amended Notice filed 7/15/2021 (XX)

Courtroom Deputy:

OFF CALENDAR: Rescheduled for 9/9/2021 at 10:30 a.m.; Amended
Notice filed 7/15/2021 (XX) - td (7/16/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dubitec America Inc

Represented By
Gordon A Petersen

Trustee(s):

Thomas H Casey (TR)

Represented By
Gordon A Petersen
Anerio V Altman

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

8:19-13149 Dubitec America Inc

Chapter 7

#17.00 Hearing RE: First and Final Fee Application of Anerio V. Altman, Esq. for Allowance of Compensation and Reimbursement of Expenses Incurred as Counsel for the Trustee

[ANERIO V. ALTMAN, ESQ., ATTORNEY FOR TRUSTEE THOMAS H. CASEY]

Docket 69

*** VACATED *** REASON: OFF CALENDAR: Rescheduled for 9/9/2021 at 10:30 a.m.; Amended Notice filed 7/15/2021 (XX)

Courtroom Deputy:

OFF CALENDAR: Rescheduled for 9/9/2021 at 10:30 a.m.; Amended Notice filed 7/15/2021 (XX) - td (7/16/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dubitec America Inc

Represented By
Gordon A Petersen

Trustee(s):

Thomas H Casey (TR)

Represented By
Gordon A Petersen
Anerio V Altman

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

8:19-13149 Dubitec America Inc

Chapter 7

#18.00 Hearing RE: First and Final Fee Application of Hahn Fife & Company for Allowance of Fees and Expenses from April 24, 2022 through May 5, 2021

[HAHN FIFE & COMPANY, LLP, ACCOUNTANT FOR CHAPTER 7 TRUSTEE]

Docket 67

*** VACATED *** REASON: OFF CALENDAR: Rescheduled for 9/9/2021 at 10:30 a.m.; Amended Notice filed 7/15/2021 (XX)

Courtroom Deputy:

OFF CALENDAR: Rescheduled for 9/9/2021 at 10:30 a.m.; Amended Notice filed 7/15/2021 (XX) - td (7/16/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dubitec America Inc

Represented By
Gordon A Petersen

Trustee(s):

Thomas H Casey (TR)

Represented By
Gordon A Petersen
Anerio V Altman

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

Adv#: 8:19-01205 Elieff et al v. Kurtin

#19.00 Hearing RE: Defendant and Appellant Todd Kurtin's Motion For Stay of Judgment Pending Appeal [FRBP 8007]

Docket 232

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 12, 2021

Deny the Motion based upon the analysis set forth in the Opposition, which the Court incorporates by reference herein.

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Defendant(s):

Todd Kurtin

Represented By
Lewis R Landau
Edward O Morales

Plaintiff(s):

Bruce Elieff

Pro Se

Morse Properties, LLC

Pro Se

4627 Camden, LLC

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

CONT... Bruce Elieff

Chapter 7

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

8:20-12488 Christopher Summers

Chapter 11

#20.00 CON'TD STATUS CONFERENCE Hearing RE: (1) Status of Chapter 11 Case; and (2) Requiring Report on Status of Chapter 11 Case

FR: 11-5-20; 2-4-21; 4-1-21; 5-20-21; 6-3-21

Docket 1

***** VACATED *** REASON: STATUS CONFERENCE CONTINUED TO
SEPTEMBER 9, 2021 AT 10:30 A.M.**

Courtroom Deputy:

**CONTINUED: STATUS CONFERENCE CONTINUED TO SEPTEMBER 9,
2021 AT 10:30 A.M. (continued at 8/5/21 hearing) eas**

Tentative Ruling:

November 5, 2020

Claims bar date:	Jan. 8, 2021 (notice by Nov. 9, 2020)
Deadline to file plan/DS:	1/15/21
Continued Status Conf:	Feb. 4, 2021 at 10:30 am (XX)
Updated Status Report due:	Jan. 21, 2021 (waived if plan/DS timely filed)

Note: Appearance at this hearing is not required if Debtor accepts the foregoing tentative ruling and Debtor is in substantial compliance with the requirements of the U.S. Trustee. It is Debtor's responsibility to confirm such compliance with the U.S. Trustee prior to the hearing. The court will prepare its own Order re the status conference.

February 4, 2021

Continue Status Conference to April 1, 2021 at 10:30 a.m.; updated Status Report not required. (XX)

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

CONT... Christopher Summers

Chapter 11

Note: Appearance at this hearing is not required.

April 1, 2021

Continue status conference to May 20, 2021 at 10:30 a.m.; updated status report is not required if the amended disclosure statement is timely filed on April 22, 2021. (XX)

Note: Appearances at this hearing are not required.

May 20, 2021

Continue status conference to June 3, 2021 at 10:30 a.m.; updated status report not required. (XX)

Note: Appearances at this hearing are not required.

June 3, 2021

No tentative ruling. Disposition depends on the outcome of #11 on today's calendar.

August 12, 2021

Continue the Status Conference to September 9, 2021 at 10:30 a.m.; Debtor must file an updated Status Report regarding the status of the real property sale no later than September 2, 2021

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, August 12, 2021

Hearing Room 5A

10:30 AM

CONT... Christopher Summers

Chapter 11

Debtor(s):

Christopher Summers

Represented By
J Scott Williams

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

8:21-10525 The Source Hotel, LLC

Chapter 11

#21.00 Hearing RE: Motion For Entry of Order Approving Settlement with Shady Bird Lending, LLC and Guarantors, as Set Forth in That Certain Stipulation For Relief From the Automatic Stay and Ancillary Relief, and Granting Related Relief

Docket 190

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 12, 2021

Grant the Motion. Overrule Objections. The proposed order may include language to the effect that the rights of junior secured lienholders under applicable state law are not affected by the Stipulation.

Basis for Tentative Ruling:

1. The Stipulation is in the best interests of the bankruptcy estate for the reasons stated in the Motion and the Reply, which the court incorporates by reference herein.

2. Re the Opposition of Westransco: The Reply confirms that the validity and/or priority of Westransco's warehouse lien is not impacted by the Stipulation. Similarly, nothing in the Stipulation adversely impacts any administrative claim that Westransco may assert against the bankruptcy estate. The parties need to meet and confer regarding appropriate language to that effect in the proposed order approving the Stipulation.

3. Re the Opposition of EB5 Investors ("EB5"): The objections of this creditor are not well-taken for the following reasons:

a. This case has been pending for nearly six months. During that time, numerous hearings have been held regarding, among other things, the

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

CONT... The Source Hotel, LLC

Chapter 11

use of cash collateral to maintain the property (which enures to the benefit of EB5), the continued custodial supervision of the receiver (which also benefits EB5), and the gifting of \$200,000 by Shady Bird for repairs/improvements to the subject property (which benefits EB5). Perhaps most importantly, there is Shady Bird's pending motion for relief from the automatic stay which, if granted, would allow Shady Bird to immediately foreclose on the property.

b. The the deadline for marketing/sale of the property is not "lightning fast" or "aggressive" under the circumstances in this case. First, the property has been marketed since June. Second, as previously mentioned, there is a pending motion for relief from the automatic stay. Third, absent a sale, interest will continue to accrue on the debt to Shady Bird. Fourth, EB5 has stated no basis for disputing the amount of Shady Bird's claim as stated in the Stipulation. Fourth, as a junior lienholder on a partially constructed hotel for which Debtor lacks funding to complete, the fact that EB5's interest is at risk is expected. Fifth, EB5 will have the right to be heard re any motion to sell the property, including the marketing efforts, overbid procedures and sale price. Sixth, in light of the foregoing, EB5 has stated no persuasive reason(s) for not approving the Stipulation.

Party Information

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

8:21-10525 The Source Hotel, LLC

Chapter 11

#22.00 CON'TD STATUS CONFERENCE Hearing on Status of Chapter 11 Case; and
(2) Requiring Report on Status of Chapter 11 Case

FR: 5-6-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Claims Bar Date: 7/12/21 -- notice to creditors by 5/12/21

Deadline to file plan/discl. stmt: not set at this time

Continued Status Conference: 8/12/21 at 10:30 a.m. (XX)

Updated Status Report due: 7/29/21

Note: If Debtor is in substantial compliance with the requirements of the US Trustee, appearance at this hearing is not required.

August 12, 2021

Continue this Status Conference to September 30, 2021 at 2:00 p.m. The deadline for filing a plan and disclosure statement will be set at that hearing. An updated Status Report must be filed by September 23, 2021.

Party Information

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

CONT... The Source Hotel, LLC

Chapter 11

Debtor(s):

The Source Hotel, LLC

Represented By
Ron Bender
Juliet Y Oh

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

8:21-10635 Alicia Marie Richards

Chapter 7

#23.00 Hearing RE: Motion Under LBR 2016-2 For Approval of Cash Disbursements by the Trustee

Docket 114

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 12, 2021

Grant in part; deny in part. Grant as to Agent's authority to advance \$1,000 under the Employment Order and Trustee's use of the Survey in attempting to sell the Property; Deny as to Trustee's request to reimburse \$1,000 to Agent now under LBR 2016-2 without prejudice to Agent seeking such reimbursement if the Property is sold. Overrule Debtor's objections.

Basis for Tentative Ruling:

Debtor scheduled an ownership interest in the real property located at 351 Catalina Drive, Newport Beach, CA ("Property"). Trustee is marketing the Property for sale and believes that some prospective buyers may be interested in demolishing the existing structure and constructing a new building on the Property, or remodeling the existing structure. One prospective buyer has agreed to share in the cost of a property survey report ("Survey") if the estate contributes \$1,000 towards the total \$3,000 price for the Survey. The Survey will determine the buildable envelope, setbacks, and height restrictions for the lot. The Survey was scheduled for July 19, 2021 and Trustee's real estate agent, Clarence Yoshikane ("Agent") advanced the \$1,000 on behalf of the estate.

Pursuant to the order authorizing Agent's employment ("Employment Order"), Agent was authorized to advance up to \$15,000 for maintenance of the Property and other miscellaneous expenses without further court order.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

CONT... Alicia Marie Richards

Chapter 7

According to the Motion, any prospective buyer that would like to view the Survey will be required to sign an indemnification agreement ("Indemnification Agreement") which indemnifies Trustee, the estate, and Debtor from any claims arising from the prospective buyers reliance upon or use of the Survey. See Mot., Ex. D.

- A. The Motion is partially granted to confirm Agent may advance the \$1,000 to pay for the Survey which may be reimbursed when the Property is sold

The first issue is whether Agent has the authority to advance the \$1,000 to pay for the Survey. As both parties acknowledge, the Employment Order specifically authorized Agent to advance up to \$15,000 for a variety of costs including, in relevant part, miscellaneous expenses. See Mot., 4; Opp'n 5:14-17 (page no. at top) and Ex. A (Employment Order); Reply, 2:4-8 and 4:4-8. Accordingly, no further court order was required for Agent to advance the \$1,000 to pay for the Survey.

The second issue is whether Agent may be reimbursed the \$1,000 from estate funds under LBR 2016-2 which provides, in relevant part, that, "If a trustee determines that it is necessary or appropriate to pay actual and necessary administrative expenses of the estate using estate funds, and such expenses do not exceed \$5,000[.]" LBR 2016-2 lists the type of expenses that qualify as "actual and necessary administrative expenses of the estate"; one of those authorized expenses is "costs to advertise sale[.]" LBR 2016-2(b)(1). The authority for Agent's advance of the \$1,000 is the Employment Order which approved Agent's employment application. See Reply, Reply, 2:4-8 and 4:4-8. Turning to that employment application, it provides in pertinent part:

". . . Agent has agreed to advance up to \$5,000 to maintain, repair and/or clean up the Property, pay utilities *and other miscellaneous expenses*. Additionally, Agent will advance up to \$10,000 to cut back, clean up and/or remove overgrown bushes and trees after obtaining and providing three bids to the Trustee. *If, and only if, the Property is sold by the Estate, said advance, subject to subsequent Court approval shall be reimbursed.*"

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 12, 2021

Hearing Room 5A

10:30 AM

CONT... Alicia Marie Richards

Chapter 7

Application by Chapter 7 Trustee to Employ Real Estate Agent [dkt. 18], 3:21-26 (emphasis added).

Because Trustee and Agent agreed in the employment application (which was subsequently approved by the Employment Order) that any advances would only be reimbursed if the Property was sold, the request to reimburse \$1,000 to Agent now under LBR 2016-2 is denied without prejudice to Agent seeking such reimbursement if the Property is sold.

B. The Motion is partially granted to confirm Trustee use of the Survey is within the purview of Trustee's business judgment

A further issue raised in the Motion appears to be Debtor's objection to Trustee's use of the Survey in Trustee's marketing efforts to sell the Property. See Opp'n, 5:26-6:12 (page no. at top). Debtor's objection is partly based on her belief that the Survey could create liability for Debtor or the estate in future litigation regarding the enforceability of the Indemnity Agreement. *Id.* Debtor has threatened to file "a motion to suppress dissemination" in an effort to stop Trustee from using the Survey. *Id.* at Ex. C, 30 (page no. at top).

The court overrules Debtor's objection to Trustee's purchase and/or use of the Survey. "A chapter 7 trustee proposing a sale... of estate property is entitled to great deference in exercising his or her business judgment in that context." *In re Alaska Fishing Adventure, LLC*, 594 B.R. 883, 890 (Bankr. D. Alaska 2018). Trustee has testified that the Survey will be required to sell the Property because prospective buyers are interested in demolishing the old building and constructing a new building on the Property, or remodeling the existing structure. See Mot., 3 and 6. As such, the court will defer to Trustee's business judgment that the Survey will help sell the Property more quickly. Such business judgment is reasonable under the circumstances.

The court will also defer to Trustee's business judgment that the estate's interests are adequately protected by the Indemnification Agreement. Debtor's argument that the Indemnification Agreement may be found to be unenforceable in some future litigation is unfounded. The court is not aware

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Thursday, August 12, 2021

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5A

10:30 AM

CONT... Alicia Marie Richards

Chapter 7

of any legal authority that supports the argument that a chapter 7 debtor may be held personally or legally liable for actions taken by a chapter 7 trustee during the course of a bankruptcy case and Debtor has cited the court to no such authority. Though Trustee does not represent Debtor, he nevertheless added Debtor to the Indemnification Agreement as an indemnified party as an accommodation to Debtor in order to address Debtor's concerns of her future liability arising from the Indemnification Agreement. See Mot., Ex. 3, 29; Reply, 2:18-21. If Debtor would like to have her name deleted from the Indemnification Agreement as an indemnified party for any reason, the court will grant that request at the hearing if Debtor requests it.

EVIDENTIARY OBJECTIONS TO THE DECLARATION OF LISA WILHELM

Objection #

Ruling

1
opinion.

SUSTAINED: Lack of foundation; improper expert

or
best

Ms. Wilhelm's declaration does not establish a foundation basis for providing an expert opinion as what is in the interest of a bankruptcy estate.

2
opinion.

SUSTAINED: Lack of foundation; improper expert

or

Ms. Wilhelm's declaration does not provide a foundation

responsibility

basis for providing expert opinion that it is the

each buyer to pay for its own survey and not to share the survey with other prospective buyers.

3

SUSTAINED: Improper expert opinion. Ms. Wilhelm's declaration does not provide a foundation for her legal opinion re Debtor's and/or the bankruptcy estate's legal liability with respect to the survey.

Party Information

**United States Bankruptcy Court
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10:30 AM

CONT... Alicia Marie Richards

Chapter 7

Debtor(s):

Alicia Marie Richards

Pro Se

Trustee(s):

Richard A Marshack (TR)

Represented By
Richard G Heston

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, August 12, 2021

Hearing Room 5A

2:00 PM

8:21-11422 Nelson Yen

Chapter 7

#24.00 CON'TD Hearing RE: Motion for Protective Prohibiting or Limiting Cathay Bank's Rule 2004 Oral Examination and Demand for Document Production

FR: 7-15-21

Docket 18

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 15, 2021 [UPDATED SINCE ORIGINAL POSTING]

Continue the hearing to August 12, 2021 at 2:00 p.m. to allow Movant to comply with LBR 2004-f which requires compliance with LBR 7026-1(c)(2) and (c)(3). A joint stipulation addressing each objectionable document request must be filed no later than August 2, 2021. The current 2004 examination and production dates are suspended and will be re-set at the August 12, 2021 hearing. The deadline for the Bank to file a 523 or 727 complaint will be extended from September 13, 2021 to October 13, 2021. (XX)

Court's General Comments re the Motion

1. Bank has not established sufficient nexus between Gryphon's activities dating back to 2014 and representations made by Debtor. Bank also seeks all of debtor's bank statements going back to 2014 (not just that of Gryphons).
2. Bank admits it may already have documents -- Debtor need not provide those documents again -- this is a debtor in a chapter 7 case. Bank must identify all documents it already has.
3. Regarding the documents from Gryphon -- Bank can obtain such documents in the pending District Court action against Gryphon.

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2:00 PM

CONT... Nelson Yen

Chapter 7

4. The court is concerned that the scope of the document production is designed to assist the Bank in its action pending in District Court.

5. Re Debtor's demand for witness fees for third parties -- Debtor does not appear to have standing to make such a demand. The affected person would have such standing.

6. Bank needs to scale back it's discovery substantially or the court will do so. The purpose of a 2004 examination is to permit a creditor to examine Debtor's assets and liabilities.

Note: If all parties accept the tentative ruling, appearances at today's hearing are not required.

Party Information

Debtor(s):

Nelson Yen

Represented By
Jonathan J. Lo

Trustee(s):

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, August 12, 2021

Hearing Room 5A

2:00 PM

8:21-11422 Nelson Yen

Chapter 7

#25.00 CON'TD Hearing RE: Motion to Quash and/or Modify Rule 2004 Examinations or in the Alternative for Protective (As to the request to modify the 2004 examination order or for protective order)

FR: 7-15-21

Docket 19

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 15, 2021

Deny motion to quash. As to the request to modify the 2004 examination order or for protective order, continue the hearing to August 12, 2021 at 2:00 p.m. to allow Movant to comply with LBR 2004-f which requires compliance with LBR 7026-1(c)(2) and (c)(3). A joint stipulation addressing each objectionable document request must be filed no later than August 2, 2021. The current 2004 examination and production dates are suspended and will be re-set at the August 12, 2021 hearing. The deadline for the Bank to file a 523 or 727 complaint will be extended from September 13, 2021 to October 13, 2021. (XX)

Basis for Tentative Ruling:

1. Insufficient grounds/evidence presented to support the request to quash the subpoena. Notably, there is no declaration by Ms. Ko confirming her position with Gryphon, i.e., was/is she an officer (CFO) or not? She has not met her initial burden of proof.

2. See comments for #24 on today's calendar.

Note: If all parties accept the tentative ruling, appearances at today's hearing are not required.

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2:00 PM

CONT... Nelson Yen

Chapter 7

Party Information

Debtor(s):

Nelson Yen

Represented By
Jonathan J. Lo

Trustee(s):

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court
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9:30 AM

8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1618102559>

Meeting ID: 161 810 2559

Password: 666147

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at:

**United States Bankruptcy Court
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9:30 AM
CONT...

Chapter

<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
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Hearing Room 5A

9:30 AM

8:17-11370 David Tudor Chamberlain

Chapter 11

Adv#: 8:17-01101 Martin D. Fern, individually and as Trustee of the v. Chamberlain et al

#1.00 CONT Hearing RE: Plaintiffs Martin D. Fern and Linda Taylor-Fern's Motion to Strike Defendants' Answer to Complaint

[fr: 9/26/17, 3/7/18, 9/26/18, 1/9/19, 6/12/19, 12/11/19, 3/4/20]; 9/30/20, Rm 5D; 10-1-20; 1-21-21; 4-22-21

Docket 20

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 1, 2020

In light of pending state court litigation, continue this matter to January 21, 2021 at 10:30 a.m. (XX)

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

January 21, 2021

In light of pending state court litigation, continue this matter to April 22, 2021 at 9:30 a.m.; updated Joint Status Report must be filed no later than April 8, 2021 and must include a copy of the Superior Court order or notice re the suspension of civil trials. (XX)

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

April 22, 2021

**United States Bankruptcy Court
Central District of California
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Thursday, August 19, 2021

Hearing Room 5A

9:30 AM

CONT... David Tudor Chamberlain

Chapter 11

Continue hearing to August 19, 2021 at 9:30 a.m.; updated joint status report must be filed by August 5, 2021. (XX)

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

August 19, 2021

In light of pending state court litigation, continue this matter to February 17, 2022 at 9:30 a.m.; an updated Joint Status Report must be filed no later than February 3, 2022.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall serve notice of the continued Status Conference date/time.

Party Information

Debtor(s):

David Tudor Chamberlain

Represented By
Jeffrey I Golden
Alan J Friedman
Beth Gaschen

Defendant(s):

David Tudor Chamberlain

Represented By
Gregory S Page

Linda Chamberlain, an individual

Represented By
Gregory S Page

Plaintiff(s):

Martin D. Fern, individually and as

Represented By
Eric P Israel
Sonia Singh

**United States Bankruptcy Court
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Hearing Room 5A

9:30 AM

CONT... **David Tudor Chamberlain**
Linda Taylor-Fern, individually and

Represented By
Eric P Israel
Sonia Singh

Chapter 11

**United States Bankruptcy Court
Central District of California
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Thursday, August 19, 2021

Hearing Room 5A

9:30 AM

8:17-11370 David Tudor Chamberlain

Chapter 11

Adv#: 8:17-01101 Martin D. Fern, individually and as Trustee of the v. Chamberlain et al

#2.00 CONT STATUS CONFERENCE RE: Complaint to determine nondischargeability of debts pursuant to 11 U.S.C. Sections 523(a) and 524(a) (3)

[fr: 8/22/17, 9/26/17, 3/7/18, 9/26/18, 1/9/19, 6/12/19, 12/11/19, 3/4/20]; 9-30-20, Rm 5D; 10-1-20; 1-21-21; 4-22-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

October 1, 2020

In light of pending state court litigation, continue this matter to January 21, 2021 at 10:30 a.m. Plaintiff shall file a status report regarding the status of the state court trial by or before January 7, 2021.(XX)

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiffs shall serve Defendants with notice of the continued hearing date/time.

January 21, 2021

In light of pending state court litigation, continue this matter to April 22, 2021 at 9:30 a.m.; updated Joint Status Report must be filed no later than April 8, 2021 and must include a copy of the Superior Court order or notice re the suspension of civil trials. (XX)

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

**United States Bankruptcy Court
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9:30 AM

CONT... David Tudor Chamberlain

Chapter 11

April 22, 2021

Continue hearing to August 19, 2021 at 9:30 a.m.; updated joint status report must be filed by August 5, 2021. (XX)

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required.

August 19, 2021

In light of pending state court litigation, continue this matter to February 17, 2022 at 9:30 a.m.; an updated Joint Status Report must be filed no later than February 3, 2022.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall serve notice of the continued Status Conference date/time.

Party Information

Debtor(s):

David Tudor Chamberlain

Represented By
Jeffrey I Golden
Alan J Friedman
Beth Gaschen

Defendant(s):

David Tudor Chamberlain

Pro Se

Linda Chamberlain, an individual

Pro Se

Plaintiff(s):

Martin D. Fern, individually and as

Represented By
Eric P Israel

Linda Taylor-Fern, individually and

Represented By
Eric P Israel

**United States Bankruptcy Court
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9:30 AM

CONT... David Tudor Chamberlain

Chapter 11

**United States Bankruptcy Court
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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

#3.00 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; 7-23-20; 10-22-20; 1-21-21; 4-8-21; 5-20-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Order Granting Stipulation to Continue Status Conference to November 18, 2021 at 9:30 AM Entered on 8-17-21 - jl (8/17/21)**

Courtroom Deputy:

SPECIAL NOTE: Notice of Voluntary Dismissal of Only Defendant Byungwhan Chung, an individual, filed 3/25/2021 - td (3/26/2021)

CONTINUED: Order approving Stipulation re continuance SIGNED 8/17/21; Status Conference is continued to 11/18/21 at 9:30 a.m. --eas

OFF CALENDAR: Order Granting Stipulation to Continue Status Conference to November 18, 2021 at 9:30 AM Entered on 8-17-21 - jl (8/17/21)

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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Hearing Room 5A

9:30 AM

CONT... **Prime Metals U.S.A., Inc.**

Chapter 7

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.

January 21, 2021

Continue status conference to April 8, 2021 at 9:30 a.m.; updated status report must be filed by March 25, 2021 if the adversary is still pending by such date. (XX)

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

April 8, 2021

Continue status conference one final time to May 20, 2021 at 9:30 a.m.; updated status report must be filed by May 6, 2021.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall serve notice of the continued hearing date/time.

May 20, 2021

Continue Status Conference to July 1, 2021 at 9:30 a.m. Court to issue an Order To Show Cause why this adversary should not be dismissed for lack of prosecution to be heard on July 1, 2021 at 9:30 a.m.

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9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

Basis for Tentative Ruling:

In his status report filed for the April 21, 2021 hearing, Plaintiff represented that this matter would be resolved. No motion for approval of compromise has been filed in the main case and an updated Status Report was not timely filed by May 6, 2021.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing not required and Plaintiff shall serve notice of the continued hearing date/time.

Party Information

Debtor(s):

Prime Metals U.S.A., Inc.

Represented By
Steven Werth

Defendant(s):

Minho An

Represented By
Michael H Yi

Byungwhan Chung

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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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 CON'TD 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

(Another Summons Issued 2/16/2021)

FR: 5/6/21; 7-15-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 6, 2021

Continue the Status Conference to July 15, 2021 at at 9:30 a.m.; updated Joint Status Report must be filed by July 1, 2021.(XX)

Note: If the parties accept the tentative ruling, appearance at this hearing is not required.

August 19, 2021

Discovery Cut-off Date:	July 29, 2022
Pretrial Conference Date:	Sept. 8, 2022 at 9:30 a.m.
Deadline to File Joint Pretrial Stipulation:	Aug. 25, 2022:

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9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

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
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

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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

#5.00 CONTD PRE-TRIAL CONFERENCE RE: Complaint for: 1. Breach of Fiduciary Duty; 2. Accounting; and 3. Defalcation of Trust **(as to Defendant Minho An)**

FR: 2-6-20; 10-8-20; 1-21-21; 4-22-21; 5-20-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Order Granting
Stipulation to Continue Pre-Trial Conference to November 18, 2021 at 9:30
AM Entered on 8-17-21 - jl (8/17/21)**

Courtroom Deputy:

SPECIAL NOTE: Notice of Voluntary Dismissal of Only Defendant Ik Dong Kim, aka Kim Zk Dong, an individual, with Prejudice, filed 2/3/2021 - td (2/3/2021); Notice of Voluntary Dismissal of Only Defendant Gill Su Sun, an individual, with Prejudice, filed 3/25/2021 - td (3/26/2021)

CONTINUED: Order approving Stipulation re continuance SIGNED 8/17/21; Status Conference is continued to 11/18/21 at 9:30 a.m. --eas

OFF CALENDAR: Order Granting Stipulation to Continue Pre-Trial Conference to November 18, 2021 at 9:30 AM Entered on 8-17-21 - jl (8/17/21)

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.
(XX)	
Deadline to Lodge Joint Pretrial Stipulation:	July 6, 2020

Special Note: The joint status report filed 1/28/20 provides very little

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9:30 AM

CONT... Prime Metals U.S.A., Inc.

Chapter 7

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, Minho 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.

May 20, 2021

Continue Pretrial Conference to July 1, 2021 at 9:30 a.m. Court to issue an Order To Show Cause why this adversary should not be dismissed for lack of prosecution to be heard on July 1, 2021 at 9:30 a.m.

Basis for Tentative Ruling:

Prior to the April 21, 2021 Pretrial Conference, Plaintiff represented that this matter would be resolved. No motion for approval of compromise has been filed in the main case and a Pretrial Stipulation was not timely filed by May 6, 2021.

Note: If the parties accept the foregoing tentative ruling, appearances at this hearing not required and Plaintiff shall serve notice of the continued hearing date/time.

August 19, 2021

Appearance at this Status Conference is required. Plaintiff must appear and explain why the settlement has not been approved and/or completed after several months.

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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
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Thursday, August 19, 2021

Hearing Room 5A

9:30 AM

8:18-14603 Sean Pate

Chapter 7

Adv#: 8:19-01058 Euretig et al v. Pate

#6.00 CON'TD STATUS CONFERENCE RE: Complaint for Nondischargeability of Debt

FR: 6-20-19; 12-19-19; 11-19-20

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 20, 2019

This adversary proceeding will be stayed in light of the pending state court action, with periodic status conferences. Continue this status conference to December 19, 2019 at 9:30 a.m. An updated status report re the status of the state court action must be filed by December 12, 2019. (XX)

Special note: It is highly likely that once the updated status report is filed, the December 19, 2019 status conference will be continued without the necessity for appearances.

Note: Appearances at this hearing are waived; Plaintiff to lodge a scheduling order consistent with the same.

December 19, 2019

In light of the pending state court matter, continue this Status Conference to November 19, 2020 at 9:30 a.m.; updated joint status report must be filed by November 5, 2020. All discovery stayed until further notice. (XX)

Note: Appearances at this hearing are waived; Plaintiff to lodge a scheduling order consistent with the same.

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9:30 AM

CONT... Sean Pate
November 19, 2020

Chapter 7

In light of pending state court litigation, continue the Status Conference to August 19, 2021 at 9:30 a.m.; updated Status Report must be filed by August 5, 2021. (XX)

Note: Appearances at this hearing are waived; Plaintiff to lodge a scheduling order consistent with the same.

August 19, 2021

In light of the representation made in the Status Report filed August 5, 2021, regarding a settlement in the state court action, this Status Conference will be continued to November 18, 2021 at 9:30 a.m.; an updated Joint Status Report must be filed by November 4, 2021. The court will set the discovery deadline and the pretrial conference at the November 18, 2021 Status Conference.

Note: If both parties accept the tentative ruling, appearances at today's hearing is not required and Plaintiff will serve notice of the continued hearing date/time.

Party Information

Debtor(s):

Sean Pate

Represented By
Anerio V Altman

Defendant(s):

Sean Pate

Pro Se

Plaintiff(s):

Gary Edelston

Represented By
Jayne A Peeters

Earl B Abramson

Represented By

**United States Bankruptcy Court
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9:30 AM

CONT...

Sean Pate

Chapter 7

	Jayne A Peeters
Sunwest Trust	Represented By Jayne A Peeters
Oxnard Street, LLC	Represented By Jayne A Peeters
Michal Gutentag	Represented By Jayne A Peeters
Barbara Edelston	Represented By Jayne A Peeters
Beth Rakow	Represented By Jayne A Peeters
Jay Rakow	Represented By Jayne A Peeters
Sunwest Trust	Represented By Jayne A Peeters
Louis Schwartz	Represented By Jayne A Peeters
David P Abramson	Represented By Jayne A Peeters
Rachel Euretig	Represented By Jayne A Peeters
Andrew Euretig	Represented By Jayne A Peeters
Zvi Gutentag	Represented By Jayne A Peeters

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, August 19, 2021

Hearing Room 5A

9:30 AM

8:19-10898 Alicia K Pipitone

Chapter 13

Adv#: 8:19-01108 Pipitone v. Choice Motor Credit, LLC

#7.00 CONT'D 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; 8-6-20; 9-10-20; 11-5-20; 12-17-20; 4-22-21; 6-17-21

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, August 19, 2021

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. (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.

November 5, 2020

Continue the Pretrial Conference to December 17, 2020 at 9:30 a.m. Plaintiff must file and serve any motion for leave to amend the Complaint by or before November 19, 2020, such that the motion can be decided and/or heard by December 17, 2020. (XX)

Note: If both parties accept the foregoing tentative ruling, appearances at today's hearing are not required.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

9:30 AM

CONT... Alicia K Pipitone

Chapter 13

December 17, 2020

Continue the Pretrial Conference to April 22, 2021 at 9:30 a.m.; Joint Pretrial Stipulation must be filed by April 8, 2021. (XX)

June 17, 2021

Continue Pretrial Conference one final time to August 19, 2021 at 9:30 a.m. to allow the parties to file an amended Pretrial Stipulation by or before August 5, 2021. Any motion re the Request for Admissions must be filed so that a hearing can be held by or before July 22, 2021 on regular notice. (XX)

Basis for Tentative Ruling:

It is not clear that all of the issues of fact set forth in Section B are all really in dispute. Practice Tip: The parties should start each issue of fact with the word "Whether" in order to focus the parties on whether the particular matter is really contested or not. The court has the following comments re a few of the items in Section B to illustrate the point:

1. Par. 1 - Does Plaintiff dispute that she only made one payment re the Equity Loan?
2. Par. 1 - Does Plaintiff dispute that the Equity Loan became delinquent on or about December 25, 2017 and remained in default until November 21, 2018?
3. Par. 3 - Which, if any, party disputes that the Amended Equity Loan includes the provisions set forth in subparagraphs a - d?
4. Par. 4 - Which, if any, party disputes the facts stated in this paragraph?
5. Par. 19 - Does Defendant really dispute that Plaintiff's chapter 13 plan was confirmed on May 12, 2019? Or just that it did not receive notice of the same?

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

9:30 AM

CONT... Alicia K Pipitone

Chapter 13

The court declines to go through each and every one of the 53 paragraphs but directs the parties to do so to determine which facts really are in dispute and must be determined at trial.

Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required.

August 19, 2021

Approve Joint Pretrial Stipulation filed on August 5, 2021 [docket #94].
Appearances at this hearing are required.

Court Appearance Required to Discuss the Following:

1. Trial Dates: Available dates are either Nov. 22, 2021 (full day) and Nov. 23, 2021 (half day) or Jan. 26, 2022 (full day) and Jan. 27, 2022 (full day). Trial days start at 9:00 a.m. and conclude by 5:00 p.m.
2. Manner of Trial: The parties to advise the court regarding a preference for an in-person trial, virtual (Zoom) trial, or a hybrid trial, i.e., in-person and Zoom.
3. Trial Procedures: The court's usual procedure is to require direct testimony (not including adverse or rebuttal testimony) by declarations filed 30 days prior to the trial by plaintiff and 21 days prior to trial by defendant. All declarants must be available at trial for cross examination. The parties are to advise the court if they agree to this procedure or if they would like to request all-live testimony. All-live testimony may increase the length of the trial by one or more days.
4. Additional Witnesses/Exhibits: Witnesses and/or exhibits not identified in the Pretrial Stipulation are generally not permitted, except for impeachment or rebuttal purposes.

Party Information

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

9:30 AM

CONT... Alicia K Pipitone

Chapter 13

Debtor(s):

Alicia K Pipitone

Represented By
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 19, 2021

Hearing Room 5A

9:30 AM

8:19-13858 Bruce Elieff

Chapter 7

Adv#: 8:20-01046 Ehrenberg (TR) v. Benice et al

#8.00 CON'TD STATUS CONFERENCE RE: Complaint for Injunctive Relief

FR: 7-16-20; 9-17-20; 11-19-20; 2-18-21; 5-20-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

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.

September 17, 2020

[This tentative ruling has been modified since its original posting]

Continue this matter to November 19, 2020 at 9:30 a.m.; updated status report must be filed by November 5, 2020. (XX)

Special note: Starting 10/8/20 all hearings before Judge Smith will be by Zoom. See Court's website for details.

Note: Appearances at this hearing are not required.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

9:30 AM

CONT... **Bruce Elieff**

Chapter 7

November 19, 2020

An updated Status Report was not filed as ordered at the September 17, 2020 hearing. Therefore, the parties must appear at the hearing and advise the court re the status of this matter.

February 18, 2021

Continue status conference to May 20, 2021 at 9:30 a.m.; updated joint status report must be filed by May 6, 2021. The Plaintiff's request to consolidate the Disgorgement Motion [docket no. 381] with this adversary proceeding is granted. Plaintiff to lodge an order consistent with the same.(XX)

Note: Appearances at this hearing are not required; Plaintiff serve notice of the continued hearing date/time.

May 20, 2021

Continue the Status Conference to August 19, 2021 at 9:30 a.m.; updated Joint Status Report must be filed by August 4, 2021. (XX)

Note: Appearances at this hearing are not required; Plaintiff to serve notice of the continued hearing date/time.

August 19, 2021

Continue this matter to December 2, 2021 at 9:30 a.m.; updated Status Report must be filed by November 18, 2021.

Note: If all parties accept the tentative ruling, appearances at this hearing are not required and the trustee shall 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, August 19, 2021

Hearing Room 5A

9:30 AM

CONT... Bruce Elieff

Chapter 7

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson

Defendant(s):

Jeffrey S. Benice

Represented By
Jeffrey S Benice

Benice Law

Represented By
Jeffrey S Benice

Plaintiff(s):

Howard M Ehrenberg (TR)

Pro Se

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

9:30 AM

8:20-11224 Mazin M. Yehia

Chapter 7

Adv#: 8:20-01113 Dawam v. Yehia

#9.00 CON'TD STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt Pursuant to 11 U.S.C. §523(a)(2)(A), (a)(2)(B), and (a)(4)

FR: 10-22-20; 11-5-20; 1-14-21; 7-22-21

Docket 1

Courtroom Deputy:

SPECIAL NOTE: Main Case Closed 8/11/2020 - td (8/25/2020). Order on Motion for Order Abstaining and Abating Adversary Proceeding Pending Trial of State Court Proceeding After Grant of Relief from Automatic Stay Entered 1/27/2021 - td (1/27/2021)

Tentative Ruling:

October 22, 2020

Continue Status Conference to November 5, 2020 at 2:00 p.m., same date/time as hearing on Defendant's motion to dismiss. Updated Status Report not required for the November 5, 2020 hearing. (XX)

Note: If all parties accept the foregoing tentative ruling, appearances at today's hearing are not required.

January 14, 2021

Continue Status Conference to May 20, 2021 at 9:30 a.m.; updated Joint Status Report must be filed by May 6, 2021.

Note: If all parties accept the foregoing tentative ruling, appearances at today's hearing are not required.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

9:30 AM

CONT... Mazin M. Yehia

Chapter 7

July 22, 2021

Continue Status Conference to August 19, 2021 at 9:30 a.m. as a holding date pending completion of the settlement; updated Status Report must be filed by August 12, 2021 if the adversary is still pending as of such date. (XX)

Note: If all parties accept the foregoing tentative ruling, appearances at today's hearing are not required. Plaintiff shall give notice of the continued hearing date/time.

August 19, 2021

Continue this Status Conference to September 30, 2021 at 9:30 a.m.; updated Status Report must be filed by September 16, 2021. The court shall issue an Order to Show Cause Why This Adversary Should Not Be Dismissed For Failure to Prosecute, which OSC shall be heard on September 30, 2021 at 9:30 a.m.

Note: If all the parties accept the tentative ruling, appearances at this hearing are not required.

Party Information

Debtor(s):

Mazin M. Yehia

Represented By
Christine A Kingston

Defendant(s):

Mazin M. Yehia

Pro Se

Plaintiff(s):

Naeel Hamdy Dawam

Represented By
Benjamin R Heston

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 19, 2021

Hearing Room 5A

9:30 AM

CONT... Mazin M. Yehia

Chapter 7

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

9:30 AM

8:20-11898 Louis Sandoval

Chapter 7

Adv#: 8:20-01110 Myers v. Sandoval

#10.00 CON'TD STATUS CONFERENCE RE: Complaint to Object to Debtor's Discharge and Complaint to Determine Non-Dischargeability of Debt Under Section 523(A) (2) of The Bankruptcy Code and For Denial of Discharge Under Section 727(A)(4) of The Bankruptcy Code (Another Summons Issued 10/30/2020)

FR: 1-14-21; 4-15-21; 5-11-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

January 14, 2021

No answer or other response to the Complaint has been filed by the defendant, Louis Sandoval. Accordingly, this Status Conference will be continued to April 15, 2021 at 9:30 a.m. to allow Plaintiff to file a motion for entry of a default judgment against the defendant which provides evidence to support the required elements of fraud under Bankruptcy Code Section 523(a)(2)(A). (XX)

Special Note:

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

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

9:30 AM

CONT... Louis Sandoval

Chapter 7

Conference for failure to prosecute.

The court strongly suggests that Plaintiff seek legal counsel regarding the preparation of a motion for default judgment.

Note: If Plaintiff accepts the foregoing tentative ruling, appearance at today's hearing is not required; Plaintiff to serve the defendant by mail with notice of the continued hearing date/time.

April 15, 2021

Continue this hearing to May 11, 2021 at 2:00 p.m., same date and time as the hearing on Defendant's motion to dismiss the adversary so that all matters can be heard in the same hearing. (XX)

Note: No appearances for the April 15, 2021 hearing are required.

May 11, 2021

Continue the Status Conference to August 19, 2021 at 9:30 a.m.. A Joint Status Report must be filed by August 5, 2021 (XX)

August 19, 2021

Continue the Status Conference to September 16, 2021 at 2:00 p.m., the same date/time set for hearing on Defendant's motion to dismiss. 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, August 19, 2021

Hearing Room 5A

9:30 AM

CONT... Louis Sandoval

Chapter 7

Debtor(s):

Louis Sandoval

Represented By
Steven B Lever

Defendant(s):

Louis Sandoval

Pro Se

Plaintiff(s):

Charlotte Cysner Myers

Pro Se

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 19, 2021

Hearing Room 5A

10:00 AM

8:18-13206 Joseph Hauck

Chapter 13

#11.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]

U.S. BANK, N.A.

VS.

DEBTOR

Docket 32

***** VACATED *** REASON: OFF CALENDAR: Order Granting Motion
for Relief from the Automatic Stay Under 11 U.S.C. §362 (Settled by
Stipulation) Entered 8/5/2021**

Courtroom Deputy:

**OFF CALENDAR: Order Granting Motion for Relief from the Automatic
Stay Under 11 U.S.C. §362 (Settled by Stipulation) Entered 8/5/2021 - td
(8/5/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph Hauck

Represented By
Julie J Villalobos

Movant(s):

U.S. Bank, N.A., successor trustee to

Represented By
Robert P Zahradka
Megan E Lees

Trustee(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 19, 2021

Hearing Room 5A

10:00 AM

8:20-12013 Grace Bradshaw

Chapter 7

#12.00 CONT'D Hearing RE: Motion for relief from the automatic stay
[REAL PROPERTY]

AMERIHOM MORTGAGE COMPANY, LLC

VS.

DEBTOR

FR: 6-17-21

Docket 39

*** VACATED *** REASON: OFF CALENDAR: Order Granting
Stipulation to Continue Hearing to December 2, 2021 at 10:00 AM Entered
on 8-16-21 - jl (8/16/21))

Courtroom Deputy:

SPECIAL NOTE: Stipulation for Order to Continue Hearing on Motion for Relief from Automatic Stay, filed 8/11/2021; Order Approving Stipulation to Continue Hearing on Motion Lodged in LOU on 8/11/2021, Order # 10315861 - td (8/11/2021)

OFF CALENDAR: Order Granting Stipulation to Continue Hearing to December 2, 2021 at 10:00 AM Entered on 8-16-21 - jl (8/16/21)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Grace Bradshaw

Represented By
Joon M Khang

Movant(s):

AmeriHome Mortgage Company,

Represented By
Robert P Zahradka

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

10:00 AM

CONT... Grace Bradshaw

Chapter 7

Trustee(s):

Weneta M.A. 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, August 19, 2021

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#13.00 Hearing RE: Trustee's Motion to Approve Settlement of Interpretation Issue Under Settlement Agreement and Release

Docket 632

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 19, 2021

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):

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
Stefan Perovich

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar

Thursday, August 19, 2021

Hearing Room 5A

10:30 AM

8:18-13864 Friendly Village GP, LLC

Chapter 7

#14.00 Hearing RE: Trustee's Motion to Approve Settlement of Interpretation Issue
Under Settlement Agreement and Release

Docket 319

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 19, 2021

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):

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 19, 2021

Hearing Room 5A

10:30 AM

8:18-14512 One Source Facility Maintenance, Inc.

Chapter 7

#15.00 Hearing RE: Motion for approval of settlement between the Chapter 7 Trustee and Wells Fargo Bank, N.A.

Docket 105

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 19, 2021

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):

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, August 19, 2021

Hearing Room 5A

10:30 AM

8:19-12411 Orange County Bail Bonds, Inc.

Chapter 11

#16.00 Hearing RE: Creditor's Motion to (1) Determine Scope of Subchapter V Plan Injunction; and (2) Confirm No Injunction Preventing Continued Prosecution of Alter Ego Claims Against Debtor's Insiders in Pending State Court Litigation

Docket 349

***** VACATED *** REASON: CONTINUED TO 9/9/2021 AT 10:30 A.M.,
Per Order Entered 8/5/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 9/9/2021 at 10:30 a.m., Per Order
Entered 8/5/2021 (XX) - td (8/5/2021)**

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

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#17.00 CON'TD Hearing RE: Chapter 7 Trustee's Objection to Claim No. 15-1 of Highland Springs Conference and Training Center (Claim Amount: \$881,398.89)

FR: 1-14-21; 5-6-21

Docket 1043

***** VACATED *** REASON: CONTINUED TO 12/2/2021 AT 10:30 A.M.,
PER ORDER ENTERED 7/28/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 12/2/2021 at 10:30 a.m., Per Order
Entered 7/28/2021 (XX) - am/td (7/30/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#18.00 CON'TD Hearing RE: Chapter 7 Trustee's Objection to Claim No 17-1 of City of Banning (Claim Amount: \$700,000)

FR: 1-14-21; 5-6-21

Docket 1044

***** VACATED *** REASON: CONTINUED TO 12/2/2021 AT 10:30 A.M.,
PER ORDER ENTERED 7/28/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 12/2/2021 at 10:30 a.m., Per Order
Entered 7/28/2021 (XX) - am/td (7/30/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar

Thursday, August 19, 2021

Hearing Room 5A

10:30 AM

8:19-13858 Bruce Elieff

Chapter 7

#19.00 CON'TD Hearing RE: Chapter 7 Trustee's Objection to Claim No. 19-1 of Banning Bench Community of Interest Association (Claim Amount: \$747,360.09)

FR: 1-14-21; 5-6-21

Docket 1045

*** VACATED *** REASON: CONTINUED TO 12/2/2021 AT 10:30 A.M.,
PER ORDER ENTERED 7/28/2021 (XX)

Courtroom Deputy:

CONTINUED: Hearing Continued to 12/2/2021 at 10:30 a.m., Per Order Entered 7/28/2021 (XX) - am/td (7/30/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

10:30 AM

8:21-10635 Alicia Marie Richards

Chapter 7

#20.00 Hearing RE: Debtor's Objection to Claim Number 6-1 by Claimant Ryal W. Richards (\$17,000.00)

Docket 120

***** VACATED *** REASON: CONTINUED TO 9/16/2021 AT 10:30 A.M.,
Per Order Entered 8/9/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 9/16/2021 at 10:30 a.m., Per Order
Entered 8/9/2021 (XX) - td (8/9/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alicia Marie Richards

Pro Se

Trustee(s):

Richard A Marshack (TR)

Represented By
Richard G Heston

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

10:30 AM

8:21-10635 Alicia Marie Richards

Chapter 7

#21.00 Hearing RE: Debtor's Objection to Claim Number 6-2 by Claimant Ryal W. Richards (Kevin E. Robinson) (\$319,121.10)

Docket 124

***** VACATED *** REASON: CONTINUED TO 9/16/2021 AT 10:30 A.M.,
Per Order Entered 8/9/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 9/16/2021 at 10:30 a.m., Per Order
Entered 8/9/2021 (XX) - td (8/9/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alicia Marie Richards

Pro Se

Trustee(s):

Richard A Marshack (TR)

Represented By
Richard G Heston

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

10:30 AM

8:21-10635 Alicia Marie Richards

Chapter 7

#22.00 Hearing RE: Trustee's Motion for an Order to Amend Order Entered as Docket No. 71 Re: Order Granting Trustee's Application to Employ Richard G. Heston of Heston & Heston as Trustee's Special Counsel

Docket 128

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 19, 2021

Grant in part; deny in part. Grant to amend the employment order to allow the Trustee to employ Richard Heston of Heston & Heston as General Counsel, effective July 21, 2021. Deny as to *nunc pro tunc* employment.

Basis for Tentative Ruling:

Because the Motion seeks to amend the Employment Order, the Motion is akin to an employment application and must satisfy the requirements of § 327. Under § 327(a), a professional may not be employed by a trustee unless the professional does not "hold or represent an interest adverse to the estate, and that are disinterested persons" and may assist the trustee in carrying out the trustee's duties. To be a "disinterested person," the professional person cannot be a creditor, equity security holder, insider, or an investment banker for any outstanding security of the debtor. 11 U.S.C. § 101(14). In this case, because the court already previously approved the employment of the Firm, the court necessarily previously found that the Firm was qualified and disinterested under § 327(a) to serve as Trustee's professional. Accordingly, the Firm has satisfied the requirements of § 327(a) to act as general bankruptcy counsel for Trustee.

The date of the Firm's employment as general counsel will be as of the filing date of this Motion, i.e., July 21, 2021. Estate professionals "cannot

**United States Bankruptcy Court
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Thursday, August 19, 2021

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10:30 AM

CONT...

Alicia Marie Richards

Chapter 7

recover fees for services rendered to the estate unless those services have been previously authorized by a court order." *In re Atkins*, 69 F.3d 970, 973 (9th Cir. 1995)(affirming grant of *nunc pro tunc* employment of accounting firm). However, the bankruptcy court may approve the retroactive employment of professional only if "exceptional circumstances exist." *Id.* at 974. "A bankruptcy court's entry of a *nunc pro tunc* approval is reviewed for abuse of discretion or erroneous application of the law." *Atkins*, 69 F.3d at 973.

"To establish the presence of exceptional circumstances, professionals seeking retroactive approval must satisfy two requirements: they must (1) satisfactorily explain their failure to receive prior judicial approval; and (2) demonstrate that their services benefitted the bankrupt estate in a significant manner." *Id.* "Moreover, the professional must have satisfied the criteria for employment pursuant to 11 U.S.C. § 327, other than the usual requirement of pre-employment approval." *Id.* at 976.

A bankruptcy court may also consider any of the following additional factors when exercising its discretion on whether to grant retroactive employment:

1. The debtor, trustee or committee expressly contracted with the professional person to perform the services which were thereafter rendered;
2. The party for whom the work was performed approves the entry of the *nunc pro tunc* order;
3. The applicant has provided notice of the application to creditors and parties in interest and has provided an opportunity for filing objections;
4. No creditor or party in interest offers reasonable objection to the entry of the *nunc pro tunc* order;
5. The professional satisfied all the criteria for employment pursuant to... § 327...and [Rule 2014]... at or before the time

**United States Bankruptcy Court
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Thursday, August 19, 2021

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CONT...

Alicia Marie Richards

Chapter 7

services were actually commenced and remained qualified during the period for which services were provided;

6. The work was performed properly, efficiently, and to a high standard of quality;
7. No actual or potential prejudice will inure to the estate or other parties in interest;
8. The applicant's failure to seek pre-employment approval is satisfactorily explained; and
9. The applicant exhibits no pattern of inattention or negligence in soliciting judicial approval for the employment of professionals.

Atkins, 69 F.3d at 974 (citing *In re Twinton Properties P'ship*, 27 B.R. 817, 819-20 (Bankr. M.D. Tenn. 1983)). A bankruptcy court is not required to consider the *Twinton Properties* factors listed above, however, and may rule on a request for *nunc pro tunc* employment without doing so. *Id.* at 976. As noted by the Ninth Circuit, the *Twinton Properties* are optional considerations, while a "satisfactory explanation" for the delayed employment application is mandatory for retroactive employment. *Atkins, supra*, at 976 (holding that the *Twinton Properties* "may be, but need not be, considered by the court in exercising its discretion").

In this case, the court will deny the request to approve the *nunc pro tunc* relief and will not retroactively date the employment of the Firm as general counsel. The Motion discusses two reasons why retroactive relief is sought: 1) the Firm inadvertently or mistakenly identified that it was seeking employment as "special counsel" in the initial Employment Application, and (2) to insulate the Firm from Debtor's future fee objections. See Mot., 2:14-16, 3:11-13, 4:21-23.

As to the first reason, there does not appear to be any evidence of inadvertence or mistake in the Employment Application -- it clearly identified that the Firm was seeking employment as special counsel, including in the

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, August 19, 2021

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10:30 AM

CONT... Alicia Marie Richards

Chapter 7

footer of every page which was labelled "Application to Employ Special Counsel." See Opp'n, 4:1-19 and Ex. A (Employment Application). And contrary to the Firm's argument that the scope of services was broadly written to detail those services customarily provided by general counsel, the scope of services in the Employment Application were narrowly tailored to the sale of Debtor's residence only with no mention of other services usually provided by general counsel, i.e., claims analysis/objections; analysis of potential avoidance causes of action, etc.. See Mot., 2:14-16; Opp'n, Ex. A, 7, ¶ 24.

Significantly, the Employment Application narrowly provides that "[t]he Firm has agreed to be employed to perform services in connection with marshaling assets of the estate, including the Catalina property, obtaining orders as necessary and appropriate for the sale of such property, including orders to obtain possession pending sale in the event Debtor fails and/or refuses to cooperate with the Trustee and his agents in marketing and selling the property, and aiding in the administration of same pursuant to 11 U.S.C. § **327(e)**." *Id.* (emphasis added). Section 327(e) is the subsection that specifically allows a trustee to employ a professional person a special purpose.

Further, the court notes that the Motion is not supported by the declaration of the Trustee indicating either 1) his intent that the employment be general representation or 2) why he signed off on an application that clearly indicates that is for the employment of special counsel.

The second reason for *nunc pro tunc* relief offered by the Firm also does not satisfactorily explain the Firm's failure to receive prior judicial approval. In fact, the Firm admits that it filed the Motion due to events that occurred *after* entry of the Employment Order, i.e., Debtor's notice to the Firm that she will object to all fees incurred by the Firm. See Mot., 3:11-13 ("On numerous occasions *since entry of the order*, Debtor has indicated in emails that she will object to all services rendered by the Heston Firm on the basis that it is acting as special counsel, not as general counsel to the Trustee.") (emphasis added). Nor has the Firm provided any legal authority supporting its position that *nunc tunc pro* relief, which may only be granted if "exceptional circumstances exist," may be used as a litigation tactic to preemptively defend against a *pro se* debtor's threatened objection to fees. That this could

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, August 19, 2021

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CONT... Alicia Marie Richards Chapter 7

potentially be a surplus case is even more reason to not effectively deny any valid objections that Debtor may have to the Firm's services rendered outside the scope of its court-approved employment as special counsel. Estate professionals "cannot recover fees for services rendered to the estate unless those services have been previously authorized by a court order." *Atkins*, 69 F.3d at 973. To clarify, that the court will not grant retroactive relief under the Motion is not a denial of all fees incurred by the Firm prior to the Motion which may still be compensable under its scope of services as special counsel.

Party Information

Debtor(s):

Alicia Marie Richards

Pro Se

Trustee(s):

Richard A Marshack (TR)

Represented By
Richard G Heston

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

10:30 AM

8:21-10635 Alicia Marie Richards

Chapter 7

#23.00 Hearing RE: Debtor's Motion to Compel Trustee to Abandon Estate Claims

Docket 138

***** VACATED *** REASON: CONTINUED TO 9/16/2021 AT 10:30 A.M.,
Per Order Entered 8/9/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 9/16/2021 at 10:30 a.m., Per Order
Entered 8/9/2021 (XX) - td (8/9/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alicia Marie Richards

Pro Se

Trustee(s):

Richard A Marshack (TR)

Represented By
Richard G Heston

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#24.00 CONT'D Hearing RE: Creditor BCORE Retail Brookhurst Adams LLC's Motion to Compel Rejection of Terminated Nonresidential Lease

FR: 6-17-21

Docket 72

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 17, 2021

Grant Motion for the reasons stated and the legal authority presented in the Motion and Reply

August 19, 2021

Continue this hearing to September 30, 2021 at 10:30 a.m.

Special Note: Debtor may set any Rule 9019 motion for hearing on September 30, 2021 at 10:30 a.m.

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By

Andy C Warshaw

Richard L. Sturdevant

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, August 19, 2021

Hearing Room 5A

10:30 AM

CONT... Mehr Group of Companies Holding Inc.

Chapter 11

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#26.00 CON'TD Hearing RE: Debtor in Possession's Motion Authorizing the Assumption of Commercial Lease

FR: 6-17-21

Docket 78

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 17, 2021

Deny motion if the court grants lessor's motion to compel rejection [See # 21 on today's calendar]

August 19, 2021

Continue this hearing to September 30, 2021 at 10:30 a.m.

Special Note: Debtor may set any Rule 9019 motion for hearing on September 30, 2021 at 10:30 a.m.

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By

Andy C Warshaw

Richard L. Sturdevant

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

10:30 AM

CONT... Mehr Group of Companies Holding Inc.

Chapter 11

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#26.00 CON'TD Hearing RE: Debtor's Motion for Order Disallowing Claim #3 as Filed by BCORE Brookhurst Adams LLC

FR: 7-15-21

Docket 98

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

July 15, 2021

Continue hearing to August 19, 2021 at 10:30 a.m. to allow Debtor to correct defective service to Claimant. (XX)

Basis for Tentative Ruling:

The Motion was not served at the exact address indicated on the proof of claim as required by FRBP 3007. The address on the proof of claim is "BCORE Retail Brookhurst Adams LLC *c/o Blackmar, Principe & Schmelter, APC*, 600 B Street, Suite 2250, San Diego, CA 92101." The Motion was served at the correct address but not in care of BP&S.

Tentative ruling for 8/19/21 hearing (if unopposed):

Disallow the sum of \$137,954 (\$57,954 + \$80,000) and allow the claim in the amount of \$155,762.01 (\$293,716.01- \$137,954).

Note: If Debtor accepts the tentative ruling, appearance at this hearing is not required and Debtor shall re-serve the Motion.

August 19, 2021

**United States Bankruptcy Court
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Santa Ana
Judge Erithe Smith, Presiding
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Thursday, August 19, 2021

Hearing Room 5A

10:30 AM

CONT... Mehr Group of Companies Holding Inc.

Chapter 11

Continue this hearing to September 30, 2021 at 10:30 a.m.

Special Note: Debtor may set any Rule 9019 motion for hearing on September 30, 2021 at 10:30 a.m.

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By

Andy C Warshaw

Richard L. Sturdevant

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

10:30 AM

8:21-10779 Mehr Group of Companies Holding Inc.

Chapter 11

#27.00 CON'TD STATUS CONFERENCE Hearing on Status of Subchapter V Case; (2) Requiring Report on Status of Subchapter V Case by Debtor and Subchapter V Trustee; and (3) Requiring Subchapter V Trustee to Appear at the Status Conference

FR: 5-11-21; 6-17-21

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

May 11, 2021

No tentative ruling; disposition will depend on outcome of other matters on today's calendar.

June 17, 2021

No tentative ruling; disposition will depend on outcome of other matters on today's calendar.

August 19, 2021

Continue this hearing to September 30, 2021 at 10:30 a.m. An updated Status Report need only be filed by September 16, 2021 if a Rule 9019 motion to approve compromise has not been filed by such date.

Special Note: Debtor may set any Rule 9019 motion for hearing on September 30, 2021 at 10:30 a.m.

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

10:30 AM

CONT... Mehr Group of Companies Holding Inc.

Chapter 11

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

Mehr Group of Companies Holding

Represented By
Andy C Warshaw

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

10:30 AM

8:21-10958 Plamex Investment, LLC

Chapter 11

#28.00 CON'TD FINAL Hearing RE: Debtor's Emergency Motion for Entry of an Interim Order, Pending a Final Hearing, Authorizing the Debtor to Use Cash Collateral

FR: 4/16/21; 5-11-21

Docket 6

***** VACATED *** REASON: CONTINUED TO 10/21/2021 AT 10:30
A.M., Per Order Entered 7/30/2021 (XX)**

Courtroom Deputy:

**CONTINUED: Hearing Continued to 10/21/2021 at 10:30 a.m., Per Order
Entered 7/30/2021 (XX) - td (7/30/2021)**

Tentative Ruling:

May 11, 2021

Grant motion on final basis on terms set forth in the signed cash collateral stipulation.

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

Plamex Investment, LLC

Represented By
Ron Bender
Juliet Y Oh
Monica Y Kim

Movant(s):

Plamex Investment, LLC

Represented By
Ron Bender
Juliet Y Oh
Monica Y Kim

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

10:30 AM

8:21-11223 Bassam Istambouli

Chapter 13

#29.00 Hearing RE: Debtor's Motion to Avoid Lien Under 11 U.S.C. Section 522(f) (Real Property) [Creditor Name: Talent Mobile Development]

Docket 16

***** VACATED *** REASON: OFF CALENDAR: Order of Dismissal
Arisig from Debtor's Request for Voluntary Dismissal of Chapter 13 Entered
7/23/2021**

Courtroom Deputy:

**OFF CALENDAR: Order of Dismissal Arisig from Debtor's Request for
Voluntary Dismissal of Chapter 13 Entered 7/23/2021 - td (8/11/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bassam Istambouli

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, August 19, 2021

Hearing Room 5A

10:30 AM

8:21-11723 Advantage Manufacturing, Inc.

Chapter 11

#29.10 Hearing RE: Debtor's Motion for Order Approving Stipulation for Use of Cash Collateral and Post-Petition Financing Between the Debtor and Oxygen Funding, Inc. **(OST Entered 8/13/2021)**

Docket 34

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 19, 2021

Grant the Motion if service per the OST is correct.

Party Information

Debtor(s):

Advantage Manufacturing, Inc.

Represented By
Michael G Spector
Vicki L Schenum

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 19, 2021

Hearing Room 5A

2:00 PM

8:19-13858 Bruce Elieff

Chapter 7

Adv#: 8:20-01161 Kurtin v. Elieff

#30.00 CON'TD Hearing RE: Plaintiff's Motion for Summary Judgment or Partial Summary Judgment

FR: 5-6-21; 6-17-21

Docket 10

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 19, 2021

Plaintiff will have 25 minutes to highlight arguments in support of the Motion; Defendant will have 25 minutes to respond; Plaintiff will have 10 minutes for final comments. The hearing will then be adjourned to September 2, 2021 at 2:00 pm, at which time the court will issue an oral ruling. If a written ruling is posted prior to the hearing, counsel will be so notified.

Party Information

Debtor(s):

Bruce Elieff

Represented By
Lisa Nelson
Robert P Goe

Defendant(s):

Bruce Elieff

Represented By
Robert P Goe

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, August 19, 2021

Hearing Room 5A

2:00 PM

CONT... Bruce Elieff

Chapter 7

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Alan G Tippie
Daniel A Lev
Sean A OKeefe
Claire K Wu

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Tuesday, August 24, 2021

Hearing Room 5A

1:30 PM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1612604620>

Meeting ID: 161 260 4620

Password: 126327

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at:

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Tuesday, August 24, 2021

Hearing Room 5A

1:30 PM
CONT...

Chapter

<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Tuesday, August 24, 2021

Hearing Room 5A

1:30 PM

8:21-11556 Elizabeth Nguyen Le

Chapter 13

#1.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 11

***** 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 8/13/2021**

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 8/13/2021 - td (8/13/2021)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Elizabeth Nguyen Le

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, August 24, 2021

Hearing Room 5A

1:30 PM

8:21-11543 Curtis Maurice Arrington

Chapter 13

#2.00 Hearing RE: Confirmation of 1st Amended Chapter 13 Plan

Docket 21

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Curtis Maurice Arrington

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, August 24, 2021

Hearing Room 5A

1:30 PM

8:21-11534 Randolph Gregory Umagat

Chapter 13

#3.00 Hearing RE: Confirmation 1st Amended Chapter 13 Plan

Docket 16

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Randolph Gregory Umagat

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, August 24, 2021

Hearing Room 5A

1:30 PM

8:21-11506 Anthony Thomas Vanausdoll

Chapter 13

#4.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 3

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anthony Thomas Vanausdoll

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, August 24, 2021

Hearing Room 5A

1:30 PM

8:21-11478 Mark Miltko

Chapter 13

#5.00 Hearing RE: Confirmation of 1st Amended Chapter 13 Plan

Docket 17

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Miltko

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, August 24, 2021

Hearing Room 5A

1:30 PM

8:21-11395 Zenaida Miranda Rodriguez

Chapter 13

#6.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 2

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Zenaida Miranda Rodriguez

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, August 24, 2021

Hearing Room 5A

1:30 PM

8:21-11388 Michael Silvio Cesarini

Chapter 13

#7.00 Hearing RE: Confirmation of Chapter 13 Plan

Docket 4

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Silvio Cesarini

Represented By
Andy C Warshaw

Trustee(s):

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 24, 2021

Hearing Room 5A

1:30 PM

8:21-11331 Adam Paul Dunn

Chapter 13

#8.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan

FR: 7-27-21

Docket 2

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Adam Paul Dunn

Represented By
Andy C Warshaw

Trustee(s):

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 24, 2021

Hearing Room 5A

1:30 PM

8:21-11322 Hector German Gabira

Chapter 13

#9.00 CONT'D Hearing RE: Confirmation of 1st Amended Chapter 13 Plan

FR: 7-27-21

Docket 18

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hector German Gabira

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 24, 2021

Hearing Room 5A

1:30 PM

8:21-11239 Kelly Kristine Goodman

Chapter 13

#10.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan

FR: 7-27-21

Docket 2

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kelly Kristine Goodman

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 24, 2021

Hearing Room 5A

1:30 PM

8:21-11219 Phillip Kwan

Chapter 13

#11.00 CON'TD Hearing RE: Confirmation of 1st Amended Chapter 13 Plan

FR: 7-27-21

Docket 10

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Phillip Kwan

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 24, 2021

Hearing Room 5A

1:30 PM

8:21-11035 Evelyn Ahumada

Chapter 13

#12.00 CONT'D Hearing RE: Confirmation of Chapter 13 Plan

FR: 6-22-21; 7-27-21

Docket 2

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Evelyn Ahumada

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 Calendar**

Tuesday, August 24, 2021

Hearing Room

1:30 PM

8:21-10111 Roman Israel Pacheco

Chapter 13

#13.00 CON'TD Hearing RE: Confirmation of Chapter 13 Plan

FR: 4-27-21; 5-25-21; 7-27-21

Docket 2

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Roman Israel Pacheco

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, August 24, 2021

Hearing Room 5A

2:30 PM

8:19-14822 Jesus M Razo

Chapter 13

#14.00 Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13
Proceeding for Failure to Make Plan Payments

Docket 36

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, August 24, 2021

Hearing Room 5A

2:30 PM

8:19-14807 Kalani James Robert Green

Chapter 13

#15.00 Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13
Proceeding for Failure to Make Plan Payments

Docket 50

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

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, August 24, 2021

Hearing Room 5A

2:30 PM

8:17-14768 Edgar Guzman

Chapter 13

#16.00 CON'TD Hearing RE: Trustee's Verified Motion for Order Dismissing Chapter 13 Proceeding

FR: 7-27-21

Docket 97

***** VACATED *** REASON: OFF CALENDAR: Notice of Withdrawal of Trustee's Motion for Order Dismissing Chapter 13, filed 8/12/2021**

Courtroom Deputy:

OFF CALENDAR: Notice of Withdrawal of Trustee's Motion for Order Dismissing Chapter 13, filed 8/12/2021 - td (8/12/2021)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Edgar Guzman

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, August 24, 2021

Hearing Room 5A

2:30 PM

8:16-12017 David Hepburn and Kimberly Hepburn

Chapter 13

#17.00 CON'TD Hearing RE: Trustee's Motion to Dismiss Case failure to complete the plan within its terms

FR: 7-27-21

Docket 94

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David Hepburn

Represented By
Julie J Villalobos

Joint Debtor(s):

Kimberly Hepburn

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**

Wednesday, August 25, 2021

Hearing Room 5A

10:00 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1613677785>

Meeting ID: 161 367 7785

Password: 282590

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at:

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Wednesday, August 25, 2021

Hearing Room 5A

10:00 AM

CONT...

Chapter

<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

All hearings on this calendar will be conducted remotely, using

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Wednesday, August 25, 2021

Hearing Room 5A

10:00 AM

CONT...

Chapter

ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

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**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Wednesday, August 25, 2021

Hearing Room

5A

10:00 AM

CONT...

Chapter

To assist in creating a proper record and for the efficiency of these proceedings, please:

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- Say your name every time you speak.
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**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Wednesday, August 25, 2021

Hearing Room 5A

10:00 AM

8:21-10608 DEA Brothers Sisters LLC

Chapter 11

#1.00 EVIDENTIARY Hearing RE: Debtor's Motion to Value Real Property Located at 16502 S. Main St., Carson, CA 90248 (re: value of the property)

(Set at hrg. held 6-10-21)
FR: 7-16-21

Docket 86

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 10, 2021

This matter needs to be set for an evidentiary hearing re the value of the property due to conflicting testimony. Evidentiary hearing date: July 16, 2021 at 10:00 a.m. via Zoom. All declarants must be present at the hearing for cross examination. The parties are to review the Court's Zoom policy for trials. (XX)

Special Note: The court strongly suggests that the parties meet and confer regarding a resolution of the value issue prior to the July 16, 2021 hearing.

August 25, 2021

EVIDENTIARY OBJECTIONS

I. Debtor's Evidentiary Objections to the Declaration of Omar Amaya

Objection #

Ruling

1

SUSTAINED. Relevance

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Wednesday, August 25, 2021

Hearing Room

5A

10:00 AM

CONT...

DEA Brothers Sisters LLC

Chapter 11

2

SUSTAINED. Relevance

II. Debtor's Evidentiary Objections to Declaration of Mike Young

Objection #

Ruling

1

OVERRULED

2

OVERRULED

3

SUSTAINED. Lack of Foundation*

4

OVERRULED

5

SUSTAINED as to "properties similar to the ones used as 'comparables' in the Douglass Appraisal." Lack of Foundation* OVERRULED as to the balance

6

SUSTAINED. Lack of Foundation*

7

OVERRULED

8

OVERRULED

9

SUSTAINED

10

OVERRULED

11

OVERRULED

12

OVERRULED

III. A&G's Evidentiary Objections to Declaration of Rod Hefington [Doc.144]

1

OVERRULED. Authenticated by Doc. 156

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Wednesday, August 25, 2021

Hearing Room 5A

10:00 AM

CONT... DEA Brothers Sisters LLC

Chapter 11

IV. A&G's Evidentiary Objections to Declaration of Rod Hefington [Doc.183]

1 OVERRULED. Opinion testimony

IV. A&G's Evidentiary Objections to Declaration of Rober Doglass [Doc. 126]

1 OVERRULED

2 OVERRULED

3 OVERRULED

4 SUSTAINED (bolded language in objection). Lack of
Foundation*

5 - 66 OVERRULED

Party Information

Debtor(s):

DEA Brothers Sisters LLC

Represented By
Roger J Plasse
John H Bauer

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Wednesday, August 25, 2021

Hearing Room 5A

10:00 AM

8:21-10608 DEA Brothers Sisters LLC

Chapter 11

#2.00 CON'TD Hearing RE: Debtor's Final Motion Pursuant to Section 363(C) of the Bankruptcy Code and Rule 4001(B) of the Federal Rules of Bankruptcy Procedure for an Order Authorizing the Use of Cash Collateral for the Shopping Center Located at 16502 S. Main St., Gardena, CA 90248; Request to Commence Monthly Payments to Secured 1st Loan Pursuant to 11 U.S.C. 362(D)(3)

FR: 6-10-21; 7-16-21

Docket 100

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

June 10, 2021

Continue hearing to July 16, 2021 at 10:00 a.m., same date/time set for evidentiary hearing re the value of the subject property (see tentative ruling for #19 on today's calendar). (XX)

Party Information

Debtor(s):

DEA Brothers Sisters LLC

Represented By
John H Bauer

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Wednesday, August 25, 2021

Hearing Room 5A

10:00 AM

8:21-10608 DEA Brothers Sisters LLC

Chapter 11

#3.00 CON'TD Final Hearing RE: Debtor's Motion Pursuant to Section 363(C) of the Bankruptcy Code and Rule 4001(B) of the Federal Rules of Bankruptcy Procedure for an Order Authorizing the Use of Cash Collateral for the Shopping Center Located at 16502 S. Main St., Carson CA90248; Request for Order of Adequate Protection

FR: 4-8-21; 6-10-21; 7-16-21

Docket 18

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

April 8, 2021

Grant motion on an interim basis on the terms set forth in the Motion, except that no postpetition cash collateral shall be used to pay legal fees, through and including June 10, 2021. All secured creditors will retain their liens in the same priority as existed as of the petition date. A final hearing shall be held on June 10, 2021 at 10:30 a.m.; Debtor must file any supplemental pleadings in support of the Motion by May 20, 2021; any further opposition or response must be filed by May 27, 2021; any reply must be filed by June 3, 2021. Debtor to self-calendar a hearing on any motion to value property on its own. (XX)

Court's Comments re the Motion and Opposition:

1. Payment of operating expenses on the property maintains the value of the property to benefit of objecting creditor A&G. A&G's objection to the use of cash collateral to pay utilities, landscaping, repairs, etc. is unreasonable. Moreover, Debtor has offered a replacement lien in the cash collateral expended (in order of priority).

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Wednesday, August 25, 2021

Hearing Room 5A

10:00 AM

CONT... **DEA Brothers Sisters LLC**

Chapter 11

2. Because net rents are insufficient to pay the contractual payments to the senior, 1st position lender, Debtor is not required to apportion the net rents between such senior lender and the junior lender A&G.

3. A&G has not established a diminution in the value of its interest in the subject property entitling it to adequate protection payments. See *US v. Timbers of Inwood Forest*, 484 U.S. 365 (1988).

4. The court accepts Debtor's valuation of the property on an interim basis as it is the only admissible evidence of value that has been presented at this point. As aptly stated in *In re Russell*, 567 B.R. 833, 840 (Bankr.Mont.2017): "an owner is competent to give his or her opinion on the value of his or her property, most often simply by stating the conclusion without stating a reason. See Hon. Barry Russell, BANKRUPTCY EVIDENCE MANUAL, 2016–2017 ed. § 701:2; *South Central Livestock Dealers, Inc. v. Security State Bank of Hedley, Tex.*, 614 F.2d 1056, 1061 (5th Cir. 1980). While a debtor's estimate of value may be acceptable in certain cases, the Court may give little weight to an opinion if not based upon sufficient facts. *In re Plummer*, 20 Mont. B.R. 468, 478 (Bankr. D. Mont. 2003). . . ." See also, Fed.R.Evid. 701. A&G's citation to Zillow is, as it has acknowledged, completely inadmissible. It's evidentiary objections to the statement of value by Enayat Ali Jiwani are, therefore, overruled.

5. A&G's evidentiary objection to the exhibits attached to the Motion on the basis of insufficient authentication are well-taken. Mr. Jiwani's declaration should have specifically addressed and authenticated each exhibit. **Proper authentication/personal knowledge/foundation will need to be provided for the final hearing.**

6. The court does not base its decision to grant the motion on an interim basis on the declaration of real estate broker David Pai as Mr. Pai is 1) not the owner of the property and 2) the conclusory declaration does not rise to the level of even a broker's opinion (e.g., no cap rate, comparables, etc.).

7. Pursuant to LBR 1001-1(a), the court waives the requirement of the use of Statement Regarding Cash Collateral or Debtor in Possession Financing as required by LBR 4001-2(a) in this instance but cautions Debtor's counsel to

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Wednesday, August 25, 2021

Hearing Room 5A

10:00 AM

CONT... DEA Brothers Sisters LLC
utilize this form in the future.

Chapter 11

June 10, 2021

Continue hearing to July 16, 2021 at 10:00 a.m., same date/time set for evidentiary hearing re the value of the subject property (see tentative ruling for #19 on today's calendar). Interim use of cash collateral permitted on the same basis as for the April 8, 2021 hearing. (XX)

Party Information

Debtor(s):

DEA Brothers Sisters LLC

Represented By
Roger J Plasse

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 26, 2021

Hearing Room 5A

9:00 AM
8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

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<https://cacb.zoomgov.com/j/1613465785>

Meeting ID: 161 346 5785

Password: 441991

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Smith by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Thursday, August 26, 2021

Hearing Room 5A

9:00 AM

CONT...

Chapter

"Telephonic Instructions" section.

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Docket 0