

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

Thursday, August 6, 2020

Hearing Room

5A

9:30 AM

8:17-14077 Team Business Solutions, Inc.

Chapter 7

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

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

FR: 2-12-19; 3-12-19; 4-4-19; 4-16-19; 6-20-19; 8-22-19; 11-7-19; 1-9-20; 4-2-20; 6-4-20

Docket 55

***** VACATED *** REASON: CONTINUED TO 11/5/20 AT 9:30 A.M., Per Order Entered 8/4/20 (XX)**

Courtroom Deputy:

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

CONTINUED: Order Approving Stipulation ENTERED 8/4/20 - matter continued to 11/5/20 at 9:30 a.m. -- eas / td (XX) (8/4/2020)

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

June 20, 2019

Joint status report not filed by June 13, 2019 pursuant to this court's order

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

CONT... Team Business Solutions, Inc. Chapter 7
entered 4/25/19. Impose sanctions in the amount of \$100 against each party for the failure to do so.

Note: Appearances at this hearing are required.

August 22, 2019

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

Note: Appearances at this hearing are required.

January 9, 2020

Updated joint status report not filed as required by this court's order entered October 17, 2019 [docket #117]. Impose sanctions of \$200 against counsel for plaintiff and defendants.

Note: Appearances at this hearing are required.

Party Information

Debtor(s):

Team Business Solutions, Inc.

Represented By
J Scott Williams

Defendant(s):

SNCR California, Inc.,

Represented By
Michael G Spector

John Creamer

Pro Se

Kirk Nelson

Pro Se

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

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

CONT... Team Business Solutions, Inc.

Chapter 7

Plaintiff(s):

Richard A Marshack

Represented By
Thomas J Eastmond
Robert P Goe

Trustee(s):

Richard A Marshack (TR)

Represented By
Thomas J Eastmond
Robert P Goe

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

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

8:17-14406 Kirk M. Nelson

Chapter 7

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

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

FR: 4-11-19; 5-30-19; 9-12-19; 11-7-19; 1-9-20; 4-2-20; 6-4-20

Docket 1

*** VACATED *** REASON: CONTINUED TO 11/5/2020 AT 9:30 A.M.,
Per Order Entered 7/31/2020 (XX)

Courtroom Deputy:

CONTINUED: Status Conference Continued to 11/5/2020 at 9:30 a.m., Per Order Entered 7/31/2020 (XX) - td (7/31/2020)

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

April 11, 2019

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

Note: Appearances at this hearing are not required.

May 30, 2019

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

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

CONT... Kirk M. Nelson

Chapter 7

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

January 9, 2020

Updated joint status report not filed as required by this court's order entered October 17, 2019 [docket #22]. Impose sanctions of \$100 against counsel for plaintiff and defendants.

Party Information

Debtor(s):

Kirk M. Nelson

Represented By
J Scott Williams

Defendant(s):

Kirk M Nelson

Pro Se

Plaintiff(s):

Richard A Marshack

Represented By
Robert P Goe
Thomas J Eastmond

Trustee(s):

Weneta M Kosmala (TR)

Pro Se

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

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

8:17-14535 Prime Metals U.S.A., Inc.

Chapter 7

Adv#: 8:19-01215 Marshack v. R-Techo, Co., Ltd.

#3.00 CONT'D STATUS CONFERENCE RE: Complaint for: 1. Avoidance and Recovery of Intentional Fraudulent Transfers; 2. Avoidance and Recovery of Constructive Fraudulent Transfers; 3. Avoidance and Recovery of Preferential Transfers; 4. Recovery of Avoided Transfers; 5. Declaratory Judgment: Alber Ego; 6. Recovery of Unauthorized, Improper Distributions to Shareholders; 7. Substantive Consolidation; 8. Breach of Fiduciary Duty; 9. Turnover of Property of the Estate; 10. Preservations of Avoided Transfers; 11. Disallowance of Claims; and 12. Temporary Restraining Order and Preliminary Injunction

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

Docket 1

***** VACATED *** REASON: CONTINUED TO 11/5/20 AT 9:30 A.M., Per Order Entered 7/31/2020 (XX)**

Courtroom Deputy:

CONTINUED: Status Conference Continued to 11/5/2020 at 9:30 a.m, Per Order Entered 7/31/2020 (XX) - td (7/31/2020)

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

February 6, 2020

No timely filed updated status report or motion for default judgment has been filed in this case. Accordingly, the court may impose sanctions in the amount

**United States Bankruptcy Court
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Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

CONT... **Prime Metals U.S.A., Inc.** **Chapter 7**
of \$100 and/or issue an order to show cause why this adversary proceeding
should not be dismissed for failure to prosecute.

Note: Appearance at this hearing is required.

Party Information

Debtor(s):

Prime Metals U.S.A., Inc.

Represented By
Steven Werth

Defendant(s):

R-Techo, Co., Ltd.

Pro Se

Plaintiff(s):

Richard A Marshack

Represented By
Ronald S Hodges
Robert P Goe
Ryan S Riddles

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
Laila Masud
David M Goodrich
Robert P Goe

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

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

8:17-14535 Prime Metals U.S.A., Inc.

Chapter 7

Adv#: 8:19-01217 Marshack v. Mr. C's Towing at Southgate, Inc.

#4.00 CONT'D STATUS CONFERENCE RE: Complaint for: 1. Avoidance and Recovery of Constructive Fraudulent Transfers pursuant to 11 U.S.C. Sections 544, 548, 550, 551; California Civil Code Sections 3439.04, 3439.05, 3439.07, 3439.08, 3439.09; 2. Recovery of Avoided Transfers; 3. Turnover of Property of the Estate; 4. Preservation of Avoided Transfers; 5. Temporary Restraining Order and Preliminary Injunction against Mr. C's Towing at Southgate, Inc.

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

Docket 1

*** VACATED *** REASON: CONTINUED TO 11/5/2020 AT 9:30 A.M.,
Per Order Entered 7/31/2020 (XX)

Courtroom Deputy:

CONTINUED: Status Conference Continued to 11/5/2020 at 9:30 a.m., Per Order Entered 7/31/2020 (XX) - td (7/31/2020)

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

February 6, 2020

A proof of service showing proper service of the summons and complaint has not been filed. Further, no timely filed updated status report or motion for default judgment has been filed in this case. Accordingly, the court may

**United States Bankruptcy Court
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Santa Ana
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9:30 AM

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

Chapter 7

impose sanctions in the amount of \$100 and/or issue an order to show cause why this adversary proceeding should not be dismissed for failure to prosecute.

Note: Appearance at this hearing is required.

April 2, 2020

Continue status conference to May 21, 2020 at 9:30 a.m.; Joint status report must be filed by May 7, 2020.

The tentative ruling is based on the fact that it is not clear that the service issue has been resolved.

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

Party Information

Debtor(s):

Prime Metals U.S.A., Inc.

Represented By
Steven Werth

Defendant(s):

Mr. C's Towing at Southgate, Inc.

Represented By
Ryan S Riddles

Plaintiff(s):

Richard A Marshack

Represented By
Ronald S Hodges
Robert P Goe
Ryan S Riddles

Trustee(s):

Richard A Marshack (TR)

Represented By

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

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

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

Chapter 7

D Edward Hays
Laila Masud
David M Goodrich
Robert P Goe

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

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

8:17-14535 Prime Metals U.S.A., Inc.

Chapter 7

Adv#: 8:19-01218 Marshack v. Kim et al

#5.00 CON'TD STATUS CONFERENCE RE: RE: Complaint for: 1. Breach of Fiduciary Duty; 2. Accounting; and 3. Defalcation of Trust

(Another Summons Issued 2/11/2020)
FR: 4-30-10; 6-4-20

Docket 1

***** VACATED *** REASON: CONTINUED TO 11/5/2020 AT 9:30 A.M.,
Per Order Entered 7/31/2020 (XX)**

Courtroom Deputy:

SPECIAL NOTE: Pre-trial Conference Scheduled for 1/21/2021 at 9:30 a.m. - td (6/2/2020)

CONTINUED: Status Conference Continued to 11/5/2020 at 9:30 a.m., Per Order Entered 7/31/2020 (XX) - td (7/31/2020)

Tentative Ruling:

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

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

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

Chapter 7

Ronald S Hodges
Robert P Goe
Ryan S Riddles

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
Laila Masud
David M Goodrich
Robert P Goe

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

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

8:19-10898 Alicia K Pipitone

Chapter 13

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

#6.00 PRE-TRIAL CONFERENCE RE: Complaint to Compel Turnover of Property to the Estate

FR: 8-22-19; 10-3-19; 11-21-19; 1-16-20

Docket 1

***** VACATED *** REASON: CONTINUED TO 9/10/2020 AT 9:30 A.M.,
Per Order Entered 7/17/2020 (XX)**

Courtroom Deputy:

**CONTINUED: Pre-Trial Conference Continued to 9/10/2020 at 9:30 a.m.,
Per Order Entered 7/17/2020 (XX) - td (7/17/2020)**

Tentative Ruling:

August 22, 2019

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

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

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

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

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

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

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

CONT... Alicia K Pipitone

Chapter 13

October 3, 2019

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

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

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

January 16, 2020

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

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

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

Party Information

Debtor(s):

Alicia K Pipitone

Represented By

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

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

CONT... Alicia K Pipitone

Chapter 13

Marc A Goldbach

Defendant(s):

Choice Motor Credit, LLC

Represented By
Misty A Perry Isaacson

Plaintiff(s):

Alicia Pipitone

Pro Se

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

8:19-13260 Simon Szwachowicz

Chapter 7

Adv#: 8:20-01090 Kosmala v. Szwachowicz et al

#7.00 STATUS CONFERENCE RE: Complaint: (1) To Avoid and Recover Fraudulent Transfer Pursuant to 11 U.S.C. §§ 544(b) and 550; and California Civil Code §§ 3439.04(a)(1), 3439.07, and 3439.09; (2) To Avoid and Recover Fraudulent Transfer Pursuant to 11 U.S.C. §§ 544(b) and 550; and California Civil Code §§ 3439.04(a)(2), 3439.07, and 3439.09; (3) To Preserve Avoided Transfers Pursuant to 11 U.S.C. § 551; (4) For Declaratory Relief

Docket 1

***** VACATED *** REASON: OFF CALENDAR: Another Summons Issued 5/22/2020 Setting Status Conference on Amended Complaint for 8/6/2020 at 9:30 a.m. (xx)**

Courtroom Deputy:

OFF CALENDAR: Another Summons Issued 5/22/2020 Setting Status Conference on Amended Complaint for 8/6/2020 at 9:30 a.m. (xx) - td (5/22/2020)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Simon Szwachowicz

Represented By
Matthew C Mullhofer

Defendant(s):

Simon Szwachowicz

Pro Se

Marta Szwachowicz

Pro Se

Plaintiff(s):

Weneta M.A. Kosmala

Represented By
Reem J Bello

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

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

CONT... Simon Szwachowicz

Chapter 7

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Reem J Bello
Ryan W Beall

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

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

8:19-13260 Simon Szwachowicz

Chapter 7

Adv#: 8:20-01090 Kosmala v. Szwachowicz

#8.00 STATUS CONFERENCE RE: First Amended Complaint: (1) To Avoid and Recover Fraudulent Transfer Pursuant to 11 U.S.C. §§ 544(b) and 550; and California Civil Code §§ 3439.04(a)(1), 3439.07, and 3439.09; (2) To Avoid and Recover Fraudulent Transfer Pursuant to 11 U.S.C. §§ 544(b) and 550; and California Civil Code §§ 3439.04(a)(2), 3439.07, and 3439.09; (3) To Preserve Avoided Transfers Pursuant to 11 U.S.C. § 551; (4) For Declaratory Relief

Docket 3

***** VACATED *** REASON: CONTINUED TO 11/19/2020 AT 9:30 A.M.,
Per Order Entered 7/27/2020 (XX)**

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 11/19/2020 at 9:30 a.m.,
Per Order Entered 7/27/2020 (XX) - td (7/27/2020)**

Tentative Ruling:

- NONE LISTED -

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
Ryan W Beall

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

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

8:19-14169 Gary Clesceri

Chapter 7

Adv#: 8:20-01091 Payday Loan, LLC v. Clesceri

#9.00 STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

August 6, 2020

Discovery Cut-off Date:	Dec. 7, 2020
Deadline to Attend Mediation:	Jan. 22, 2021
Pretrial Conference Date:	Feb. 18, 2021 at 9:30 a.m.
Deadline to file Joint Pretrial Stipulation:	Feb. 4, 2021

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall lodge a scheduling order consistent with the same within 7 days of the hearing.

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

**United States Bankruptcy Court
Central District of California
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Thursday, August 6, 2020

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

Pro Se

Joint Debtor(s):

Charlene Clesceri

Represented By
Michael G Spector

Plaintiff(s):

Payday Loan, LLC

Represented By
Timothy J Silverman

Trustee(s):

Karen S Naylor (TR)

Pro Se

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

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

8:19-14255 Dana Kim

Chapter 7

Adv#: 8:20-01016 Romex Textiles, Inc. v. Kim

#10.00 CONT'D STATUS CONFERENCE RE: Complaint to Determine Dischargeability of a Debt and Objection to Discharge

FR: 4-30-20

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

August 6, 2020

Discovery Cut-off Date: Jan. 29, 2021

Pretrial Conference Date: Mar. 4, 2021 at 9:30 a.m.

Deadline to file Joint Pretrial Stipulation: Feb. 18, 2021

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall lodge a scheduling order consistent with the same within 7 days of the hearing.

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

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

CONT... Dana Kim

Chapter 7

Party Information

Debtor(s):

Dana Kim

Represented By
Kelly K Chang

Defendant(s):

Dana Kim

Pro Se

Plaintiff(s):

Romex Textiles, Inc.

Represented By
Nico N Tabibi

Trustee(s):

Jeffrey I Golden (TR)

Pro Se

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

Thursday, August 6, 2020

Hearing Room 5A

9:30 AM

8:20-10554 Ivel Lorraine Melton

Chapter 7

Adv#: 8:20-01084 Hudec v. Melton et al

#11.00 STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt

Docket 1

***** VACATED *** REASON: CONTINUED TO 10/8/2020 AT 9:30 A.M.,
Per Order Entered 7/24/2020 (XX)**

Courtroom Deputy:

**CONTINUED: Status Conference Continued to 10/8/2020 at 9:30 a.m., Per
Order Entered 7/24/2020 (XX) - td (7/24/2020)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ivel Lorraine Melton

Represented By
Brian C Andrews

Defendant(s):

Ivel Lorraine Melton

Pro Se

Glenn Mitchell Melton

Pro Se

Joint Debtor(s):

Glenn Mitchell Melton

Represented By
Brian C Andrews

Plaintiff(s):

Susan Hudec

Represented By
Micah L Bailey

Trustee(s):

Karen S Naylor (TR)

Pro Se

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

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

8:15-14803 Orlando Martinez

Chapter 13

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

DEUTSCHE BANK NATIONAL ASSOCIATION

VS.

DEBTOR

Docket 54

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

August 6, 2020 [MODIFIED SINCE ORIGINAL POSTING]

Continue hearing to allow parties to meet and confer re possible forbearance. Available continued hearing dates are: August 13, 2020, August 20, 2020 and September 3, 2020 at 10:00 a.m. The parties may request a particular date during the clerk's calendar roll call just prior to the hearing.

Party Information

Debtor(s):

Orlando Martinez

Represented By

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

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

CONT... Orlando Martinez

Mark S Martinez

Chapter 13

Movant(s):

Deutsche Bank National

Represented By
Jacky Wang

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

8:18-13337 Manuel Trejo and Maria I Trejo

Chapter 13

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

DEUTSCHE BANK NATIONAL TRUST COMPANY

VS.

DEBTORS

FR: 6-4-20; 7-16-20

Docket 46

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

June 4, 2020

Grant motion with co-debtor relief and without waiver of 4001(a)(3) unless Movant is amenable to an adequate protection order. If Movant would like additional time to expore the terms of an adequate protection ord, it may request a continuance at the time of the calendar roll call just prior to the hearing. Available hearing dates are June 11, 2020, June 18, 2020, July 9, 2020 and July 16, 2020 at 10:00 a.m.

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

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

CONT... Manuel Trejo and Maria I Trejo

Chapter 13

Special note: Debtor has not provided evidence of additional payments having been made that are not reflected in the Motion.

July 16, 2020

Grant the motion with co-debtor relief and without 4001(a)(3) waiver unless the parties are still negotiating the terms of an adequate protection order, in which case this hearing may be continued one final time to August 6, 2020 at 10:00 a.m. upon request of the moving party during the calendar roll call on the day of the hearing.

August 6, 2020 [MODIFIED SINCE ORIGINAL POSTING]

In light of approval of trial loan modification agreement, grant adequate protection order that is consistent with the terms of such trial modification agreement.

Note: If all parties accept the foregoing tentative ruling, appearances at this hearing are not required and Movant shall lodge an order within 7 days.

Party Information

Debtor(s):

Manuel Trejo

Represented By
Lionel E Giron

Joint Debtor(s):

Maria I Trejo

Represented By
Lionel E Giron

Movant(s):

DEUTSCHE BANK NATIONAL

Represented By
Sean C Ferry

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

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

CONT... Manuel Trejo and Maria I Trejo

Chapter 13

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

8:18-13521 Jose F. Lopez

Chapter 13

#14.00 CON'TD Hearing RE: Motion for Relief from the automatic stay .
[PERSONAL PROPERTY]

NEW REZ LLC

VS.

DEBTOR

FR: 6-11-20; 7-9-20

Docket 45

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

June 11, 2020 [UPDATED TENTATIVE TO REFLECT LATE OPPOSITION]

Grant motion with 4001(a)(3) waiver unless the parties are negotiating the terms of an APO. If more time is needed, the hearing may be continued by making a request during the calendar roll call just prior to the commencement of the hearing. Available continued dates are June 18, 2020, July 9, 2020 and July 16, 2020 at 10:00 a.m.

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

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

**CONT... Jose F. Lopez
July 9, 2020**

Chapter 13

Movant to advise the court re the status of this matter. If more time is needed, the hearing may be continued one final time by making a request during the calendar roll call just prior to the commencement of the hearing. Available continued dates are July 16, 2020 and August 6, 2020 at 10:00 a.m.

August 6, 2020

Grant the Motion with co-debtor relief and without 4001(a)(3) waiver if no resolution has been reached. Movant may, at its discretion, lodge an adequate protection order in lieu of an order granting immediate relief from stay.

Party Information

Debtor(s):

Jose F. Lopez

Represented By
Michael D Franco

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
Eric P Enciso
Kristin A Zilberstein

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

8:19-11704 Brian D. Thaler

Chapter 13

#15.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]
DEUTSCHE BANK NATIONAL TRUST COMPANY
VS.
DEBTOR

Docket 41

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

August 6, 2020

Grant with 4001(a)(3) waiver.

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

Party Information

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

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

CONT... Brian D. Thaler

Chapter 13

Debtor(s):

Brian D. Thaler

Represented By
James D. Hornbuckle

Movant(s):

Deutsche Bank National Trust

Represented By
Sean C Ferry
Eric P Enciso

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

8:19-14288 Danielle Marie Hetland

Chapter 7

#16.00 Hearing RE: Motion for relief from the automatic stay [REAL PROPERTY]
ATHENE ANNUITY AND LIFE COMPANY
VS.
DEBTOR

Docket 37

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

August 6, 2020

Grant with 4001(a)(3) waiver.

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

Party Information

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

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

CONT... Danielle Marie Hetland

Chapter 7

Debtor(s):

Danielle Marie Hetland

Represented By
Timothy McFarlin

Movant(s):

Athene Annuity and Life Company

Represented By
Katie M Parker

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Reem J Bello

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

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

8:20-11427 Sean Anthony Couevas

Chapter 7

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

CAB WEST, LLC

VS.

DEBTOR

Docket 12

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

August 6, 2020

Grant with 4001(a)(3) waiver.

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

Party Information

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

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

CONT... Sean Anthony Couevas

Chapter 7

Debtor(s):

Sean Anthony Couevas

Represented By
Timothy McFarlin

Movant(s):

Cab West, LLC

Represented By
Sheryl K Ith

Trustee(s):

Richard A Marshack (TR)

Pro Se

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

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

8:20-11713 Naaman B Chalhoub and Roula Chalhoub

Chapter 7

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

PNC BANK, NATIONAL ASSOCIATION

VS.

DEBTORS

Docket 16

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

August 6, 2020

Grant with 4001(a)(3) waiver.

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

Party Information

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

Thursday, August 6, 2020

Hearing Room 5A

10:00 AM

CONT... Naaman B Chalhoub and Roula Chalhoub

Chapter 7

Debtor(s):

Naaman B Chalhoub

Represented By
Bert Briones

Joint Debtor(s):

Roula Chalhoub

Represented By
Bert Briones

Movant(s):

PNC Bank, National Association

Represented By
Katie M Parker

Trustee(s):

Jeffrey I Golden (TR)

Pro Se

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:10-21772 Vera Senyutkina Jacobs and Edward Lee Jacobs

Chapter 7

#19.00 Hearing RE: Debtors' Motion to Reopen Chapter 7 Bankruptcy Case in Order to File Motion to Avoid Lien Under Section 522(f) on Real Property

Docket 18

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

PECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

August 6, 2020

Grant Motion. The Clerk of Court may re-close the case 60 days after the entry of the order granting the Motion without out further notice or order of the court if a motion to avoid lien is not filed by such time.

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

Party Information

Debtor(s):

Vera Senyutkina Jacobs

Represented By
Gregory J Doan
Brian J Soo-Hoo

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

CONT... Vera Senyutkina Jacobs and Edward Lee Jacobs

Chapter 7

Joint Debtor(s):

Edward Lee Jacobs

Represented By
Gregory J Doan
Brian J Soo-Hoo

Trustee(s):

Thomas H Casey (TR)

Pro Se

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:16-12854 Paul Edward Rubio

Chapter 13

#20.00 Hearing RE: Debtor's Motion for Order Allowing Creditor to Put Forbearance Payments on Back End of Mortgage Loan

Docket 167

*** VACATED *** REASON: CONTINUED TO 9/17/2020 AT 10:30 A.M.,
Per Order Entered 8/5/2020 (XX)

Courtroom Deputy:

CONTINUED: Hearing Continued to 9/17/2020 at 10:30 a.m., Per Order Entered 8/5/2020 (XX) - td (8/5/2020)

Tentative Ruling:

PECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

August 6, 2020

Grant motion.

Debtor's lender is authorized to place the forbearance payments at the end of the loan.

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

Party Information

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

CONT... Paul Edward Rubio

Chapter 13

Debtor(s):

Paul Edward Rubio

Represented By
Lauren Rode

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:18-13238 Paul David Scarborough and Julie Ann Scarborough

Chapter 7

#21.00 Hearing RE: Chapter 7 Trustee's Final Report and Application for Final Fees and Expenses

[KAREN SUE NAYLOR, CHAPTER 7 TRUSTEE]

Docket 54

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

August 6, 2020

Approve fees and expenses as requested.

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

Party Information

Debtor(s):

Paul David Scarborough

Represented By

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

CONT... Paul David Scarborough and Julie Ann Scarborough
Thomas E Brownfield

Chapter 7

Joint Debtor(s):

Julie Ann Scarborough

Represented By
Thomas E Brownfield

Trustee(s):

Karen S Naylor (TR)

Represented By
Nanette D Sanders

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:18-13238 Paul David Scarborough and Julie Ann Scarborough

Chapter 7

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

[RINGSTAD & SANDERS LLP, ATTORNEY FOR KAREN SUE NAYLOR,
CHAPTER 7 TRUSTEE]

Docket 49

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

August 6, 2020

Approve fees and expenses as requested.

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

Party Information

Debtor(s):

Paul David Scarborough

Represented By

Thomas E Brownfield

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

CONT... Paul David Scarborough and Julie Ann Scarborough

Chapter 7

Joint Debtor(s):

Julie Ann Scarborough

Represented By
Thomas E Brownfield

Trustee(s):

Karen S Naylor (TR)

Represented By
Nanette D Sanders

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:18-13238 Paul David Scarborough and Julie Ann Scarborough

Chapter 7

#23.00 Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses from September 18, 2019 through April 14, 2020

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

Docket 51

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

August 6, 2020

Approve fees and expenses as requested.

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

Party Information

Debtor(s):

Paul David Scarborough

Represented By
Thomas E Brownfield

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

CONT... Paul David Scarborough and Julie Ann Scarborough

Chapter 7

Joint Debtor(s):

Julie Ann Scarborough

Represented By
Thomas E Brownfield

Trustee(s):

Karen S Naylor (TR)

Represented By
Nanette D Sanders

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#24.00 CON'TD Hearing RE: Trustee's Motion to Approve Second Amendment to Purchase and Sale Agreement and First Amendment to Assignment of Claim and Estates' Interest in Insurance Policy Pursuant to 11 U.S.C. Sections 363

FR: 7-9-20 (Advanced from 7-16-20 at 10:30 am); 7-16-20

Docket 403

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

July 9, 2020

Continue hearing to July 16, 2020 at 10:30 a.m. (XX)

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

August 6, 2020

Grant Motion.

Note: This matter appears to be uncontested. Accordingly, no court

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

CONT... Friendly Village MHP Associates LP Chapter 7
appearance by the Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.

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 6, 2020

Hearing Room 5A

10:30 AM

8:18-13864 Friendly Village GP, LLC

Chapter 7

#25.00 CON'TD Hearing RE: Trustee's Motion to Approve Second Amendment to Purchase and Sale Agreement and First Amendment to Assignment of Claim and Estates' Interest in Insurance Policy Pursuant to 11 U.S.C. Sections 363

FR: 7-9-20 (Advanced from 7-16-20 at 10:30 am); 7-16-20

Docket 217

Courtroom Deputy:

CONTINUED: Hearing continued to August 6, 2020 at 10:30 am per order approving stipulation Entered 7/16/20- mp/td (XX) (7/16/20)

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

July 9, 2020

Continue hearing to July 16, 2020 at 10:30 a.m. (XX)

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

August 6, 2020

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

CONT... Friendly Village GP, LLC

Chapter 7

Grant Motion.

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

Party Information

Debtor(s):

Friendly Village GP, LLC

Represented By
Howard Camhi

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
David Wood
Kristine A Thagard

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:19-10913 Cassandra Dean Duerscheidt

Chapter 7

Adv#: 8:19-01122 M.G.B. Construction, Inc. v. Duerscheidt

#26.00 Hearing RE: Plaintiff M.G.B. Construction, Inc.'s Motion for Order Granting Leave to File Amended Adversary Complaint

Docket 46

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

PECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

August 6, 2020

Grant the Motion. An amended complaint must be filed no later than August 20, 2020; a responsive pleading by Defendant must be filed no later than September 21, 2020. Discovery is re-opened and extended through and including November 16, 2020. Pretrial Conference is continued to December 17, 2020 at 9:30 a.m. with the Joint Pretrial Stipulation due by December 10, 2020.

Note: If both parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall lodge an order consistent with the same within 7 days of today's hearing.

Party Information

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

CONT... Cassandra Dean Duerscheidt

Chapter 7

Debtor(s):

Cassandra Dean Duerscheidt

Represented By
Brian J Soo-Hoo
Douglas A Plazak

Defendant(s):

Cassandra Dean Duerscheidt

Represented By
Douglas A Plazak

Plaintiff(s):

M.G.B. Construction, Inc.

Represented By
Scott A Kron

Trustee(s):

Weneta M Kosmala (TR)

Pro Se

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:19-11712 Scott Alexander Svidergol

Chapter 7

#27.00 Hearing RE: Chapter 7 Trustee's Final Report and Application for Final Fees and Expenses

[THOMAS H. CASEY, CHAPTER 7 TRUSTEE]

Docket 24

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

August 6, 2020

Approve fees and expenses as requested.

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

Party Information

Debtor(s):

Scott Alexander Svidergol

Represented By
Michael N Nicastro

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

CONT... Scott Alexander Svidergol

Chapter 7

Trustee(s):

Thomas H Casey (TR)

Pro Se

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:19-12890 Manufacture Resource Products, Inc.

Chapter 7

#28.00 Hearing RE: Chapter 7 Trustee's Motion to Approve Compromise of Controversy and Fix Overbidding Procedures

Docket 37

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

August 6, 2020

Grant Motion.

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

Party Information

Debtor(s):

Manufacture Resource Products, Inc.

Represented By
Thomas J Polis

Trustee(s):

Karen S Naylor (TR)

Represented By

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

CONT...

Manufacture Resource Products, Inc.

Nanette D Sanders

Chapter 7

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

Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:19-14441 Aimen Elbusifi

Chapter 7

Adv#: 8:20-01020 Angar v. Aimen

#29.00 Hearing RE: Defendant's Motion for Attorney Fees Against Plaintiff

Docket 14

*** VACATED *** REASON: OFF CALENDAR: Notice of Defendant's
Withdrawal of Motion, filed 7/24/2020

Courtroom Deputy:

OFF CALENDAR: Notice of Defendant's Withdrawal of Motion, filed
7/24/2020 - td (7/27/2020)

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Aimen Elbusifi

Represented By
Brian J Soo-Hoo

Defendant(s):

Elbusifi Aimen

Represented By
Michael D Franco

Plaintiff(s):

Mohammed Angar

Pro Se

Trustee(s):

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:19-14834 Hussam Fayiz Darwish

Chapter 11

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

FR: 2-20-20; 5-21-20; 6-18-20

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

February 20, 2020

Absent a noticed motion, the court will not provide any "advisory opinions" regarding Debtor's contemplation of a conversion of this case to one under Sub-Chapter V, including Debtor's eligibility to be a Sub-Chapter V debtor. That said, Debtor's counsel may want to consider the relevant deadlines under Sub-Chapter V (filing of plan, claims bar date, etc) and review legal authorities regarding chapter 13 eligibility in the "chapter 20" scenario. See, e.g., *In re Blackwell*, 514 B.R. 19 (Bankr. ND Cal. 2014).

Absent conversion:

Claims bar date: Apr. 23, 2020 (60 days not)

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CONT... Hussam Fayiz Darwish

Chapter 11

Deadline to file plan/DS: Apr. 30, 2020
Continued Status Conf: May 21, 2020 at 10:30am
Updated Status Report: May 7, 2020 (waived if DS filed)

Note: Appearance at this hearing is required.

May 21, 2020

Continue status conference to June 18, 2020 at 10:30 a.m., same date/time as hearing on approval of Debtor's disclosure statement. Updated status report not required. (XX)

Note: Appearances at this hearing are not required.

June 18, 2020

Continue status conference to August 6, 2020 at 10:30 a.m. Court to issue order to show cause why this case should not be dismissed or converted due to inability of Debtor to propose a viable plan of reorganization -- the hearing will be set for August 6, 2020 at 10:30 a.m. (XX)

August 6, 2020

Continue Status Conference to September 17, 2020 at 10:30 a.m.; updated Status Report not required. **However, all monthly operating reports required to be filed by September 17, 2020 (i.e., June, July and August) must be filed.**

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

Hussam Fayiz Darwish

Represented By
Michael Jones

**United States Bankruptcy Court
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10:30 AM

CONT... Hussam Fayiz Darwish

Chapter 11

United States Bankruptcy Court
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Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:19-14834 Hussam Fayiz Darwish

Chapter 11

#31.00 Hearing RE: Order Issued to Debtor Hussam Fayiz Darwish to Show Cause Why Bankruptcy Case Should Not Be Dismissed or Converted (OSC Issued 6/22/2020)

Docket 68

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

August 6, 2020

Continue OSC hearing to September 17, 2020 at 10:30 a.m.

Special note: This is Debtor's last opportunity to avoid dismissal of the case. If the Amended Disclosure Statement is not approved at this hearing OR Debtor has not filed all monthly operating reports (June, July, August) by September 15, 2020, then the case will be dismissed.

Note: Appearances at this hearing are not required.

Party Information

Debtor(s):

Hussam Fayiz Darwish

Represented By
Michael Jones

**United States Bankruptcy Court
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10:30 AM

CONT... Hussam Fayiz Darwish

Chapter 11

**United States Bankruptcy Court
Central District of California
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Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:20-10682 Kim-Lan T Nguyen

Chapter 13

#32.00 CON'TD Hearing RE: Chapter 13 Trustee's Objection to Debtor's Claims of Exemptions

FR: 6-18-20

Docket 18

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that, starting with the March 19, 2020 hearings, ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

June 18, 2020

Continue the hearing to August 6, 2020 at 10:30 a.m. to allow Movant to address various service and other issues. (XX)

Court's Comments:

Service:

1. Debtor's attorney was not served with the Motion.
2. Debtor was not advised of the deadline for filing an opposition.

Merits:

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CONT... Kim-Lan T Nguyen

Chapter 13

1. A copy of Schedule C was not attached to the Motion.
2. A proper declaration in support of the Motion was not provided.
3. The Motion does not indicate whether the Trustee is seeking a total disallowance of a homestead exemption, i.e., \$0.00, or some lesser amount such as \$75,000 or \$100,000. The court notes that according to Schedule I, Debtor appears to have a minor dependent, an indicator that Debtor may be entitled to an exemption of \$100,000 as a head of household. As there is no allegation that Debtor did not reside on the subject property at the time of the filing, Debtor would appear to be entitled to an exemption of least a \$75,000 exemption.
4. In light of the amount of the exemption claimed in Schedule C, did the Trustee or his counsel inquire about the basis for the amount at the time of the 341a meeting?

Note: If Movant accepts the foregoing tentative ruling, appearance at this hearing is not required. Non-appearance at the hearing will be deemed acceptance of the tentative ruling.

August 6, 2020

Overrule objection. Service issue has not been corrected and Debtor filed amended Schedule C on 7/22/20 reducing the exemption to \$75,000.

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

Party Information

Debtor(s):

Kim-Lan T Nguyen

Represented By
Thinh V Doan

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

CONT... Kim-Lan T Nguyen

Chapter 13

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
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Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

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

Chapter 11

#33.00 STATUS CONFERENCE Hearing RE: Status of Chapter 11 Case; and (2) Requiring Report on Status of Chapter 11 Case
[Lead Case: (Lead Case: Hytera Communications America (West), Inc. (Case Number: 8:20-bk-11507-ES)] Jointly Administered With Member Cases: Hytera America Incorporated (Case Number: 8:20-bk-11508-ES) and HYT North America, Inc. (Case Number: 8:20-bk-11509-ES)]

Docket 1

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

August 6, 2020

Continue Status Conference to December 17, 2020; updated Status Report must be filed by December 3, 2020.

Note: If Debtors are in substantial compliance with the requirements of the United States Trustee, appearance at this Status Conference is not required. It is Debtors' responsibility to confirm the status of their compliance with the UST in advance of the hearing. The court will issue its own order re continuance of the hearing.

Party Information

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Thursday, August 6, 2020

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10:30 AM

CONT... Hytera Communications America (West) Inc

Chapter 11

Debtor(s):

Hytera Communications America

Represented By
John W Lucas
Jason H Rosell
Victoria Newmark

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, August 6, 2020

Hearing Room 5A

10:30 AM

8:20-11837 Golden Communications Inc.

Chapter 11

#34.00 FINAL Hearing RE: Debtor's Emergency Motion for Interim and Final Orders Authorizing Debtor to Pay Pre-petition Claims of Critical Vendors: and (2) Perform Under Agreements with Critical Vendors

FR: 7-6-20

Docket 11

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

SPECIAL IMPORTANT NOTICE! In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through September 30, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

Absent opposition, grant Motion on interim basis through August 6, 2020. The final hearing will be held on August 6, 2020 at 10:30 a.m. Any supplemental pleadings in support of the Motion must be filed/served by July 16, 2020; any opposition/response must be filed/served by July 23, 2020; and reply must be filed/served by July 30, 2020. (XX)

August 6, 2020

Grant motion on a final basis.

Note: This matter appears to be uncontested. Accordingly, no court appearance by the Movant is required. Should an opposing party file a

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CONT... Golden Communications Inc.

Chapter 11

***late opposition or appear at the hearing, the court will determine
whether further hearing is required and Movant will be so notified.***

Party Information

Debtor(s):

Golden Communications Inc.

Represented By
Marc C Forsythe

**United States Bankruptcy Court
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Thursday, August 6, 2020

Hearing Room 5A

2:00 PM

8:19-13858 Bruce Elieff

Chapter 11

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

#35.00 Hearing RE: Joint Motion for Reconsideration or, Alternatively, Entry of Partial Final Judgment Under FRCP 54(b) or Certification Under 28 U.S.C. Section 1292(b)

Docket 107

***** VACATED *** REASON: CONTINUED TO 8/13/2020 AT 2:00 P.M.,
Per Order Entered 7/31/2020 (XX)**

Courtroom Deputy:

**CONTINUED: HEARING CONTINUED TO AUGUST 13, 2020 AT 2:00 P.M.
(per hearing held on 7/30/20 --eas)/td (XX) (7/31/2020)**

Tentative Ruling:

July 23, 2020

Grant the Motion as to 510(b); deny as to 510(c).

Procedure for today's hearing: Plaintiffs will be permitted up to 30 minutes for opening argument; Defendant will have 30 minutes to respond; 15 minutes for reply (plus any unused portion of the opening argument).

Rulings on Evidentiary Rulings will be issued at the time the formal findings are issued.

Basis for Tentative Ruling:

Bruce Elieff ("Elieff") filed a voluntary chapter 11 on October 2, 2019, and Morse Properties, LLC ("Morse") and 4627 Camden, LLC ("Camden") filed voluntary chapter 11 petitions on October 3, 2019. On October 15, 2019, Elieff, Morse, and Camden commenced an adversary proceeding against Todd Kurtin ("Kurtin") to avoid Kurtin's \$34 million judgment lien and subordinate the claim (the "AP"). On December 11, 2019, Debtors filed a

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CONT...

Bruce Elieff

Chapter 11

second amended complaint (the "SAC")[AP dkt. #11]. On January 9, 2020, Kurtin filed a motion to dismiss the SAC (the "Motion to Dismiss")[AP dkt. #19]. On March 3, 2020, the order granting the Committee's motion to intervene as to the first claim for relief only was entered [AP dkt. #65]. On May 7, 2020, the order granting the Motion to Dismiss in part, and denying in part [dkt. 100]. Plaintiffs Elieff, Morse, Camden, and the Committee were granted leave to amend the SAC except for any claims under 11 U.S.C. § 510(c)(2). On May 14, 2020, the third amended complaint was filed (the "TAC")[dkt. 105].

Trustee and the Committee (collectively, "Plaintiffs") now move for summary judgment on all of the claims for relief -1st Claim (Elieff), 6th Claim (Morse), and 9th Claim (Camden)] seeking mandatory subordination of Kurtin's claims § 510(b) [AP dkt. #57]. Kurtin opposes the Motion.

Summary Judgment Standard

A party seeking summary judgment bears the initial responsibility of demonstrating the absence of a genuine issue of material fact, and establishing that it is entitled to judgment as a matter of law as to those matters upon which it has the burden of proof. *Celotex Corporation v. Catrett*, 477 U.S. 317, 323 (1986). The opposing party must make an affirmative showing on all matters placed in issue by the motion as to which it has the burden of proof at trial. *Id.* at 324. The substantive law will identify which facts are material. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. *Id.* A factual dispute is genuine where the evidence is such that a reasonable jury could return a verdict for the nonmoving party. *Id.* The court must view the evidence presented on the motion in the light most favorable to the opposing party. *Id.*

In the absence of any disputed material facts, the inquiry shifts to

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CONT...

Bruce Elieff

Chapter 11

whether the moving party is entitled to judgment as a matter of law. *Celotex*, 477 U.S. at 323. Furthermore, where intent is at issue, summary judgment is seldom granted. See, *Provenz v. Miller*, 102 F.3d 1478, 1489 (9th Cir. 1996), *cert. denied*, 118 S. Ct. 48 (1997).

Judicial Notice of Facts set forth in the State Court Appellate
Opinions

As a preliminary matter, the California Court of Appeals previously issued two opinions related to this matter: *Kurtin v. Elieff* ("*Kurtin I*"), 215 Cal.App.4th 455 019 (2013) and *Kurtin v. Elieff* ("*Kurtin II*"), 2019 WL 4594775 *1 (Cal. Ct. App. 4th Sep. 23, 2019). See, Debtors' RJN. [AP dkt. #61], Ex. 1-2. Plaintiffs argue that "there is no dispute over the material facts, which were established in Kurtin I and Kurtin II." Mot., p. 5:9-10; See, Debtors RJN, p. 3:1-2 ("Therefore, the Court may take judicial notice of both the existence and *content* [*Kurtin I* and *Kurtin II*]"). The Court is aware of the limitations on taking judicial notice, even as to the opinions of another court. Under Fed.R.Evid. 201, i.e., that a court may take judicial notice of facts that are not subject to reasonable dispute in that they are either "(1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned," See, *Lee v. City of Los Angeles*, 250 F.3d 668, 690 (9th Cir. 2001)("when a court takes judicial notice of another court's opinion, it may do so "not for the truth of the facts recited therein, but for the existence of the opinion, which is not subject to reasonable dispute over its authenticity.") See also, *Mazzocco v. Lehavi*, 2015 WL 12672026, at *4 (S.D. Cal. Apr. 13, 2015)(declining to take judicial notice of facts within a state appellate court opinion)

In this matter, the Court may certainly take judicial notice of the Kurtin I and Kurtin II opinions and the adjudicated rulings therein. However, it would not be appropriate to take judicial notice of non-adjudicative factual characterizations in either opinion. For example, as noted by Kurtin, the issue of whether the Settlement Agreement "arose from" the purchase or sale of securities within the context of 11 U.S.C. § 510(b) was not before the California appellate court and, therefore, it's characterization of the Settlement Agreement as a "buy out" will not be judicially noticed.

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CONT...

Bruce Elieff

Chapter 11

The Undisputed Facts

On June 23, 2003, Kurtin filed an action for breach of fiduciary duty, constructive fraud, misappropriation and other claims in the Orange County Superior Court, case no. 03CC0022 (the "First Lawsuit"). An amended complaint was later filed. Kurtin RJN Ex. 1-2.

The First Lawsuit was settled by settlement agreement (the "Settlement Agreement") in August 2005, a copy of which is attached as Exhibit 1 to Bruce Elieff's declaration. Debtors' Statement of Uncontroverted Facts ("SUF") 12-13; Kurtin's Statement of Genuine Disputes of Material Facts ("SGI") 12-13.

Exhibit B to the Settlement Agreements lists several entities defined as the "Joint Entities." Per the Settlement Agreement, Elieff was to be paid \$48.8 million in four installments: \$21 million, \$1.8 million, \$13.1 million, and \$12.9 million. Id.

Elieff and the Joint Entities were jointly and severally responsible for paying the first installment, but only the Joint Entities were responsible for paying the last three installments totaling \$27.8 million. SUF 19; SGI 19.

The Settlement Agreement included the following distribution clause in Section 14, "Elieff shall not take any distribution from any of the Joint Entities if such distribution prevents satisfaction of payment of the Settlement Payments." SUF 36; SGI 36.

Elieff made the \$21 million first installment payment. SUF 25; SGI 25. The Joint Entities made the \$1.8 million second installment, but only paid \$3.5 of the \$13.1 million third installment payment, and paid nothing on the final installment of \$12.9 million. SUF 26; SGI 26.

When Kurtin sought to enforce the agreement against the Joint Entities under section 664.6 of the Code of Civil Procedure in the context of the 2003 litigation, the trial judge denied his request on the ground that the Joint Entities were not "parties" to Kurtin's 2003 litigation. SUF 29; SGI 29.

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Bruce Elieff

Chapter 11

On May 12, 2007, Kurtin received an arbitration award an arbitration award amending the Settlement Agreement to allow Kurtin to obtain Elieff's interests in the Joint Entities (which secured the Settlement Payments) and apply the same towards the satisfaction of the Settlement Payment. See, Kurtin RJN, Ex. 5. The arbitration award did not preclude any other legal or equitable remedies that Kurtin may have held.

On December 10, 2007, Kurtin filed a second lawsuit in Orange County Superior Court against Elieff and the Joint Entities, case no. 00100307 (the "Second Lawsuit") and later filed a first amended complaint. See, Kurtin RJN Ex. 7-8; SUF 33; SGI 33.

On May 20, 2010, after a bifurcated jury trial, judgment was entered in in favor of Kurtin in the amount of \$24.4 million (the "2010 Judgment"). See, SUF 37, 39; SGI 37, 39; Kurtin RJN, Ex. 9.

By published opinion dated April 16, 2013, the California Court of Appeal affirmed the 2010 Judgment's finding of liability against Elieff and the trial court's order granting a new trial as to damages only. *Kurtin I*, 215 Cal. App. 4th 455.

On March 13, 2017, Kurtin's new trial as to damages was held. Kurtin RJN Ex. 11.

On November 20, 2017, the state court entered an amended judgment in favor Kurtin in the amount of \$20.3 million for Elieff's breach of the distribution provision in section ¶14 of the Settlement Agreement (the "2017 Judgment"). RJN Ex. 11.

On September 23, 2019, the California Court of Appeal reduced the principal amount of the 2017 Judgment by \$3,546,862.07 and ordered that prejudgment interest calculated be based on the reduced damage award. *Kurtin II*, 2019 WL 4594775, at * 4 and 6.

Kurtin has filed proofs of claim against Debtors based on the 2017 Judgment, as subsequently amended on February 4, 2020. See, Kurtin RJN,

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CONT... Bruce Elieff
Ex. 14-17.

Chapter 11

Plaintiffs have Carried their Burden Establishing the Absence of
Genuine Dispute Regarding the Material Fact of Whether the
Settlement Agreement is an Agreement for the Purchase and Sale of
Securities

The Ninth Circuit has adopted a broad interpretation of what constitutes "a claim arising from the purchase or sale of a security." *Am. Wagering, Inc.*, 493 F.3d at 1072. 1072. "[T]he statute sweeps broadly...and reaches even ordinary breach of contract claims so long as there is a sufficient nexus between the claim and the purchase of securities." *In re Tristar Esperanza Properties, LLC*, 782 F.3d 492, 495 (9th Cir. 2015); *Am. Wagering, supra*, at 1072 ("As noted above, a number of courts, including this one, have held that breach of contract claims may be subordinated under section 510(b) where there exists some nexus or causal relationship between the claim and the purchase of the securities....").

In assessing the "arising from" element, the courts focus upon the origin or source of the claim. "The phrase 'arising from' as employed in § 510(b) 'connotes, in ordinary usage, something broader than causation' and is instead 'ordinarily understood to mean originating from, having its origin in, growing out of, or flowing from or in short, incident to, or having connection with.'" *In re Del Biaggio*, 834 F.3d 1003, 1009 (9th Cir. 2016).

"[T]he status of the claim on the date of the petition does not end the § 510(b) inquiry," so the "critical question for purposes of § 510(b), then, is not whether the claim is debt or equity at the time of the petition, but rather whether the claim *arises from* the purchase or sale of a security." *Tristar*, 782 F.3d at 497 (emphasis in original). To that end, courts may "look behind" a judgment to determine whether the claim arises from the purchase or sale of securities. See, *Am. Wagering*, 493 F.3d at 1071 (analyzing the terms of the underlying consulting contract to determine whether a money judgment based on the value of stock arose from the purchase or sale of securities); *Betacom*, 240 F.3d at 831-32 (remanding to the bankruptcy court the determination of

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CONT...

Bruce Elieff

Chapter 11

whether two promissory notes arose from the purchase or sale of stock because "there is little evidence in the record to explain their origin" and directing that if the promissory notes are "linked" to a merger agreement, they should be subordinated); See also, *In re SeaQuest Diving, LP*, 579 F.3d 411, 425 (5th Cir. 2009)("Rather, the court must look behind the judgment and examine the totality of the circumstances to determine whether the transaction is a 'rescission of a purchase or sale of a security of a debtor.'").

Here, Plaintiffs have carried their burden to demonstrate the lack of a genuine dispute over the material fact of whether the Settlement Agreement is an agreement to purchase or sale securities. The Settlement Agreement requires Kurtin to transfer his interest in the SunCal LLCs to Elieff, and transfer his interests in the trade name "SunCal". Moreover, that the Settlement Agreement includes a clause requiring Kurtin to not "solicit any SunCal employees for employment for a period of one year." See, Elieff Decl., Ex. 1 (the Settlement Agreement), p. 1-4. These terms would appear to support Plaintiffs argument that the Settlement Agreement was an agreement, at least in part, for the purchase or sale of securities.

As discussed above, to determine the "origin" of a claim, the Court may "look behind" the relevant documents to the circumstances giving rise to the claim at issue. And to the extent that both parties have, in either their pleadings or evidentiary objections, argued that the parol evidence should bar the Court's review beyond the Settlement Agreement (while, ironically, both offering parol evidence in the form of financial statements, deposition transcripts, appellate briefs, etc. in support of a favorable interpretation of the Settlement Agreement), such argument is unpersuasive in light of Settlement Agreement terms appearing to support both positions (as discussed above).

Moreover, and more importantly, as cited above, Ninth Circuit law provides the Court should not limit its review to the face of the Settlement Agreement. See, *Am. Wagering*, 493 F.3d at 1071 (analyzing the terms of the underlying consulting contract to determine whether a money judgment based on the value of stock arose from the purchase or sale of securities); *Betacom*,

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CONT...

Bruce Elieff

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240 F.3d at 831-32 (remanding to the bankruptcy court the determination of whether two promissory notes arose from the purchase or sale of stock because "there is little evidence in the record to explain their origin" and directing that if the promissory notes are "linked" to a merger agreement, they should be subordinated); See also, *In re SeaQuest Diving, LP*, 579 F.3d 411, 425 (5th Cir. 2009)("Rather, the court must look behind the judgment and examine the totality of the circumstances to determine whether the transaction is a 'rescission of a purchase or sale of a security of a debtor.'").

In this case, the Court can look behind the Judgment to the Settlement Agreement and find that Settlement Agreement "arises" from the purchase and sale of securities. The undisputed fact is that the Settlement Agreement required Kurtin to transfer his interests in the Joint Entities to Elieff. See, SUF 12-13; SGI 12-13 (the Settlement Agreement). While Kurtin argues that the Settlement Agreement is not an agreement to purchase or sale securities but rather an agreement to end the partnership between Elieff and Kurtin (and a partnership interest is not a security under the Code), this argument ignores the plain language of § 510(b) which does not "require that the underlying agreement for a purchase and sale of the security need be solely an agreement for the purchase and sale of the security." Pl. Joint Reply [dkt. 127], p. 17. The undisputed fact remains that at least a part of the Settlement Agreement required Kurtin to transfer his interest in the Joint Entities, which Kurtin did via assignments to Elieff. See, Elieff Supp. Decl., p. 2-4, ¶¶8-22 and Ex. 1-15 (assignments from Kurtin to Elieff).

Moreover, Kurtin's reliance on *In re Khan*, 846 F.3d 1058, 1063 (9th Cir. 2017) to argue that there is not a sufficient nexus between Kurtin's damages and the purchase or sale securities if the Court only looks at "conduct" that gave rise to the Judgment (which was Elieff diversion of funds from the Joint Entities in violation of ¶14 of the Settlement Agreement) is unpersuasive because *Khan* is factually distinguishable. Kurtin Supp. Opp'n [dkt. 120], p. 17-20.

Unlike *Khan*, in which the court emphasized that the damages sought for securities that were converted years after the sale of the securities were

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sold "were not remotely related to the purchase, " 846 F.3d at 1064, here Kurtin's damages, in contrast, are directly related to the purchase of securities which was at least one part of the Settlement Agreement. Pl. Joint Reply [dkt. 127], p. 10-12. Moreover, unlike the damages in *Khan* that was based on a tort, Kurtin's damages in the Judgment were based on a breach of contract claim. See *id.*, p. 13. Additionally, unlike *Khan*, in which the Court noted tortious conversion of stock is not one of the risks that a purchaser of stock assumes, the non-payment of Settlement Payments was a risk that Kurtin willingly assumed evidenced by the fact that the parties contracted to include ¶14 in the Settlement Agreement. See *id.*

The Court also need not necessarily adopt the "but for" test advocated by Plaintiffs because, even as Plaintiffs acknowledge, the Ninth Circuit has not adopted the "but for" test even though it has explicitly endorsed circuit court cases that do so in holding that "arising from" should be given an "expansive "some nexus" reading." See, Pl. Joint Reply [dkt. 127], p. 8-10 (citing *In re Del Biaggio*, 834 F.3d 1003, 1009 (9th Cir. 2016)). The Ninth Circuit, however, has stated that, "the statute sweeps broadly...and reaches even ordinary breach of contract claims so long as there is a sufficient nexus between the claim and the purchase of securities." *In re Tristar Esperanza Properties, LLC*, 782 F.3d 492, 495 (9th Cir. 2015); *Am. Wagering, supra*, at 1072 ("As noted above, a number of courts, including this one, have held that breach of contract claims may be subordinated under section 510(b) where there exists some nexus or causal relationship between the claim and the purchase of the securities..."). "The phrase 'arising from' as employed in § 510(b) 'connotes, in ordinary usage, something broader than causation' and is instead 'ordinarily understood to mean originating from, *having its origin in*, growing out of, or flowing from or in short, *incident to, or having connection with.*" *Del Biaggio*, 834 F.3d at 1009.

Here, the Court finds that the Judgment has its origin, is incident to, and has a connection to the Settlement Agreement, which itself is an agreement, at least partially, to purchase and sale of securities of Debtors' affiliates, the Joint Entities. As discussed above, because § 510(b) does not

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require that the underlying agreement only and entirely be an agreement to purchase or sale securities, how much of the Settlement Payments can be allocated to the securities transferred (versus allocated to Kurtin's other obligations under the Settlement Agreement) is not a material fact that is determinative of the application of §510(b)

Kurtin's further argues that, even if the Settlement Agreement was partly an agreement to purchase or sale of securities, the "sale" of securities was completed after Kurtin transferred his interest and Kurtin made the first \$21 million payment. See, Elieff Supp. Decl., p. 11. Thus, because Kurtin had no further personal liability for the remaining Settlement Payments, and the Judgment is ultimately based on non-payment of these remaining Settlement Payments, the Judgment is not an agreement to purchase or sale agreements. *Id.* However, "the June 11, 2007 Amended Arbitration Award, which constituted an amendment to the Settlement Agreement, provided that if the Joint Entities missed a buyout payment, Kurtin's remedy was to take back from Elieff the equity interests in the Joint Entities that he had sold to Elieff. ECF No. 59, Ex. 4." Pl. Joint Reply [dkt. 127], p. 14-15. This provision in the arbitration award did not create a lien on Kurtin's interests in the Joint Entities because it did not provide that Kurtin would need to foreclose on that lien. Instead, Kurtin held the "right to require" Elieff to transfer the Kurtin's interest in the Joint Entities, and Elieff was required to, back to Kurtin if the full Settlement Payments were not received. See, Elieff Decl. [dkt. 59], Ex. 4.

Judicial estoppel, also known as the doctrine of inconsistent positions, is a common law principle that "generally operates to preclude a party from asserting a position in a legal proceeding inconsistent with a position taken by that party in the same or a prior litigation." § 6:1.Overview, Bankr. Evid. Manual § 6:1 (2018 ed.)(citation omitted). The purpose of judicial estoppel is to "protect the integrity of the judicial process by prohibit parties from deliberately changing positions according to the exigencies of the moment." *Ah Quin v. County of Kauai Dept. of Transp.*, 733 F.3d 267, 270-71 (9th Cir. 2013)(citing *New Hampshire v. Maine*, 532 U.S. 742, 749-50 (2001)).

"Judicial estoppel is a discretionary doctrine, applied on a case-by-

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case basis." *Id.* While judicial estoppel "is 'probably not reducible to any general formulation of principle," the following factors "typically inform the decision" of whether to apply to judicial estoppel: (1) a party's later position is clearly inconsistent with its earlier position, (2) the party persuaded the court to accept the earlier position, so that the court's acceptance of the later position "would create the perception that either the first or the econ court was misled," and (3) the party asserting the inconsistent position will receive an "unfair advantage or impose an unfair detriment on the opposing party if not estopped." *Ah Quin, supra*, at 270. These factors, however, "do not establish inflexible prerequisites or an exhaustive formula for determining the application of judicial estoppel" and additional considerations may be appropriate in specific factual contexts. *Id.* at 270-72. Moreover, "it may appropriate to resist application of judicial estoppel when a party's prior position was based on inadvertence or mistake." *Ah Quin, supra*, at 271 (finding vacating and remanding district court's summary judgment because the determination of "mistake" and "inadvertence" within the context judicial estoppel required inquiry into the debtor's subjective intent when completing the bankruptcy schedules and omitting a litigation claim).

Here, Kurtin's alleged admissions that specifically reference the Settlement Agreement as "buy out" do appear to have been made in pleadings in the state court litigation. Though Plaintiffs make a strong argument for judicial estoppel, application of this equitable doctrine is not necessary for the Court to find as a matter of law that the Settlement Agreement involved the purchase and sale of a security within the meaning of §510(b). Stated otherwise, Plaintiffs have carried their burden to demonstrate the absence of a material fact that the Settlement Agreement was, at least in part, an agreement for Kurtin to sell his securities in the Joint Entities, at least the directly owned Joint Entities, within the context of the Elieff and Kurtin ending their partnership.

Kurtin's Request for Further Discovery is Denied

Kurtin again requests that the Motion be denied because Kurtin has purportedly not had an opportunity to complete discovery related to Debtor's affiliations, how much of the Settlement Payments was allocated to any

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alleged "buyout" amount, and Kurtin's "old and cold" defense. See, Kurtin Supp. Opp'n [dkt. 120], p. 32-38. First, as discussed above, there is no dispute that at least the directly owned Joint Entities were affiliates of Debtor. Pl. Joint Reply [dkt. 127], p. 23-24. Also, as discussed above, there is no requirement that the entire agreement at issue be an agreement for the sale or purchase of securities. So, while the Court previously mentioned that it had a question on whether any amount of the Settlement Payments could be allocated to Kurtin's transfer of the SunCal's names (and Plaintiffs dispute that Kurtin had any interest in the SunCal names), a determination of how the Settlement Payments were allocated is not necessary. See, Committee Supp. Br., p. 6-8; Contra, Kurtin Supp. Opp'n [dkt. 120], p. 20-28.

With regards to Kurtin's "Old and Cold" defense, this defense has not been adopted by the Ninth Circuit so no discovery related to this defense is required. See, Committee Supp. Br., p. 8-9; Pl. Joint Reply [dkt. 127], p. 28-29 (top of page). Even Kurtin admits that Ninth Circuit has not adopted the "old and cold" defense. See, Kurtin Supp. Opp'n [dkt. 120], p. 38. At best, the Ninth Circuit discussed the defense in a footnote in *In re Tristar Esperanza Properties, LLC*, 782 F.3d 492 fn. 4. (9th Cir. 2015) and found that it did not need to decide whether the "old and cold" defense can ever be available. See, Pl. Joint Reply [dkt. 127], p. 28 (top of page), ln. 20-28. Further, no "subsequent published case from a court in the Ninth Circuit has even mentioned the so-called "old and cold" defense, much less applied it." *Id.* Accordingly, Kurtin's request to deny the Motion based on his need for further discovery should be denied.

Section 510(c)(2) does not apply to mandatory subordination under § 510(b)

In its ruling on the Motion to Dismiss, the Court dismissed the claims for relief based on § 510(c)(2) with prejudice. See, Order Granting in Part and Denying in Part Motion to Dismiss Second Amended Complaint and Scheduling Order (the "12(b)(6) Order") [dkt. 100], Ex A, p. 12-13 of the tentative ruling. The instant Motion requests relief under § 510(c)(2) but the Motion was filed before that ruling. The Court understands a motion for

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reconsideration of its ruling regarding 510(c)(2) will be heard on Aug. 6, 2020.

Basis for Tentative Ruling.

Party Information

Debtor(s):

Bruce Elieff

Represented By
Paul J Couchot

Defendant(s):

Todd Kurtin

Represented By
Lewis R Landau

Plaintiff(s):

Bruce Elieff

Represented By
Paul J Couchot

Morse Properties, LLC

Represented By
Paul J Couchot

4627 Camden, LLC

Represented By
Paul J Couchot