

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

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

**Chapter 7**

Adv#: 8:19-01216 Marshack v. Hyundai Steel Company

**#1.00** CON'TD STATUS CONFERENCE RE: Complaint For: 1. Breach of Contract; 2. Breach of Implied Covenant of Good Faith and Fair Dealing; 3. Avoidance and Recovery of Intentional Fraudulent Transfers; 4. Avoidance and Recovery of Constructive Fraudulent Transfers; 5. Avoidance and Recovery of Property of the Bankruptcy Estate; 6. Temporary Restraining Order and Preliminary Injunction; 7. Avoidance of Preferential Transfers; 8. Recovery of Avoided Transfers; 9. Substantive Consolidation; 10. Declaratory Judgment: Alter Ego

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

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 20, 2020**

Continue Status Conference to October 1, 2020 at 2:00 p.m., same date/time as hearing on pending motion to dismiss. An updated Joint Status Report is not required.

***Note: Appearances at today's hearing are not required.***

**Party Information**

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Hyundai Steel Company

Pro Se

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

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

**Chapter 7**

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

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

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:18-12322 Tung Phuong Nguyen-Phuc**

**Chapter 7**

Adv#: 8:20-01054 MedPro Group Inc. v. Borges et al

**#2.00** CONT'D STATUS CONFERENCE RE: Adversary Complaint In The Nature Of Interpleader

FR: 7-16-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Notice of Voluntary Dismissal of an Adversary Proceeding that Does Not Involve Claims Under 11 U.S.C. Section 727 filed 7/1/2020; No Answer Filed**

**Courtroom Deputy:**

**OFF CALENDAR: Notice of Voluntary Dismissal of an Adversary Proceeding that Does Not Involve Claims Under 11 U.S.C. Section 727 filed 7/1/2020; No Answer Filed - td (7/1/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Tung Phuong Nguyen-Phuc

Represented By  
Leslie K Kaufman

**Defendant(s):**

Emma Borges

Pro Se

Jeffrey Golden

Pro Se

**Plaintiff(s):**

MedPro Group Inc.

Represented By  
Paul L Gale

**Trustee(s):**

Jeffrey I Golden (TR)

Represented By  
Richard A Marshack

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, August 20, 2020**

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9:30 AM

**CONT...**

**Tung Phuong Nguyen-Phuc**

Jerome Ringler  
Neil Macy Howard  
David Wood

**Chapter 7**

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:18-13296 Roman Gabriel Machutt**

**Chapter 7**

Adv#: 8:20-01073 Weneta M.A. Kosmala v. Machutt

**#3.00** CON'TD STATUS CONFERENCE RE: Complaint for Revocation of the Debtor's Discharge Pursuant to 11 U.S.C. Section 727(d) and Rule 7001(4) of the Federal Rules of Bankruptcy Procedure

FR: 7-23-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Default Judgment  
Entered 8/7/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Default Judgment Entered 8/7/2020 - td (8/7/2020)**

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 23, 2020**

In light of the pending motion for default judgment, continue the status conference to August 20, 2020 at 9:30 a.m. An updated status report is not required if a default judgment has been entered on or prior to August 6, 2020.  
(XX)

***Note: As Defendant has not made an appearance in this adversary, appearance at this status conference is not required and Plaintiff shall***

**United States Bankruptcy Court  
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9:30 AM

**CONT... Roman Gabriel Machutt**

**Chapter 7**

***give notice of the continued hearing date/time.***

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

Roman Gabriel Machutt

Represented By  
Brian J Soo-Hoo

**Defendant(s):**

Roman Gabriel Machutt

Pro Se

**Plaintiff(s):**

Weneta M.A. Kosmala

Represented By  
Faye C Rasch

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Reem J Bello

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-10917 Alice L. Madonna Zimmerman**

**Chapter 7**

Adv#: 8:19-01123 Will v. Madonna Zimmerman

**#4.00** CON'TD STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt Pursuant to 11 U.S.C. §§523(a)(20, 523(a)(4), and 523 (a)(6)

FR: 9-19-19; 12-19-19; 4-16-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**September 19, 2019**

Continue status conference to December 19, 2019 at 9:30 a.m.; updated joint status report must be filed by December 5, 2019. (XX)

Basis for Tentative Ruling:

Relief from stay was granted to permit the probate matter to proceed on all issues other than a determination regarding ownership of the subject property. See Plaintiffs Reply to Defendant's Opposition to the RFS Motion at p. 2, lines 27-28. In order to award "damages" the probate court must necessarily determine whether Defendant's alleged conduct warrants a judgment of damages in Plaintiff's favor. Accordingly, Defendant's

**United States Bankruptcy Court  
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9:30 AM

CONT... Alice L. Madonna Zimmerman

Chapter 7

interpretation of the scope of the stay relief granted is flawed.

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

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**December 19, 2019**

In light of pending probate action, continue this status conference to April 16, 2020 at 9:30 a.m.; updated joint status report must be filed by April 2, 2020.  
(XX)

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

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**April 16, 2020**

Based upon the request of the parties, continue the status conference to August 20, 2020 at 9:30 a.m.; updated joint status report must be filed no later than August 6, 2020. (XX)

***Note: Appearances at this status conference are not required. Nonappearance at the hearing will be deemed acceptance of the tentative ruling. Plaintiff shall serve notice of the continued hearing date/time.***

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**August 20, 2020**

In light of court ordered mediation, continue Status Conference to November 5, 2020 at 9:30 a.m.; updated Joint Status Report must be filed by October 22, 2020.

***Note: Appearances at today's hearing are not required.***



**United States Bankruptcy Court  
Central District of California  
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**Hearing Room 5A**

9:30 AM

CONT... Alice L. Madonna Zimmerman

Chapter 7

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

**Debtor(s):**

Alice L. Madonna Zimmerman

Represented By  
Leslie K Kaufman

**Defendant(s):**

Alice L. Madonna Zimmerman

Pro Se

**Plaintiff(s):**

Lisa Will

Represented By  
Bert Briones

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Reem J Bello

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-11551 Richard Allen Rietveld**

**Chapter 7**

Adv#: 8:19-01162 Becharoff Capital Corporation v. Rietveld

**#5.00** CONTD PRE-TRIAL CONFERENCE RE: Complaint Objecting To Debtor's Discharge Under 11 U.S.C. Section 727(a)(2), 727(a)(3), 727 (a)(4) and 727(a)(5)

FR: 11-7-19; 5-21-20

Docket 1

**Courtroom Deputy:**

**SPECIAL NOTE: Stipulation to Continue Pre-trial Conerence filed 8/19/2020; Order Approving Stipulation to Continue Pre-trial Conference to 10/1/2020 at 9:30 am Lodged in LOU on 8/19/2020, Order #10285630 - td (8/19/2020)**

**Tentative Ruling:**

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

**November 7, 2019**

Discovery Cut-off Date:	April 1, 2020
Pretrial Conference Date:	May 21, 2020 at 9:30 a.m.
(XX)	
Deadline to File Joint Pretrial Stipulation:	May 7, 2020

**Note: If all parties agree with the foregoing schedule, appearances at**

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9:30 AM

CONT... Richard Allen Rietveld

Chapter 7

*today's hearing are waived and Plaintiff shall serve/lodge a scheduling order consistent with the same.*

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**August 20, 2020**

If more time is needed for settlement discussions, continue the pretrial conference to October 1, 2020 at 9:30 a.m. Plaintiff must file either a joint pretrial stipulation (if no settlement) or a status report (settlement reached or pending) by no later than September 22, 2020 or monetary sanctions may be imposed.

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

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

**Debtor(s):**

Richard Allen Rietveld

Represented By  
Alon Darvish

**Defendant(s):**

Richard Allen Rietveld

Pro Se

**Plaintiff(s):**

Becharoff Capital Corporation

Represented By  
Fritz J Firman

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

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

Thursday, August 20, 2020

Hearing Room 5A

9:30 AM

8:19-13441 Alpha Floors, Inc.

Chapter 7

Adv#: 8:20-01064 Kosmala v. H-DRAGON INTERNATIONAL CO., LTD.

#6.00 CON'TD Hearing RE: Motion for entry of default judgment against Defendant, H-  
Dragon International Co., LTD

FR: 8-4-20, Rm 5D

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Grant motion for default judgment at the federal legal rate.

*Special note: Neither the Complaint or the Motion prays for a specific judgment amount -- the Judgment needs to do so.*

**Note: This matter appears to be uncontested. Accordingly, appearance at the hearing is not required; Plaintiff shall lodge an order and judgment consistent with the same.**

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Alpha Floors, Inc.**

**Chapter 7**

**Debtor(s):**

Alpha Floors, Inc.

Represented By  
Eric J Fromme

**Defendant(s):**

H-DRAGON INTERNATIONAL

Pro Se

**Plaintiff(s):**

Weneta M.A. Kosmala

Represented By  
Jeffrey I Golden  
Reem J Bello  
Ryan W Beall

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Reem J Bello

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

Thursday, August 20, 2020

Hearing Room 5A

9:30 AM

**8:19-13441 Alpha Floors, Inc.**

**Chapter 7**

Adv#: 8:20-01064 Kosmala v. H-DRAGON INTERNATIONAL CO., LTD.

**#7.00** CONT STATUS CONFERENCE RE: Complaint: (1) To Avoid preferential transfer pursuant 11 U.S.C. section 547; (2) For recovery of avoided transfer under 11 U.S.C. section 550; (3) To preserve transfer for the benefit of the Estate pursuant to 11 U.S.C. section 551; (4) Turnover of the property of the Estate pursuant to 11 U.S.C. section 542

[fr: 7/7/20]  
FR: 8-4-20, Rm 5D

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Take matter off calendar in light of granting of motion for default judgment.

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

**Party Information**

**Debtor(s):**

Alpha Floors, Inc.

Represented By

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

CONT...      **Alpha Floors, Inc.**

**Chapter 7**

Eric J Fromme

**Defendant(s):**

H-DRAGON INTERNATIONAL

Pro Se

**Plaintiff(s):**

Weneta M.A. Kosmala

Represented By  
Jeffrey I Golden

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Reem J Bello

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

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

**#8.00** CONT'D STATUS CONFERENCE RE: Second Amended Complaint for Mandatory Subordination and Recovery of Liens Pursuant to 11 U.S.C. §§ 510(b) and 510(c)(2), Avoidance and Recovery of Preferential and Fraudulent Transfers, and Disallowance of Claims Pursuant to 11 U.S.C. §502(d)

FR: 3-5-20; 4-9-20; 4-23-20

Docket 11

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**April 23, 2020**

Continue Status Conference to August 20, 2020 at 9:30 a.m.; joint status report due August 6, 2020. (XX)

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**August 20, 2020**

Continue Status Conference to November 19, 2020 at 9:30 a.m.; updated Joint Status Report to be filed by November 5, 2020.



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

**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

CONT... Bruce Elieff

Chapter 11

***Note: If all parties accept the foregoing tentative ruling, appearances at today's hearing is not required. Plaintiffs to serve notice of the continued hearing date/time.***

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

Bruce Elieff

Represented By  
Paul J Couchot  
Lisa Nelson

**Defendant(s):**

Todd Kurtin

Represented By  
Lewis R Landau  
Edward O Morales

**Plaintiff(s):**

Bruce Elieff

Represented By  
Paul J Couchot

Morse Properties, LLC

Represented By  
Paul J Couchot

4627 Camden, LLC

Represented By  
Paul J Couchot

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Alan G Tippie  
Daniel A Lev

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

Thursday, August 20, 2020

Hearing Room 5A

9:30 AM

8:20-10436 Chandra Marie Adam

Chapter 7

Adv#: 8:20-01096 Adam v. Wells Fargo Bank, N A et al

#9.00 STATUS CONFERENCE RE: Complaint for: 1) Quiet Title; 2) Cancellation of Real Property Instruments; 3) Declaratory Relief; 4) Breach of Settlement Agreement; 5) Fraud & Deceit; 6) Injunctive Relief

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Continue Status Conference to October 8, 2020 at 2:00 p.m., same date/time as hearing on Wells Fargo's pending motion to dismiss; updated Joint Status Report not required for the October 8, 2020 hearing.

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

**Party Information**

**Debtor(s):**

Chandra Marie Adam

Pro Se

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

**CONT... Chandra Marie Adam**

**Chapter 7**

**Defendant(s):**

Wells Fargo Bank, N A

Represented By  
J. Barrett Marum  
Zi Chao Lin

Dino Adam

Pro Se

Trina A Adam

Pro Se

Luke Daniel Adam

Pro Se

Anthony Pietrosanto Jr

Pro Se

UFO Funding LLC

Pro Se

**Plaintiff(s):**

Chandra Marie Adam

Pro Se

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**Thursday, August 20, 2020**

**Hearing Room 5A**

9:30 AM

**8:20-10730 Turner Lee Kimball, III**

**Chapter 7**

Adv#: 8:20-01094 SchoolsFirst Federal Credit Union v. Villicana

**#10.00 STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt**

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Dismissing  
Adversary Proceeding Entered 7/13/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Dismissing Adversary Proceeding Entered  
7/13/2020 - td (7/13/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Turner Lee Kimball III

Represented By  
Steven A Alpert

**Defendant(s):**

Vanessa Elizabeth Villicana

Pro Se

**Joint Debtor(s):**

Vanessa Elizabeth Villicana

Represented By  
Steven A Alpert

**Plaintiff(s):**

SchoolsFirst Federal Credit Union

Represented By  
Paul V Reza

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, August 20, 2020**

**Hearing Room 5A**

10:00 AM

**8:16-15061 Kenneth Robert Brook**

**Chapter 13**

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

SCHOOLSFIRST FEDERAL CREDIT UNION

VS.

DEBTOR

Docket 37

**Courtroom Deputy:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Kenneth Robert Brook

Represented By  
Joseph A Weber

**Movant(s):**

SCHOOLSFIRST FCU

Represented By  
Laura Johnston  
Maria L Gray  
Dioselin Hernandez  
Paul V Reza

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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

Thursday, August 20, 2020

Hearing Room 5A

10:00 AM

8:19-11449 Jill Allyn Rosoff

Chapter 13

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

SERVIS ONE, INC.

VS.

DEBTOR

FR: 7-23-20

Docket 48

\*\*\* VACATED \*\*\* REASON: CONTINUED TO 9/17/2020 AT 10:00 A.M.,  
Per Order Entered 8/19/2020 (XX)

Courtroom Deputy:

**CONTINUED: Hearing Continued to 9/17/2020 at 10:00 a.m., Per Order  
Entered 8/19/2020 (XX) - td (8/19/2020)**

Tentative Ruling:

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

**August 20, 2020**

Movant to advise the court regarding the status of this matter. If additional time is needed by the parties, Movant may request an additional continuance during the clerk's calendar roll call prior to the hearing. Available continued

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Jill Allyn Rosoff**

**Chapter 13**

hearing dates: 9/3/20, 9/10/20, 9/17/20 and 10/1/20 at 10:00 a.m.

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

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

**Debtor(s):**

Jill Allyn Rosoff

Represented By  
Kelly H. Zinser

**Movant(s):**

Servis One Inc, DBA BSI Financial

Represented By  
Reilly D Wilkinson  
Lemuel Bryant Jaquez

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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

Thursday, August 20, 2020

Hearing Room 5A

10:00 AM

8:20-10828 Hank Ku

Chapter 7

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

Docket 22

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Grant with 4001(a)(3) waiver.

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

Party Information



**United States Bankruptcy Court  
Central District of California  
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**Thursday, August 20, 2020**

**Hearing Room 5A**

10:00 AM

**CONT... Hank Ku**

**Chapter 7**

**Debtor(s):**

Hank Ku

Represented By  
Jonathan J. Lo

**Movant(s):**

Financial Services Vehicle Trust

Represented By  
Marjorie M Johnson

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

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

Thursday, August 20, 2020

Hearing Room 5A

10:00 AM

8:20-11725 Helen Weatherby

Chapter 11

#14.00 Hearing RE: Motion for Relief from the Automatic Stay [Real Property]

DAHJILING LLC

VS.

DEBTOR

Docket 32

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Grant the Motion under 362(d)(1), except that no trust deed sale may take place prior to December 18, 2020 and no physical eviction prior to January 18, 2021.

Basis for Tentative Ruling:

1. Although Movant is currently adequately protected by an equity cushion of at least 17%, interest continues to accrue on its matured note and unpaid payments continue to accrue on the senior secured debt. According to

**United States Bankruptcy Court  
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10:00 AM

**CONT... Helen Weatherby**

**Chapter 11**

Debtor's Schedule J and her Chapter 11 Status Report filed August 6, 2020, Debtor has insufficient income to make postpetition mortgage payments on the senior debt, let alone adequate protection payments on Movant's junior lien.

2. Though Debtor states in her Chapter 11 Status Report that if the property doesn't sell in 120 days, she will propose a plan of reorganization, the reality is that liquidation of the property is the only feasible option as she lacks sufficient income to make any adequate protection payments under a plan.

3. Granting relief from stay while deferring the date of any foreclosure sale by 120 days provides protection to Movant while permitting Debtor a reasonable opportunity to sell the property. The court notes parenthetically that Debtor waited nearly 60 days following the bankruptcy filing (and after the RFS motion was filed) to file an application for the employment of a broker. Accordingly, Debtor will have had nearly 180 days to sell the property from the date of the filing.

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

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

**Debtor(s):**

Helen Weatherby

Represented By  
Bert Briones

**Movant(s):**

Dahjiling LLC

Represented By  
William D Coffee

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

Thursday, August 20, 2020

Hearing Room 5A

10:00 AM

8:20-11774 Nicole S Barrick-Christoff

Chapter 7

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

DAIMLER TRUST

VS.

DEBTOR

Docket 8

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Grant with 4001(a)(3) waiver.

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

Party Information

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, August 20, 2020**

**Hearing Room 5A**

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10:00 AM

**CONT... Nicole S Barrick-Christoff**

**Chapter 7**

**Debtor(s):**

Nicole S Barrick-Christoff

Represented By  
Darren G Smith

**Movant(s):**

Daimler Trust

Represented By  
Sheryl K Ith

**Trustee(s):**

Jeffrey I Golden (TR)

Pro Se

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

Thursday, August 20, 2020

Hearing Room 5A

10:00 AM

8:20-11799 Heather Leigh Tolson

Chapter 13

#16.00 Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]

RONALD L. PETERMAN

VS.

DEBTOR

Docket 27

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Continue hearing to September 10, 2020 at 10:00 a.m., to allow Movant to submit supplemental pleading re the circumstances surrounding the recordation of the *In Rem* Order; Movant must file supplemental pleading by August 27, 2020; any response by Debtor to the supplemental pleading must be filed by September 3, 2020.

Basis for Tentative Ruling:

1. The court needs to know the date on which the *In Rem* Order was first

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10:00 AM

**CONT... Heather Leigh Tolson Chapter 13**

filed with the OC county clerk for recordation and, if it was filed for the first time on June 24, 2020, why it wasn't filed earlier than June 24, 2020.

2. Debtor's evidentiary objections are overruled. This court has already made findings of lack of good faith in the filing of this case as well as the coordinated efforts of Debtor and her finance in "tag" team bankruptcy filings.

3. The court is leaning in favor of granting annulment relief but needs to resolving the timing of the *In Rem* Order first.

***Note: If both parties agree to foregoing tentative ruling, appearances at this hearing are not required.***

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

**Debtor(s):**

Heather Leigh Tolson

Represented By  
Joseph A Weber  
Fritz J Firman

**Movant(s):**

Ronald L. Peterman, a Single Man to

Represented By  
Edward T Weber

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Thursday, August 20, 2020

Hearing Room 5A

10:00 AM

8:20-11907 Robert Medina-Gonzales

Chapter 7

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

U.S. BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL  
CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR LEGACY MORTGAGE  
ASSET TRUST 2017-RPL2

VS.

DEBTOR

Docket 7

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Grant with 4001(a)(3) waiver, including 362(d)(4) relief.

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



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**CONT... Robert Medina-Gonzales**

**Chapter 7**

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

Robert Medina-Gonzales

Represented By  
Peter Recchia

**Movant(s):**

U.S. Bank Trust National

Represented By  
Erin M McCartney

**Trustee(s):**

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court  
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**Thursday, August 20, 2020**

**Hearing Room 5A**

10:00 AM

**8:20-12010 Victoria Walters**

**Chapter 7**

**#18.00** Hearing RE: Motion for relief from the automatic stay [UNLAWFUL DETAINER]

SIFU QI

VS.

DEBTOR

Docket 10

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Grant Motion with all relief requested except Relief Request #s 10 and 11. Overrule Debtor's objections.

Basis for Tentative Ruling

1. This subject lease expired by its terms on 2/2/20, prior to the filing of this bankruptcy case on 7/17/20. Movant has also served a three-day notice to quit and an unlawful detainer action. While Debtor may or may not have a month-to-month tenancy under the lease is a matter of California state law

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**CONT... Victoria Walters**

**Chapter 7**

(and not bankruptcy law) and must be determined in state court.

2. The hardships of moving expressed in Debtor's opposition does not present a basis for denial of the Motion.

3. This is the second bankruptcy case filed by Debtor for the purpose of stopping the unlawful detainer proceedings. Case no. 20-10632ES was filed on 2/21/20 and dismissed on 5/28/20 based on Debtor's failure to attend the mandatory Rule 341(a) meeting of creditors. Also, in that case, the Court granted Movant's motion for relief from stay over Debtor's objections and explained that the matter needed to be resolved in California state court.

4. Under Section 362(d)(3)(C), if a debtor has had case dismissed within one year of the filing of the current case, the automatic stay only lasts for thirty days, unless the debtor files a motion to extend the stay beyond 30 days and the hearing on such a motion to extend is completed within the first 30 days of the current case. Here, Debtor's prior case was dismissed on 5/28/20 and the current case was filed less than 60 days later on 7/17/20. Accordingly, under Section 362(d)(3)(C), the automatic stay expired on 8/16/20. As Debtor did not timely file a motion to extend the stay, there is no stay in effect at this point. Now that the time has expired, no motion to extend the stay can be filed. Indeed, the court has no authority to extend the stay once the thirty-period has expired.

4. Due to the multiple bankruptcies filed, Movant is entitled to the extraordinary relief allowed by Section 362(d)(4), meaning the stay is effective for two years.

**Party Information**

**Debtor(s):**

Victoria Walters

Pro Se

**Movant(s):**

Sifu Qi

Represented By  
Luke P Daniels

**United States Bankruptcy Court  
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Santa Ana  
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10:00 AM

**CONT... Victoria Walters**

**Chapter 7**

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

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

**Chapter 11**

**#19.00 CON'TD Post-Confirmation Status Conference RE: Fourth Amended Chapter 11 Plan**

(Set at Conf. Hrg. Held 6-26-19)  
FR: 11-21-19; 2-20-20

Docket 761

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**November 21, 2019**

Continue status conference to February 20, 2020 at 10:30 a.m.; an updated status report must be filed by February 6, 2020. (XX)

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**February 20, 2020**

Debtor to advise the court as to the specific form of "court intervention" Debtor seeks. See Status report at p. 3:12-14.

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

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10:30 AM

**CONT... John Jean Bral  
August 20, 2020**

**Chapter 11**

No updated status report was filed by August 6, 2020 as ordered by the court. Debtor to appear and advise the court re the status of this case -- in particular the status of the pending arbitration.

If the arbitration is still pending, the status conference may be continued to October 15, 2020 at 10:30 a.m. by requesting a continuance during the court clerk's calendar roll call prior to the hearing. If the status conference is continued, an updated status report must be filed no later than October 1, 2020 or monetary sanctions of not less than \$100 will be imposed on Debtor's counsel.

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

**Debtor(s):**

John Jean Bral

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

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

Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:18-10548 Lenore LuAnn Albert-Sheridan

Chapter 7

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

Docket 607

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Continue hearing to December 17, 2020 at 10:30 a.m. in light of the pending appeal before the 9th Circuit on many, if not all, of the substantive issues raised in the Objection and Opposition. If the Circuit has not ruled by December 17, 2020, the hearing will be further continued from time to time until a decision is rendered. The pendency of the 9th Circuit appeal divests this court of jurisdiction to adjudicate the Objection.

Basis for Tentative Ruling

Trustee moves for an order disallowing Debtor's Second Amended Exemptions (defined below) which seeks to exempt Debtor's interests in certain causes of action and account receivables (the "Objection")[dkt. 607]. Debtor timely filed opposition to the Objection (the "Opposition")[dkt 610] to which Trustee timely replied (the "Reply")[dkt. 611].

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CONT... Lenore LuAnn Albert-Sheridan

Chapter 7

In sum, this court lacks jurisdiction to adjudicate the merits of the Objection to the Second Amended Exemptions while the Ninth Circuit appeal of the First Amended Exemption Order remains pending.

When a bankruptcy court order is appealed, the bankruptcy court is divested of jurisdiction over the appealed order and it may not "vacate or modify an order while on appeal." *In re Bialac*, 694 F.2d 625, 627 (9th Cir. 1982); *In re Padilla*, 222 F.3d 1884, 1190 (9th Cir. 2000). "Once an appellate court renders its decision on the appealed order, jurisdiction remains with the appellate court until that court issues its mandate pursuant to Fed.R.App.P. 41." *In re Marino*, 234 B.R. 767, 770 (9th Cir. BAP 1999).

The timely filing of an appellate order from the BAP, however, confers jurisdiction on the Ninth Circuit and divests "both the BAP and the bankruptcy court of *control over those aspects of the case involved in the appeal.*" See, *Padilla*, 222 F.3d at 1189-90 (emphasis added); *Marino*, 234 B.R. at 770 (stating that even if mandate is issued, timely appeal re-divests the lower court of jurisdiction). "The rule divesting lowers courts of jurisdiction of aspects of a case involved in an appeal is [sic] judge-made doctrine designed to avoid the confusion and waste of time that might flow from putting the *same issues before two courts at the same time.*" *Padilla*, 222 F.3d. at 1190 (emphasis added). The rule is "not absolute" though, because the lower court retains jurisdiction to "take actions that preserve the status quo during the pendency of an appeal...but 'may not finally adjudicate substantial rights directly involved in the appeal.'" *Id.*

In this case, the court defers any ruling on the Objection because the court lacks jurisdiction to adjudicate issues that are currently pending on appeal that could impact this court's adjudication of the same, e.g., the validity of Debtor's exemptions of the "Claims Against 3P," "Other Contingency," and Account Receivables. See, Mot., Ex. 12 (the First Amended Exemption Order) and Ex. 13 (the BAP Memorandum).

Per the First Amended Exemption Order, the court previously ruled on the substance of these issues. Debtor timely appealed these matters to the BAP thereby divesting this court of jurisdiction over these exemptions claims.



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**CONT... Lenore LuAnn Albert-Sheridan**

**Chapter 7**

And while the BAP affirmed the First Amended Exemption Order, Debtor timely appealed the BAP's decision to the Ninth Circuit Court of Appeals, case no. 20-60006, and this appeal remains currently pending. See, Obj., p. 2, n. 1; Opp'n, p. 11:15-16. Thus, this court has again been divested of jurisdiction over these specific exemptions per the First Amended Exemption Order which is on appeal.

That the appeal before the Ninth Circuit currently involves the same issues is demonstrated by a comparison of Debtor's opposition and Debtor's Opening Br. [case. no. 20-60006, dkt. 9], p. 11-13; Opp'n, p. 5:25-6:6 and Opening Br., p. 14-15; Opp'n, p. 7:14-8:4 and Opening Br., p. 19-21. "A court may take judicial notice of a document filed in another court 'not for the truth of the matters asserted in the other litigation, but rather to establish the fact of such litigation and related filings.'" § 201:5 Judicial Notice of Bankruptcy Court's Own Records, Bankr. Evid. Manual § 201:5 (2019 ed.)(citations omitted). And while Debtor's issue on appeal does not formally mention the Account Receivables, Debtor directly addresses the Account Receivables in her opening brief to the Ninth Circuit also. See, e.g., Opening Br., at p. 26.

The divesting of this court's jurisdiction to adjudicate the Objection further promotes the goal of avoiding putting the same issues before two courts at the same time and risking confusion and the waste of judicial resources.

That Debtor added further citations in support of the Second Amended Exemptions [CCP §§ 695.030 and 688.1, *Law v. Siegel*, 571 U.S. 415 (2014), *Baum v. Duckor, Spradling & Metzger*, 72 Cal. App. 4th 54 (1999) and *Murphy v. Allstate Ins. Co.*, 17 Cal. 3d 937 (1976)] does not change this result. Importantly, Debtor discusses all three cases at length in her opening brief to the Circuit. See, Opening Br. at pp. 9-11, 15, 19-22, 25, 30 and 34.

In *In re Bialac*, 694 F.2d 625, 626-27 (9th Cir. 1982) the Ninth Circuit affirmed the BAP's vacating an injunction obtained by the debtor from a second bankruptcy court after the first bankruptcy court granted relief from stay for creditor to foreclose on a note. The Ninth Circuit reasoned that the second bankruptcy court lacked jurisdiction because the order granting relief from stay had been timely appealed and the issues before both courts were

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CONT... **Lenore LuAnn Albert-Sheridan** **Chapter 7**

the same. See id. at 627. The Ninth Circuit found that the only difference between the proceedings was that the debtor was trying to further develop the argument that the note was necessary for reorganization, but even this further argument was insufficient to convey jurisdiction on the second bankruptcy court. See id.

Similarly here, by filing the Second Amended Exemptions with the new supporting citations, Debtor is attempting to add further argument to her contention that First Amended Exemptions are valid. However, as discussed above, those issues are already on appeal after Debtor timely appealed the First Amended Exemption Order to the Ninth Circuit. The court therefore only retains limited jurisdiction to "take actions that preserve the status quo during the pendency of an appeal...but 'may not finally adjudicate substantial rights directly involved in the appeal.'" *Padilla*, 222 F3d. at 1190.

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

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

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

Jeffrey I Golden (TR)	Represented By Jonathan A. Michaels Eric P Israel Aaron E de Leest Sonia Singh
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United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#21.00 Hearing RE: Trustee's Sixth Motion for Order to Continue Business Operations (Manage Real Property ) Through and Including February 28, 2021, by Continuing to: (1) Collect Rents; and (2) Pay Operating Expenses

Docket 426

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Grant Motion.

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

**Party Information**

**Debtor(s):**

Friendly Village MHP Associates LP

Represented By  
Howard Camhi

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, August 20, 2020**

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10:30 AM

**CONT... Friendly Village MHP Associates LP**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Kristine A Thagard  
Arthur Grebow  
David Wood  
Tinho Mang

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#22.00 Hearing RE: Chapter 7 Trustee's Motion for Order Authorizing the Trustee to Assume (1) Insurance Contracts; and (2) Escrow Agreement and buyback Agreement

Docket 428

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Grant Motion.

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

**Party Information**

**Debtor(s):**

Friendly Village MHP Associates LP

Represented By  
Howard Camhi

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

**CONT... Friendly Village MHP Associates LP**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Kristine A Thagard  
Arthur Grebow  
David Wood  
Tinho Mang

United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:18-13638 Friendly Village MHP Associates LP

Chapter 7

#23.00 Hearing RE: Trustee's Seventh Motion for Order Extending Time to Assume or Reject Executory Contracts or, in the Alternative, Authorizing the Trustee to Assume Certain Unexpired Leases Pursuant to 11 U.S.C. Section 365(A),

Docket 430

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Grant Motion to extend time to assume/reject executory contracts/unexpired leases.

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

**Party Information**

**Debtor(s):**

Friendly Village MHP Associates LP

Represented By  
Howard Camhi

**United States Bankruptcy Court  
Central District of California  
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**Hearing Room 5A**

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10:30 AM

**CONT... Friendly Village MHP Associates LP**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
Kristine A Thagard  
Arthur Grebow  
David Wood  
Tinho Mang



United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:18-13864 Friendly Village GP, LLC

Chapter 7

#24.00 Hearing RE: Chapter 7 Trustee's Motion for Order Authorizing the Trustee to Assume (1) Insurance Contracts; and (2) Escrow Agreement and Buyback Agreement

Docket 242

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Grant Motion.

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

**Party Information**

**Debtor(s):**

Friendly Village GP, LLC

Represented By  
Howard Camhi

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... Friendly Village GP, LLC**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
David Wood  
Kristine A Thagard

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

Thursday, August 20, 2020

Hearing Room 5C

10:30 AM

8:18-13864 Friendly Village GP, LLC

Chapter 7

#25.00 Hearing RE: Trustee's Seventh Motion for Order Extending Time to Assume or Reject Executory Contracts or, in the Alternative, Authorizing the Trustee to Assume Certain Unexpired Leases Pursuant to 11 U.S.C. Section 365(A)

Docket 244

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Grant Motion to assume/reject executory contracts/unexpired leases.

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

**Party Information**

**Debtor(s):**

Friendly Village GP, LLC

Represented By  
Howard Camhi

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

**Thursday, August 20, 2020**

**Hearing Room 5C**

10:30 AM

**CONT... Friendly Village GP, LLC**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
D Edward Hays  
David Wood  
Kristine A Thagard

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

Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:19-11546 Joseph Ra

Chapter 7

#26.00 Hearing RE: Chapter 7 Trustee's Notice of Motion for Order to Further Extend the Time to File Complaint Under 11 U.S.C. Section 727 RE: Objection to Debtor's Discharge

Docket 238

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Grant Motion.

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

**Party Information**

**Debtor(s):**

Joseph Ra

Represented By  
David B Golubchik  
Jaenam J Coe

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

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10:30 AM

**CONT... Joseph Ra**

**Chapter 7**

**Movant(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector  
Thomas J Polis

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Michael G Spector  
Thomas J Polis

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

Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:19-13441 Alpha Floors, Inc.

Chapter 7

#27.00 CONT'D Hearing RE: Application of the Chapter 7 Trustee for order authorizing employment of Collection Agent (JNR Adgustment Company, Inc.) pursuant to 11 U.S.C. §§ 327(a) and 328(a)

FR: 8-4-20, Rm 5D

Docket 79

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Grant Motion.

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

**Party Information**

**Debtor(s):**

Alpha Floors, Inc.

Represented By  
Eric J Fromme

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

---

10:30 AM

**CONT... Alpha Floors, Inc.**

**Chapter 7**

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Reem J Bello



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

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13858 Bruce Elieff**

**Chapter 11**

**#28.00** CONT'D Hearing RE: Order to Show Cause as to Why Jeffery S. Benice Should Not Be Held in Contempt of Court for Violation of the Court's March 20,, 2020 Order Granting Amended Stipulation (Dkt. Nos. 331; 333) (OSC Issued 4/27/2020)

FR: 5-21-20; 6-25-20; 7-16-20

Docket 476

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**May 21, 2020**

Continue hearing to June 25, 2020 at 10:00 a.m.

***Note: Appearances at this hearing are not required; non appearance at the hearing will be deemed acceptance of the tentative ruling.***

-----

**June 25, 2020**

**SPECIAL NOTICE!**

Virtual appearances are required. The courtroom will be locked; parties will not be permitted to appear in the courtroom. The hearing will take place using **Zoom for Government**, a free service that provides audioconference and videoconference capabilities.

Participants may connect to the videoconference through an Internet browser by entering the Videoconference URL shown below, as well as the meeting ID and password, when prompted. Alternatively, participants may dial in by telephone at the

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Bruce Elieff**

**Chapter 11**

number indicated below.

Time: Jun 25, 2020 10:00 AM Pacific Time (US and Canada)

<https://cacb.zoomgov.com/j/1608107407>

Meeting ID: 160 810 7407

Password: 307874

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Dial by your location

+1 669 254 5252 US (San Jose)

Meeting ID: 160 810 7407

Password: 307874

**TENTATIVE RULING**

Continue hearing to July 16, 2020 at 2:00 p.m. (XX)

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**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878. It is suggested that parties register with CourtCall at least 30 minutes prior to the hearing. Through August 31, 2020, CourtCall is offering discounted registration for attorneys and free registration for parties without an attorney.

**July 16, 2020**

No opposition to this matter has been filed. Based on the evidence presented, the court finds Mr. Benice to be in contempt of its March 20, 2020 Order. As no evidence (such as time records) have been presented in

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Thursday, August 20, 2020

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10:30 AM

CONT...

**Bruce Elieff**

**Chapter 11**

support attorneys fees requested, no such fees will be awarded at this time.

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

-----  
**August 20, 2020**

Grant attorneys fees in the amount of \$20,000.00, payable by Mr. Benice within 60 days of entry of the order granting such fees.

Basis for Tentative Ruling:

1. The court has already found Mr. Benice to be in contempt of its March 20, 2020 order. The only issue for this hearing is the amount of attorneys fee.
2. Reasonable attorneys fees are appropriate. After reviewing the time records submitted as well as the actual pleadings filed and Mr. Benice's efforts to purge the contempt, the court believes an award of \$20,000 to be reasonable.

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

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

Bruce Elieff

Represented By  
Paul J Couchot

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

Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:20-10328 Juan Carlos Valdez

Chapter 13

#29.00 Hearing RE: Debtor's Objection to Proof of Claim #10 Filed by on Deck Capital, Inc. in the Amount of \$69,466.45

Docket 24

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Sustain Objection.

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

**Party Information**

**Debtor(s):**

Juan Carlos Valdez

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Juan Carlos Valdez**

**Chapter 13**

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

Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

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

Chapter 11

#30.00 Hearing RE: Debtor and Debtor-in-Possession's Motion for Order Authorizing Sale of Real Property Located at 31602 Crystal Sands Drive, Laguna Niguel, CA; (A) Outside the Ordinary Course of Business; (B) Free and Clear of Liens, Claims, and Encumbrances; (C) Subject to Overbid; and (D) For Determination of Good Faith Purchaser Under 11 U.S.C. Section 363(M)

Docket 85

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Grant Motion subject to overbid. If the Trustee has received no overbids, such representation may be made during the court clerk's calendar roll call and the Motion will be deemed granted in favor of the existing buyer. The court has reviewed the declarations of the buyer filed on August 18, 2020.

**Party Information**

**Debtor(s):**

Little John's Antique Arms, Inc.

Represented By  
Richard A Marshack  
Chad V Haes  
D Edward Hays

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

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

**Chapter 11**

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

Thursday, August 20, 2020

Hearing Room 5A

10:30 AM

8:20-11725 Helen Weatherby

Chapter 11

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

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

**August 20, 2020**

Claims bar date: Oct. 28, 2020 (notice to creditors by 8/28/20)

Deadline to file plan/DS: Dec. 18, 2020

Continued Status Conference: Nov. 19, 2020 at 10:30 a.m.

Deadline to file Updated Status Report: Nov. 5, 2020

***Note: If Debtor is in substantial compliance with the requirements of the U.S. Trustee, appearance at this Status Conference is not required. It is Debtor's responsibility to confirm compliance with the U.S. Trustee. The court will issue its own order re the foregoing schedule/deadlines.***



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**Hearing Room 5A**

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10:30 AM

**CONT... Helen Weatherby**

**Chapter 11**

**Party Information**

**Debtor(s):**

Helen Weatherby

Represented By  
Bert Briones

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10566 Eric C. Bryant and Gina K Bryant**

**Chapter 7**

**#31.10** Hearing RE: Motion of Creditor Oregon Pacific Bank as Trustee of the Pedigo Living Trust to Extend Deadline to File Complaint to Determine Dischargeability of Debt Under 11 U.S.C. Section 523 and/or For Denial of Discharge Under 11 U.S.C. Section 727 **(OST Entered 8/7/2020)**

Docket 46

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 20, 2020**

Grant Motion. Overrule Debtors' objections.

Basis for Tentative Ruling

Under FRBP 4004(b)(1), a "court may for cause extend the time to object to discharge." Failure to attend an examination and to produce documents may constitute cause. See, *In re McCormack*, 244 B.R. 203, 208 (Bankr. D. Conn. 2000) (concluding that the creditor has demonstrated "cause" since he had not yet obtained pre-filing discovery—via 2004 Examination—necessary to a fairly consideration of whether to commence a § 523 and/or 727 adversary proceeding against the debtors). "The moving party has the burden of proof to show cause to extend the time for matters relating to the debtor's discharge." *In re Bomarito*, 448 B.R. 242, 248 (Bankr. E.D. Cal. 2011).

Debtors argue the following factors should be considered in denying the request for an extension as the Trust: "(1) whether the creditor has received sufficient notice of the deadline and the information to file an objection; (2) the complexity of the case; (3) whether the creditor has exercised diligence; (4) whether the debtor has refused in bad faith to

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CONT... **Eric C. Bryant and Gina K Bryant**

**Chapter 7**

cooperate with the creditor; and (5) the possibility that proceedings pending in another forum will result in collateral estoppel of the relevant issues." *In re Bressler*, 2007 WL 98493, at \*2 (Bankr. S.D.N.Y. Jan. 12, 2007)(relying on the factors set forth in *In re Nowinsky*, 291 B.R. 302 (Bankr.S.D.N.Y.2003)); *Bomarito*, 448 B.R. at 249 (applying the *Nowinsky* factors); Opp'n, p. 3-5.

In this matter, a number of important factors weigh in favor of extending the 523/727 Deadline: (1) while the Trust received notice of the 523/727 Deadline, the Trust has some documents but not all the documents and information necessary to determine whether filing a 523/727 complaint is warranted, see, Mot., p. 13, ¶¶8-14 (Slocomb Decl.); (2) the case is made complex in that the information required for the Trust to determine whether to file the 523/727 complaint is in possession of Debtors so no determination can be made until those documents are received, Mot., p. 11:8-12; (3) the Trust has been exercising due diligence by entering into a stipulation once with Debtors, filing the Rule 2004 Motions, and this is the Trust's first request for a court order; (4) Debtors have failed to produce all requested documents, such as tax returns; and (5) there is not the possibility that another forum will result in collateral estoppel of the same issues because the Elder Abuse Lawsuit has been stayed and the Trust has not moved for relief from the automatic stay.

Finally, the Court notes parenthetically that Debtors do not oppose an extension of the 727 Deadline for Trustee or U.S. Trustee. See, Opp'n, p. 2:12-14

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

Eric C. Bryant

Represented By  
Christine A Kingston

**Joint Debtor(s):**

Gina K Bryant

Represented By  
Christine A Kingston

**Trustee(s):**

Karen S Naylor (TR)

Represented By

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Eric C. Bryant and Gina K Bryant**

Thomas H Casey

**Chapter 7**

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**8:20-10566 Eric C. Bryant and Gina K Bryant**

**Chapter 7**

**#31.20** Hearing RE: Debtors' Motion to Quash or Modify Oregon Pacific Bank, as Trustee of The Pedigo Living Trust's Notice Of Examination Under Rule 2004 and Subpoena to Produce the Documents Under Rule 9016  
**(OST Entered 8/10/2020)**

Docket 54

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 20, 2020**

Deny Motion. Movant has not met burden of proof.

Basis for Tentative Ruling:

Eric Bryan ("Eric") and Gina Bryant ("Gina")(collectively, "Debtors") filed a voluntary chapter 7 petition on February 19, 2020. Karen Naylor was appointed chapter 7 trustee ("Trustee").

Oregon Pacific Bank (the "Bank"), trustee of the Pedigo Living Trust for the benefit of Angel D. Pedigo (the "Trust") has filed motions for Rule 2004 examination of Debtors [dkt. 37 and 38]. Gina's examination is set for August 24, 2020, and Eric's examination is set for August 25, 2020.

Debtors now move to quash or modify the notices of Rule 2004 (collectively, the "2004 Notice") and the related subpoenas to produce documents (collectively, the "Document Subpoena")(the 2004 Notice and the Document Subpoena, collectively, the "Notices") under FRCP 45, incorporated herein by FRBP 9016.

1. Background facts

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Santa Ana  
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**CONT...**

**Eric C. Bryant and Gina K Bryant**

**Chapter 7**

Between October 2015 and April 2019, Gina was a co-trustee of the Trust, which was created by James and Angela Pedigo. During her tenure, she transferred Trust real property located in San Juan Capistrano to Debtors personally, took out a home equity loan and deposited the funds in her own account, gave herself two loans totaling \$305,000 that did not require repayment for 24 years, purchased three mobile homes in Newport Beach with the Trust funds and Gina and her two daughters live in each one without paying rent to the Trust, transferred \$204,036 between October 2015 and August 2018 from the Trust to Gina's personal account at Chase (Debtors' have admitted the Chase account is theirs but refuse to turnover bank statement to show subsequent distributions of the transfers), settled a medical malpractice suit on behalf of Angela Pedigo for \$114,000 but failed to deposit those funds to the Trust.

After learning of the transfers, James Pedigo initiated the an action against Gina in Oregon state court (the "State Court Action") for elder abuse, conversion, breach of fiduciary duty, fraud, and other claims. On April 16, 2019, Gina was removed as co-trustee. On May 6, 2019, Jim Pedigo was appointed as Angela Pedigo's guardian and conservator. On September 3, 2019, Jim Pedigo died. Rogue Valley Fiduciary Services, LLC is currently the guardian and conservator for Angela Pedigo.

On July 13, 2020, Debtors' and the Trust's attorneys met and conferred regarding 2004 examinations of Debtors. Debtors' counsel indicated that Debtors would oppose the request but would produce some responsive documents. On July 31, 2020, Debtors produced some documents, including tax returns, but did not produce personal bank statements and the narratives and explanations provided to Trustee.

2. The Motion is denied for failure to prepare a written stipulation of disputed issues in accordance with LBR 7026-1(c)

Per LBR 2004-1(g), any dispute arising under LBR 2004 must be resolved in accordance with LBR 7026-1(c). See, LBR 7026-1(c)(1). Under LBR 7026-1(c)(2), prior to the filing of any motion, the parties must meet and confer "in a good faith effort to resolve a discovery dispute." If the parties are unable to resolve their dispute, the parties must file a written stipulation that in

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CONT... **Eric C. Bryant and Gina K Bryant**

Chapter 7

one document, identifies separately and "with particularity, each disputed issue that remains to be determined at the hearing and the contentions and points and authorities of each party as to each issue." LBR 7026-1(c)(3)(A). This written stipulation "must not simply refer the court to the document containing the discovery request forming the basis of the dispute." LBR 7026-1(c)(3)(B). "In the absence of such stipulation or a declaration of counsel of noncooperation by the opposing party, the court will not consider the discovery motion." LBR 7026-1(c)(3)(C).

In this case, while Debtors state that they have met and conferred with the Trust, see, Mot., p. 2, ¶1, Debtors have failed to provide a written stipulation that in one document, identifies separately and "with particularity, each disputed issue that remains to be determined at the hearing and the contentions and points and authorities of each party as to each issue" as required in LBR 7026-1(c)(2). The Local Bankruptcy Rules state unequivocally that, "In the absence of such stipulation or a declaration of counsel of noncooperation by the opposing party, the court will not consider the discovery motion." Both LBR 2004-1(g) and 7026-1(a) clarify that the requirements of LBR 7026-1(c)(1) are applicable to *any* dispute arising under Rule 2004 and LBR 2004-1. The Motion is denied because Debtors have failed to comply with LBR 7026-1(c)(2).

3. The Motion is denied on the merits because Debtors have failed to carry their burden under FRCP 45

Under Rule 9016, FRCP 45 is applicable to any case under the Code. Debtors move to quash the Notices under FRCP 45. See, Mot., p. 1:21-22. Debtors have not specified under which subsection of FRCP 45(d)(3) they are seeking relief- either subsection (A) or (B).

Turning to FRCP 45(d)(3)(B) first, under FRCP 45(d)(3)(B), "To protect a person subject to or affected by a subpoena, the court for the district where compliance is required *may*, on motion, quash or modify the subpoena if it requires: (i) disclosing a trade secret or other confidential research, development, or commercial information; or (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party."

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**CONT... Eric C. Bryant and Gina K Bryant**  
(emphasis added).

**Chapter 7**

The Motion makes no mention of trade secrets, commercial information, nor disclosure of expert opinions. See generally, the Mot, p. 1-6. The court therefore does not construe the Motion as seeking relief under FRCP 45(d)(3)(B).

Under FRCP 45(d)(3)(A), "On timely motion, the court for the district where compliance is required *must* quash or modify a subpoena that: (i) fails to allow a reasonable time to comply; (ii) requires a person to comply beyond the geographical limits specified in [Rule 45\(c\)](#); (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or (iv) subjects a person to undue burden." (emphasis added).

The Motion makes no argument that there has not been sufficient time to comply, or that Debtors are required to travel more than 100 miles from where they reside for their examination, or that the 204 examinations will require the disclosure of privileged information. See generally, Mot., p. 1-6; see also, Opp'n, p. 11:22-23 (while not privileged, the Trust states that it will not be seeking copies of drivers licenses or social security numbers).

The court therefore construes the Motion as seeking relief under FRCP 45(d)(3)(A)(iv)- undue burden.

A party moving to quash on the grounds of undue burden pursuant to FRCP 45(c)(3)(A)(iv) bears the burden of proof. *In re Yassai*, 225 B.R. 478, 483–84 (Bankr. C.D. Cal. 1998). "The burden is a heavy one... Movant must meet the burden 'of establishing that compliance with the subpoena would be unreasonable and oppressive'... Common examples of undue burden include: 'untimely service, inability to appear, inability to produce requested documents or things, failure to identify items requested, or excessive costs.'" *Id.* at 484 (finding that movants failed to demonstrate that the subpoenas imposed an undue burden because "no evidence pertaining to the time, cost, or inconvenience entailed in responding" was presented).

In this case, the court construes Debtors' argument to be that the 2004 Notice and the Document Subpoena cause an undue burden on Debtors



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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CONT... **Eric C. Bryant and Gina K Bryant** Chapter 7

because, in sum, the Rule 2004 examinations are unnecessary. See, Mot., p. 3-6. Debtors, however, have failed to carry their heavy burden to quash the 2004 Notice and Document Subpoena under FRCP 45(d)(3)(A)(iv).

First, there is no currently pending litigation in Oregon state court because that litigation was stayed by Debtors' filing of this bankruptcy petition. See, Opp'n p. 9-10. "When litigation is stayed as a result of a debtor-defendant's election to file for bankruptcy, Rule 2004 examinations are available to the plaintiff-creditor." Id. at 10 (citing *In re Int'l Fibercom, Inc.*, 283 B.R. 290, 293 (Bankr. D.Ariz. 2002)(explaining that "discovery is not presently available in any of the other pending litigation, due to the automatic stay" and holding that a Rule 2004 should be allowed)). There is also no currently pending contested matter. Id. at 10. While Debtors' argument that the Trust could seek relief from stay to continue litigation in Oregon state court may technically be correct, Debtors have provided no legal authority that compels the Trust to do so. As noted by the Trust, seeking relief from stay is only one option the Trust is considering and examining Debtors will provide the Trust with the necessary information to determine whether to seek relief from stay or file a nondischargeability complaint. See, Opp'n, p. 10:18-24. In either event, there is no currently pending litigation, adversary proceeding, or contest matter in which discovery can be taken.

Next, the information the Trust is seeking is necessary because it will allow the Trust to trace funds that may belong to the Trust, or conversely, belong to estate. Moreover, the Trust is seeking information that may lead to "the unearthing of frauds that will directly affect the administration of the bankruptcy estate." See, Opp'n, p. 12:14-23. "The scope of a Bankruptcy Rule 2004 examination is 'unfettered and broad...It's purpose is to facilitate the discovery of assets and the unearthing of frauds and has been likened to a quick 'fishing expedition' into general matters and issues regarding the administration of the bankruptcy case." *In re Bakalis*, 199 B.R. 443, 447-48 (Bankr. E.D.N.Y. 1996)(citations omitted). As noted above, the information will also allow the Trust to decide whether to file a nondischargeability complaint.

Third, Debtors' argument that the Rule 2004 examinations are an attempt by the Trust to bypass the Oregon state court orders limiting

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Eric C. Bryant and Gina K Bryant**

**Chapter 7**

discovery is unpersuasive because: (1) Debtors themselves opted for this forum by filing their voluntary petition thereby subjecting their financial condition to greater scrutiny, see, Opp'n, p. 12:7-8, (2) no copy of the alleged state court order limiting discovery is attached to the Motion, (3) in any event, Debtors have not provided any authority that such prepetition state court discovery order is binding on this court's discretion to order a Rule 2004 examination. See, Mot., p. 4:5-9; Opp'n, p. 6, ¶13.

In addition, the 2004 examinations will not be a waste of resources. Debtors make three sub-arguments in an attempt to support this point. Debtors argue that it will be a waste of resources because Debtors have already substantially complied, the Trust's resources are being wasted on unnecessary litigation, and Angela Pedigo cannot be relocated to live with Gina until this matter is resolved. Mot., p. 5:17-6:10.

Debtors have not substantially complied with the document production requests because they have failed to produce receipts for how the \$200,000 that was transferred to her personal bank account were used, bank statements, and they have failed to answer the Trust's questions regarding Debtors' use, possession, or control of Trust assets. See, Opp'n, p. 7:14-27 and p. 12:14-23.

Finally, Debtor's arguments that Trust resources are being unnecessarily spent and Angela Pedigo's medical care cannot be changed until this matter is resolved are unpersuasive because Debtors have failed to show how, even if those arguments are true, that will cause undue burden on Debtors. The court also notes that the current trustee of the Trust, the Bank, and Angela Pedigo's current guardian and conservator both support the requests for Rule 2004 examinations because finding Trust assets will ensure there are sufficient funds to care for Angela Pedigo. See, Opp'n, p. 4-5, ¶¶ 3-10 and p. 15 (Decl. of Susan Calzaretta).

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

Eric C. Bryant

Represented By  
Christine A Kingston

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

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10:30 AM

**CONT... Eric C. Bryant and Gina K Bryant**

**Chapter 7**

**Joint Debtor(s):**

Gina K Bryant

Represented By  
Christine A Kingston

**Trustee(s):**

Karen S Naylor (TR)

Represented By  
Thomas H Casey

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

2:00 PM

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

**Chapter 7**

Adv#: 8:19-01214 Marshack v. Chang Ding Metal Co., Ltd. et al

**#32.00** CON'TD Hearing RE: Defendant Chang Ding Metal Co., Ltd.'s Motion to Dismiss Adversary Proceeding Pursuant to Federal Rule of Civil Procedure 12(B)

FR: 4-30-20; 6-4-20

Docket 10

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

**Courtroom Deputy:**

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

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Chang Ding Metal Co., Ltd.

Represented By  
Mohammad Tehrani  
Jeff D Kahane

Hoa Phat Steel Co., Ltd.

Pro Se

Pomina 2 Steel Corporation

Pro Se

**Movant(s):**

Chang Ding Metal Co., Ltd.

Represented By  
Mohammad Tehrani  
Jeff D Kahane

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

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2:00 PM

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

**Chapter 7**

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

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

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

2:00 PM

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

**Chapter 7**

Adv#: 8:19-01214 Marshack v. Chang Ding Metal Co., Ltd. et al

**#33.00** CON'TD STATUS CONFERENCE RE: Complaint for: 1. Breach of Contract Against Chang Ding; 2. Breach of Contract Against Hoa Phat; 3. Breach of Contract Against Pomina; 4. Avoidance and Recovery of Constructive Fraudulent Transfers Pursuant to 11 USC Sections 544, 548, 550, 551; California Civil Code Section 3439.04, 3439.05, 3439.07, 3439.08, 3439.09 Against Chang Ding; 5. Avoidance and Recovery of Constructive Fraudulent Transfers Pursuant to 11 USC Sections 544, 548, 550, 551; California Civil Code Section 3439.04, 3439.05, 3439.07, 3439.08, 3439.09 Against Hoa Phat; and 6. Avoidance and Recovery of Constructive Fraudulent Transfers Pursuant to 11 USC Sections 544, 548, 550, 551; California Civil Code Section 3439.04, 3439.05, 3439.07, 3439.08, 3439.09 Against Pomina

(Another Summons Issued 4/15/2020)  
FR: 7-16-20

Docket 1

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

**Courtroom Deputy:**

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

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Chang Ding Metal Co., Ltd.

Pro Se

Hoa Phat Steel Co., Ltd.

Pro Se

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

2:00 PM

**CONT... Prime Metals U.S.A., Inc.**  
Pomina 2 Steel Corporation

Pro Se

**Chapter 7**

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

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

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

**Thursday, August 20, 2020**

**Hearing Room 5A**

2:00 PM

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

**Chapter 11**

**#34.00** Hearing RE: Motion of Motorola Solutions, Inc. to Dismiss Chapter 11 Case Pursuant to 11 U.S.C. Section 1112 or Alternatively to Suspend Case Pending Resolution of District Court Matters Pursuant to 11 U.S.C. Section 305

Docket 111

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 20, 2020**

Continue hearing to August 27, 2020 at 10:00 a.m., same date/time as the Sale Motion.

***Note: Appearances at today's hearing are not required.***

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

Hytera Communications America

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



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

**Thursday, August 20, 2020**

**Hearing Room 5A**

2:00 PM

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

**Chapter 11**

**#35.00** Hearing RE: Motion for Relief from Stay Under 11 USC Section 362  
[ACTION IN NONBANKRUPTCY FORUM]

MOTOROLA SOLUTIONS, INC.

VS.

DEBTOR

Docket 112

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**August 20, 2020**

Continue hearing to August 27, 2020 at 10:00 a.m., same date/time as the Sale Motion.

***Note: Appearances at today's hearing are not required.***

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

Hytera Communications America

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

**Movant(s):**

Motorola Solutions, Inc.

Represented By  
Mark E McKane