

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

**Thursday, October 8, 2020**

**Hearing Room 5A**

9:30 AM  
**8:00-00000**

**Chapter**

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

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**Chapter**

please see the "Notice of Video and Telephonic Appearance Procedures for Judge Erithe A. Smith's Cases" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the "Telephonic Instructions" section.

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

Docket 0

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

10/8/2020 1:11:52 PM

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**CONT...**

**Chapter**

- NONE LISTED -

**United States Bankruptcy Court  
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9:30 AM

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

**Chapter 7**

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

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

FR: 3-12-15; 4-7-15; 6-18-15; 8-18-15; 12-15-15; 4-14-16; 9-1-16; 6-22-17; 8-31-17; 4-12-18; 10-18-18; 12-13-18; 2-12-19; 3-12-19; 6-20-19; 9-19-19; 10-3-19; 11-7-19; 1-30-20

Docket 59

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**November 7, 2019**

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

**January 30, 2020**

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

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

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CONT... Donald Woo Lee

Chapter 7

**October 8, 2020**

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

Continue as a STATUS CONFERENCE to February 18, 2021 at 9:30 a.m.; an updated Joint Status report must be filed by February 4, 2021. A new pretrial conference will be scheduled at the February 18, 2021 Status Conference. In the meantime, Defendants Sammy and Anke Ciling must provide Rule 26 disclosures to Plaintiff no later than November 9, 2020 and the parties must attend mediation no later than December 18, 2020. (XX)

Basis for Tentative Ruling:

1. The continued hearing date, February 18, 2021 takes into account the current January 19, 2021 sentencing date of Plaintiff Donald Lee ("Lee").
2. Defendant Sammy Ciling ("Ciling") has requested dismissal of the adversary proceeding due to the anticipated sentencing of Lee. First, the request is not properly before the court as it was not presented as a noticed motion in accordance with applicable federal and local rules. Second, absent evidence that a plaintiff is unable to participate in litigation while incarcerated, such incarceration alone is not a basis for dismissal of a civil action. Accordingly, the request for dismissal is denied.
3. Defendants Ciling and Mrs. Ciling must comply with Rule 26 disclosure requirements.
4. The attendance at mediation is mandatory. Despite pandemic restrictions, mediations are now routinely conducted by video conference. Therefore, there should be no reason why mediation cannot take place in the timeframe set by the court.

***Note: If ALL parties accept the foregoing tentative ruling, appearances at this hearing are not required and Plaintiff shall, within 7 days, lodge an order consistent with the tentative ruling.***

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**CONT... Donald Woo Lee**

**Chapter 7**

**Party Information**

**Debtor(s):**

Donald Woo Lee

Represented By  
Robert B Rosenstein

**Defendant(s):**

American Edge Medical Co.

Represented By  
Marc C Forsythe

Turko United LLC

Pro Se

Nath Investments Inc.

Represented By  
Marc C Forsythe

My Imaging Center Inc.

Represented By  
Marc C Forsythe

Medical Imaging Rentals, Inc.

Represented By  
Marc C Forsythe

My Imaging Center LLC

Pro Se

Lake Elsinore Diagnostics Inc.

Pro Se

Temecula Diagnostic Center Inc.

Pro Se

Anke Ciling

Pro Se

Sammy Ciling

Pro Se

Fallbrook Diagnostics Inc.

Pro Se

**Joint Debtor(s):**

Linda Bae Lee

Represented By  
Robert B Rosenstein

**Plaintiff(s):**

Prime Partners Medical Group, Inc.

Represented By

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**CONT... Donald Woo Lee**

**Chapter 7**

Donald Woo Lee

Norma Ann Dawson  
Robert B Rosenstein

Represented By  
Norma Ann Dawson  
Robert B Rosenstein

Linda Bae Lee

Represented By  
Norma Ann Dawson  
Robert B Rosenstein

**Trustee(s):**

Richard A Marshack (TR)

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

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

**Chapter 11**

Adv#: 8:17-01095 Steward Financial LLC v. Bral

**#2.00** STATUS CONFERENCE Hearing regarding the status of any pending appeal

(Set at hrg. held 4-9-20)

Docket 121

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**October 8, 2020**

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

Continue Status Conference to February 18, 2021 at 9:30 a.m.; updated Joint Status Report must be filed by February 4, 2021. (XX)

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

**Party Information**

**Debtor(s):**

John Jean Bral

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



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**CONT... John Jean Bral**

**Chapter 11**

**Defendant(s):**

John Jean Bral

Represented By  
William N Lobel  
Beth Gaschen  
Alan J Friedman  
Gary A Pemberton

**Movant(s):**

Steward Financial LLC

Represented By  
Krikor J Meshefejian  
Gary E Klausner

**Plaintiff(s):**

Steward Financial LLC

Represented By  
Krikor J Meshefejian  
Gary E Klausner

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9:30 AM

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

**Chapter 7**

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

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

FR: 2-6-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 1/21/2021 AT 9:30 A.M.,  
Per Order Entered 6/2/2020 (XX)**

**Courtroom Deputy:**

**SPECIAL NOTE: Status Conference Scheduled for 6/4/2020 at 9:30 a.m. -  
td (3/10/2020)**

**CONTINUED: Pre-trial Conference Continued to 1/21/2021 at 9:30 a.m.,  
Per Order Entered 6/2/2020 (XX) - td (6/2/2020)**

**Tentative Ruling:**

**February 6, 2020**

Discovery Cut-off Date:	June 1, 2020
Deadline to Attend Mediation:	June 15, 2020
Pretrial Conference Date: (XX)	July 16, 2020 at 9:30 a.m.
Deadline to Lodge Joint Pretrial Stipulation:	July 6, 2020

*Special Note: The joint status report filed 1/28/20 provides very little information regarding the status of the case, why there is no discovery schedule, and why Plaintiff is waiting for non-answering defendants to participate. Per the docket, only one defendant, Minho An, was granted an extension of time to January 7, 2020 to file an answer. An's answer was timely filed.*

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

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

Chapter 7

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

**Party Information**

**Debtor(s):**

Prime Metals U.S.A., Inc.

Represented By  
Steven Werth

**Defendant(s):**

Ik Dong Kim

Pro Se

Gill Su Sun

Pro Se

Minho An

Represented By  
Michael H Yi

**Plaintiff(s):**

Richard A Marshack

Represented By  
Ronald S Hodges  
Robert P Goe  
Ryan S Riddles

**Trustee(s):**

Richard A Marshack (TR)

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

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9:30 AM

8:19-13858 Bruce Elieff

Chapter 7

Adv#: 8:20-01109 Citi Investment Capital Inc v. Ehrenberg

#4.00 STATUS CONFERENCE RE: Complaint for: 1. Quiet Title; 2. Declaratory Relief

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; 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;  
No Answer Filed - td (9/29/2020)**

Tentative Ruling:

- NONE LISTED -

**Party Information**

**Debtor(s):**

Bruce Elieff

Represented By  
Paul J Couchot  
Lisa Nelson

**Defendant(s):**

Howard M Ehrenberg

Pro Se

**Plaintiff(s):**

Citi Investment Capital Inc

Represented By  
David L Prince

**Trustee(s):**

Howard M Ehrenberg (TR)

Represented By  
Alan G Tippie  
Daniel A Lev  
Sean A OKeefe

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9:30 AM

**8:20-10554 Ivel Lorraine Melton**

**Chapter 7**

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

**#5.00** CON'TD STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt

FR: 8-6-20

Docket 1

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Order Granting Secured Creditor Susan Hudec's Motion to Dismiss Adversary Proceeding Entered 9/11/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Order Granting Secured Creditor Susan Hudec's Motion to Dismiss Adversary Proceeding Entered 9/11/2020 - td (9/11/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Ivel Lorraine Melton

Represented By  
Brian C Andrews

**Defendant(s):**

Ivel Lorraine Melton

Pro Se

Glenn Mitchell Melton

Pro Se

**Joint Debtor(s):**

Glenn Mitchell Melton

Represented By  
Brian C Andrews

**Plaintiff(s):**

Susan Hudec

Represented By  
Micah L Bailey

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9:30 AM

**CONT... Ivel Lorraine Melton**

**Chapter 7**

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

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10:00 AM

**8:19-12933 Lisa Nguyen**

**Chapter 13**

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

WELLS FARGO BANK, N.A.

VS.

DEBTOR

FR: 9-10-20

Docket 90

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**September 10, 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.***

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**October 8, 2020**

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

Movant to advise the court regarding the status of this matter. If additional time is needed to negotiate a resolution, a further continuance may be

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**CONT... Lisa Nguyen**

**Chapter 13**

requested during the clerk's roll call just prior to the hearing. Available hearing dates are: 10/22, 11/5, 11/12, and 11/19.

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

**Debtor(s):**

Lisa Nguyen

Represented By  
Christine A Kingston

**Movant(s):**

Wells Fargo Bank, N.A., as trustee,

Represented By  
Jenelle C Arnold

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



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10:00 AM

8:20-10043 DzineSquare, Inc.

Chapter 7

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

PROLOGIS, L.P. AND PROLOGIS TEXAS I LLC

VS.

DEBTOR

Docket 62

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**October 8, 2020**

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

Grant motion with all relief requested.

*Special note: As the motion does not request waiver of FRBP 4001(a)(3), the order granting the motion will not be effective until 14 days following its entry.*

**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):**

DzineSquare, Inc.

Represented By  
Christian T Kim  
Ann Chang

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**CONT...      DzineSquare, Inc.**

**Chapter 7**

**Movant(s):**

Prologis Texas I LLC

Represented By  
Ryan M Salzman

Prologis, L.P.

Represented By  
Ryan M Salzman

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

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Thursday, October 8, 2020

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10:30 AM

8:18-13499 Laura Marie Kroh

Chapter 7

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

**[THOMAS H. CASEY, CHAPTER 7 TRUSTEE]**

Docket 79

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**October 8, 2020**

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

Approve fees and expenses as requested.

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

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

**Debtor(s):**

Laura Marie Kroh

Pro Se

**Trustee(s):**

Thomas H Casey (TR)

Represented By  
Thomas H Casey

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**Thursday, October 8, 2020**

**Hearing Room 5A**

10:30 AM

**8:18-13499 Laura Marie Kroh**

**Chapter 7**

**#9.00** Hearing RE: First and Final Application for Fees and Reimbursement of Expenses [March 5, 2019 through July 9, 2020]

**[THE LAW OFFICES OF THOMAS H. CASEY, INC., ATTORNEY FOR  
CHAPTER 7 TRUSTEE]**

Docket 78

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**October 8, 2020**

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

Approve fees and expenses as requested.

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

**Party Information**

**Debtor(s):**

Laura Marie Kroh

Pro Se

**Trustee(s):**

Thomas H Casey (TR)

Represented By  
Thomas H Casey

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10:30 AM

**8:18-13499 Laura Marie Kroh**

**Chapter 7**

**#10.00** Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses From September 9, 2019 through May 27, 2020

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

Docket 76

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**October 8, 2020**

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

Approve fees and expenses as requested.

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

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

**Debtor(s):**

Laura Marie Kroh

Pro Se

**Trustee(s):**

Thomas H Casey (TR)

Represented By  
Thomas H Casey

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10:30 AM

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

**Chapter 11**

**#11.00** Hearing RE: Reorganized Debtor's Motion for Entry of Discharge, Final Decree and Order Closing Debtor's Chapter 11 Case

Docket 179

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**October 8, 2020**

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

Grant motion.

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

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

**Debtor(s):**

Gustavo Bautista Ortiz

Represented By  
Giovanni Orantes  
Luis A Solorzano

**Joint Debtor(s):**

Amparo Hernandez Castro

Represented By  
Giovanni Orantes  
Luis A Solorzano

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8:19-12642 Brett J McNamara and Magda C McNamara

Chapter 7

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

**[KAREN SUE NAYLOR, CHAPTER 7 TRUSTEE]**

Docket 55

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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Approve fees and expenses as requested.

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

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

**Debtor(s):**

Brett J McNamara

Represented By  
Parisa Fishback

**Joint Debtor(s):**

Magda C McNamara

Represented By  
Parisa Fishback

**Trustee(s):**

Karen S Naylor (TR)

Pro Se

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10:30 AM

8:19-12642 Brett J McNamara and Magda C McNamara

Chapter 7

#13.00 Hearing RE: First and Final Fee Application for Allowance of Fees and Expenses from November 15, 2019 through June 25, 2020, filed by Accountant

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

Docket 52

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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Approve fees and expenses as requested.

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

**Party Information**

**Debtor(s):**

Brett J McNamara

Represented By  
Parisa Fishback

**Joint Debtor(s):**

Magda C McNamara

Represented By  
Parisa Fishback

**Trustee(s):**

Karen S Naylor (TR)

Pro Se



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**CONT... Brett J McNamara and Magda C McNamara**

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**8:20-10043 DzineSquare, Inc.**

**Chapter 7**

**#14.00** Hearing RE: Renewed Motion of Prologis, L.P. and Prologis Texas LLC for Entry of an Order: Acknowledging Rejection of the Leases

Docket 61

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

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

Grant motion.

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

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

DzineSquare, Inc.

Represented By  
Christian T Kim  
Ann Chang

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

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**8:20-10043 DzineSquare, Inc.**

**Chapter 7**

**#15.00** Hearing RE: Renewed Motion of Prologis Texas I LLC for Entry of an Order:  
Allowing Administrative Expense Pursuant to 11 U.S.C. Section 365(d)(3)

Docket 63

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**October 8, 2020**

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

Grant Motion in the reduced amount of \$92,842.92 as an administrative claim, to be paid *pro rata* with other chapter 7 administrative claims.

Basis for Tentative Ruling:

Based upon the legal authority set forth in the Motion, Movant is entitled to an administrative claim for rent accrued from the petition date (January 6, 2020) through the rejection date (May 5, 2020) -- approximately 120 days or 4 months. Movant asserts that such administrative claim amount is \$137,241.54. while Movant attaches a copy of the Lease and a schedule of base rent by year, it does not provide any analysis of how it calculated the such amount, leaving the court with no choice but to perform its own calculations.

Under the terms of the Lease, rent appears to have been equal to the sum of the "Base Rent" plus the "Operating Expenses." See, Mot., Ex. 1, p. 1 and 17 of the Lease. For 2020, the Base Rent was \$17,326.56 and operating expenses were estimated to be \$5,884.17 for total monthly rent of \$23,210.73 x 4 months = \$92,842.92.

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

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, October 8, 2020

Hearing Room 5A

---

10:30 AM

CONT... DzineSquare, Inc.

Chapter 7

***appearance by the Movant is required if Movant accepts the foregoing tentative ruling. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.***

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

**Debtor(s):**

DzineSquare, Inc.

Represented By  
Christian T Kim  
Ann Chang

**Trustee(s):**

Weneta M Kosmala (TR)

Pro Se

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

Thursday, October 8, 2020

Hearing Room 5A

10:30 AM

8:20-10848 Alfredo Sanchez Torres

Chapter 13

#16.00 Hearing RE: Debtor's Objection to Claim of Cavalry SPV I, LLC Official Claim  
(Official Claim #1) Filed in the Amount of \$10,649.62

Docket 33

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**October 8, 2020**

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

Sustain objection.

***Note: This matter appears to be uncontested. Accordingly, no court appearance by the Debtors 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):**

Alfredo Sanchez Torres

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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Thursday, October 8, 2020

Hearing Room 5A

10:30 AM

8:20-11307 Ryan David Castle and Ana Alicia Castle

Chapter 13

#17.00 CON'TD Hearing RE: Debtors' Motion to Disallow Claim Number 24 Filed by United Bank Serviced by Service Finance Co. LLC in the Amount of \$13,596.17

FR: 9-3-20

Docket 23

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Withdrawal of Claim #24 filed 9/1/2020. Debtors' Notice of Withdrawal of Motion to Disallow Claim #24 filed 9/14/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Withdrawal of Claim #24 filed 9/1/2020. Debtors' Notice of Withdrawal of Motion to Disallow Claim #24 filed 9/14/2020 - td (9/14/2020)**

**Tentative Ruling:**

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

**September 3, 2020**

Continue hearing to October 8, 2020 at 10:30 am to allow Debtors to correct service issue: Claimant, an insured depository institution, was not served in accordance with FRBP 7004(h). (XX)

Basis for Tentative Ruling:

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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Thursday, October 8, 2020

Hearing Room 5A

10:30 AM

CONT... **Ryan David Castle and Ana Alicia Castle**

**Chapter 13**

Notice was timely but improper because: (1) the motion was not served via certified mail addressed to an officer of the bank, and (2) the motion was not served on the chapter 13 trustee.

Rule 3007 provides the manner of service for an objection to claim. It provides two requirements for service if the claimant is an insured depository institution: (1) the objection and notice must be served on a claimant by first-class mail to the person and address designated on the claimant's most current proof of claim, and (2) "if the objection is to a claim of an insured depository institution, in the manner provided by Rule 7004(h)." See, FRBP 3007(b).

Rule 7004(h) provides that an insured depository institution must be served by certified mail addressed to an officer unless: (1) "the institution has appeared by its attorney, in which case the attorney shall be served by first class mail," (2) "the court orders otherwise after service upon the institution by certified mail of notice of an application to permit service on the institution by first class mail sent to an officer of the institution designated by the institution," or (3) "the institution has waived in writing its entitlement to service by certified mail by designating an officer to receive service."

Here, the claimant, United Bank, is an insured depository institution as also acknowledged by Debtors' service on the claimant FDIC address. However, service, which was by certified mail, was not addressed to any officer of the bank as required by Rule 7004(h) and no exception to Rule 7004(h) has been provided by Debtors. See, Mot., p. 35-36. The motion was also erroneously served on Nancy Curry, not Amrane Cohen, the chapter 13 trustee in this case.

Tentative Ruling for Oct. 8 hearing (if unopposed): Grant

***Note: If Debtors accept the tentative ruling, appearance at this hearing is not required.***

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

**Debtor(s):**

Ryan David Castle

Represented By

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Judge Erithe Smith, Presiding  
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**Thursday, October 8, 2020**

**Hearing Room 5A**

10:30 AM

**CONT... Ryan David Castle and Ana Alicia Castle**

**Chapter 13**

Heather J Canning

**Joint Debtor(s):**

Ana Alicia Castle

Represented By  
Heather J Canning

**Movant(s):**

Ryan David Castle

Represented By  
Heather J Canning

Ana Alicia Castle

Represented By  
Heather J Canning

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



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

**Thursday, October 8, 2020**

**Hearing Room 5A**

10:30 AM

**8:19-13242 10827 Studebaker LLC, a California limited liabili**

**Chapter 11**

**#17.10** Hearing RE: Motion of Chapter 11 Debtor for Order: (1) Authorizing Sale of Real Property (30012 Ivy Glenn Drive, Laguna Niguel, CA 92677) Free and Clear of Liens Pursuant to 11 U.S.C. Sections 363(b) and 363(f); (2) Waiving Overbid Procedures; (3) Determining Buyer to be a Good Faith Purchaser; (4) Approving Compensation of Real Estate Broker; (5) Authorizing Distribution of Sale Proceeds; and (6) Waiving 14 Day Stay Imposed by Fed.R.Bankr.P. 6004(h) and Local Bk. Rule 6004-1 **(OST Entered 9/28/2020)**

Docket 163

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR: Voluntary Dismissal of Motion, filed 10/2/2020**

**Courtroom Deputy:**

**OFF CALENDAR: Voluntary Dismissal of Motion, filed 10/2/2020 - td  
(10/2/2020)**

**Tentative Ruling:**

- NONE LISTED -

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

10827 Studebaker LLC, a California

Represented By  
Steven Werth  
Alan G Tippie

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

**Thursday, October 8, 2020**

**Hearing Room 5A**

2:00 PM

**8:20-10436 Chandra Marie Adam**

**Chapter 7**

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

**#18.00** Hearing RE: Defendant Wells Fargo Bank's Motion to Dismiss Plaintiff's Complaint

Docket 3

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**October 8, 2020**

Grant the motion to dismiss with prejudice as to this court on the grounds that 1) Plaintiff presently lacks of standing to prosecute the claims alleged in the Complaint, and 2) even if the claims are abandoned to Plaintiff in the future, this court would lack jurisdiction to enter a final judgment regarding the adjudication of non-estate claims, the outcome of which will not affect the administration of the bankruptcy estate in any way. However, the motion to dismiss is dismissed without prejudice to Plaintiff re-filing a complaint in state court or other non-bankruptcy court of competent jurisdiction.

Basis for Tentative Ruling:

In reviewing the Complaint, Motion, Opposition and Reply, the court notes that neither party has addressed the threshold standing issue concerning Debtor's purported prosecution of bankruptcy estate claims ("Claims") in a chapter 7 case. This issue *must* be addressed before the court can consider the substantive issues raised by the pleadings.

Plaintiff lacks Standing to Prosecute the Claims Alleged in the Complaint in this Court

A debtor "must have standing in order to invoke federal jurisdiction and

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CONT...

**Chandra Marie Adam**

**Chapter 7**

obtain relief from the bankruptcy court." *In re Chiu*, 266 B.R. 743, 748 (B.A.P. 9th Cir. 2001), *aff'd*, 304 F.3d 905 (9th Cir. 2002). "Standing is a 'threshold question in every federal case, determining the power of the court to entertain the suit.'" *In re Veal*, 450 B.R. 897, 906 (B.A.P. 9th Cir. 2011)(citing *Warth v. Seldin*, 422 U.S. 490, 498 (1975)). The party invoking federal jurisdiction has the burden of establishing the elements of standing. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992).

"Only a trustee may pursue a cause of action belonging to the bankruptcy estate" and the "debtor can pursue such claims only if they are abandoned by the estate." *In re Meehan*, 2014 WL 4801328, at \*4 (B.A.P. 9th Cir. Sept. 29, 2014), *aff'd*, 659 F. App'x 437 (9th Cir. 2016). "Under Chapter 7 bankruptcy, once the petition is filed, all pre-petition causes of action become part of the estate. As such, the bankruptcy trustee is the sole individual with standing to maintain the pre-petition claim." *Lenneer v. Diamond Pet Food Processors of California, LLC*, 147 F. Supp. 3d 1037, 1044 (E.D. Cal. 2015). "After appointment of a trustee, a debtor no longer has standing to pursue a cause of action that existed at the time the order for relief was entered. Only the trustee has the authority and discretion to prosecute, defend and settle, as appropriate in its judgment, such a cause of action." 3 Collier on Bankruptcy P 323.03 (16th 2020).

Under 11 U.S.C. § 541(a), an estate comprised of "all legal or equitable interests of the debtor in property as of the commencement of the case" become property of the estate. A debtor's prepetition causes of action and claims for relief are included in the estate. *Smith v. Arthur Anderson LLP*, 421 F.3d 989, 1002 (9th Cir. 2005). Under 11 U.S.C. § 554, a debtor may compel a trustee to abandon estate property and estate property that is "not otherwise administered at the time of the closing of the case is abandoned to the debtor[.]"

Here, Plaintiff admits that her claims for relief against Wells Fargo (the "Claims") are estate property because Plaintiff scheduled the Claims in her Schedule A. See, Sch. A [dkt. 9], p. 8. Plaintiff also filed a motion to compel abandonment of the Claims (the "Abandonment Motion")[dkt. 24], but the Abandonment Motion was denied because Plaintiff failed to serve it on all

**United States Bankruptcy Court  
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Santa Ana  
Judge Erithe Smith, Presiding  
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CONT...

**Chandra Marie Adam**

**Chapter 7**

creditors as required by FRBP 6007(b). See, Order Denying Motion of the Debtor for Abandonment of Estate's Interest in Real Property and Claims [dkt. 30]. And while Plaintiff attempted to correct service of the Abandonment Motion, Plaintiff did so after the order denying the Abandonment Motion was entered. Thus, to date, there has been no effective abandonment of the Claims.

If the Claims are Abandoned to Plaintiff in the Future, such Claims must be Prosecuted in State Court or Other Non-Bankruptcy Court of Competent Jurisdiction

Even if Plaintiff obtains an order abandoning the Claims to her, she will have to prosecute the Claims in state court or a non-bankruptcy court of competent jurisdiction, not this court. As noted by the court in *In re VonGrabe*, 332 B.R. 40, 43 (Bankr.M.D.Fla.2005):

"Upon abandonment, the Court's jurisdiction over the claims the debtor asserts in his adversary proceedings is limited. As set forth in Title 28 U.S.C. § 1334(b), 'district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.' In *Matter of Lemco Gypsum, Inc.*, 910 F.2d 784, 788 (11th Cir.1990), the Court of Appeals for the Eleventh Circuit adopted the test articulated in *Pacor, Inc., v. Higgins*, 743 F.2d 984, 994 (3rd Cir.1984), for determining whether a civil proceeding is sufficiently "related to" bankruptcy to confer federal jurisdiction. The appropriate test is "whether the outcome of the proceeding could conceivably have an effect on the bankruptcy estate" or alter the debtor's rights, liabilities, options, freedom of action, which in any way impact the administration of the estate. *Lemco Gypsum*, 910 F.2d at 788."

Further, "[w]here an asset has been abandoned by the Trustee, that asset is no longer a part of the bankruptcy estate." *In re Bray*, 288 B.R. 305, 307 (Bankr.S.D.Ga.2001) (citation omitted). "As a result, the property reverts back to its pre-bankruptcy status, **and that asset is properly removed from the jurisdiction of the bankruptcy court.**" *Id.* (citing *Dewsnup v. Timm (In re Dewsnup)*, 908 F.2d 588, 591 (10th Cir.1990) aff'd, 502 U.S. 410, 112 S.Ct. 773, 116 L.Ed.2d 903 (1992); accord, *State v. Lange (In re Lange)*, 120 B.R.

**United States Bankruptcy Court  
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CONT... **Chandra Marie Adam**  
132, 135 (9th Cir. BAP 1990). (emphasis added).

Chapter 7

In this case, in the event of abandonment, any recovery on the Claims by Plaintiff will enure to her alone, and not to the bankruptcy estate. Stated otherwise, the litigation of the Claims will have no impact whatsoever on the administration of the bankruptcy estate.

Leave to amend is denied

Leave to amend a complaint or claim is generally within the discretion of the bankruptcy court and is reviewed under the abuse of discretion standard. *Mende v. Dun & Bradstreet, Inc.*, 670 F.2d 129 (9th Cir. 1982). FRCP 15(a) (made applicable to this proceeding by FRBP 7015) provides that a party may amend the party's pleading by leave of court and leave shall be freely given when justice so requires. The Ninth Circuit applies this rule with "extreme liberality." *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1482 (9th Cir. 1997). In exercising its discretion, a bankruptcy court "must be guided by the underlying purpose of Rule 15 to facilitate decision on the merits, rather than on the pleadings or technicalities." *In re Magno*, 216 B.R. 34 (9th Cir. BAP 1997). A bankruptcy court considers the following factors in determining whether a motion to amend should be granted: (1) undue delay; (2) bad faith; (3) futility of amendment; and (4) prejudice to the opposing party. *Hurn v. Retirement Fund Trust of Plumbing, Etc.*, 648 F.2d 1252, 1254 (9th Cir. 1981). While recognizing the principles that leave to amend should be freely granted and the preference for decisions on the merits, if the court finds that a complaint has failed to state a claim, dismissal may be without leave to amend. *Lopez v. Smith*, 203 F.3d 1122, 1126-30 (9th Cir. 2000). A court may also dismiss a complaint without leave to amend when amendment would be futile. *McQuillion v. Schwarzenegger*, 369 F.3d 1091, 1099 (9th Cir. 2004).

In this matter, leave to amend the Complaint would be futile because 1) the Claims currently are property of the estate and Plaintiff has no standing to prosecute them, and 2) even if Plaintiff obtains an order abandoning the Claims to her, the prosecution of such personal claims would be beyond the jurisdiction of this court and would have to be pursued in another non-bankruptcy court of competent jurisdiction, which Plaintiff would be free to do

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CONT... Chandra Marie Adam

Chapter 7

subject, of course, to any defenses of Defendant.

The Court Declines to Rule on the Substantive Issues Raised by the Motion

Because the court has determined that Debtor lacks standing as a matter of bankruptcy law to pursue the Claims, it would not be appropriate to rule on the substantive issues raised in the Motion, and the court declines to do so.

Here, even under the Ninth Circuit's policy of granting leave to amend with "extreme liberality," granting such leave here would be futile because, as discussed above, Plaintiff lacks standing since the claims alleged against Wells Fargo are estate claims and if Plaintiff obtains standing in the future, Plaintiff will have to litigate her claims in state or district court because the claims will be non-estate claims that will not have an impact on the administration of a no-asset case.

***Note: If BOTH parties accept the tentative ruling, appearances at this hearing will not be required and Defendant shall lodge an order consistent with the same.***

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

Chandra Marie Adam	Pro Se
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**Defendant(s):**

Wells Fargo Bank, N A	Represented By J. Barrett Marum
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Dino Adam	Pro Se
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Trina A Adam	Pro Se
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Luke Daniel Adam	Pro Se
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Anthony Pietrosanto Jr	Pro Se
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UFO Funding LLC	Pro Se
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**United States Bankruptcy Court  
Central District of California  
Santa Ana  
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**Thursday, October 8, 2020**

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**CONT...      Chandra Marie Adam**

**Chapter 7**

**Plaintiff(s):**

Chandra Marie Adam

Pro Se

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

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

2:00 PM

**8:20-10436 Chandra Marie Adam**

**Chapter 7**

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

**#19.00** CONT'D 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

FR: 8-20-20

Docket 1

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

**SPECIAL IMPORTANT NOTICE!** In order to mitigate the spread of the COVID-19 virus, notice is hereby given that ALL hearings before Judge Smith will be by TELEPHONE APPEARANCE ONLY until further notice. The courtroom will be locked. Any party who wishes to appear must register in advance 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. (XX)

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

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**October 8, 2020**

Take the Status Conference off calendar if the Motion to Dismiss is granted.



**United States Bankruptcy Court  
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2:00 PM

**CONT... Chandra Marie Adam**

**Chapter 7**

**Party Information**

**Debtor(s):**

Chandra Marie Adam Pro Se

**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