

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, December 9, 2020

Hearing Room 303

11:00 AM

6:20-17279 Olga M De Gonzalez

Chapter 13

#1.00 Motion for Relief from Stay re Real Property located at 230-232 North Millard Avenue, Rialto, CA 92376

MOVANT: LAW OFFICES OF VAN NGHIEM

[OST signed on 11/23/20]

CASE DISMISSED 11/23/20

EH__

(Tele. appr. Van Nghiem, rep. lien holder, Van Nghiem)

(Tele. appr. Anthony Cara, rep. Debtor)

Docket 16

Tentative Ruling:

12/9/2020

Service: Proper

Opposition:

On November 3, 2020, Olga Monique De Gonzalez ("Debtor") filed a *pro se*, skeletal Chapter 13 petition. Debtor had previously obtained a discharge in a Chapter 7 proceeding on January 6, 2020.

On November 20, 2020, Van Nghiem ("Creditor") filed a motion for relief from stay together with an application shortening time. On November 23, 2020, the Court approved Creditor's application shortening time, setting a hearing for December 9, 2020.

Later on November 23, 2020, Debtor's case was dismissed for failure to file case commencement documents. On December 7, 2020, Debtor retained an attorney and

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Chapter 13

filed a motion to vacate dismissal. Debtor's motion to vacate dismissal has not yet been adjudicated.

Creditor is an attorney who represented Debtor between 2015 and 2017. Debtor accumulated \$53,548 in unpaid attorney fees during this representation, and, in September 2017, Creditor filed a lawsuit against Debtor for breach of contract. On November 17, 2017, Creditor was issued a judgment in the amount of \$54,083.71. On May 1, 2018, Creditor recorded the abstract of judgment in San Bernardino County, where Debtor owned property located at 230-232 Millard Ave., Rialto, CA 92376 (the "Property").

Creditor asserts that shortly after she filed a lawsuit against Debtor, Debtor transferred the Property to her daughter for no consideration. Subsequently, Debtor's daughter took a loan against the Property in the amount of \$160,000; the deed was not recorded until August 16, 2018. On February 24, 2018, Debtor's daughter then transferred the Property back to Debtor.

Creditor then brought a fraudulent transfer action against Debtor and her daughter. On August 14, 2020, judgment was entered in Creditor's favor in San Bernardino state court.

Additionally, Creditor initiated judicial foreclosure proceedings against the Property in April 2019. Creditor asserts that Debtor waited until the day of the hearing to oppose the sale, requested a continuance, and the filed a Chapter 7 bankruptcy the day before the continued sale date. The Chapter 7 trustee appears to have contemplated selling the Property during the Chapter 7 proceeding, but ultimately did not do so. Creditor obtained relief from stay to continue with her state court litigation on March 11, 2020. Subsequently, the judicial foreclosure of the Property was set for July 2, 2020.

On June 10, 2020, Creditor asserts that she received a notice of trustee's sale by the mortgagee, which was set for July 7, 2020. This sale was apparently continued on at least one occasion for reasons that are not fully clear from the motion. Ultimately, it appears that the sale of the Property was going to take place on October 27, 2020, but Debtor requested a TRO on the day of the sale. The TRO was ultimately denied, but the sale was postponed one week regardless. The morning of the continued sale date,

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November 3, 2020, Debtor filed the instant bankruptcy petition. Debtor's case is currently dismissed, and Creditor's judicial sale is currently scheduled for December 16, 2020.

The instant bankruptcy case having been dismissed, the automatic stay has expired pursuant to 11 U.S.C. §362(c)(1). Therefore, the Court is inclined to: (1) GRANT the request in ¶ 4, confirming that the automatic stay is not in effect; and (2) DENY the requests for relief under § 362(d)(1)-(3) and ¶ 2 as MOOT.

The Court, having considered Creditor's request for relief under § 362(d)(4), finds that it is not completely clear that that provision quite fits the instant situation. Specifically, section 362(d)(4) requires either: (1) an unauthorized transfer of real property; or (2) multiple bankruptcy filings affecting the property. Here, however, the transfers noted by Creditor occurred before Creditor recorded her abstract of judgment, and the only previous bankruptcy filing affecting the Property resulted in a Chapter 7 discharge. Filing a Chapter 20 case (a Chapter 7 case followed shortly thereafter by a Chapter 13 case) is a relatively common occurrence, and would not appear to normally trigger the "multiple bankruptcy filings affecting such real property" contemplated by § 362(d)(4)(B). Here, there are multiple bankruptcy filings that delayed Creditor's foreclosure sale, and the Court has been presented with evidence establishing that the instant filing was "part of a scheme to delay, hinder, or defraud creditors." Thus, the Court is inclined to GRANT creditor relief from stay under § 362(d)(4) and GRANT waiver of the Rule 4001(a)(3) stay.

Creditor's final request, ¶ 11, is extraordinary relief that the Court rarely, if ever, grants. Here, it would appear that relief under § 362(d)(4) is more than sufficient for Creditor's purposes and, therefore, the Court does not find cause to grant the request under ¶ 11.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Olga M De Gonzalez

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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Chapter 13

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1:00 PM

6:03-15174 Devore Stop A General Partners

Chapter 7

Adv#: 6:12-01498 Morschauser v. Continental Capital LLC et al

#2.00 CONT Plaintiffs Motion For Summary Judgment

From 10/28/20, 11/10/20

EH__

(Tele. appr. Reid Winthrop, rep. Planitiff, Morschauser)

Docket 365

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Devore Stop A General Partners

Represented By

Arshak Bartoumian - DISBARRED -
Newton W Kellam

Devore Stop

Represented By

Hutchison B Meltzer

Defendant(s):

Continental Capital LLC

Represented By

Cara J Hagan
Lawrence J Kuhlman
Reid A Winthrop

Stephen Collias

Represented By

Cara J Hagan
Lawrence J Kuhlman
Reid A Winthrop

Jesse Bojorquez

Represented By

Lawrence J Kuhlman

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CONT... Devore Stop A General Partners

Chapter 7

Autumn D Spaeth ESQ
Cara J Hagan
Reid A Winthrop

American Business Investments

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ
Cara J Hagan
Reid A Winthrop

Mohammed Abdizadeh

Pro Se

Movant(s):

William G Morschauser

Represented By
Hutchison B Meltzer
Reid A Winthrop
Cara J Hagan

Plaintiff(s):

William G Morschauser

Represented By
Hutchison B Meltzer
Reid A Winthrop
Cara J Hagan

Trustee(s):

Arturo Cisneros (TR)

Pro Se

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6:03-15174 Devore Stop A General Partners

Chapter 7

Adv#: 6:12-01498 Morschauser v. Continental Capital LLC et al

#3.00 CONT Status Conference RE: [29] Crossclaim/Cross-Complaint for: 1 conversion; 2 constructive trust; 3 unjust enrichment; 4 an accounting; 5 declaratory relief; and 6 primary and secondary indemnification and contribution by American Business Investments , Jesse Bojorquez against Stephen Collias , Continental Capital LLC

From: 3/11/15, 5/20/15, 7/29/15, 12/16/15, 2/3/16, 3/16/16, 5/11/16, 8/31/16, 11/2/16, 11/16/16, 3/8/17, 6/7/17, 7/26/17, 9/13/17, 3/12/18, 11/13/19, 12/17/19, 1/15/20, 2/12/20, 3/11/20, 8/19/20, 10/28/20, 11/10/20

EH__

Docket 29

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Devore Stop A General Partners

Represented By
Arshak Bartoumian - DISBARRED -
Newton W Kellam

Devore Stop

Represented By
Hutchison B Meltzer

Defendant(s):

Continental Capital LLC

Represented By
Cara J Hagan
Lawrence J Kuhlman
Reid A Winthrop

Stephen Collias

Represented By
Cara J Hagan

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CONT... Devore Stop A General Partners

Chapter 7

Lawrence J Kuhlman
Reid A Winthrop

Jesse Bojorquez

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ
Cara J Hagan
Reid A Winthrop

American Business Investments

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ
Cara J Hagan
Reid A Winthrop

Mohammed Abdizadeh

Pro Se

Plaintiff(s):

William G Morschauser

Represented By
Hutchison B Meltzer
Reid A Winthrop
Cara J Hagan

Trustee(s):

Arturo Cisneros (TR)

Pro Se

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Chapter 7

Adv#: 6:12-01498 Morschauser v. Continental Capital LLC et al

#4.00 CONT Status Conference Hearing RE: Complaint by William G Morschauser against Continental Capital LLC , Stephen Collias , Jesse Bojorquez , American Business Investments , Mohammed Abdizadeh

From: 3/11/15, 5/20/15, 7/29/15, 12/16/15, 2/3/16, 3/16/16, 5/11/16, 8/31/16, 11/2/16, 11/16/16, 3/8/17, 6/7/17, 7/26/17, 9/13/17, 3/12/18, 11/13/19, 12/17/19, 1/15/20, 2/12/20, 3/11/20, 8/19/20, 10/28/20, 11/10/20

EH ____

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Devore Stop A General Partners

Represented By

Arshak Bartoumian - DISBARRED -
Newton W Kellam

Devore Stop

Represented By

Hutchison B Meltzer

Defendant(s):

Continental Capital LLC

Represented By

Cara J Hagan
Lawrence J Kuhlman
Reid A Winthrop

Stephen Collias

Represented By

Cara J Hagan
Lawrence J Kuhlman

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CONT... Devore Stop A General Partners

Chapter 7

	Reid A Winthrop
Jesse Bojorquez	Represented By Lawrence J Kuhlman Autumn D Spaeth ESQ Cara J Hagan Reid A Winthrop
American Business Investments	Represented By Lawrence J Kuhlman Autumn D Spaeth ESQ Cara J Hagan Reid A Winthrop
Mohammed Abdizadeh	Pro Se

Plaintiff(s):

William G Morschauer	Represented By Hutchison B Meltzer Reid A Winthrop Cara J Hagan
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Trustee(s):

Arturo Cisneros (TR)	Pro Se
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6:03-15174 Devore Stop A General Partners

Chapter 7

Adv#: 6:12-01498 Morschauser v. Continental Capital LLC et al

#5.00 CONT Cross Complainants Motion For Summary Judgment

From 10/28/20, 11/10/20

EH__

Docket 379

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Devore Stop A General Partners

Represented By
Arshak Bartoumian - DISBARRED -
Newton W Kellam

Devore Stop

Represented By
Hutchison B Meltzer

Defendant(s):

Continental Capital LLC

Represented By
Cara J Hagan
Lawrence J Kuhlman
Reid A Winthrop

Stephen Collias

Represented By
Cara J Hagan
Lawrence J Kuhlman
Reid A Winthrop

Jesse Bojorquez

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

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CONT... Devore Stop A General Partners

Chapter 7

Cara J Hagan
Reid A Winthrop

American Business Investments

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ
Cara J Hagan
Reid A Winthrop

Mohammed Abdizadeh

Pro Se

Movant(s):

Jesse Bojorquez

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ
Cara J Hagan
Reid A Winthrop

Jesse Bojorquez

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

Jesse Bojorquez

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ

Plaintiff(s):

William G Morschauser

Represented By
Hutchison B Meltzer
Reid A Winthrop
Cara J Hagan

Trustee(s):

Arturo Cisneros (TR)

Pro Se

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6:03-15174 Devore Stop A General Partners

Chapter 7

Adv#: 6:12-01498 Morschauser v. Continental Capital LLC et al

#6.00 CONT Defendants' Motion For Summary Judgment

From 10/28/20, 11/10/20

EH__

Docket 364

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Devore Stop A General Partners

Represented By
Arshak Bartoumian - DISBARRED -
Newton W Kellam

Devore Stop

Represented By
Hutchison B Meltzer

Defendant(s):

Mohammed Abdizadeh

Pro Se

Continental Capital LLC

Represented By
Cara J Hagan
Lawrence J Kuhlman
Reid A Winthrop

Stephen Collias

Represented By
Cara J Hagan
Lawrence J Kuhlman
Reid A Winthrop

Jesse Bojorquez

Represented By

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Chapter 7

Lawrence J Kuhlman
Autumn D Spaeth ESQ
Cara J Hagan
Reid A Winthrop

American Business Investments

Represented By
Lawrence J Kuhlman
Autumn D Spaeth ESQ
Cara J Hagan
Reid A Winthrop

Movant(s):

Continental Capital LLC

Represented By
Cara J Hagan
Lawrence J Kuhlman
Reid A Winthrop

Continental Capital LLC

Represented By
Cara J Hagan

Continental Capital LLC

Represented By
Cara J Hagan

Plaintiff(s):

William G Morschauser

Represented By
Hutchison B Meltzer
Reid A Winthrop
Cara J Hagan

Trustee(s):

Arturo Cisneros (TR)

Pro Se