

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

9:00 AM

1:18-10747 Andy Hong

Chapter 13

#0.01 Order 1- Setting Status Conference: 2- Directing Compliance with Applicable Law; and 3- Requiring Debtor(s) to explain why this case should not be converted or dismissed with 180-day bar to refile

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Andy Hong

Pro Se

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

9:00 AM

1:18-10731 Francis Grant

Chapter 13

#0.02 Order 1- Setting Status Conference: 2- Directing Compliance with Applicable Law; and 3- Requiring Debtor(s) to explain why this case should not be converted or dismissed with 180-day bar to refile

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Francis Grant

Pro Se

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
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Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

9:30 AM

1:14-14636 Joseph Youseffia

Chapter 11

#1.00 Amended Disclosure Statement

fr. 12/6/17, 2/7/18; 3/7/18

Docket 162

Tentative Ruling:

If there is no stipulation with bank, debtor will need explain why case should not be dismissed. There has been more than sufficient time to work this out.

Party Information

Debtor(s):

Joseph Youseffia

Represented By
William H Brownstein

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

9:30 AM

1:14-14636 Joseph Youseffia

Chapter 11

#2.00 Status and Case Management Conference

fr. 1/8/15; 7/30/15, 10/15/15; 1/20/16; 3/31/16,
6/2/16, 7/28/16, 11/3/16, 7/28/17; 10/18/17; 12/6/17,
2/7/18; 3/7/18

Docket 1

Tentative Ruling:

No status report was timely filed and the disclosure statement and plan cannot go forward where debtor is attempting to cram down a primary residence.

Party Information

Debtor(s):

Joseph Youseffia

Represented By
William H Brownstein

Movant(s):

Joseph Youseffia

Represented By
William H Brownstein

**United States Bankruptcy Court
Central District of California
San Fernando Valley
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Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

9:30 AM

1:16-10069 Osher And Osher, Inc.

Chapter 11

#3.00 Motion To Disallow Claim Of Sara Boodaie, Trustee Of The Yehouda Boodaie Revocable Living Trust, Dated July 6, 2007 [Claim No. 10] Or, In The Alternative, To Estimate Claim For Distribution Purposes

fr. 3/21/18

Docket 313

Tentative Ruling:

Debtor filed this Motion to Disallow ("Motion") the claim of Sarah Boodaie ("Claimant") as untimely filed. Debtor further argues that the Court should estimate Claimant's claim under § 502(c) to be \$0.00 as contingent and unliquidated.

Sara Boodaie and Joseph Boodaie were, as of the petition date, co-trustees of the Yahouda Revocable Living Trust dated July 6, 2007 (the "Trust"). Since the petition date, Sara Boodaie has petitioned the probate court to remove Joseph Boodaie a co-trustee for his misconduct as co-trustee of the Trust. The probate court litigation is still pending. However, in March 2016, the Los Angeles Superior Court found that Debtor is owned by Joseph Boodaie, rather than the Trust. Request for Judicial Notice, Exhibit G. The Superior Court further stated that it "would authorize the judgment creditor to levy on the stock certificates of Osher and Osher, Inc. as an asset of the debtor [Joseph Boodaie], were it not for the stay of the Bankruptcy Court." Id. The Superior Court subsequently entered its Findings and Order at Evidentiary hearing to Determine Ownership of Osher and Osher, Inc., which specified that "Joseph Boodaie, in his personal, individual capacity, is the owner of Osher and Osher, Inc." Request for Judicial Notice, Exhibit H. On August 2, 2016 this Court granted the judgment creditors relief from the automatic stay to allow levy on the stock certificates of Debtor. Judgment Creditors now control the case and have consented to it continuing so that the distribution of the proceeds of the sale can be resolved.

The claims bar date in this case was August 17, 2016. Claimant filed her proof of claim six months later on February 21, 2017. A claim may be disallowed under § 502(b)(9) if untimely filed, with certain enumerated exceptions. Claimant has not indicated that her claim falls within one of those exceptions. Claimant instead argues, in her untimely filed opposition to the Motion, that she was the acting

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

9:30 AM

CONT...

Osher And Osher, Inc.

Chapter 11

principal of the Debtor at the time of the petition and continued to be so "for a period longer thereafter longer [sic] than expiration of the Claims Bar Date." Claimant Response, 3:5. Therefore, Claimant argues, "it is fully reasonable that the Claims Bar Date did not apply to Claimant's interest(s) at the time the Claims Bar Date expired or that Claimant did not understand, nor should have understood, that she needed to file a proof of claim before the Claim[s] Bar Date or for a considerable period thereafter." Claimant Response, 3:14-17. Claimant provides no authority to support her argument.

Claimant's claim was filed in February 2017, almost a full year after the Superior Court's March 2016 judgment and order determining that the Debtor was owned by Joseph Boodaie, and not the Trust. The Court did not fix the claims bar date until June 16, 2016. Claimant should have known months before the claims bar date was even set that the Trust did not have an equity interest in the Debtor. If it was still unclear, the Court's order August 2016 allowing judgment creditors relief from the automatic stay to levy on the stock certificates, and the subsequent levy, should have resolved any doubt as to Claimant's position as an equity holder. Claimant also never clearly explains how her personal claim would not have to be asserted in the Osher bankruptcy estate regardless of who controls Osher.

Claimant further argues that Federal Rule of Civil Procedure ("FRCP") 60(b) (1) provides a basis for the Court to grant relief from the claims bar date. The Supreme Court considered a similar argument in Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship. 507 U.S. 380 (1993). However, unlike the claimant in Pioneer, Ms. Boodaie did not comply with the requirements of Rule 9006(b)(1) by moving the Court to allow her claim as late-filed due to excusable neglect. Furthermore, a motion under FRCP 60(b) must be brought within one year of relevant order or judgment. The Order Setting Last Day to File Proofs of Claim was entered June 20, 2016. More than a year has therefore elapsed since the order was entered, and relief under FRCP 60(b) is not available.

Furthermore, even if the court were able to overlook (1) the late filing of the claim, and (2) the Rule 60(b) deadline, Claimant has failed throughout the duration of this case to produce any evidence to support her claim in this bankruptcy. As we enter April 2018, no documentation has been produced to support any claim by Claimant either in the original claim or in response to the objection to claim. Claimant now requests that the Court continue this hearing to mid-May in anticipation of further rulings from the probate court. It is difficult to imagine what relief Claimant could obtain in probate court by removing Joseph Boodaie as co-trustee of the Trust due to the fact that the Superior Court has determined that the Trust does not have

**United States Bankruptcy Court
Central District of California
San Fernando Valley
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Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

9:30 AM

CONT... Osher And Osher, Inc.

Chapter 11

an ownership interest in the Debtor; ownership is held by Joseph Boodaie. A statement filed in support of disallowance of Claimant's claim asserts that Claimant has not filed anything with the probate court since October 2016 other than a substitution of attorney filed in March 2017. Rulings coming from the probate court appear unlikely, and any evidence that would support a ruling there could have been produced here to support this claim. The case has been pending for years -- if there were any merit to this claim, there has been more than sufficient time to demonstrate that. This lack of proof requires the Court to estimate the claim at \$0 under § 502(c) if the claim were not disallowed as untimely filed.

For the reasons stated above, Claim number 10 is DISALLOWED.
APPEARANCE REQUIRED

Party Information

Debtor(s):

Osher And Osher, Inc.

Represented By
Raymond H. Aver

Movant(s):

Osher And Osher, Inc.

Represented By
Raymond H. Aver

**United States Bankruptcy Court
Central District of California
San Fernando Valley
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Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

9:30 AM

1:16-11598 Farideh Warda

Chapter 11

#4.00 Status and Case Management Conference

Docket 0

Tentative Ruling:

No plan and disclosure were filed by the mandatory deadline. Ms. Warda has said in response that filing a plan is not possible, given the valuation and debt level. These have been determined and are final. The choice at this hearing will be whether to dismiss the case or convert to Chapter 7. Parties may be heard on this. A chapter 11 trustee is not an option and not appropriate here.

Party Information

Debtor(s):

Farideh Warda

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

9:30 AM

1:17-10212 Ferdinand Holgado

Chapter 11

#5.00 Status and Case Management Conference

fr. 3/22/17, 8/16/17, 11/8/17, 1/17/18, 2/14/18

Docket 1

Tentative Ruling:

No plan and no status report have been filed. It is time to decide whether this case should be dismissed or converted to Chapter 7.

Party Information

Debtor(s):

Ferdinand Holgado

Represented By
Dana M Douglas

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

9:30 AM

1:11-13493 Jack Piandaryan

Chapter 11

#5.01 U.S. Trustee's Motion to dismiss or convert case with an Order Directing Payment of Quarterly Fees and for Judgment Thereon

fr. 3/21/18

Docket 147

*** VACATED *** REASON: Motion withdrawn 4/3/18 - jc

Tentative Ruling:

Debtor's response to the U.S. Trustee's motion states that he will be in full compliance with the U.S. Trustee by the date of the hearing. What is the status of Debtor's compliance efforts?

APPEARANCE REQUIRED

Party Information

Debtor(s):

Jack Piandaryan

Represented By
Vahe Khojayan

Movant(s):

United States Trustee (SV)

Represented By
Katherine Bunker
S Margaux Ross

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

9:30 AM

1:17-12958 Tatonka Acquisitions, Inc.

Chapter 11

#6.00 U.S. Trustee Motion to dismiss or convert under 11 U.S.C. § 1112(b)
with an Order Directing Payment Of Quarterly Fees And For Judgment Thereon

Docket 37

Tentative Ruling:

Appearance required.

Party Information

Debtor(s):

Tatonka Acquisitions, Inc.

Represented By
Dana M Douglas

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

9:30 AM

1:17-13263 Eduardo Antonio Canas

Chapter 11

#7.00 Motion for Setting Property Value

Docket 34

Tentative Ruling:

Service: Proper. No opposition filed.

Property Address: 1315 S. Keene Ave, Compton, CA 90220

First position lien: \$250.74 (LA County Treasurer and Tax Collector)

Second trust deed (to be avoided): \$501,922.55

Fair market value per appraisal: \$350,000

Secured Portion of U.S. Bank's Claim: \$349,749.26

Unsecured Portion of U.S. Bank's Claim: \$152,173.29

APPEARANCE IS WAIVED. If written or oral opposition is presented at the hearing, the motion may be continued to the next Chapter 13 calendar.

Disposition: GRANTED.

PREVAILING PARTY SHOULD SUBMIT THE FORM ORDER, A BLANK COPY OF WHICH MAY BE DOWNLOADED FROM THE JUDGE'S FORMS SECTION ON THE COURT'S WEBSITE.

Party Information

Debtor(s):

Eduardo Antonio Canas

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

9:30 AM

1:17-13263 Eduardo Antonio Canas

Chapter 11

**#8.00 Order Setting Scheduling and Case Management
Conference and Filing of Monthly Reports**

Docket 36

Tentative Ruling:

Debtor has not filed a status report as required.

Party Information

Debtor(s):

Eduardo Antonio Canas

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

11:00 AM

1:17-11019 Mario Alberto Cerritos

Chapter 13

#9.00 Motion for relief from stay

WELLS FARGO BANK NA

fr. 2/28/18

Docket 38

Tentative Ruling:

Petition Date: 04/18/2017

Chapter: 13

Service: Proper. Opposition filed 02/15/18 (1 day late)

Property: 8037 Mammoth Avenue, Los Angeles, CA 91402

Property Value: \$439,000.00 (per debtor's schedules)

Amount Owed: \$284,644.27 (per RFS motion)

Equity Cushion: 27%

Equity: \$160,262.01

Post-Petition Delinquency: \$9,926.95 (5 payments of \$1,779.55; \$1,031.00 in Attorneys' fees and costs; Less \$1.80 in suspense account or partial paid balance)

Movant requests relief under 11 U.S.C. 362(d)(1), with the relief listed in paragraphs **2** (proceed under non-bankruptcy law); **3** (Movant permitted to engage in loss mitigation activities); **7** (waiver of the 4001(a)(3) stay); and **12** (Debtor is a borrower for purposes of Cal. Civ. Code 2923.5).

Debtor opposes the Motion, declaring that all postpetition arrearages will be cured by the hearing date on this motion and/or debtor will enter into an APO with Movant.

APPEARANCE REQUIRED

Party Information

Debtor(s):

Mario Alberto Cerritos

Represented By
Luis G Torres

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

11:00 AM

CONT... Mario Alberto Cerritos

Chapter 13

Movant(s):

Wells Fargo Bank,N.A, As Trustee

Represented By
Darlene C Vigil

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

11:00 AM

1:17-11261 Maria Teresa A. Jalbuena

Chapter 13

#10.00 Motion for relief from stay

WELLS FARGO BANK, AS TRUSTEE
FOR STRUCTURED ADJUSTABLE RATE

Docket 66

***** VACATED *** REASON: Case transferred to Judge Barash 4/2/18 - jc**

Tentative Ruling:

This case will be transferred to Judge Barash to commence the loan modification process through the Court's loan modification program.

Party Information

Debtor(s):

Maria Teresa A. Jalbuena

Represented By
Stella A Havkin

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

11:00 AM

1:17-12696 Francisco Jose Jimenez and Norma Jimenez

Chapter 7

#11.00 Motion for relief from stay

WELLS FARGO BANK, N.A. dba
WELLS FARGO DEALER SERVICES

Docket 23

Tentative Ruling:

Petition Date: 10/07/2017
Chapter: 7
Service: Proper. No opposition filed.
Property: Vehicle. 2007 Ford Truck F350 Super Duty-V8
Property Value: \$8,720 (per debtor's schedules)
Amount Owed: \$19,935.09
Equity Cushion: N/A
Equity: \$0.
Post-Petition Delinquency: \$1,570.12

Disposition: GRANT under 11 U.S.C. 362(d)(1) and (d)(2). GRANT relief requested in paragraph **2** (proceed under applicable non-bankruptcy law) and **6** (waiver of 4001(a)(3) stay).

NO APPEARANCE REQUIRED--RULING MAY BE MODIFIED AT HEARING.
MOVANT TO LODGE ORDER WITHIN 7 DAYS.

Party Information

Debtor(s):

Francisco Jose Jimenez

Represented By
David H Chung

Joint Debtor(s):

Norma Jimenez

Represented By
David H Chung

Trustee(s):

Nancy J Zamora (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

11:00 AM

CONT... Francisco Jose Jimenez and Norma Jimenez

Chapter 7

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

11:00 AM

1:18-10606 Marvin Davis

Chapter 13

#12.00 Motion for relief from stay

EASTON INVESTMENTS II, LP DBA
THE VILLAGE APARTMENTS

Docket 9

***** VACATED *** REASON: Moot per dismissal. See doc. 14. -CT**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marvin Davis

Pro Se

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

11:00 AM

1:17-11425 Hamila Salehi Tabaie

Chapter 13

#12.01 Motion for relief from stay

HSBC BANK USA NA

fr. 3/21/18

Docket 52

*** VACATED *** REASON: Case dismissed, see doc. no. 58 -CT

Tentative Ruling:

Debtor appeared at March 21 hearing on this motion and indicated that she was interested in potentially working with the lender or possibly putting the property on the market. Nothing new has been filed on the docket. What is the status of Debtor's attempt to resolve this issue?

APPEARANCE REQUIRED

Party Information

Debtor(s):

Hamila Salehi Tabaie

Represented By
Kevin T Simon

Movant(s):

HSBC Bank USA, National

Represented By
Nancy L Lee
Merdaud Jafarnia

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

11:00 AM

1:16-11671 Yoram Talasazan

Chapter 7

Adv#: 1:16-01119 Moussighi et al v. Talasazan

- #13.00** Motion To Compel: (1) Hanrit Moussighi To Appear For And Provide Testimony At Deposition, (2) Moeir Moussighi To Appear For And Provide Testimony At Continued Deposition, And Request For Sanctions, Including Reimbursement Of Court Reporter And Interpreter Non Appearance Fees

Docket 38

Tentative Ruling:

This could be considered a routine discovery dispute, but since it is exactly the kind of dispute that attorneys should work out together as professionals, it is necessary to describe what happened in boring detail in order to explain this ruling properly. There was a great deal of unnecessary confusion regarding the timing of the depositions in this matter. After reading all emails submitted by both sides, the court concludes that the confusion was a result of sloppy practice and poor communication by Defendant's attorney, Raymond Aver, not the Plaintiffs. Because there was no meaningful meet and confer before the motion was filed and no basis for the motion, the motion is denied.

Mr. Aver requested dates to schedule the depositions of Moeir Moussighi and Hanrit Moussighi from Mr. Ashour by email on October 30, 2017. Motion to Compel, Exh. A. **Mr. Ashour responded on November 20** with four potential dates and times for each Plaintiff. Joint Stipulation Exh. 1. On December 6, Mr. Aver emailed Mr. Ashour that he had not received any response to his October 30 email, and that he had unilaterally scheduled depositions for each Plaintiff. Joint Stipulation Exh. 2. The depositions scheduled by Mr. Aver, January 8, 2018 at 10:00 p.m. for Moeir and January 10 at 10:00 p.m. for Hanrit, did not correspond to the days provided by Mr. Ashour. Motion to Compel, Exh. B, C. In response to Mr. Aver's email the following day, Mr. Ashour expresses confusion that the deposition dates and times do not match those provided in the November 20 email. Joint Stipulation Exh. 3.

The papers hint at further emails exchanged between the attorneys in December, but the next most recent emails filed with the Motion are from January 2. In that exchange, Mr. Aver informs Mr. Ashour that neither Mr. Aver nor his client, Mr. Talasazan, would be attending Mr. Talasazan's deposition scheduled for January 4. When asked if Plaintiffs would be attending their scheduled depositions, Mr.

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

11:00 AM

CONT... Yoram Talasazan

Chapter 7

Ashour repeated his criticism that the dates scheduled did not match the dates provided in the November 20 email. Mr. Aver responds by stating that the 10 p.m. time was merely a typographical error on the front page, but it appears that the parties agree to continue the depositions.

The parties agreed on January 23 to dates for Plaintiffs' depositions: February 8 for Moeir and February 9 for Hanrit. Motion to Compel, Exh. G. Mr. Aver provided notice to Mr. Ashour on February 6 that Hanrit's deposition would have to be continued due to a "court ordered deposition." Motion to Compel, Exh. H. Moeir's deposition, however, went ahead as planned on February 8. A partial transcript of that deposition is attached to the Motion as Exhibit I. This select portion of the last several minutes of a more than five hour deposition does not cast either attorney in a flattering light. Mr. Ashour claims that at a break during the deposition, Mr. Aver informed him that the scheduling conflict for Hanrit's deposition the following day had been resolved. Mr. Ashour attempted to contact Hanrit that night, but was unable to do so.

The following day, February 9, Mr. Aver emailed Mr. Ashour at 10:24 a.m. to ask why neither he nor Hanrit had appeared at the deposition scheduled for that morning. Motion to Compel, Exh. J. Mr. Ashour responded that Mr. Aver's February 6 email had led Hanrit to believe that her deposition on February 9 would not be going forward, and that she had made other plans in the interim. Motion to Compel, Exh. K. Mr. Aver then recorded an Affidavit re Nonappearance.

On February 19, Mr. Ashour provided new three possible dates for a rescheduled deposition of Hanrit: February 26, 27, and March 8. Motion to Compel, Exh. O. Mr. Aver responded the next day by sending a stipulation regarding dates for Plaintiffs' depositions, including the February 26 date for Hanrit. The stipulation was never signed, and there is no evidence that Mr. Ashour agreed to the date requested. Mr. Ashour denies that he was ever informed by Mr. Aver that Hanrit's deposition would be on February 26. Motion to Compel, Exh. T. Mr. Ashour states that he did not agree to the stipulation due to a provision requiring his client to pay the court reporter's fees. Joint Stipulation Exh. 7. According to Mr. Ashour, no correspondence occurred between the attorneys for the two following weeks.

Regardless, Mr. Aver unilaterally scheduled the deposition of Plaintiff Hanrit for Monday, February 26, and emailed Plaintiff's attorney at 3:00 p.m. on Friday, February 23 to confirm that Hanrit would appear. The email records of the interactions between the attorneys are telling:

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

11:00 AM

CONT...

Yoram Talasazan

Chapter 7

On Feb 23, 2018, at 3:28 PM, Ashkan Ashour ,Ash@aaa-law.com> wrote:

I don't remember you scheduling the deposition at that time. Although that was one of the 3 dates we provided, I don't have any record of you actually letting us know that you would be taking the deposition on that date.

I will have to contact my client and see if she is still available at that time and get back to you. If you believe you have sent a previous indication that this was the date you were going to depose her, please forward it to me because as I said I search[ed] my records and e-mail and I have not received anything from you indicating that you would be taking her deposition on that date.

I will do my best to get back to you by 5:00pm but you only e-mailed me at 3:06pm

Motion to Compel, Exh. Q. The deposition scheduled for February 26 apparently did not go forward, and on that day Mr. Ashour again provided potential dates to Mr. Aver for a deposition. Motion to Compel, Exh. R. On February 28, Mr. Aver responded with a chosen date in a frustrated email, and Mr. Ashour responded with his own frustrated email stating that Mr. Aver would end up "unhappy and unpaid" like several attorneys before him in this case. Motion to Compel, Exh. T.

At 10:30 a.m. on Tuesday March 6, Mr. Aver emailed Mr. Ashour to inform him of this Motion to Compel and request that he provide Mr. Aver with Plaintiff's portions of the joint stipulation as required under LBR 7026-1(c)(3) within 24 hours. Motion to Compel, Exh. U. Mr. Ashour informed Mr. Aver that he was preparing for trial on Monday, and that he would have difficulty meeting the 24 hour deadline. The Motion to Compel was filed on March 7 at 5:16 p.m. along with Defendant's Unilateral Stipulation Pursuant to LBR 7026-1(c)(3). Mr. Ashour alleges that he forwarded his portion of the Joint Stipulation at 5:52 p.m., but was informed by Mr. Aver's firm that a Unilateral Stipulation had been entered because Mr. Ashour did not comply with the 24 hour deadline. At 5:05 p.m. on March 8, Mr. Aver filed a Declaration of Raymond H. Aver re Noncooperation/Cooperation of Plaintiff's Counsel regarding the stipulation. At 5:07 p.m., Mr. Aver filed the Joint Stipulation containing Mr. Ashour's portions of the stipulation.

Mr. Aver has omitted some of the less flattering emails from the Motion, and yet the emails attached to the Motion paint a pretty clear picture.

FRCP 37 (FRBP 7037) Motion to Compel

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

11:00 AM

CONT... Yoram Talasazan

Chapter 7

Defendant brings this motion to compel under Rule 37(a) of the Federal Rules of Civil Procedure ("FRCP"), made applicable to this adversary by Federal Rules of Bankruptcy Procedure ("FRBP") 7037 and 9014(c).

FRCP 37(a)(5) states as follows:

(5) *Payment of Expenses; Protective Orders.*

(A) *If the Motion Is Granted (or Disclosure or Discovery Is Provided After Filing).* If the motion is granted--or if the disclosure or requested discovery is provided after the motion was filed--the court must, after giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees. But the court must not order this payment if:

- (i) the movant filed the motion before attempting in good faith to obtain the disclosure or discovery without court action;
- (ii) the opposing party's nondisclosure, response, or objection was substantially justified; or
- (iii) other circumstances make an award of expenses unjust.

Fed. R. Civ. P. 37(a)(5). (emphasis added). Defendant argues that sanctions under FRCP 37 are mandatory here, as the underlined text above indicates. However, FRCP 37(a)(5)(A) provides three exceptions to the obligatory language. The Court finds that Plaintiff's actions surrounding the depositions, described above, were substantially justified under FRCP(a)(5)(A)(ii) and, in addition, that the circumstances make an award under FRCP 37(a) unjust. The emails demonstrate that Mr. Ashour demonstrated great patience with Mr. Aver's inability to communicate effectively.

Defendant also moves for sanctions under FRCP 37(d)(5), which states:

(d) Party's Failure to Attend Its Own Deposition, Serve Answers to Interrogatories, or Respond to a Request for Inspection.

(1) *In General.*

(A) *Motion; Grounds for Sanctions.* The court where the action is pending may, on motion, order sanctions if:

- (i) a party or a party's officer, director, or managing agent--or a person designated under Rule 30(b)(6) or 31(a)(4)--fails, after being served with proper notice, to appear for that person's deposition; or

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

11:00 AM

CONT...

Yoram Talasazan

Chapter 7

(ii) a party, after being properly served with interrogatories under Rule 33 or a request for inspection under Rule 34, fails to serve its answers, objections, or written response.

Fed. R. Civ. P. 37(d). While it is undisputed that Hanrit, a party to this action, did not attend her own deposition, sanctions under FRCP 37(d)(1) are discretionary. Here, it appears that the primary reason that Hanrit did not attend her deposition was the poor communication and scheduling of attorney for Defendant, Mr. Aver. The Court declines impose sanctions on Plaintiffs or Mr. Ashour under FRCP 37(d).

LBR Sanctions

Defendant argues that sanctions are mandatory under LBR 7026-1(c)(4), which states as follows:

(4) Cooperation of Counsel; Sanctions. The failure of any counsel either to cooperate in this procedure, to attend the meeting of counsel, or to provide the moving party the information necessary to prepare the stipulation required by this rule within 7 days of the meeting of counsel will result in the imposition of sanctions, including the sanctions authorized by FRBP 7037 and LBR 9011-3.

(emphasis added). Notably, Mr. Ashour did not have seven days to respond to this motion; he only had 24 hours. This is completely violative of the meet and confer requirement of LB 7026-1(c)(2):

(2) Meeting of Counsel. Prior to the filing of any motion relating to discovery, counsel for the parties must meet in person or by telephone **in a good faith effort to resolve a discovery dispute**. It is the responsibility of counsel for the moving party to arrange the conference. Unless altered by agreement of the parties or by order of the court for cause shown, counsel for the opposing party must meet with counsel for the moving party within 7 days of service upon counsel of a letter requesting such meeting and specifying the terms of the discovery order to be sought.

The actions taken by Mr. Aver do not demonstrate a good faith effort to resolve the discovery dispute. Plaintiff argues that, "pursuant to his own moving papers, it is Mr.

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

11:00 AM

CONT...

Yoram Talasazan

Chapter 7

Aver who should be sanctioned here." The Court will not consider sanctions against Mr. Aver, as they are not currently properly before the Court. A separate motion may be brought if counsel seeks to pursue this further.

For the above stated reasons, Defendant's requests for sanctions against Plaintiffs and their counsel is DENIED. There will be no appearances on April 4 for this motion as the court has already spent enough time on an unnecessary motion. The parties should complete the remaining depositions discussed above as soon as possible in a professional manner.

Party Information

Debtor(s):

Yoram Talasazan

Represented By
Raymond H. Aver

Defendant(s):

Yoram Talasazan

Represented By
Raymond H. Aver

Plaintiff(s):

Moeir Moussighi

Represented By
Ashkan Ashour

Hanrit Moussighi

Represented By
Ashkan Ashour

Moeir and Hanrit Moussighi dba

Represented By
Ashkan Ashour

Trustee(s):

Nancy J Zamora (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

11:00 AM

1:17-11323 Milad Mandavi

Chapter 7

Adv#: 1:17-01072 LOANME, INC. v. Mandavi

#14.00 Pre-Trial Conference re: Amended Complaint
to Determine Nondischargeability of Debt

fr. 11/1/17, 11/8/17

Docket 7

***** VACATED *** REASON: Order ent continuing hrg to 6/6/18 at 11:00
a.m. - jc**

Tentative Ruling:

Party Information

Debtor(s):

Milad Mandavi

Represented By
David S Hagen

Defendant(s):

Milad Mandavi

Represented By
David S Hagen

Plaintiff(s):

LOANME, INC.

Represented By
Tina M Pivonka

Trustee(s):

Amy L Goldman (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

11:00 AM

1:17-13261 Richard Phillip Dages

Chapter 13

Adv#: 1:18-01022 Dages v. Countrywide Bank, N.A. et al

#15.00 Status Conference re: Notice of Removal of Lawsuit
pending in California Superior Court, Los Angeles
County to Bankruptcy Court

Docket 1

Tentative Ruling:

Remanded to Superior Court

Party Information

Debtor(s):

Richard Phillip Dages	Pro Se
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Defendant(s):

Countrywide Bank, N.A.	Pro Se
RECONTRUST COMPANY, N.A.	Pro Se
MORTGAGE ELECTRONIC	Pro Se
NATIONSTAR MORTGAGE LLC	Pro Se
BANK OF AMERICA, N.A.	Pro Se
BAC HOME LOANS SERVICING,	Pro Se
NBS Default Services, LLC	Pro Se
DEUTSCHE BANK NATIONAL	Pro Se

Plaintiff(s):

Richard Phillip Dages	Represented By Christopher O Rivas
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Trustee(s):

Elizabeth (SV) F Rojas (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

11:00 AM

1:12-10231 Owner Management Service, LLC and Trustee Corps

Chapter 7

#16.00 Motion to Sell Property of the Estate Free and Clear of Liens under Section 363(f); Motion by Chapter 7 Trustee to 1) Approve Sale of Real Property Free and Clear of all Liens, Interests, Claims, and Encumbrances with Such Liens, Interests, Claims, and Encumbrances to Attach to Proceeds Pursuant to 11 U.S.C. §§ 363(b) and (f); 2) Approve Overbid Procedures; 3) Determine that Buyer is Entitled to Protection Pursuant to 11 U.S.C. § 363(m).

Docket 2073

Tentative Ruling:

Appearance required

Party Information

Debtor(s):

Owner Management Service, LLC Pro Se

Trustee(s):

David Seror (TR) Represented By
Richard Burstein
Michael W Davis
David Seror
David Seror (TR)
Steven T Gubner
Reagan E Boyce
Jessica L Bagdanov
Reed Bernet
Talin Keshishian

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

11:00 AM

1:17-12333 Karmile Yurdumyan

Chapter 7

#17.00 Motion to Avoid Lien Property Lien with
SP22, Inc., Scott Parrish Saeideh Parrish

fr. 11/29/17

Docket 20

***** VACATED *** REASON: Cont'd per stipulation to May 16, 2018 at
11:00 A.M. - hm**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Karmile Yurdumyan

Represented By
Michael E Clark

Trustee(s):

David Keith Gottlieb (TR)

Represented By
Peter A Davidson

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

1:00 PM

1:17-12901 Yakov Aleksandrovich

Chapter 7

Adv#: 1:18-01007 Karish Kapital LLC v. Aleksandrovic et al

#18.00 Motion to Dismiss Adversary Proceeding First Amended
Complaint Pursuant to FRCP 12(b)(6) and FRBP Rule 7012

Docket 11

Tentative Ruling:

This motion is DENIED as moot per the stipulation and order thereon dismissing the action as to defendant Yakov Aleksandrovich (doc. 17; 19)

Movant to lodge order within 7 days.

No appearance required on 4/4/18 for this matter.

Party Information

Debtor(s):

Yakov Aleksandrovich

Represented By
Elena Steers

Defendant(s):

Yakov Aleksandrovic

Represented By
Stella A Havkin

Natalia Koutina

Represented By
Stella A Havkin

Yanna Aleksandrovich

Represented By
Stella A Havkin

RWB Consulting Services & Sales,

Represented By
Stella A Havkin

Law Offices of Steers & Assoc.

Pro Se

RWB Consulting Services & Sales,

Represented By
Stella A Havkin

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

1:00 PM

CONT... **Yakov Aleksandrovich**
RWB Consulting Services & Sales,

Represented By
Stella A Havkin

Chapter 7

Joint Debtor(s):

Natalia Koutina

Represented By
Elena Steers

Plaintiff(s):

Karish Kapital LLC

Represented By
Timothy McFarlin

Trustee(s):

Nancy J Zamora (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

1:00 PM

1:17-12901 Yakov Aleksandrovich

Chapter 7

Adv#: 1:18-01007 Karish Kapital LLC v. Aleksandrovic et al

#19.00 Status Conference re: First Amended Complaint.

fr. 3/21/18

Docket 9

Tentative Ruling:

APPEARANCE REQUIRED

Party Information

Debtor(s):

Yakov Aleksandrovich

Represented By
Elena Steers

Defendant(s):

Yakov Aleksandrovic

Represented By
Stella A Havkin

Natalia Koutina

Represented By
Stella A Havkin

Yanna Aleksandrovich

Represented By
Stella A Havkin

RWB Consulting Services & Sales,

Represented By
Stella A Havkin

Law Offices of Steers & Assoc.

Pro Se

RWB Consulting Services & Sales,

Represented By
Stella A Havkin

RWB Consulting Services & Sales,

Represented By
Stella A Havkin

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Maureen Tighe, Presiding
Courtroom 302 Calendar**

Wednesday, April 4, 2018

Hearing Room 302

1:00 PM

CONT... Yakov Aleksandrovich

Chapter 7

Joint Debtor(s):

Natalia Koutina

Represented By
Elena Steers

Plaintiff(s):

Karish Kapital LLC

Represented By
Timothy McFarlin

Trustee(s):

Nancy J Zamora (TR)

Pro Se