

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Neil Bason, Presiding  
Courtroom 1545 Calendar**

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:15-28488 Bernardo Manzano Reyes

Chapter 13

#1.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)  
and (w) to modify plan or suspend plan payments

Docket 63

**Tentative Ruling:**

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 587 6351

Password: 974571

Meeting URL: <https://cacb.zoomgov.com/j/1605876351>

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Time when these tentative rulings were first posted (for purposes of determining when anyone contesting the tentative ruling must notify other parties of intent to do so, per the "Procedures of Judge Bason," posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)): see the time stamp at the bottom of this page.

**Tentative Ruling for In re Reyes [2:15-bk-28488-NB]:**

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 71).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov

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**CONT... Bernardo Manzano Reyes Chapter 13**

instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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

Bernardo Manzano Reyes

Represented By  
Thomas B Ure

**Movant(s):**

Bernardo Manzano Reyes

Represented By  
Thomas B Ure

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Neil Bason, Presiding  
Courtroom 1545 Calendar**

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:17-11894 Carlos Alonso Montero

Chapter 13

#2.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)  
and (w) to modify plan or suspend plan payments

Docket 70

**Tentative Ruling:**

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 72).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Party Information**

**Debtor(s):**

Carlos Alonso Montero

Represented By  
Jacqueline D Serrao

**Movant(s):**

Carlos Alonso Montero

Represented By  
Jacqueline D Serrao

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

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Central District of California  
Los Angeles  
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**CONT... Carlos Alonso Montero**

**Chapter 13**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:17-17280 Roy Gutierrez

Chapter 13

#3.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)  
and (w) to modify plan or suspend plan payments

Docket 32

**Tentative Ruling:**

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 37).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Party Information**

**Debtor(s):**

Roy Gutierrez

Represented By  
Michael V Jehdian

**Movant(s):**

Roy Gutierrez

Represented By  
Michael V Jehdian

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

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**CONT... Roy Gutierrez**

**Chapter 13**

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8:30 AM

2:19-15571 Stephanie Oliver

Chapter 13

#4.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)  
and (w) to modify plan or suspend plan payments

Docket 38

\*\*\* VACATED \*\*\* REASON: Withdrawn [dkt. 43]

**Tentative Ruling:**

- NONE LISTED -

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

Stephanie Oliver

Represented By  
Devin Sawdayi

**Movant(s):**

Stephanie Oliver

Represented By  
Devin Sawdayi

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Hearing Room 1545

8:30 AM

2:19-17669 Rafael Macias and Silvia Jauregui

Chapter 13

#5.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments

Docket 72

**Tentative Ruling:**

Appearances are not required.

Grant per the Chapter 13 Trustee's Amended Comments (dkt. 79).

*Proposed order:* Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Party Information**

**Debtor(s):**

Rafael Macias

Represented By  
Kevin T Simon

**Joint Debtor(s):**

Silvia Jauregui

Represented By  
Kevin T Simon



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**CONT... Rafael Macias and Silvia Jauregui**

**Chapter 13**

**Movant(s):**

Rafael Macias

Represented By  
Kevin T Simon

Silvia Jauregui

Represented By  
Kevin T Simon  
Kevin T Simon

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:20-10178 Judith Gonzalez

Chapter 13

#6.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)  
and (w) to modify plan or suspend plan payments

Docket 69

**Tentative Ruling:**

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion by Debtor. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 73) and 2nd Chance Mortgages Inc. (dkt. 71).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Party Information**

**Debtor(s):**

Judith Gonzalez

Represented By  
Sunita N Sood

**Movant(s):**

Judith Gonzalez

Represented By  
Sunita N Sood

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**CONT... Judith Gonzalez**

**Chapter 13**

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
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Los Angeles  
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Hearing Room 1545

8:30 AM

2:19-24941 Suzanne Coleman

Chapter 13

#7.00 Hrg re: Debtor's Motion to Avoid Junior Lien  
on principal residence [11 U.S.C. section 506(d)]

Docket 37

**Tentative Ruling:**

Appearances are not required.  
Grant.

*Proposed order:* Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Party Information**

**Debtor(s):**

Suzanne Coleman

Represented By  
Joseph L Pittera

**Movant(s):**

Suzanne Coleman

Represented By  
Joseph L Pittera

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**CONT... Suzanne Coleman**

**Chapter 13**

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:15-28353 Alejandra Araujo

Chapter 13

#8.00 Hrg re: Objection to Discharge Filed by Secured Creditor  
Genesis Condominium Association

Docket 49

**Tentative Ruling:**

Sustain the objection (dkt. 49) to Debtor's flagrantly false certification under penalty of perjury that she is eligible for a discharge (dkt. 46, p.1, para.8), which Debtor now admits is false. See Notice re Ineligibility (dkt.7) and Debtor's reply (dkt. 63). Appearances required.

*Proposed order:* Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b) (1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Party Information**

**Debtor(s):**

Alejandra Araujo

Represented By  
Jaime A Cuevas Jr.

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Los Angeles  
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**CONT... Alejandra Araujo**

**Chapter 13**

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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2:15-28353 Alejandra Araujo

Chapter 13

#8.10 Cont'd hrg re: Motion for relief from stay [RP]  
fr. 1/5/21

GENESIS CONDOMINIUM ASSOC  
vs  
DEBTOR

Docket 48

**Tentative Ruling:**

**Tentative Ruling for 1/21/21:**  
Appearances required.

At the 1/5/21 hearing, this Court was persuaded to continue the hearing to allow the parties to meet and confer on the appropriate disposition of the funds being held by the HOA and the attorney fee issues. Attorney fees are only indirectly at issue: the question is whether this Court should grant relief from the automatic stay, to the extent (if any) that the stay applies, for the HOA to enforce its claim for postpetition attorney fees.

This Court's oral tentative ruling at the hearing on 1/5/21 was that the HOA bears more responsibility than Debtor for the attorney fees relating to this motion for relief from the automatic stay, because it is the HOA's confused accounting that caused most of the attorney fees (although some of that confusion was due to Debtor not properly informing the HOA when this bankruptcy case was filed). On the other hand, this Court's oral tentative ruling was that Debtor bears some responsibility for not clarifying that (a) she is not attempting any discharge at all (because she is ineligible for one) (see dkt. 7), and in particular (b) she is not attempting to discharge the balance owed to the HOA on its special assessment lien, or on any attorney fees or other charges.

There is no further tentative ruling at this time, but the parties should be prepared to address the status of their discussions and, if they have not resolved their issues, then argue the issues to this Court.

If appearances are not required at the start of this tentative ruling but you



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Chapter 13

wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Tentative Ruling for 1/5/21:**

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 335 8822

Password: 518582

Meeting URL: <https://cacb.zoomgov.com/j/1603358822>

Telephone: +1 669 254 5252 or +1 646 828 7666 or 833 568 8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called. You do not need to call Chambers for advance approval. ZoomGov appearances are free.

Time when these tentative rulings were first posted (for purposes of determining when anyone contesting the tentative ruling must notify other parties of intent to do so, per the "Procedures of Judge Bason," posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)): see the time stamp at the bottom of this page.

**Tentative Ruling for In re Araujo [2:15-bk-28353-NB]:**

Appearances required.

This Court has reviewed the motion of the homeowners association ("HOA") (dkt.48), Debtor's response (dkt. 61) and the HOA's reply (dkt. 62). The tentative ruling is to grant the motion in part and deny it in part as follows:

(A) no relief from any automatic stay is required because, once the accounting is corrected, the HOA is not attempting to collect a prepetition debt or doing any other act prohibited by 11 U.S.C. 362(a), but

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**Alejandra Araujo**

**Chapter 13**

(B) no attorney fees are owed, because the HOA's and/or its agents' own errors have caused the confusion and litigation over these issues. Therefore, Debtor has a positive balance on her regular assessments.

The parties are directed to address these issues and, if this Court adopts the tentative ruling as the final ruling, address how that positive balance in Debtor's current accounts should be applied.

*Proposed order:* The HOA is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby incorporating it as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b) (1)(B).

(1) Factual background

The HOA acknowledges that its own billing statements and records were confused, but now it believes that, if payments are properly applied:

(a) Prepetition arrears have been paid in full

Debtor's chapter 13 plan payments, through the Chapter 13 Trustee, have now paid in full the \$12,464.00 of arrears in assessments that were due as of the petition date. See Motion (dkt.48), p.16:10-13, & Ex.4, at PDF pp.56-57.

(b) Postpetition regular assessments have a positive balance as of 12/10/20, or a slight negative balance *if* the HOA's attorney fees and costs are included

In addition to her chapter 13 plan payments, Debtor made payments on the regular postpetition assessments, and in fact she **overpaid by \$4,626.66** (Motion (dkt.48), Ex.4, at PDF p.63, last line, penultimate column), before including legal fees and costs. Those fees are estimated to be approximately \$4,950.00 as of 12/10/20 (Motion (dkt.48), p.33:16-21), plus an anticipated \$180.00 in costs and additional fees for preparing reply papers and appearing at the hearing. *Id.* **If these specific dollar amounts of fees and costs were included, Debtor would owe approximately \$503.34** as of 12/10/20 (\$4,950.00 + \$180.00 = \$5,130.00 - \$4,626.66 = \$503.34). (As noted above, additional fees would be due for the reply papers and hearing; but the tentative ruling is to deny these and the HOA's other demands for attorney fees and costs.)

(c) The postpetition special assessment payments are current (as of

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Chapter 13

12/20)

Postpetition, approximately 2/2016, the HOA levied a special assessment to pay for repairs, in the amount of \$19,938.65 per unit. See Koochek Decl. (dkt.48), pp.30:10-31:3 & Ex.3 (at PDF pp.30-46). Homeowners could either pay that amount in a lump sum or pay over time with interest, in 180 payments of \$153.86 each. See Motion, Ex.3, Loan Amortization Schedule, at PDF pp. 35-38.

The HOA calculates that, if Debtor's payments are properly applied, she has a **positive balance of current payments, as of 12/20, of \$206.98** on account of the postpetition special assessment. See Motion (dkt.48), Ex.4, at PDF p.63 (last line, last column). The HOA calculates that Debtor has made 50 payments (*id.*), and according to the Loan Amortization Schedule that leaves a **special assessment principal balance of \$15,705.18** as of 1/1/21, to be paid in monthly installments of \$153.86 for months 51 through 180. See Motion (dkt.48), Ex.3, Loan Amortization Schedule p.2 (at PDF p.36) (entries for payment nos. 50 & 51).

(2) Analysis

(a) Tentative findings of fact

Debtor does not raise any specific challenges to the HOA's corrected accounting included in the motion papers. Nor has this Court found any errors in that accounting.

The tentative ruling is to accept that accounting for purposes of determining how Debtor's payments should be applied. Therefore, as of 12/10/20, (a) Debtor owes nothing on account of her prepetition arrears, (b) Debtor has a positive balance of \$4,626.66 on account of postpetition regular assessments (not including the HOA's asserted attorney fees and costs), and (c) on the special assessment, Debtor has a positive current balance of \$206.98, with a remaining principal balance of \$15,705.18, to be paid in monthly installments of \$153.86 for months 51 through 180.

(b) Tentative conclusions of law regarding the automatic stay

The automatic stay prohibits any act "to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title." 11 U.S.C. 362(a)(6) (emphasis added). But, based on the foregoing findings of fact, the HOA concedes that the prepetition arrears have been paid in full, so this provision of the automatic stay is not implicated.

The HOA also has statutory assessment liens. See Motion (dkt.48)

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Alejandra Araujo

Chapter 13

p.15:3-20. The imposition of those liens potentially implicates the automatic stay's prohibition on "any act to create, perfect, or enforce any lien against property of the estate" (11 U.S.C. 362(a)(4)) and "any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate." 11 U.S.C. 362(a)(3). In this judicial district, a chapter 13 debtor' property is not re-vested in the debtor upon confirmation, so the automatic stay continues to apply at all relevant times.

But the tentative ruling is that it would be too expansive to interpret the automatic stay as applying to the HOA's postpetition assessments made in the ordinary course of its business and financial affairs. To the contrary, as the HOA points out, postpetition assessments are nondischargeable under 11 U.S.C. 523(a)(16), and it would seem anomalous to make postpetition assessments violate the automatic stay while also making them nondischargeable. Similarly, under 28 U.S.C. 959(b), the bankruptcy estate is supposed to be managed consistent with nonbankruptcy law, and it appears more consistent with that obligation for postpetition assessments made in the ordinary course not to be construed as an affirmative act to obtain possession of, or create or enforce a lien against, estate property, or otherwise violate the cited provisions of the automatic stay. If that were so, chapter 13 debtors and anyone interacting with them could not engage in any of their ordinary transactions without constantly seeking relief from the automatic stay; and it does not seem that Congress could have intended that trap for the unwary and impractical result.

In sum, the tentative ruling is that if postpetition assessments are made in the ordinary course, they do not require relief from the automatic stay of 11 U.S.C. 362(a)(3), (4), or (6). Nor has any party suggested that any other provision of 11 U.S.C. 362(a) applies.

Alternatively, the tentative ruling is to grant retroactive relief by annulling the automatic stay for cause, under under 11 U.S.C. 362(d)(1). This relief appears to be appropriate given (x) the lack of clear law on whether the automatic stay applies in these circumstances, (y) the HOA's evidence about its changes in management and confusion regarding the proper application of payments, and (z) the HOA's apparent attempts to correct the accounting and resolve the parties' disputes once it discovered the misapplication of payments, followed quickly by its motion for relief from the automatic stay once the attempted consensual resolution fell apart. See

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Alejandra Araujo

Chapter 13

*generally In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003); *and see also In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir. 2006), *overruled on other issues, In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (scope of automatic stay).

In sum, given the HOA's corrected accounting, it is not attempting to collect a prepetition debt, nor has it been shown to have engaged in any other act in violation of the automatic stay. Alternatively, annulment is appropriate.

(c) Tentative conclusions of law as to attorney fees

Under sections 6.04.1 and 6.04.2 of the HOA's Declaration of Covenants, Conditions and Restrictions ("CC&Rs"), attorney fees must be "reasonable" and otherwise allowable. Motion (dkt.48), Ex.2, pp.43-45 (PDF pp.23-25). The tentative ruling is that the HOA cannot charge Debtor for its attorney fees because its and/or its agents' own errors have caused the confusion and litigation over the foregoing issues.

(d) The parties' relations and accounting going forward

The parties are directed to address whether the positive balances in Debtor's current accounts for regular and special assessments, as of 12/10/20, should be applied to future monthly payments of regular assessments or the special assessment, or in a lump sum, or should be refunded to Debtor, or applied in some other way.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Neil Bason, Presiding  
Courtroom 1545 Calendar**

**Thursday, January 21, 2021**

**Hearing Room 1545**

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8:30 AM

**CONT... Alejandra Araujo**

**Chapter 13**

**Debtor(s):**

Alejandra Araujo

Represented By  
Jaime A Cuevas Jr.

**Movant(s):**

Genesis Condominium Association

Represented By  
Alyssa B Klausner

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Neil Bason, Presiding  
Courtroom 1545 Calendar**

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:19-15346 Richard Glen LeRoy

Chapter 13

#9.00 Hrg re: Motion to disallow claim #1  
of LVNV Funding , LLC

Docket 28

**Tentative Ruling:**

Continue to 2/18/21 at 8:30 a.m. to address the following issues.  
Appearances are not required on 1/21/21.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason  
(available at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) provide:

**§ 502: claim objections & cost/benefit analysis.** When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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CONT... **Richard Glen LeRoy**

Chapter 13

cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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

**Debtor(s):**

Richard Glen LeRoy

Represented By  
Nicholas M Wajda

**Movant(s):**

Richard Glen LeRoy

Represented By  
Nicholas M Wajda

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Neil Bason, Presiding  
Courtroom 1545 Calendar**

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:20-17820 Carey Marie Sutton and Thomas Grant Sutton

Chapter 13

#10.00 Hrg re: Objection to Claim Number 6  
by Claimant IRS

Docket 37

**Tentative Ruling:**

Continue to 2/18/21 at 8:30 a.m. to address the following issues.  
Appearances are not required on 1/21/21.

Reasons:

(a) Service

The motion papers were not served on the Internal Revenue Service ("IRS") at the address stated in its Proof of Claim (*i.e.*, Claim 6-1, p.1, para. "(3)"), which is also the required address listed for the IRS in the Court Manual. See Rule 7004(b)(4)&(5) (Fed. R. Bankr. P.); Local Bankruptcy Rule 2002-2(c)(2). Debtor is directed to serve the moving papers in a manner consistent with this ruling and file a proof of service no later than **1/28/21**.

(b) Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) provide:

**§ 502: claim objections & cost/benefit analysis.** When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the

**United States Bankruptcy Court  
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Los Angeles  
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CONT... Carey Marie Sutton and Thomas Grant Sutton

Chapter 13

plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Party Information**

**Debtor(s):**

Carey Marie Sutton

Represented By  
Marc A Goldbach

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Neil Bason, Presiding  
Courtroom 1545 Calendar**

**Thursday, January 21, 2021**

**Hearing Room 1545**

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8:30 AM

**CONT... Carey Marie Sutton and Thomas Grant Sutton**

**Chapter 13**

**Joint Debtor(s):**

Thomas Grant Sutton

Represented By  
Marc A Goldbach

**Movant(s):**

Carey Marie Sutton

Represented By  
Marc A Goldbach  
Marc A Goldbach  
Marc A Goldbach  
Marc A Goldbach  
Marc A Goldbach

Thomas Grant Sutton

Represented By  
Marc A Goldbach  
Marc A Goldbach  
Marc A Goldbach

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Neil Bason, Presiding  
Courtroom 1545 Calendar**

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Hearing Room 1545

8:30 AM

2:20-18003 Yolanda Espinosa

Chapter 13

#11.00 Hrg re: Objection to Proof of Claim #8 Filed by  
Bank of America, N.A.

Docket 23

**Tentative Ruling:**

Continue to 3/18/21 at 8:30 a.m. so that claimant can commence its contemplated adversary proceeding or the parties can reach a consensual resolution. Counsel for Debtor is cautioned about the need to exercise reasonable judgment in how much to expend in paying attorney fees instead of paying creditors. Appearances are not required on 1/21/21.

(1) Reasons for continuance

This Court has reviewed Debtor's motion (dkt. 23), the claimant's opposition (dkt. 30), and Debtor's reply (dkt. 31). Although Debtor's reply argues that the claimant has not cited authority, that puts the cart before the horse. Debtor is the objecting party and Debtor has not cited any authority that a deed of trust on real property is void or unenforceable as a matter of law when it includes the correct street address and a conflicting legal description for a particular parcel.

Alternatively, even if Debtor did not need to cite any such authority (which is incorrect), this Court's understanding of California law is contrary to Debtor's position. Based on unrelated litigation before this Court, the general rule appears to be that a transfer of an interest in property "is not void for uncertainty because of errors or inconsistency in some of the particulars of the description" if it is possible "from the whole description to ascertain and identify the land intended to be conveyed." *Gyurec v. Bank of New York Trust Co., NA* (Cal. Ct. App., 4th Dist., 2014) (unpublished, Case No. No. G050083) (quoting *Leonard v. Osburn*, 169 Cal. 157, 160 (1915)) (correct street address sufficient for deed of trust's validity, even though it incorrectly described property as located in "Township 4 North" instead of Township 4 South"). See also Cal. Code Civ. P. 2077 ("Where there are certain definite and ascertained particulars in the description, the addition of others which are indefinite, unknown, or false, does not frustrate the conveyance, but it is to be construed by the first mentioned particulars.").

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CONT...

Yolanda Espinosa

Chapter 13

Based on the foregoing, it appears appropriate to continue this hearing for the parties either to litigate the issue or, perhaps, agree to a consensual resolution.

(2) Expenditure of funds on attorney fees

Given the apparent principles of California law (summarized above), Debtor's counsel is reminded of the need to do a cost/benefit analysis in determining whether it is worth expending funds on attorney fees that otherwise would go to pay creditors. Debtor's counsel is reminded that the posted "Procedures of Judge Bason" (available at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) state:

**§ 502: claim objections & cost/benefit analysis.** When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

Debtor's claim objection does not include any cost/benefit analysis. If Debtor decides to continue with the claim objection, this Court will set a deadline at a future hearing for Debtor's counsel to file a cost/benefit declaration.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative

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**CONT... Yolanda Espinosa**

**Chapter 13**

rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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

Yolanda Espinosa

Represented By  
Barry E Borowitz

**Movant(s):**

Yolanda Espinosa

Represented By  
Barry E Borowitz

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:20-18115 Mike Rinaldi

Chapter 13

#12.00 Hrg re: Objecting to the proof of claim filed  
by Portfolio Recovery Associates, LLC

Docket 36

**Tentative Ruling:**

Appearances are not required.  
Grant.

*Proposed order:* Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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

**Debtor(s):**

Mike Rinaldi

Represented By  
David Samuel Shevitz

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Neil Bason, Presiding  
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Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:20-18427 Bedros Missak Yazijian

Chapter 13

#13.00 Hrg re: Objection to Proof of Claim Filed by  
Bank of America #1, #2 and #3

Docket 24

**Tentative Ruling:**

Continue to 2/18/21 at 8:30 a.m. to address the following issues.  
Appearances are not required on 1/21/21.

Lack of cost/benefit analysis. The posted Procedures of Judge Bason  
(available at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) provide:

**§ 502: claim objections & cost/benefit analysis.** When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a



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CONT... **Bedros Missak Yazijian**

Chapter 13

cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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

**Debtor(s):**

Bedros Missak Yazijian

Represented By  
Roland H Kedikian

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Neil Bason, Presiding  
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8:30 AM

2:20-18427 Bedros Missak Yazijian

Chapter 13

#14.00 Hrg re: Objection to Proof of Claim Filed by Susan Go,  
Successor Trustee of the Edmond B. Nebhan Revocable  
Trust Dated August 27, 2014 Claim #7

Docket 26

**Tentative Ruling:**

Continue to 3/18/21 at 8:30 a.m. and direct the parties to mandatory mediation before one of this Court's panel of mediators (*not* a bankruptcy judge), with a **deadline of 2/5/21** to lodge a mediation order. Appearances are not required on 1/21/21.

This Court has reviewed Debtor's objection (dkt. 26), the claimant's opposition (dkt. 39), and Debtor's reply (dkt. 41). The objection is based on alleged usury.

"California's usury restrictions are a curious and confusing blend of the California State Constitution, statutory law, and case law pertaining to both Article XV of the California Constitution and the relevant usury statutes." *Wishnev v. Northwestern Mut. Life Ins. Co.*, 162 F.Supp.3d 930, 937 (ND Cal. 2016). But both parties' papers cite almost no authority.

The claimant seeks a continuance for discovery, which she believes will show (a) that the loan was made for "business purposes" and (b) that the loan was arranged by a real estate broker. Debtor replies (x) that "even if funds were used for business purposes they would still be usurious" (citing section 2 of Article XV of The California Constitution); (y) that the exemption for a real estate broker "arranging" a loan requires that the broker "receives a commission and actively participates in the negotiation and drafting of the loan terms" (dkt.41, p.3:1-2) (citing no authority, and providing no evidence of a lack of such involvement); and (z) that the claimant should have documentation on these things, and is only seeking extensive discovery to harass Debtor, "beat [Debtor] into submission," and "delay this bankruptcy." Dkt.41, p.3:17-18. Debtor also requests that, if this Court permits discovery into the issues raised by the claimant, Debtor be permitted to do its own discovery.

The tentative ruling is that normally the parties are free to propound

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CONT... **Bedros Missak Yazijian**

Chapter 13

any discovery they believe might lead to admissible evidence, subject to other parties' rights to seek orders quashing or limiting discovery. But in this instance it appears appropriate to stay discovery and order mandatory mediation in view of (i) the complexities of usury law, (ii) the relatively small dollar amounts at issue, relative to the potential attorney fees of litigation (see POC, reproduced at dkt.26, Ex.A, last page, listing \$33,780.82 in interest), and (iii) the difficulty of discovery due to the length of time since the loan's inception, the transfers of the loan, and the likelihood of a lack of rigorous documentation by either party (or any predecessor in interest to the claimant). In other words, mediation appears particularly appropriate because there appears to be a potential for attorney fees to exceed the discounted present value of each party's chances of obtaining a net benefit at the end of their litigation.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Party Information**

**Debtor(s):**

Bedros Missak Yazijian

Represented By  
Roland H Kedikian

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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Hearing Room 1545

8:30 AM

2:20-19479 Armenuhi Matevosian

Chapter 13

#15.00 Hrg re: Motion to Convert Case From Chapter 13 to 11

Docket 37

**Tentative Ruling:**

Appearances are not required.  
Grant.

*Proposed order:* Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

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

Armenuhi Matevosian

Represented By  
Dana M Douglas

**Movant(s):**

Armenuhi Matevosian

Represented By  
Dana M Douglas

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**CONT... Armenuhi Matevosian**

**Chapter 13**

United States Bankruptcy Court  
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Hearing Room 1545

8:30 AM

2:17-24084 Kip Scott Rolfe

Chapter 13

#16.00 Hrg re: Objection to Claim Number 11  
by Claimant Internal Revenue Service

Docket 74

\*\*\* VACATED \*\*\* REASON: Continued to 2/18/21 at 8:30 a.m. [dkt. 78]

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Kip Scott Rolfe

Represented By  
Thomas B Ure

**Movant(s):**

Kip Scott Rolfe

Represented By  
Thomas B Ure

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
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8:30 AM

2:17-24084 Kip Scott Rolfe

Chapter 13

#17.00 Cont'd hrg re: Motion Objecting to the Proof of Claim  
Filed by Internal Revenue Service  
fr. 12/17/20

Docket 65

\*\*\* VACATED \*\*\* REASON: Motion denied without prejudice (see dkt.  
71)

**Tentative Ruling:**

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

**Debtor(s):**

Kip Scott Rolfe

Represented By  
Thomas B Ure

**Movant(s):**

Kip Scott Rolfe

Represented By  
Thomas B Ure

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Neil Bason, Presiding  
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Thursday, January 21, 2021

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8:30 AM

2:17-24084 Kip Scott Rolfe

Chapter 13

#18.00 Order to show cause why this court should not deny his fees and costs associated with the claim objection

Docket 71

**Tentative Ruling:**

Appearances are not required.

Pursuant to this Court's order to show cause (dkt. 71), the tentative ruling is to direct Mr. Ure not to charge Debtor for any fees or costs associated with the Claim Objection (dkt. 65, 67) and Amended Proof of Service (dkt. 70), prior to 12/20/20, because (a) he is an experienced bankruptcy practitioner who should already know the proper procedures for service on the IRS, and (b) he failed personally to make sure the amended service cured the deficient service, especially after this Court's tentative ruling for 12/17/20 directed him to the specific rules and procedures for service on the IRS.

*Proposed order:* This Court will prepare an order after the hearing date, subject to any changes ordered at the hearing. See LBR 9021-1(b)(1)(B).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.



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**CONT... Kip Scott Rolfe**

**Chapter 13**

**Party Information**

**Debtor(s):**

Kip Scott Rolfe

Represented By  
Thomas B Ure

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

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Central District of California  
Los Angeles  
Judge Neil Bason, Presiding  
Courtroom 1545 Calendar**

Thursday, January 21, 2021

Hearing Room 1545

8:30 AM

2:20-15577 Bela Janos Cseh

Chapter 13

#19.00 Cont'd hrg re: Objection to Claim Number 1 by Claimant Deutsche Bank National Trust Company, as Trustee for Morgan Stanley Dean Witter Capital I Inc. Trust 2002-AM3 Mortgage Pass-Through Certificates, Series 2002-AM3 fr. 11/19/20

Docket 31

**Tentative Ruling:**

**Tentative ruling for 1/21/21:  
Appearances required.**

There is no tentative ruling, but the parties should be prepared to address when to set this matter for oral argument and whether, meanwhile, to order mediation.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Tentative ruling for 11/19/20:**

Continue to 1/21/21 at 8:30 a.m. at which time this Court does not anticipate hearing oral argument but does anticipate determining when to set this matter for oral argument. Meanwhile, this Court is very sorry to hear that Debtor's counsel has contracted COVID-19. This Court wishes counsel a speedy and full recovery. Appearances are not required on 11/19/20.

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CONT... **Bela Janos Cseh**

Chapter 13

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

**Party Information**

**Debtor(s):**

Bela Janos Cseh

Represented By  
Donna R Dishbak

**Movant(s):**

Bela Janos Cseh

Represented By  
Donna R Dishbak  
Donna R Dishbak

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Neil Bason, Presiding  
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2:16-23461 Matthew B. Kennedy

Chapter 13

#20.00 Cont'd hrg re: Motion Under Local Bankruptcy Rule 3015-1 (n) and (w) to Modify Plan or Suspend Plan Payments fr. 11/19/20, 12/17/20

Docket 109

**Tentative Ruling:**

**Tentative Ruling for 1/21/21:**

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office and the objecting creditors to continue this matter or (2) withdrawal of the motion by Debtor.

Analysis

At the 12/17/20 hearing, the Debtor and the siblings and creditors Patricia A. Kennedy and Vincent J. Kennedy (the "Siblings") informed the Court that they had reached a settlement on the motion. As of the date of this tentative ruling, no order on the motion has been lodged with the Court. There is no tentative ruling, but the parties should be prepared to address whether the intent remains to resolve the motion by way of the settlement.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Tentative Ruling for 12/17/20:**

Appearances required, absent either (1) an agreement with the Chapter 13

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Chapter 13

Trustee's office and the objecting creditors to continue this matter or (2) withdrawal of the motion by Debtor. The tentative ruling is to deny the motion for the reasons set forth below.

Analysis

At the 11/19/20 hearing, this Court was persuaded to continue the matter to allow the parties to file additional papers. The Court has reviewed Debtor's supplemental Declaration (dkt. 123), the supplemental Opposition by siblings and creditors Patricia A. Kennedy and Vincent J. Kennedy (the "Siblings") (dkt. 124), Debtor's supplemental Reply (dkt.125), and the documents reviewed in preparation of the tentative ruling for 11/19/20.

The tentative ruling is that, although Debtor's evidentiary objections are well taken, nevertheless (i) Debtor's supplemental declaration has not established that his alleged financial hardship is in fact due to the pandemic as required by 11 U.S.C. 1329(d) and (ii) Debtor has not established good faith for a plan modification as required by 11 U.S.C. 1329(b)(1).

Debtor has provided evidence indicating that his brother has had a reduction in income, that he was unsuccessful in finding replacement tenant to rent the property, and why preparing the garage for use as a rentable space is not possible. Dkt. 123, pp. 2–5. Debtor's evidence of his brother's reduction in income appears to be adequate, as is his evidence of the apparent expense of repairing and furnishing the garage and his alleged intent from the outset not to rent the garage but instead to rent the entire house out if necessary to fund his "step up" plan (the Siblings dispute this, but they do not provide admissible evidence). But Debtor has not adequately explained his efforts to lease the property.

Debtor alleges that he placed a "for rent" sign in front of the property. Dkt. 123, p.2. But Debtor does not explain when this sign was put up, how long the sign remained, and what other efforts he undertook when it became clear that the for rent sign was unsuccessful in attracting a tenant. For this reason and the reasons stated in the tentative ruling for 11/19/20, the tentative ruling is to deny the motion.

Notwithstanding all of the foregoing, the parties are directed to meet and confer to see if a compromise can be reached. This Court is concerned that if the parties do not settle then there could be considerable additional litigation between Debtor and the Siblings, and that such litigation might result in added expense without added benefit for the parties, and also could result

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Chapter 13

in adverse consequences to third parties.

If Debtor and the Siblings reach a compromise then, depending on the nature of the compromise and any offers of proof, this Court may well be able to find, in the absence of evidentiary objections from the Siblings and the Chapter 13 Trustee, that there is sufficient "good faith" and compliance with section 1329(d) to grant a modified version of the motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Tentative Ruling for 11/19/20:**

**NOTE:** For purposes of the deadline to notify opposing counsel/parties of an intent to contest tentative rulings (1/2 the time between the time of posting and the hearing time), the following Tentative Rulings were first posted shortly before:

1:30 p.m. on 11/17/20.

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Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office and the objecting creditors to continue this matter or (2) withdrawal of the motion by Debtor. The tentative ruling is to deny the motion for the reasons set forth below.

Analysis

This Court has reviewed the objection by siblings and creditors Patricia

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**Chapter 13**

A. Kennedy and Vincent J. Kennedy (the "Siblings") (dkt. 111), the response of the Chapter 13 Trustee (dkt. 113) , Debtor's reply (dkt. 120), and the Siblings' unauthorized sur-reply (dkt. 121). As a preliminary matter, the tentative ruling is to strike the unauthorized sur-reply. Nevertheless, the tentative ruling is to deny the motion for the following reasons.

Modification can be requested under 11 U.S.C. 1329. Section 1329(c) usually provides that a plan as modified may not exceed five years, but the CARES Act added section 1329(d), which permits an extension, in certain circumstances, of up to seven years after the first payment under the original plan was due (for chapter 13 plans confirmed prior to 3/27/20).

To be eligible for that extension Debtor must establish that he "is experiencing or has experienced a material financial hardship due, directly or indirectly, to the coronavirus disease 2019 (COVID-19) pandemic" and if the modification "is approved after notice and a hearing." (Emphasis added.) The tentative ruling is that Debtor has not established that his alleged financial hardship is in fact due to the pandemic.

First, Debtor asserts that his brother, who has been occupying part of the property, has been making "contributions" to fund the plan but had a reduction in income due to the pandemic and cannot afford to continue with such "contributions" or pay rent. Debtor also asserts that he has been unable to find paying tenants due to the pandemic. Where is the evidence of the brother's financial inability to pay fair rent? Where is the evidence of Debtor's efforts to find a paying tenant (and evict his brother)?

Second, Debtor alleges that his garage is "packed with boxes and other household items, and is not habitable." Reply (dkt.120), p.7:1-3 & Ex.3. Why has it not been possible, since the inception of this case and especially now, to clean up and rent out this space?

There might (or might not) be good explanations for these things. But Debtor fails to address them.

The same concerns apply under section 1325(a), made applicable to any proposed plan modification by section 1329(b)(1). Section 1325(a)(3) requires that "the plan has been proposed in good faith and not by any means forbidden by law." See *In re Sunahara*, 326 B.R. 768, 772-84 (9th Cir. BAP 2005).

The "good faith" determination "necessarily requires an assessment of a debtor's overall financial condition including, without limitation, the debtor's current disposable income, the likelihood that the debtor's disposable income

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**Matthew B. Kennedy**

**Chapter 13**

will significantly increase ..." and any other facts and circumstances bearing on the issue of good faith. *Id.* at 781-82. For the same reasons stated above, the tentative ruling is that Debtor has not established his good faith.

In sum, Debtor has not satisfied section 1329(d) - by failing to provide enough evidence that it is the pandemic that has made the plan infeasible - nor has he provided sufficient evidence of his good faith under section 1325(a)(3). Therefore the tentative ruling is to deny the motion.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

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

**Debtor(s):**

Matthew B. Kennedy

Represented By  
Michael Jay Berger

**Movant(s):**

Matthew B. Kennedy

Represented By  
Michael Jay Berger

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se



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2:19-24368 Brooke Dworzan

Chapter 13

#21.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1 (n)  
and (w) to modify plan or suspend plan payments  
fr.12/17/20

Docket 35

\*\*\* VACATED \*\*\* REASON: Resolved pursuant to dkt. 41 and order  
thereon

**Tentative Ruling:**

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

Brooke Dworzan

Represented By  
Julie J Villalobos

**Movant(s):**

Brooke Dworzan

Represented By  
Julie J Villalobos

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
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Los Angeles  
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2:20-15698 Gerald Edward Young

Chapter 13

#22.00 Cont'd hrg re: Objection to Claim Number 8  
by Claimant LB Property Management  
fr. 11/19/20

Docket 37

**Tentative Ruling:**

**Tentative Ruling for 1/21/21:**

Appearances required.

Based on the arguments and representations of the parties at the hearing on 11/19/20, this Court continued the matter to this date to allow time for the parties to review their records and try to resolve their dispute outside of court. There is no tentative ruling, but the parties should be prepared to update this Court on the status of those discussions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Tentative Ruling for 11/19/20:**

Continue to 12/17/20 at 8:30 a.m. to address the following issues.

Appearances are not required on 11/19/20.

Reasons:

Lack of cost/benefit analysis. The posted Procedures of Judge Bason

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(available at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) provide:

**§ 502: claim objections & cost/benefit analysis.** When objecting to claims, be sure to include an analysis of whether the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the anticipated dividend is small or 0% then the attorney fees incurred in prosecuting your claim objection to any general unsecured claim probably will exceed the benefit to the bankruptcy estate/debtor, so filing that objection would be a waste of the bankruptcy estate's (and everyone else's) resources (unless, for example, the claim is nondischargeable, in which event the attorney fees might well be justified).

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of Judge Bason's posted Procedures regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

**Party Information**

**Debtor(s):**

Gerald Edward Young

Represented By  
Erika Luna

**Movant(s):**

Gerald Edward Young

Represented By  
Erika Luna  
Erika Luna  
Erika Luna

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Judge Neil Bason, Presiding  
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Hearing Room 1545

8:30 AM

2:20-15949 Juan Carlos Ulloa and Charina Antoinette Ulloa

Chapter 13

#23.00 Cont'd hrg re: Motion to Avoid Lien Judicial  
with Cavalry Investments/Fireside Bank  
fr. 12/17/20

Docket 36

\*\*\* VACATED \*\*\* REASON: Withdrawal of Motion Filed 12/23/20 (Dkt.  
46)

**Tentative Ruling:**

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

**Debtor(s):**

Juan Carlos Ulloa

Represented By  
Hasmik Jasmine Papian

**Joint Debtor(s):**

Charina Antoinette Ulloa

Represented By  
Hasmik Jasmine Papian

**Movant(s):**

Juan Carlos Ulloa

Represented By  
Hasmik Jasmine Papian

Charina Antoinette Ulloa

Represented By  
Hasmik Jasmine Papian

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court  
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8:30 AM

2:20-16242 Magdalena Avila

Chapter 13

#24.00 Cont'd hrg re: Debtor's Objection to Proof of Claim 6 by Claimant BBV Profit Sharing Plan fr. 9/24/20, 10/22/20, 11/19/20, 12/17/20

Docket 38

**Tentative Ruling:**

**Tentative Ruling for 1/21/21 (same as for 12/17/20):**  
Appearances required.

This matter has been continued a number of times to allow time for the parties to communicate with a senior lienholder and negotiate an amicable resolution of their dispute. There is no tentative ruling, but the parties should be prepared to provide an update on the status of their negotiations.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Tentative Ruling for 11/19/20:**

Continue to 12/17/20 at 8:30 a.m. for the reasons stated in the Status Report (dkt.59) filed by BBV. Appearances are not required on 11/19/20.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at

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www.cacb.uscourts.gov) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

**Tentative Ruling for 9/24/20:**

Sustain the claim objection in part, overrule it in part, and continue the hearing, all as set forth below. Appearances required.

*Key documents reviewed (in addition to motion papers):* BBV Profit Sharing Plan ("BBV") opposition papers (dkt. 40, 41), Debtor's reply (dkt. 42), BBV's unauthorized sur-reply (dkt. 43), BBV's amended proof of claim 6-2 ("AmClaim")

Analysis:

(1) Advances of funds to the senior lienholder

(a) Nonbankruptcy law

The tentative ruling is that Debtor is correct that under nonbankruptcy law a junior lienholder is not authorized to advance more funds than what is necessary to cure any arrears on a senior lien (Cal. Civ. Code 2924c(a)(1)) and BBV has not demonstrated that it was necessary to advance \$91,930.10 to the senior lienholder, when it appears that the senior lienholder's arrears as of the petition date were only \$47,356.58 (see dkt. 38, Ex.C). Therefore, to the extent the advances exceeded the amount of any default (*i.e.*, \$91,930.10 - \$47,356.58 = \$44,573.52), they were unauthorized under nonbankruptcy law.

The parties have not briefed the consequences of making such an unauthorized transfer. One remedy might be for BBV, Debtor, and/or the senior lien holder to seek to unwind BBV's unauthorized payment of \$44,573.52 to the senior lien holder. In that event, presumably, Debtor would once again owe the excess \$44,573.52 to the senior debt holder, and BBV's claim would be reduced by that same dollar amount. But that does not appear to have happened, so the question is what consequences follow from BBV's unauthorized payment of the senior debt.

The tentative ruling, in the absence of cited authority from either party,

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**Magdalena Avila**

**Chapter 13**

is that California law must be construed so as to treat BBV's payment of the senior debt as an unauthorized loan that attempts to replace the (lower) interest rate under the senior loan documents with the (higher) interest rate under the junior loan documents, and that this is impermissible. BBV has not cited authority that someone who makes a loan without authority to do so can charge any interest on that unauthorized loan. Therefore, the tentative ruling is that BBV cannot charge any interest prior to the effective date of any plan; although, after the effective date, it would have to bear "present value" interest pursuant to 11 U.S.C. 1325(a)(5)(B)(ii). In other words, the senior debt paid by BBV does not simply disappear (which would be a windfall to Debtor), but nor can BBV charge (higher) interest on that debt (which would be a windfall to BBV).

(b) Bankruptcy law

All of the foregoing analysis under nonbankruptcy law may be mooted by the superseding effect of bankruptcy law. It appears that both of BBV's payments are void as a matter of bankruptcy law.

BBV's checks are dated 7/8/20 - the same day that Debtor's prior bankruptcy case was dismissed (Case No. 2:18-bk-18060-NB). This Court presumes for purposes of this discussion that the checks were issued after the dismissal (and therefore this Court will not address whether the checks violated the automatic stay in that prior case). This Court also presumes, for purposes of this discussion, that the checks were mailed on or about the same date. But the timestamps reflect that the checks were not received and/or deposited by the senior lienholder until after the 7/10/20 petition date in this current case. The checks apparently were deposited on 7/13/20 and 7/17/20 (see AmClaim, pdf pp. 6-7).

The parties have not briefed which of these dates is relevant, but the tentative ruling is that the date of deposit is the date when BBV's lien against Debtor's real property was increased, and that this constituted a "transfer" of an interest in that property and an "exercise of control" over property of the estate, in violation of the automatic stay of 11 U.S.C. 362(a)(3). Alternatively the tentative ruling is that each transfer constituted an act to obtain "possession" of property of the estate in violation of the other clause of 11 U.S.C. 362(a)(3), or an act to "create, perfect, or enforce a lien" against property of the estate in violation of 11 U.S.C. 362(a)(4). On each of these alternative grounds, BBV's advances violated the automatic stay and therefore are void *ab initio*. See generally 11 U.S.C. 11 U.S.C. 101(50)



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("transfer" defined); *cf. In re Lee*, 179 B.R. 149, 158-59 (9th Cir. BAP 1995) (date of "transfer" involving perfection of lien, under 11 U.S.C. 547), *aff'd* 108 F.3d 239, 241 (9th Cir. 1997); *In re Hagen*, 922 F.2d 742, 745 (11th Cir. 1991) (same); *see also In re Schwartz*, 954 F.2d 569, 571 (9th Cir. 1992) (acts in violation of automatic stay are void).

Note: The tentative ruling is that the transfers also likely constituted avoidable unauthorized postpetition transfers (11 U.S.C. 549(a)), and/or unauthorized post-petition loans (11 U.S.C. 364), which had the effect of replacing a senior encumbrance bearing a low interest rate with BBV's encumbrance bearing a higher interest rate. But the tentative ruling is that this Court cannot make any ruling on those issues because they would require an adversary proceeding. *See* Rules 3007(b), 7001(1) (Fed. R. Bankr. P.).

The bottom line is that, in making payments to the holder of the senior lien, BBV violated the automatic stay and therefore both advances are void. BBV argues that there is no harm because Debtor owed the money anyway, but as a practical matter, BBV effectively increased the interest rate that Debtor must pay, which ultimately takes away from any recovery for junior creditors and jeopardizes Debtor's ability to reorganize.

Again, this Court is not ruling that Debtor will receive a windfall. If this Court adheres to the foregoing tentative ruling then the transfers from BBV to the senior lien holder were void, so presumably the senior lienholder must return the \$91,930.10 to BBV and Debtor's debt to the senior lienholder will increase by that same dollar amount. That said, the senior lienholder has not been made a party to these proceedings, and Debtor has not commenced any proceeding to compel turnover by the senior lienholder (*see* 11 U.S.C. 542; Rule 7001(1), Fed. R. Bankr. P.). In addition, if BBV's entire \$91,930.10 transfers were to be unwound then Debtor might owe additional interest, late charges, and other charges to the senior lienholder, and there might be other consequences.

Accordingly, although the tentative ruling is that BBV's \$91,930.10 in advances were void (because, by increasing BBV's lien, they violated the automatic stay), the tentative ruling is that it would be premature to disallow BBV's claim for those funds at this time. Rather, the tentative ruling is to direct Debtor and BBV to meet and confer, and for both of them to communicate with the holder of the senior lien, to attempt to resolve this matter.

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(2) Foreclosure and Bankruptcy Attorneys Fees and Costs

(i) Foreclosure fees, costs & interest thereon

The tentative ruling is to overrule Debtor's objection to BBV's foreclosure fees, costs and interest because BBV's response cites the applicable loan provision that purportedly entitles it to collect these fees/costs (dkt. 40, p.8:1-9) and Debtor's reply does not renew any challenges to these items.

(ii) Reasonableness of attorneys' fees & costs

The tentative ruling is to overrule the objection as to the reasonableness of the amounts charged because BBV's opposition papers attach time records (dkt. 40, Ex.2, pdf pp. 30-40 & dkt. 41), which appear to provide adequate support for the reasonableness of its fees.

(iii) Rule 3002.1(c) (Fed. R. Bankr. P.)

First, the tentative ruling is that it is appropriate for this Court to reach the merits of this issue because although Debtor raised this issue for the first time in her reply papers (a) it appears to be in response to new information provided in BBV's opposition and (b) there is no prejudice to BBV because it filed the unauthorized sur-reply (dkt. 43) responding to these arguments.

Second, on the merits, the tentative ruling is that Debtor appears to be correct that BBV did not comply with Rule 3002.1(c) by filing timely notices of postpetition mortgage fees, expenses and charges in the Prior Case. Although BBV points out (dkt. 43) that any noncompliance was in the Prior Case, the tentative ruling is that for the following reasons this issue is properly raised in this current case.

The tentative ruling is that the burden is on BBV to show why charges that it was supposed to have noticed in the prior case should survive and be chargeable in this case. In addition, if necessary this Court could reopen the prior case and decide the issues in that case instead of in this one, but because this Court presided over the Prior Case that would appear to be form over substance, and any insistence by BBV on parties incurring the expense of reopening might be appropriately charged to BBV as part of this Court's discretion under Rule 3002.1(i) to award "appropriate relief."

All of that said, neither side has cited any authority interpreting Rule 3002.1; Debtor has not shown how she was prejudiced by BBV's nondisclosure of its charges in the Prior Case; and just as Debtor is having another bite at the apple in this current case perhaps BBV should as well - in

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8:30 AM

CONT...

**Magdalena Avila**

**Chapter 13**

other words, BBV's apparent violation of Rule 3002.1 does not appear to have caused any cognizable prejudice, and both parties did not fully live up to their obligations in the prior bankruptcy case, so the tentative ruling is that an "appropriate remedy" under Rule 3002.1(i) is probably not to reduce BBV's claim. Therefore the tentative ruling is to overrule Debtor's objection on this ground.

(3) Interest Rate

The tentative ruling is to overrule the objection for the reasons stated in BBV's opposition papers.

(4) Unapplied funds from Debtor's prior bankruptcy case

The tentative ruling is that this objection appears to be moot in view of BBV's filing of an Amended Proof of Claim crediting Debtor for all payments made during the Prior Case.

(5) Conclusion

The tentative ruling is not to adopt any of the foregoing tentative rulings on any final basis, and instead to direct the parties to meet and confer, and communicate with the holder of the senior lien, and meanwhile continue this matter to 10/22/20 at 8:30 a.m.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

**Party Information**

**Debtor(s):**

Magdalena Avila

Represented By  
Stephen S Smyth

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**CONT... Magdalena Avila**

**Chapter 13**

**Movant(s):**

Magdalena Avila

Represented By  
Stephen S Smyth

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

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2:20-16719 Diana Mitra Saidian

Chapter 13

#25.00 Cont'd hrg re: Objection to Claim No. 5-2 Filed by  
Investment Management Company LLC  
fr. 11/19/20, 12/17/20

Docket 53

**Tentative Ruling:**

**Tentative Ruling for 1/21/21:**

Appearances required.

At the 12/17/20 hearing, this Court was persuaded to continue the hearing to after the 1/5/21 deadline for written discovery responses. As of the date of preparation for this tentative ruling, no additional documentation related to the claim objection has been filed on the docket. There is no tentative ruling, but the parties should be prepared to discuss whether this hearing should be further continued for additional discovery.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Tentative Ruling for 12/17/20:**

Continue to 1/21/21 at 8:30 a.m., after discovery responses are due. See Status Report (dkt. 83). Appearances are not required on 12/17/20.

If appearances are not required at the start of this tentative ruling but you

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CONT... Diana Mitra Saidian

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wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**Tentative Ruling for 11/19/20:**

Continue to 12/17/20 at 8:30 a.m. to address the following issues.

Appearances are not required on 11/19/20.

-

Withdrawal of Counsel. On 10/16/20, Debtor's counsel filed a motion to withdraw as attorney. (dkt. 51). On 11/4/20, this Court set the motion to withdraw as attorney for hearing on 11/19/20. (dkt. 61). In her supplemental briefing, Debtor requested a continuance so that she can find a new attorney. (dkt. 68, p. 3). The tentative ruling is to continue this hearing to 12/17/20 to allow her to retain new counsel, with a **deadline of 12/8/20** for Debtor's reply.

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, all appearances are telephonic via CourtCall at (888) 882-6878.

**Party Information**

**Debtor(s):**

Diana Mitra Saidian

Represented By  
Raymond H. Aver

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**Chapter 13**

**Trustee(s):**

Kathy A Dockery (TR)

Represented By  
Fari B Nejadpour

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9:30 AM  
**2:00-00000**

**Chapter**

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM  
CONFIRMATION CALENDAR CAN BE VIEWED ON THE  
COURT'S WEBSITE ([www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) UNDER:  
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

**Tentative Ruling:**

- NONE LISTED -



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11:00 AM  
**2:00-00000**

**Chapter**

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS  
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE  
([www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

**Tentative Ruling:**

- NONE LISTED -

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**2:18-12429 Dana Hollister**

**Chapter 11**

**#1.00** Hrg re: Debtor's Motion for Reconsideration of Order  
Approving Term Sheet Settlement (Dkt. #557) (Dkt #1298)

Docket 1298

**Tentative Ruling:**

Please see Tentative Ruling for Status Conference (1/21/21 at 1:00 p.m.,  
calendar no. 2).

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

**Debtor(s):**

Dana Hollister

Represented By  
David A Tilem  
Mark A Kressel  
Alan M Insul

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2:18-12429 Dana Hollister

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case  
fr. 3/9/18, 3/20/18, 3/21/18, 4/17/18, 5/3/18, 5/7/18,  
6/12/18, 6/22/18, 7/16/18, 8/3/18, 9/4/18, 11/6/18,  
01/15/19, 1/29/19, 2/26/19, 3/26/19, 4/16/19;  
04/29/19, 05/21/19, 5/28/19, 6/18/19, 7/2/19; 08/06/19,  
10/15/19, 11/12/19, 11/21/19, 01/14/20, 3/3/20, 3/10/20,  
04/07/20, 5/19/20, 6/16/20, 6/30/20, 7/14/20, 7/28/20,  
8/4/20, 09/15/20, 10/27/20, 12/08/20

Docket 1

**Tentative Ruling:**

**Tentative Ruling for 1/21/21:  
Appearances required.**

(1) Current issues

(a) Motion (the "Reconsideration Motion," dkt.1289, 1300, 1304, 1305, 1318) regarding order (dkt.557) granting Debtor's motion to approve settlement agreement (dkt.547); order shortening time (dkt.1301, 1311); creditors' committee response (dkt.1307); opposition papers of Anea Enter., LLC ("Anea," dkt. 1310), Bobs LLC ("Bobs," dkt.1312), The Bird Nest, LLC ("Bird") and the Roman Catholic Archbishop of Los Angeles, And the California Institute of the Sisters of the Most Holy and Immaculate Heart of the Blessed Virgin Mary ("Church") (dkt.1313-1316); reply papers (dkt. 1322-1324); and Church/Bird's evidentiary objections thereto (dkt.1325)

Deny. The Reconsideration Motion requests that this Court "reconsider" the order approving her settlement with certain creditors by extending the time for her performance by up to one year. Debtor cites no authority that this Court has any power to rewriting the parties' settlement agreement.

Alternatively, even if Debtor were correct that in theory the duty of "good faith and fair dealing" would permit this Court to rewrite the parties' agreement (which it does not), the tentative ruling is that Debtor's own evidence fails to establish that the Church and Bird violated that duty. There is no apparent lack of good faith demonstrated in the concerns raised by

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those creditors. See, e.g., Reconsid. Mot. (dkt.1298), Ex.13, at p.128 (email summarizing Church/Bird concerns that they are not adequately protected).

Alternatively, although Debtor blames the current pandemic situation for her inability to perform her agreement, she has not provided any evidence that she was precluded from refinancing or selling the Paramour property or entering into a joint venture in the months and years prior to the onset of the pandemic. In other words, on the record presented, the tentative ruling is that Debtor has not established that anything but her own delay caused her to be susceptible to risks such as the current pandemic situation.

Alternatively, the tentative ruling is to deny the Reconsideration Motion for the other reasons stated by Church, Bird, Bobs, and Anea. Without limiting the generality of the immediately preceding sentence, the tentative ruling is that those creditors' concerns about further delay in Debtor's performance are well founded, both based on Debtor's past performance and losses and, alternatively, in view of the uncertainty and possible effects of the pandemic situation on Debtor's businesses and assets.

On the latter point, this Court takes judicial notice that the pandemic situation has been growing much worse: local businesses such as The Paramour are subject to very substantial restrictions; new variants of the virus have emerged; and the vaccine rollouts have not been as rapid or widespread as hoped. All of these matters reinforce creditors' objections. See, e.g., Anea Obj. (dkt.1310) (noting lengthy delays in disposition of Roble Vista Property, lack of payment of property taxes, and stating that "Covid 19 has affected everyone, including creditors" and Debtor's problems "should not put a greater burden on creditors"); Bobs Obj. (dkt.1312) (citing risk that any equity cushion might be "rapidly eroding" or non-existent due to the pandemic situation); Maddoc Decl. (dkt.1314) (noting lack of foundation for Debtor's assertions, including long-standing lack of evidence of profitability of The Paramour; lack of evidence that Debtor could qualify for \$25 million loan at 3% interest; and, to the contrary, many reasons to conclude that Debtor would not qualify for any loan that could be supported even by drastically improved cash flow).

*Proposed order:* Counsel for the Church is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of parts "(1)(a)" above and "(1)(b)" below of this tentative ruling, thereby incorporating them as this Court's final rulings, subject to any changes ordered at the hearing. See LBR

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9021-1(b)(1)(B).

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(b) Evidentiary rulings regarding Reconsideration Motion

In formulating the foregoing tentative rulings on the Reconsideration Motion, this Court has considered the parties' evidentiary objections. Any ruling on those objections would not change any of the foregoing tentative rulings on the merits, but for the sake of completeness this Court rules as follows on the evidentiary objections:

The tentative ruling is to sustain Debtor's objection (dkt.1323) to the request of Church/Bird for judicial notice (dkt.1315), to the limited extent stated by Debtor (factual allegations in filed documents are not subject to judicial notice). But all of the documents are appropriate subjects of judicial notice for limited purposes. For example, it is appropriate for this Court to take judicial notice of the representations made by Debtor in her own MORs - not for the truth of those representations, but to illustrate Church/Bird's argument that Debtor's own figures do not support her requested relief. See RJN (dkt.1315) p.2:1 (requesting judicial notice of Debtor's MOR at dkt.1297).

The tentative rulings regarding Church/Bird's initial evidentiary objections (dkt.1316) are: overrule the objection to Debtor's assertions regarding her perception of a weakened negotiating position (dkt.1316, p.2:9-15) (but those assertions are irrelevant); sustain the objections to Debtor's assertions that Church and its counsel have obtained pandemic-related financial relief (*id.* p.2:15-21); sustain the objection to Debtor's declaration about the causes for her inability to obtain refinancing (without prejudice to admission of declarations from others) (*id.* p.2:22-26); overrule the objection to Debtor's statement about meeting or speaking with more than 30 potential buyers, lenders, or partners, but sustain the objection to their alleged statements about their reasons for not proceeding (*id.* pp.2:27-3:2); sustain the objections to Debtor's attempt to dispute the merits of her underlying (settled) disputes with Church/Bird and the alleged lack of damages to them (*id.* p.3:3-4:6); sustain the objections to Debtor's assertion that she is the only one who has not received any pandemic-related relief (*id.* p.4:7-9); sustain the objections to Debtor's assertion that Church's

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position is "not in keeping" with the spirit of speeches made by the Archbishop (*id.* p.4:9-15); sustain the objections to Debtor's allegations that Church and Ms. Perry (Bird's principal) allegedly would not be prejudiced by the proposed modification of the parties' agreement (*id.* p.4:15-20); sustain the relevance objection to Debtor's allegation that as a result of the pandemic she has "effectively been deprived of the time for which I originally bargained," but overrule the other objections to that statement, and sustain the objections to Debtor's assertion that with "everyone else" allegedly receiving pandemic relief it is "appropriate" for this Court to rewrite her agreement (*id.* p.4:21-26); overrule the objection to the Clark Declaration's assertions about the current and future value of the Roble Vista Property (the objections go to the weight of the evidence, but are insufficient to exclude that evidence) (*id.* p.5:2-7); overrule the objections to the Young Declaration's assertions about the values of 1910 Micheltorena Street and The Paramour (for the same reasons) (*id.* p.5:9-17); sustain the objections to the Melzer Declaration's assertions that Debtor has "sufficient borrowing capacity to meet her obligations" based on lack of sufficient foundation, but overrule all other objections to his declaration except for his assertion that another client's attempted \$49 million remodeling loan is "the single largest such loan in the Country" (*id.* pp.6:3-7:8); sustain the relevance objection to the Tilem Declaration's assertions about how he (and Debtor) perceived this Court's rulings and the possibility of converting this case to chapter 7 (Debtor's perceptions, and any actual negotiating weakness in arriving at the approved settlement agreement, are irrelevant) (*id.* p.7:9-18); sustain the objections to the Sebastian Declaration's assertions about his investment firm's potential willingness to purchase the Waverly property from Church (*id.* pp.7:19-8:6).

The tentative rulings regarding Church/Bird's evidentiary objections (dkt.1325) to Debtor's reply papers are: sustain the objections to Debtor's assertion that the real estate transaction in which she was found to have interfered "was never going to take place" and that "history has proven" that she did not interfere with the sale (dkt.1325, p.2:9-18); sustain the objections to Debtor's

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assertions that others have received pandemic relief while she has not and that the 5% interest rate in the parties' agreement is "above-market" (*id.* p.2:18-24); sustain the objections to Debtor's assertion that "reality" overrules legal objections to the admissibility of her alleged motivations to enter into her agreement (*id.* pp.2:24-3:2); sustain the objections to the Juckniess Declaration, except that the bare fact of a creditor supporting Debtor's Reconsideration Motion would be a relevant consideration for this Court in assessing any request for reconsideration, if there were any legal grounds for such relief (*id.* p.3:4-22); sustain the objections to the Martin Declaration for the same reasons (*id.* pp.3:24-28); sustain the objections to the Staats, Vitalos, Aeppel, and Parwani Declarations for the same reasons (*id.* p.4); sustain the objections to the Roopenian Declaration's assertions about the reasons for Debtor's alleged inability to obtain refinancing or other relief, except for the characterization of his opinion as that of a "lay witness" (*id.* p.5:1-7); sustain the objections to the Howard Declaration's assertions about what is the "primary" reason for Debtor's alleged inability to obtain funds and future ability to obtain financing, except for the characterization of his opinion as that of a "lay witness" (*id.* p.5:8-19).

Nothing in the foregoing summaries of the declarants' assertions should be interpreted as limiting this Court's rulings to such assertions. Except as otherwise stated above, the tentative ruling is that all of the creditors' evidentiary objections are sustained, and all of Debtor's are overruled.

(c) Debtor's transactions out of the ordinary course?

Debtor's status reports disclose that she has "restarted" her businesses of buying and selling antiques, clothing consulting, and design. See Stat.Rpts. (dkt.1296, p.4:8-11, and dkt. 1320, pp.4:22-5:1). See also Debtor Decl. (dkt.1322) p.9:1-6. Other papers filed by Debtor disclose that she is "manufacturing custom designer pillows (which typically sell between \$500-\$1,000 each)." Dkt. 1322, p.4:11-16 & 9:1-6. In addition, although renovations to the Paramour property (dkt.1322, p.8:22-28) might well qualify as "ordinary course," this Court has concerns about what Debtor means by "renovations" and whether they really are ordinary course.

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As noted in the tentative ruling for the (continued) status conference on 12/8/20, Debtor is directed to address (i) how, if Debtor previously had ceased engaging in various lines of business, restarting those lines now would qualify as "ordinary course" (11 U.S.C. 363(b)) and (ii) the historical cost/benefit and risks of those businesses. This Court takes judicial notice that Debtor repeatedly has been warned that she and any affiliated businesses must not "reopen" businesses (or engage in any other transactions out of the ordinary course) without notice to parties in interest and prior approval by this Court.

In addition to the legal requirements, there are practical concerns about Debtor acting without notice. For example, reopening closed lines of business typically involves up-front costs that the estate might not recover if the business is not successful; and some lines of business could expose the estate to liabilities.

These concerns are heightened by the history of this case. This Court previously found and concluded that Debtor failed to notify parties in interest, even including the co-owner of the Cliff's Edge business, of her acts regarding that business. This Court also found and concluded that Debtor:

... has disregarded her duties as a trustee for the benefit of creditors by ... reopening the Bridge [Tavern, LLC, aka Villain's Tavern,] business without notice or authorization by this Court ...  
[emphasis added]

\* \* \*

Just as the debtor acknowledges that causing Bridge to sell its business is a transaction out of the ordinary course, so is causing Bridge to reopen its closed business [emphasis in original].  
[Memorialization of [adopted] Tentative Rulings (dkt.239), at pp.13-14, para. "(d)"; see *also id.* (dkt.238, 239) *passim*.]

Alternatively, supposing for the sake of discussion that Debtor's reopening of businesses, renovations to the Paramour, and other activities can be shown to have been in the ordinary course of Debtor's business (which does not appear so, with the possible exception of renovations), at the very least Debtor was required to disclose the finances of every line of business. See Order (dkt.22), p.2:18-22 ("For all reporting purposes – including Monthly Operating Reports ('MORs'), disclosure statements, etc. – Debtor must disclose all income, expenses, assets, and liabilities of [any] affiliated businesses").



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Contrary to that requirement, Debtor's MORs appear to provide only partial disclosure. Some individual items are listed - e.g., funds spent on "Items for resale." But there does not appear to be any separate accounting for different lines of the reopened business, nor any way to assess if any one line of business is losing money, making a profit, etc. Nor is it clear why some items are included in the DIP "general" account and others in the DIP "personal" account. Nor does Debtor's DIP Tax account appear to reflect any payment of sales taxes for any such businesses. See, e.g., MOR (11/30/20, dkt.1297), pp.2, 9 & 53; *but cf. id.* p.67 (P&L for Vintage Event Design, showing Nov. 2020 loss of \$4,681.22).

The tentative ruling is to set a **deadline of 2/2/21** for Debtor to file and serve papers responsive to the foregoing concerns, including:

(A) detailed statements of the historical and current profits or losses of each line of business engaged in by Debtor, including all associated expenses (except that, to the extent such information is already included in MORs or other filed documents, Debtor may incorporate specific information by reference);

(B) the exact time periods in which those business were operated historically and currently;

(C) what regulatory requirements apply to such businesses, including any permits, sales taxes, employment taxes, etc., and whether Debtor is in full compliance with all such regulatory requirements;

(D) whether Debtor is competent to run each line of business in which she is engaged;

(E) the potential risks of any such businesses; and

(F) what renovations have been performed at the Paramour, whether those renovations were performed by licensed contractors, whether permits were obtained for such renovations, the cost of such renovations, the increase in room rates or other revenues as a result of such renovations, and any other relevant information regarding such renovations.

For example, with respect to potential risks, the tentative ruling is that Debtor must address any liabilities to which the bankruptcy estate might be exposed if Debtor's pillows do not have fire-resistant filling or, conversely, if they have such filling but it causes allergic reactions. More broadly, Debtor must address whether she is competent to run her businesses - is she aware of issues such as fire retardance requirements, what furniture is or is not "antique," etc.?

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The tentative ruling is to set a **deadline of 2/11/21** for any other party in interest who chooses to file and serve response papers to address whether Debtor has violated her duties and what consequences should follow, and a **deadline of 2/18/21** for any reply by Debtor. Then this Court anticipates determining whether to issue an order directing Debtor to show cause why this Court should not impose sanctions or other consequences, such as restricting or terminating her authorization to act as debtor in possession.

(2) Deadlines/dates. This case was filed on 3/6/18.

(a) Bar date: 8/24/18 (dkt. 367, timely served per dkt. 383)

(b) Plan/Disclosure Statement\*: TBD

(c) Continued status conference: 1/26/21 at 2:00 p.m. No written status report required.

\*Warning: special procedures apply (see order setting initial status conference).

(d) Limited Notice: A "Core Service List" has been established (see dkt.97, p.3:4-17, dkt.195), as modified by any updates (contact Debtor for latest list).

If appearances are not required at the start of this tentative ruling but you wish to dispute the tentative ruling, or for further explanation of "appearances required/are not required," please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings." If appearances are required, and you fail to appear without adequately resolving this matter by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing. Pursuant to Judge Bason's COVID-19 procedures, **all appearances are via ZoomGov**. For ZoomGov instructions for all matters on calendar, please see the tentative ruling for the first matter on today's calendar (*i.e.*, page 1 of the posted tentative rulings). Unless otherwise stated, appearances via CourtCall are no longer permitted.

**[PRIOR TENTATIVE RULINGS OMITTED]**

**Party Information**

**Debtor(s):**

Dana Hollister

Represented By

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**Dana Hollister**

David A Tilem  
Mark A Kressel  
Alan M Insul

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