

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

9:00 AM

**2:13-26483 Saeed Cohen**

**Chapter 11**

**#1.00** Cont'd hrg re: Joint Motion of Debtor and Official Committee of Creditors Holding Unsecured Claims (1) to Compel Fariba Cohen to Execute Documents in Accordance with Confirmed Plan and Plan Confirmation Order, or in The Alternative, for Appointment of an Elisor, and (2) Requesting the Court to Exercise its Inherent Authority to Impose Sanctions upon Fariba Cohen fr. 11/17/15, 12/8/15, 12/15/15, 12/28/15, 1/19/16, 2/2/16, 03/22/16, 4/5/16, 4/12/16, 5/16/16, 6/21/16, fr. 7/19/16, 10/25/16, 11/1/16

Docket 1189

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Please see the tentative ruling for calendar no. 2 (12/13/16 at 9:00 a.m.).

**Tentative Ruling for 11/1/16:**

Please see the tentative ruling for calendar no. 9 (11/1/16 at 2:00 p.m.).

**Tentative Ruling for 7/19/16:**

Please see the tentative ruling for calendar no. 9 (7/19/16 at 2:00 p.m.).

**Tentative Ruling for 6/21/16:**

Please see the tentative ruling for calendar no. 6 (6/21/16 at 2:00 p.m.).

**Tentative Ruling for 5/16/16:**

Please see the tentative ruling for calendar no. 10 (5/16/16 at 10:00 a.m.).

**Tentative Ruling for 2/2/16:**

Please see the tentative ruling for calendar no. 9 (2/2/16 at 2:00 p.m.).

**Tentative Ruling for 12/15/15:**

Please see the tentative ruling for calendar no. 14 (12/15/15 at 2:00 p.m.).

**Tentative Ruling for 12/8/15:**

Please see the tentative ruling for calendar no. 7 (12/8/15 at 2:00 p.m.).

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

9:00 AM

**CONT... Saeed Cohen**

**Chapter 11**

**Tentative Ruling for 11/17/15:**

Please see the tentative ruling for calendar no. 5 (11/17/15 at 2:00 p.m.).

**Party Information**

**Debtor(s):**

Saeed Cohen

Represented By  
Ron Bender  
Krikor J Meshefejian  
Kurt Ramlo  
Beth Ann R Young

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

Tuesday, December 13, 2016

Hearing Room 1545

9:00 AM

2:13-26483 Saeed Cohen

Chapter 11

#2.00 Cont'd status conference re: Post confirmation  
fr. 07-30-13, 09-03-13, 10-01-13, 10-08-13,  
12-10-13, 12-17-13, 1-7-14, 02-11-14, 2-18-14,  
3-18-14, 5-14-14, 6-25-14, 7/1/14, 7/10/14,  
7/24/14, 7/29/14, 7/31/14, 08/19/14, 8/25/14,  
9/16/14, 10/21/14, 11/13/14, 11/18/14, 12/16/14,  
1/13/15, 1/16/15, 1/22/15, 1/30/15, 2/3/15, 3/11/15,  
3/16/15, 3/31/15, 4/6/15, 4/28/15, 5/12/15, 5/26/15,  
7/10/15, 7/16/15, 7/20/15, 8/27/15, 9/22/15, 9/28/15,  
10/13/15, 11/17/15, 12/8/15, 12/15/15, 12/28/15,  
1/19/16, 2/2/16, 03/22/16, 4/5/16, 4/12/16, 5/16/16  
6/7/16, 6/21/16, 7/19/16, 8/2/16, 8/9/16  
fr. 9/6/16, 10/11/16, 11/1/16

Docket 1

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Motion to compel Ms. Cohen to sign plan documents, or for an elisor, and for sanctions (dkt. 1189). On June 9, 2016, this Court issued a memorandum decision memorializing its tentative ruling to impose coercive sanctions on Ms. Cohen (dkt. 1302). On June 29, 2016, this Court issued an order imposing coercive contempt sanctions against Ms. Cohen (dkt. 1316) which the Court later clarified (dkt. 1328).

The docket does not reflect that Ms. Cohen has done anything to pay the compensatory or coercive sanctions that this court previously has imposed (except that, pursuant to this court's prior orders, the debtor is partially paying those sanctions using funds that otherwise would go to Ms. Cohen for spousal support). In addition, despite Ms. Cohen's protests that she cannot afford to pay (see, e.g., dkt. 1334), she has not revealed all of her

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

9:00 AM

**CONT...**

**Saeed Cohen**

**Chapter 11**

assets, or sources of funds (including any contributions), or otherwise presented any colorable basis to conclude that she cannot pay any (or all) of the sanctions (as set forth on the record and in the tentative rulings below, including especially for 6/21/16). In other words, Ms. Cohen continues to disregard her own prior commitments and flout this court's orders.

Accordingly, this court must consider further coercive sanctions.

Alternatively, assuming for the sake of discussion that Ms. Cohen had any intent to attempt to comply with her prior commitments or this court's orders (despite appearing to have the opposite intent), and that she has neither the income nor the funds to pay any of the sanctions (which she has not established), that would only show, on the current record, that financial sanctions are meaningless to her and have little or no coercive effect. This is an alternative reason why this court must consider further coercive sanctions.

In sum, the tentative ruling is that this court has no choice but to consider other coercive sanctions, including incarceration. The parties should be prepared to address that issue, including whether any further briefing is necessary or appropriate, and the terms of any such incarceration.

(b) Ms. Cohen's counsel. At the last status conference this court directed counsel for Ms. Cohen to clarify on the record which attorney(s) represent her, so that parties in interest will know whom to serve, with whom to attempt any negotiations, etc. The docket does not reflect any substitution of counsel, declaration, or other documents that would clarify this issue.

The tentative ruling is (i) to issue an order that Ms. Cohen has waived and forfeited any contention that, at any time in the past, any party in interest (A) has not adequately served her, or (B) has otherwise violated any rule or requirement regarding her representation or non-representation by legal counsel, and (ii) to issue an order to show cause why this court should not rule that, in future, all parties in interest may serve her and communicate with her either (A) through whichever attorney has most recently appeared in court or in filed papers (without having to serve or communicate with any other attorney who might or might not represent her) or, if it appears appropriate to any party in interest in its sole discretion, (B) through any one or more of the numerous prior attorneys who have not filed and served any withdrawal (in other words, those attorneys and Ms. Cohen will be solely responsible if any service or communication through those counsel does not in fact reach Ms. Cohen timely, or at all). The tentative ruling is to direct counsel for the creditors' committee to prepare those orders, which should adopt and attach

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

9:00 AM

**CONT... Saeed Cohen**

**Chapter 11**

a copy of this tentative ruling.

(c) Appeals, adversary proceedings, and other matters. The parties should be prepared to apprise this court regarding the status of any pending appeals, adversary proceedings, and other matters, and what effects (if any) those matters and this court's tentative rulings set forth herein might have on each other.

(2) Deadlines/dates. The tentative ruling, in addition to the foregoing, is to continue the matters on today's calendar to 1/17/17 at 2:00 p.m. No written status report is required.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 11/1/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Motion to compel Ms. Cohen to sign plan documents, or for an elisor (dkt. 1189). The docket appears to reflect that Ms. Cohen has not been paying the coercive sanctions ordered by this court (except to the extent that the debtor has been disbursing to this court the dollar amounts that would have been paid as spousal support) (see, e.g., case dkt. 1302, 1316, 1328, 1354, 1355; adv. no. 2:14-ap-01046-NB dkt. 91). What additional coercive procedures are warranted?

(b) Status of the bankruptcy case. The parties should be prepared to report on the status of this case.

(2) Deadlines/dates. Continued status conference: 12/13/16 at 2:00 p.m. No written status report is required.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

9:00 AM

CONT... Saeed Cohen

**Chapter 11**

**Tentative Ruling for 9/6/16:**

Continue to 10/11/16 at 2:00 p.m. No appearances are required on 9/6/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 8/9/16:**

Continue all matters in this case to 9/6/16 at 2:00 p.m. (see Order, case dkt. 1340, para. 4). Appearances are not required on 8/9/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 8/2/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

On 7/19/16, this Court continued this status conference to this date and time to give Ms. Cohen's new counsel, and any other party in interest, an opportunity to raise any appropriate issues. There is no tentative ruling, but parties should be prepared to address the status of this case.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Supplemental Tentative Ruling for 7/19/16:**

In addition to the tentative rulings set forth below, the tentative ruling in view of the joint status report of the debtor and the Committee (dkt. 1319, p.4:6-10) is to continue the hearing on the motion to appoint an elisor (dkt. 1189) to October 25, 2016 at 2:00 p.m. This Court also will address with the parties the procedures for making payments to the Clerk of the Court, as outlined in that status report (dkt. 1319, p.5:8-14).

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

Tuesday, December 13, 2016

Hearing Room 1545

9:00 AM

CONT... Saeed Cohen

Chapter 11

**Tentative Ruling for 7/19/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Calendar number 8: Status of Ms. Cohen's compliance with this Court's order directing her to sign the required plan documents. Has Ms. Cohen signed the required documents? If not, sanctions are accruing (see memorandum decision, 2:13-bk-26483-NB, dkt. 1302; order, 2:14-ap-01046-NB, adv. dkt. 91).

(b) Calendar number 9: Status of the bankruptcy case. On 6/29/16, this Court issued four orders all related to sanctions and attempting to allow this case to move forward. How do the parties intend to proceed at this time?

(2) Deadlines/dates. Continued status conference: 9/6/16 at 2:00 p.m. No written status report is required.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Revised Tentative Ruling for 6/21/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

*Proposed orders:* Committee counsel is directed to serve and lodge proposed orders reflecting this Court's rulings on each of the pending matters via LOU within 7 days after the hearing date, as discussed at the status conference on 6/7/16.

(1) Current issues

(a) Calendar no. 7: Motion to Compel Ms. Cohen to Sign Plan Documents, etc. (dkt. 1189). On 5/16/16 this Court issued an order (dkt. 1292) granting the motion and setting a deadline of 6/13/16 for Ms. Cohen to

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

Tuesday, December 13, 2016

Hearing Room 1545

9:00 AM

CONT... Saeed Cohen

Chapter 11

sign all of the plan documents and 6/15/16 for the parties to file written reports on whether she has complied. On 6/9/16 this Court issued a memorandum decision (dkt. 1302) setting forth coercive contempt sanctions that this Court intends to impose if Ms. Cohen has not complied by this deadline.

The debtor (dkt. 1305) reported non-compliance. Ms. Cohen (dkt. 1306, and errata at dkt. 1307) asserts through counsel that she has executed some documents, not signed other documents that she seeks to have amended, and refused to sign certain additional documents as to which she allegedly planned to submit her own, separate statement (see dkt. 1306, p. 4, para. 5). No such statement appears on the docket as of the time this tentative ruling has been prepared and, in any event, the time for any response has expired. Ms. Cohen also did not address the schedule of coercive contempt sanctions that this Court intends to impose.

The tentative rulings are as follows:

(i) Reject Proposed changes to Mutual and General Release.

The revision suggested by Ms. Cohen does not appear appropriate (see dkt. 1306, p. 3, para. 4.b.). The parties -- at the time both represented by bankruptcy counsel -- agreed to the terms of this provision. To now add the suggested caveat would be an improper effort to possibly modify her rights. Ms. Cohen's rights under that provision are as agreed to, and she is free to argue as she sees appropriate on appeal.

(ii) Permit oral responses regarding proposed changes to letter to Blue Cross and judgment of dissolution of marriage. What is the position of the debtor and the Committee regarding these proposed revisions (see dkt. 1306, pp. 2-4, para. 4.a.&c.)? What is Ms. Cohen's justification for not proposing these changes sooner (during the many months since confirmation), or for being permitted to raise them now, after prior hearings at which this Court heard arguments regarding the forms of documents? In addition, regarding Ms. Cohen's assertion about child support - that it would be higher under the Statewide Uniform Guideline than the stipulated amount (and not the other way around) - how can Ms. Cohen assert these things now when they were addressed at prior hearings and resolved against her, and alternatively where is her calculation under the Statewide Uniform Guideline showing any *good faith* basis to make this assertion?

(iii) Overrule any other objections as unsupported and untimely.

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

Tuesday, December 13, 2016

Hearing Room 1545

9:00 AM

CONT...

**Saeed Cohen**

**Chapter 11**

(b) Calendar nos. 8 & 9: Sanctions motion and reasonableness of fees (see *Cohen v. Cohen*, 2:16-ap-01046-NB, adv. dkt. 70, 72). This Court previously issued a decision (dkt. 37) that Ms. Cohen's complaint for revocation of confirmation will be dismissed without leave to amend. This Court also issued a decision (dkt. 65) to grant the debtor's motion (dkt. 17) seeking sanctions against Ms. Cohen in a dollar amount not less than fees incurred by (i) the debtor's bankruptcy counsel, (ii) the debtor's divorce counsel, and (iii) counsel for the Committee. The current hearing was set so as to address the reasonableness of the fees, and how they will be paid.

This Court has reviewed Ms. Cohen's opposition (adv. dkt. 70, 72), the debtor's reply (adv. dkt. 74, 75), and Mr. Shenson's response (adv. dkt. 76). Ms. Cohen's arguments fall broadly into three categories: (i) that fees related to prosecuting the sanctions motion are not recoverable as a matter of law, because of limitations to this Court's ability to award sanctions under its inherent powers (adv. dkt. 70, p. 4:8-15); (ii) that the sanction is not reasonable or are not recoverable as a matter of law because Ms. Cohen allegedly does not have the ability to pay the sanctions award (adv. dkt. 70, p. 4:21-23); and (iii) that the fees incurred do not relate to or are not sufficiently related to the sanctionable conduct to be properly included (adv. dkt. 70, p. 4:16-20). Each of these issues will be addressed in turn.

(i) Fees related to prosecuting the sanctions motion are recoverable in this instance. Ms. Cohen cites *In re Southern California Sunbelt Division, Inc.*, 608 F.3d 456, 466-67 (9th Cir. 2010), and *Lockary v. Kayfetz*, 974 F.2d 1166 (9th Cir.1992), for the proposition it is improper to include the costs of litigation of the sanctions motion when a bankruptcy court issues sanctions under its inherent powers.

Relying on *Margolis v. Ryan*, 140 F.3d 850 (9th Cir.1998), the debtor contends (at some length) that *Lockary* is no longer good law because it relied on an old version of Federal Rule of Civil Procedure 11. The debtor extrapolates that because *Lockary* is no longer good law (see *Margolis*, 140 F.3d 850, 854 ("The rule in *Lockary*, enunciated in 1992, is no longer good law."), and because *Sunbelt* relied on *Lockary*, *Sunbelt* should be read as a non-binding outlier and held to its facts. This is not correct and in a footnote *Sunbelt* directly addressed and rejected this contention with respect to sanctions under this Court's inherent powers. See *In re S. California Sunbelt Developers, Inc.*, 608 F.3d 456, 467 n. 6 ("We reject appellees' contention that *Lockary* has been overruled by *Margolis v. Ryan*, 140 F.3d 850 (9th

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

Tuesday, December 13, 2016

Hearing Room 1545

9:00 AM

CONT...

**Saeed Cohen**

**Chapter 11**

Cir.1998), with respect to sanctions imposed under the court's inherent power."). This Court is bound to follow *Sunbelt*, which means that in general it is not possible under this Court's inherent powers to award fees for prosecuting a sanctions motion.

Nevertheless, "a common-law exception to [this] rule permits fee awards in litigation brought to remedy willful violations of court orders." *In re Schwartz-Tallard*, 803 F.3d 1095, 1098 (9th Cir. 2015) (citation omitted). That exception applies because, as this Court previously has ruled, Ms. Cohen's conduct constitutes a willful violation of the order that approve the parties' settlement that was embodied in the chapter 11 plan:

On July 31, 2015, this Court entered its order confirming the Plan ("Plan Confirmation Order") (case dkt. 1110). That order bound the parties to their settlement in Option One. For nearly half a year Ms. Cohen focused on implementation of the confirmed Plan, asserting various alleged concerns about such issues as the wording of the documents to be filed with the divorce court. Then she changed her tactics [and filed her frivolous adversary proceeding under 11 U.S.C. 1144]. [Adv. dkt. 37, pp. 3:27-4:3, emphasis added].

Because Ms. Cohen's conduct constituted a willful violation of this Court's Plan Confirmation Order, her conduct falls within the common-law exception to so-called 'fees on fees,' and it is reasonable and permissible under this Court's inherent authority to award fees for prosecuting the sanctions motion (and related hearings).

(ii) Ms. Cohen's ability to pay does not justify a reduction in the sanction. In determining a reasonable sanction award, Ms. Cohen contends that this Court must consider her ability to pay (see *Matter of Yagman*, 796 F.2d 1165, 1185 (9th Cir.), *opinion amended on denial of reh'g sub nom. In re Yagman*, 803 F.2d 1085 (9th Cir. 1986)), in addition to a number of other factors. This argument is not persuasive for several reasons:

First, Ms. Cohen has not cited authority that this Court must consider ability to pay when awarding *compensatory sanctions* and not *coercive or punitive sanctions*.

Second, alternatively, Ms. Cohen's alleged inability to pay immediately does not render an award *per se* unreasonable. This Court agrees with the debtor that to allow Ms. Cohen to not pay anything would allow her to

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

Tuesday, December 13, 2016

Hearing Room 1545

9:00 AM

CONT...

**Saeed Cohen**

**Chapter 11**

continue to engage in tactics and delay while leaving this Court largely powerless to control her willful violation of Court orders. Additionally, this Court agrees with the debtor that merely because a sanctions award might force an offending party into bankruptcy, this is also not sufficient to justify denying a sanctions award. *See Persyn v. United States*, 36 Fed. Cl. 708, 719 (1996), *aff'd in part, rev'd in part on other grounds*, 135 F.3d 773 (Fed. Cir. 1997) ("Even where an offending party presents the court with affidavits relating to ability to pay, courts have held consistently that mere assertion that an award would force the offending party into bankruptcy is insufficient to show inability to pay.").

Third, "the sanctioned party has the burden to produce evidence of inability to pay." *Gaskell v. Weir*, 10 F.3d 626, 629 (9th Cir. 1993). Ms. Cohen has provided no evidence of her ability to pay, and in fact she has entirely omitted significant income that will be generated from Elco Lighting (see adv. dkt. 74, p. 8:13-19).

Fourth, this Court cannot entirely determine Ms. Cohen's ability to pay based on the partial disclosures made. For example, she fails to disclose that (if she complies with her obligations so that the confirmed plan becomes effective) she will be receiving substantial additional income.

Fifth, this Court has already found that Ms. Cohen committed perjury and, accordingly, this Court does not start with a presumption that anything she alleges is necessarily accurate - she will have to establish that it is.

This Court has provided Ms. Cohen the opportunity to present plan for repayment over a period of time, or other proposal for repayment. She has made no proposal.

Ms. Cohen should be prepared to address why this Court should not simply award the entire amount of fees, payable immediately, rather than permit her belatedly to propose a repayment plan. Alternatively, if this Court is persuaded to permit her to pay over time, she can address why this Court should not order payments on the schedule proposed by the debtor (see reply, adv. dkt. 74, pp. 8-9), and the debtor should be prepared to address the issues raised in Mr. Shenson's response (adv. dkt. 76). If Ms. Cohen is not able to propose a reasonable or feasible payment plan for the sanctions and her own attorneys' fees, perhaps Ms. Cohen will have to file her own bankruptcy.

(iii) Ms. Cohen's objections to certain line items. Ms. Cohen's counsel provides a line-by-line objection to certain fees.

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

Tuesday, December 13, 2016

Hearing Room 1545

9:00 AM

CONT...

**Saeed Cohen**

**Chapter 11**

(1) Objection to fees based on sanctions. With regard to Ms. Cohen's objections to fees incurred related to the sanctions motion, as set forth above, these objections are overruled.

(2) Objections to fees of debtor's bankruptcy counsel. This Court sustains the objection to the extent that they charged for an email exchange relating to the Namvar settlement (\$51.10).

The other objections are overruled.

Allowed fees: \$135,170.00 (requested) - \$51.10 = \$132,119.90.

(3) Objections to fees of debtor's family law counsel. With regard to Ms. Cohen's objections to the fees of the debtor's family law counsel (adv. dkt. 70, pp. 8:15-9:21), this Court disagrees that there is no evidence that the billing relates to the motion to dismiss (or the sanctions motion). Ms. Mendell, debtor's family law counsel, includes an unobjected-to declaration that the fees were incurred related to the motion to dismiss and/or sanctions motion (see adv. dkt. 49, p. 2, para. 3). To this extent, the objection is overruled.

This Court overrules Ms. Cohen's objection to Ms. Mendell's appearance at multiple hearings because directly at issue was what was disclosed in the divorce proceeding. In order for the debtor to properly defend against Ms. Cohen's frivolous complaint, it was reasonable to have his family law counsel present.

Ms. Cohen objects to certain fees because they are redacted. Ms. Mendell submitted a declaration in response attesting that the redacted fees were not included in the requested amount (adv. dkt. 75, p. 2, para. 5). Accordingly, this objection, too, is overruled.

Allowed fees: \$12,815.25 (requested amount).

(4) Objection to fees incurred by the Committee's counsel. To the extent that Ms. Cohen objects to the Committee performing asset analysis, this objection is overruled. The Committee would not have had to incur these fees had Ms. Cohen not brought the frivolous complaint.

Similarly, to the extent that Ms. Cohen objects to the Committee's review of issues related to the other adversary proceedings and other motions, these objections are overruled. If Ms. Cohen had not commenced this frivolous adversary proceeding, these additional continuances, and related fees, would not have been incurred.

None of the other objections are well taken.

Allowed fees: \$118,172.00 (requested amount).

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

Tuesday, December 13, 2016

Hearing Room 1545

9:00 AM

CONT... Saeed Cohen

Chapter 11

(c) Calendar no. 10: Rescission action (2:16-ap-01226-NB). This Court has issued a memorandum decision stating that this adversary proceeding will be dismissed (adv. dkt. 8).

(d) Orders on all matters. This Court intends to issue orders on each of these matters shortly after the hearing.

(2) Deadlines/dates. Continued status conference: 7/19/16 at 2:00 p.m. No written status report is required.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 6/21/16:**

This court anticipates posting a tentative ruling at a later time.

**Revised Tentative Ruling for 6/7/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Calendar no. 2: Rescission action (2:16-ap-01226-NB). Ms. Cohen does not dispute that this Court can dismiss this action, provided that she can appeal this Court's dismissal order (see 2:16-ap-01226-NB, dkt. 3, p. 2). Accordingly, it appears to dismiss this action for the same reasons set forth in this Court's memorandum decision in the section 1144 adversary proceeding (2:16-ap-01046-NB, dkt. 37). This Court anticipates issuing a dismissal order contemporaneous with the dismissal order in the section 1144 adversary proceeding.

(b) Calendar no. 3: Fraudulent transfer action against Ms. Cohen (2:15-ap-01330-NB). Continue to trail this status conference.

(c) Calendar nos. 4 & 5: Motion for sanctions (dkt. 17)/status

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

9:00 AM

**CONT... Saeed Cohen**

**Chapter 11**

conference (2:16-ap-01046-NB).

(i) Memorandum decision on sanctions motion. For the reasons set forth in this Court's issued memorandum of decision, the motion for sanctions is granted in part and denied in part.

(ii) Additional sanctions to coerce Ms. Cohen to sign the Plan documents. Pursuant to its schedule set forth in the tentative ruling from 5/16/16, Ms. Cohen must comply with its order to sign plan documents by 6/13/16. The debtor suggests that an appropriate coercive sanction is \$500 per day (seedkt. 47, p. 2:6-28). In the event that Ms. Cohen does not comply with the order to sign the plan documents by this deadline, this Court's tentative ruling is to impose the following coercive sanctions:

(1) From 6/13/16 to 7/5/16: No monetary sanction. Although not encouraged, this time period is intended to allow Ms. Cohen to seek emergency appellate review if she chooses.

(2) From 7/6/16 to 7/13/16: \$100 per day for Ms. Cohen's non-compliance.

(3) From 7/14/16 to 7/20/16: \$200 per day for Ms. Cohen's non-compliance.

(4) From 7/21/16 to 7/27/16: \$350 per day for Ms. Cohen's non-compliance.

(5) From 7/28/16 until compliance: \$500 per day for Ms. Cohen's non-compliance.

As previously outlined, such sanctions would be deducted from the distributions that the debtor otherwise would make to Ms. Cohen. All of the foregoing may be subject to adjustment by this Court (either on its own motion or on an appropriate motion of any party in interest), but this Court is strongly disinclined to make any adjustments. The parties have had ample opportunity for briefing, and this Court is not inclined to revisit these dollar amounts. Of course, Ms. Cohen can avoid any of these sanctions by timely compliance with this Court's order.

(2) Deadlines/dates. Continued status conference: 6/21/16 at 2:00 p.m. No written status report is required.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

Tuesday, December 13, 2016

Hearing Room 1545

9:00 AM

CONT... Saeed Cohen

Chapter 11

**Tentative Ruling for 6/7/16:**

This court anticipates posting a tentative ruling at a later time.

**Tentative Ruling for 5/16/16:**

Appearances required.

(1) Calendar no.2: Motion to dismiss action to revoke confirmation (*Cohen v. Cohen*, 2:16-ap-01046-NB, adv. dkt. 11). Grant, for the reasons set forth in this Court's memorandum decision being issued forthwith.

(2) Calendar no. 1: Motion for sanctions against Ms. Fariba Cohen (*Cohen v. Cohen*, 2:16-ap-01046-NB, adv. dkt. 17). It appears that there may be cause to impose sanctions, for the same reasons set forth in this Court's memorandum decision dismissing with prejudice Ms. Cohen's motion to revoke confirmation (*Cohen v. Cohen*, 2:16-ap-01046-NB), and because there appears to be sufficient facts for an explicit finding, based on clear and convincing evidence, that Ms. Cohen's arguments have been made in bad faith, vexatiously, wantonly, and for oppressive reasons including attempting without any valid basis to coerce, through actual and threatened litigation costs and delays, a more favorable treatment than what she previously agreed to as embodied in the confirmed chapter 11 plan. See *In re Dyer*, 322 F.3d 1178, 1196 (9th Cir. 2003) ("[B]ankruptcy courts, like district courts, also possess [the] inherent power" to sanction "bad faith" or "willful misconduct" because "the very creation of the court" establishes such inherent power "unless Congress intentionally restricts those powers," and Congress' intent is confirmed by § 105(a) (citations omitted); *In re Lehtinen*, 564 F.3d 1052, 1058 (9th Cir. 2009) ("Before imposing sanctions under its inherent sanctioning authority, a court must make an explicit finding of bad faith or willful misconduct.") (quoting *In re Dyer*, 322 F.3d 1178, 1196 (9th Cir. 2003)); *In re Deville*, 361 F.3d 539 (9th Cir. 2004) (quoting *Chambers v. NASCO, Inc.*, 501 U.S. 32, 51, 111 S.Ct. 2123 (1991)) ("To impose inherent power sanctions, a court must find that a party acted 'in bad faith, vexatiously, wantonly, or for oppressive reasons.'").

Nevertheless, the tentative ruling is to continue this matter to the date of the continued status conference, to provide the parties with an opportunity to meet and confer on these issues, and for further analysis by this Court.

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

Tuesday, December 13, 2016

Hearing Room 1545

9:00 AM

CONT... Saeed Cohen

Chapter 11

(3) Calendar no. 3: Status conference in adversary proceeding to revoke confirmation (*Cohen v. Cohen*, 2:16-ap-01046-NB). The tentative ruling is to defer issuing any written orders on the foregoing matters until the continued status conference, and then issue them with a stay of an additional three weeks, to provide an opportunity for Ms. Fariba Cohen to seek appellate review if she so chooses. The parties should be prepared to address whether there are any other procedural or substantive matters that this Court should address in connection with this adversary proceeding.

(4) Calendar no. 10 (main case status conference). The parties should be prepared to address whether this Court should dismiss *sua sponte* Ms. Fariba Cohen's new action for rescission (2:16-ap-01226-NB, filed 5/12/16), for the same reasons set forth in this Court's memorandum decision dismissing with prejudice Ms. Cohen's motion to revoke confirmation (*Cohen v. Cohen*, 2:16-ap-01046-NB).

In addition the tentative ruling is to continue the main case status conference to 6/7/16 at 2:00 p.m.. No written status report is required, but such a report is invited if it would be helpful.

(5) Calendar no. 8: Motion to compel Ms. Fariba Cohen to sign documents (dkt. 1189). Grant, for the same reasons set forth in this Court's memorandum decision dismissing with prejudice Ms. Cohen's motion to revoke confirmation (*Cohen v. Cohen*, 2:16-ap-01046-NB), and for the additional reasons set forth in this Court's Amended Tentative Rulings on the motion (case dkt. 1219), and in the pleadings of the Committee and the Debtor.

Specifically, the tentative ruling is as follows. Direct Ms. Cohen to execute the requisite documents and otherwise fully perform her obligations under the confirmed plan no later than 6/13/16. Set a deadline of 6/15/16 for briefs and declarations from all parties detailing whether Ms. Cohen has in fact performed. Set a continued hearing for 6/21/16 at 2:00 p.m. to determine whether she has adequately demonstrated her performance and, if not, whether she is in civil contempt of court, and what would be an appropriate daily or weekly dollar amount of sanctions until she does comply, in fixed or increasing dollar amounts (subject to adjustment after any discovery regarding her finances), as well as what other sanctions or remedies might be

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

Tuesday, December 13, 2016

Hearing Room 1545

9:00 AM

CONT... Saeed Cohen

Chapter 11

appropriate and effective, such as an order appointing an elisor.

The tentative ruling is that the form of documents proposed by the Committee (case dkt. 1222) need only be revised to reflect the following:

(a) Family law counsel. In Recital M, Ms. Fariba Cohen's representation by family law counsel, and/or current pro se status, should be brought up to date (*id.* Ex. A, Recital M, at p.4:14-23). Likewise, the signature blocks should be brought up to date.

(b) Voluntariness. It appears appropriate to revise Recital O (*id.*, Ex. A, Recital O, at pp. 4:26-5:3) (if Ms. Fariba Cohen desires to do so) to reflect that, although she voluntarily agree to enter into a stipulated judgment on the terms set forth therein, she subsequently asserted that Mr. Cohen had hidden assets and engaged in other wrongdoing of which she asserts that she was not previously aware, but, in view of (i) Mr. Cohen's prior disclosures on the record in this Court and in other proceeding, and (ii) in view of the terms of Ms. Fariba Cohen's settlement embodied within the confirmed plan, which provide for recovery and use of any undisclosed assets, this Bankruptcy Court was persuaded that her claims to be entitled to revoke the plan were not plausible on their face.

(5) Calendar no. 4: Committee's action against Ms. Fariba Cohen to avoid alleged fraudulent transfers and for setoff (2:15-ap-01330-NB). Continue so as to be contemporaneous with the continued status conference in the main case.

(6) Calendar no. 9: Motion for continued use of estate property (case dkt. 473, 552). Grant, subject to the prior conditions on such use of property (see, e.g., case dkt. 1268 (referring to Orders at case dkt. 110, 266, 315, 363, 552, 799, 954, and 1069) and IRS stipulation case dkt. 1272) and further subject to the issues reserved by the parties for possible settlement as noted in the Committee's further statement regarding reimbursement to the estate of funds lent to the children's trust (case dkt. 1268) (see case dkt. 1278, n. 4 ("Further, the Committee has been in active settlement discussions with the Children's Trust, which the Committee hopes will result in settlement."))).

(7) Calendar no. 11: Motion to approve stipulation re appointment of Ms. Sharon Weiss as Committee Representative (case dkt. 1277). Subject to any opposition and reply at the hearing (pursuant to this Court's order shortening

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

9:00 AM

**CONT... Saeed Cohen**

**Chapter 11**

time, case dkt. 1280, 1282, 1283), the tentative ruling is to grant the motion and overrule the limited objections of Ms. Fariba Cohen (case dkt. 1288).

(8) Calendar no. 7: Reimbursement dispute (see case dkt. 1122, 1268). Continue so as to be contemporaneous with the continued status conference in the main case. See case dkt. 1237, 1267.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 2/2/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Status report and effective date of the plan. The parties should be prepared to address the outstanding issues raised in the status report of the debtor and the committee, including the unsigned divorce documents (dkt. 1237, 1237). The debtor and the committee have stated (dkt. 1237, pp.5:21-6:2) that if Ms. Cohen seeks to revoke the confirmation order then they will make further suggestions how to proceed. What do they suggest, and what is Ms. Cohen's position on that issue?

(2) Adversary proceeding. This court notes that Fariba has filed an adversary complaint seeking revocation of the debtor's confirmed chapter 11 plan (dkt. 2:16-ap-01046-NB, adv. dkt. 1). This court does not view the mere filing of this adversary proceeding as staying the confirmed chapter 11 plan. What proceedings to the parties contemplate in connection with this adversary proceeding?

(3) Continued status conference: 2/23/16 at 2:00 p.m. No written status report is required.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

Tuesday, December 13, 2016

Hearing Room 1545

9:00 AM

CONT... Saeed Cohen

Chapter 11

**Tentative Ruling for 1/19/16:**

Continue to 2/2/16 at 2:00 p.m. pursuant to the request of the debtor and the Committee (dkt. 1237, p.5). Appearances are not required on 1/19/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 12/28/15:**

Continue to 1/19/16 at 2:00 p.m. Appearances are not required on 12/28/15.

On 12/22/15, this court received calls from counsel for the debtor and counsel for the Committee informing it that the parties had agreed to continue this matter to allow themselves additional time to finalize their working settlement. Accordingly, this court continues this matter as set forth above.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 12/8/15:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) The parties should be prepared to address the issues raised in this court's tentative ruling issued on 12/4/15 (dkt. 1215).

(2) Continued status conference: 1/19/16 at 2:00 p.m. No written status report is required.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 11/17/15:**

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

Tuesday, December 13, 2016

Hearing Room 1545

9:00 AM

CONT... Saeed Cohen

Chapter 11

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Family law counsel. At the hearing on 10/13/15, Fariba requested a further continuance to permit her to retain family law counsel. This court understands, though an ex parte communication to chambers, that she may now have done so, and that one or more parties may be seeking a continuance of the Joint Motion of the debtor and Official Committee of Creditors ("Committee") to compel her signature, or for other relief (dkt. 1190), Fariba Cohen's opposition (dkt. 1192), and the debtor and Committee's replies (dkt. 1193 and 1194). The parties should be prepared to address whether those matters should be continued and, if so, for how long.

(b) Health insurance. Have the parties resolved the issues related to health insurance? Is the debtor covered?

(2) Continued status conference: 12/15/15 at 2:00 p.m. No written status report is required.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 10/13/15:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. This court has reviewed the debtor's second supplement to his second status report ("Second Supplement") (dkt. 1184).

(a) Tax stipulation. At the hearing on 9/28/15, the parties informed this court that each would sign the tax stipulation. Has this been resolved?

(b) Secondary Leighton Property. Also at the hearing on 9/28/15, this court heard a number of proposals regarding how to proceed with the Secondary Leighton Property. Based on the debtor's representations in the Second Supplement, the parties have agreed to a consensual resolution of

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

Tuesday, December 13, 2016

Hearing Room 1545

9:00 AM

CONT... **Saeed Cohen**

**Chapter 11**

the issues surrounding the Leighton properties. What delays, if any, do the parties anticipate in completing this arrangement?

(c) Family law counsel. The agreement resolving the issues related to the Secondary Leighton Property is apparently contingent on Ms. Cohen completing the divorce papers to the satisfaction of the debtor's family law counsel. In continuing this matter out some time, this court intended for Ms. Cohen to have the opportunity to retain family law counsel. Has this been accomplished? Are there any other updates regarding the status of the divorce.

(d) Health insurance. Has Ms. Cohen arranged for reinstatement of the health insurance of Mr. Cohen?

(2) Other matters.

(a) Notice. This court directed the debtor to provide notice, either formal or informal, to the IRS and the FTB of this continued hearing. Did this happen? Nothing on the docket reflects this notice.

(b) Merits. Being heard concurrently are status conferences in two related matters: Issues 3 and 4 (related to claims between Mr. and Mrs. Cohen) as set forth in the so-called Scheduling Order (dkt. 394) and the adversary proceeding *Cohen v. United States* (against the IRS), 2:14-ap-01609-NB. In addition, this Bankruptcy Court is in receipt of a minute order of District Court Judge S. James Otero dated October 5, 2015 vacating this court's order for a preliminary injunction and remanding, in another adversary proceeding (Adv. No. 2:14-ap-01484-NB) relating to adjustments of spousal support payments by the State courts.

All of these matters, including the support payment issues, appear to have been superseded by the parties' settlement, which was incorporated into the debtor's confirmed plan and the confirmation order, including stipulated support payment amounts and procedures. If the parties disagree, then they are directed to address that mootness issue at this status conference.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 9/28/15:**

Appearances required but telephonic appearances are encouraged if

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

9:00 AM

**CONT...**

**Saeed Cohen**

**Chapter 11**

advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. At the 9/22/15 status conference, this court continued this matter and directed the parties to meet and confer as to the issues raised in the debtor's status report (dkt. 1156) and Ms. Cohen's reply (dkt. 1157, 1159), including, but not limited to, issues related the transfer of the so-called Secondary Leighton property, due on sale clauses, Fariba's ability and/or need to refinance, and other matters related to divorce documentation. The parties should be prepared to update this court on the status of these issues.

(2) Deadlines/dates. This case was filed on 6/25/13 and an order confirming the Fourth Amended Joint Plan of Reorganization Proposed by the Debtor and the Official Committee of Creditors Holding Unsecured Claims (dkt. 1110) was entered on 7/31/15.

(3) Continued status conference: 10/6/15 at 2:00 p.m. No written status report is required.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 9/22/15:**

[No tentative ruling was posted for this status conference.]

**Tentative Ruling for 8/27/15:**

Continue to 9/22/15 at 1:00 p.m. as suggested in the debtor's first post-confirmation status report (dkt. 1120) unless any party in interest wishes to be heard on 8/27/15 and follows the usual procedures to contest this tentative ruling (notifying other parties and the court). Appearances are not required on 8/27/15.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Party Information**

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

9:00 AM

**CONT... Saeed Cohen**

**Chapter 11**

**Debtor(s):**

Saeed Cohen

Represented By  
Ron Bender  
Krikor J Meshefejian  
Kurt Ramlo  
Beth Ann R Young

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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:12-28279 Steven A Saiz

Chapter 13

#1.00 Hrg re: Motion for relief from stay [RP]

JP MORGAN CHASE BANK, NATIONAL ASSOC  
VS  
DEBTOR

Docket 54

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Notices. Grant the request to be excused from the notice requirements of FRBP 3002.1(b) & (c).

(3) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Steven A Saiz

Represented By

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... Steven A Saiz**

Thomas B Ure

**Chapter 13**

**Movant(s):**

JPMORGAN CHASE BANK,

Represented By  
Joseph C Delmotte

**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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:13-14343 Gloria Blanchard

Chapter 13

#2.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON  
VS  
DEBTOR

Docket 33

\*\*\* VACATED \*\*\* REASON: This matter is scheduled to be heard on  
01/10/17 at 10:00 a.m. per parties' Stipulation (dkt. 37)

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Party Information**

**Debtor(s):**

Gloria Blanchard

Represented By  
Devin Sawdayi

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... Gloria Blanchard**

**Chapter 13**

**Movant(s):**

The Bank of New York Mellon FKA

Represented By  
Erica T Loftis

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:13-27680 Lorna Lobrin Andal

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOC  
vs  
DEBTOR

Docket 155

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Lorna Lobrin Andal

Represented By  
Matthew D Resnik  
S Renee Sawyer Blume

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... Lorna Lobrin Andal**

**Chapter 13**

**Movant(s):**

U.S. Bank National Association

Represented By  
Gagan G Vaideeswaran  
Andrew Kussmaul  
Matthew R. Clark

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

**2:13-35865 Pete R. Madrigal and Lupe P. Madrigal**

**Chapter 13**

**#4.00** Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO  
VS  
DEBTOR

Docket 30

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Party Information**

**Debtor(s):**

Pete R. Madrigal

Represented By  
Charles J Brash

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... Pete R. Madrigal and Lupe P. Madrigal**

**Chapter 13**

**Joint Debtor(s):**

Lupe P. Madrigal

Represented By  
Charles J Brash

**Movant(s):**

Deutsche Bank National Trust

Represented By  
Merdaud Jafarnia

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

**2:13-37313 Shawn Washington and Gail Elizabeth Washington**

**Chapter 13**

**#5.00** Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO  
VS  
DEBTOR

Docket 61

**Tentative Ruling:**

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 63).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

**Debtor(s):**

Shawn Washington

Represented By  
Kevin T Simon

**Joint Debtor(s):**

Gail Elizabeth Washington

Represented By  
Kevin T Simon

**Movant(s):**

Deutsche Bank National Trust

Represented By  
Mark T. Domeyer  
Daniel K Fujimoto  
Caren J Castle

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**CONT... Shawn Washington and Gail Elizabeth Washington**

**Chapter 13**

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:14-24198 Fabiola Acosta

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA  
vs  
DEBTOR

Docket 43

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Fabiola Acosta

Represented By  
Juanita V Miller

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... Fabiola Acosta**

**Chapter 13**

**Movant(s):**

Wells Fargo Bank, N.A., as Trustee

Represented By  
Erica T Loftis

**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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:14-31179 Nichole C. McGovern

Chapter 13

#7.00 Hrg re: Motion for relief from stay [RP]

FLAGSTAR BANK, FSB  
vs  
DEBTOR

Docket 32

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Party Information**

**Debtor(s):**

Nichole C. McGovern

Represented By  
Matthew D Resnik

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... Nichole C. McGovern**

**Chapter 13**

**Movant(s):**

Flagstar Bank, FSB

Represented By  
Leslie M Klott  
Erin M McCartney

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:15-13738 Magdalene Lawrence

Chapter 13

#8.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO  
VS  
DEBTOR

Docket 48

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Party Information**

**Debtor(s):**

Magdalene Lawrence

Represented By  
Julie J Villalobos

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**CONT... Magdalene Lawrence**

**Chapter 13**

**Movant(s):**

Deutsche Bank National Trust

Represented By

Joely Khanh Linh Bui

Mark T. Domeyer

Daniel K Fujimoto

Caren J Castle

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

**2:15-15107 Robbie Michele Thompson**

**Chapter 13**

**#9.00** Hrg re: Motion for relief from stay [RP]

U.S. BANK, NATIONAL ASSOCIATION  
VS  
DEBTOR

Docket 48

**Tentative Ruling:**

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 50).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

**Debtor(s):**

Robbie Michele Thompson

Represented By  
Heather J Canning  
Barry E Borowitz

**Movant(s):**

U.S. Bank, National Association, as

Represented By  
Erin M McCartney

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:15-15184 Monique A. Graham

Chapter 13

#10.00 Hrg re: Motion for relief from stay [RP]

CALIBER HOME LOANS, INC.  
vs  
DEBTOR

Docket 29

**Tentative Ruling:**

Continue to 1/17/17 at 10:00 a.m. to address the following issues.  
Appearances are not required on 12/13/16.

Analysis:

(1) Service. This court has reviewed the motion and the case docket, and it does not appear that the movant has filed a proof of service demonstrating that the motion was served in accordance with Rule 4001, Fed. R. Bankr. P. and Local Bankruptcy Rule ("LBR") 4001-1(c). Although some parties were served electronically via this court's Notice of Electronic Filing ("NEF") system, including the attorney for the debtor, the debtor herself was not served. See LBR 4001-1(c)(1)(B)(i). See *also* Rule 2002(g) (Fed. R. Bankr. P.) (whenever rules require service on "debtor," service must be on both the debtor's attorney and the debtor him/herself).

(2) Evidence of standing/real party in interest. The supplemental declaration of the movant's attorney (dkt. 29, PDF p.13:8) states that the movant is the "holder" of the deed of trust (*i.e.*, the successor in interest to the named beneficiary under the deed of trust), but (a) the movant has not provided any documentary evidence (business records) demonstrating that this is so (*i.e.*, copies of assignments of the deed of trust) and (b) the declaration in support of the motion (dkt. 29, p.6, para.2) and the supplemental declaration (dkt. 29, PDF p. 13-14) both fail to provide support the application of the business records exception to the hearsay rule (no boxes are checked on that portion of the form).

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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

CONT... **Monique A. Graham**

**Chapter 13**

(3) Form of motion. The movant has filed the motion using LBR form F 4001-1.RFS.RP.MOTION, which requests authority to proceed under nonbankruptcy law to foreclose on and obtain possession of real property. The movant, however, states that it seeks authority only to proceed with its state court quiet title action involving the subject property. The correct mandatory form for such requests for relief is LBR form F 4001-1.RFS.NONBK.MOTION.

(4) Annulment. The movant appears to admit that some acts were taken postpetition in violation of the automatic stay (dkt. 29, p.11, para.19), and implicitly may seek retroactive annulment of the stay, but the movant does not specify the actual acts for which the movant seeks annulment. Judge Bason is not prepared to issue a blanket annulment with respect to whatever unspecified things might have occurred postpetition.

(5) Conclusion. **No later than 12/20/16**, the movant must (a) file an amended motion using the correct mandatory form referenced above, supported by adequate evidence, and (b) serve that amended motion in accordance with the applicable Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Party Information**

**Debtor(s):**

Monique A. Graham

Represented By  
William J Smyth

**Movant(s):**

Caliber Home Loans, Inc., its

Represented By  
Merdaud Jafarnia  
Angelo A DuPlantier

**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**

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**CONT... Monique A. Graham**

**Chapter 13**

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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:15-25470 Lakiesha F. Blanson

Chapter 13

#11.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK ASSOCIATION  
vs  
DEBTOR

Docket 38

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Party Information**

**Debtor(s):**

Lakiesha F. Blanson

Represented By  
James D. Hornbuckle

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... Lakiesha F. Blanson**

**Chapter 13**

**Movant(s):**

U.S. Bank National Association, as

Represented By  
Merdaud Jafarnia

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

**2:15-27346 Roberto Rodriguez and Patricia Rodriguez**

**Chapter 13**

**#12.00** Hrg re: Motion for relief from stay [RP]

U.S. BANK, NATIONAL ASSOCIATION  
VS  
DEBTOR

Docket 32

**Tentative Ruling:**

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 34).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

**Debtor(s):**

Roberto Rodriguez

Represented By  
Vernon R Yancy  
Renaë Pearson

**Joint Debtor(s):**

Patricia Rodriguez

Represented By  
Vernon R Yancy

**Movant(s):**

U.S. Bank, National Association, As

Represented By  
Erin M McCartney

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-10044 Susan S. Yancy

Chapter 13

#13.00 Hrg re: Motion for relief from stay [RP]

WILMINGTON TRUST  
vs  
DEBTOR

Docket 37

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Susan S. Yancy

Represented By  
S Renee Sawyer Blume

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... Susan S. Yancy**

**Chapter 13**

**Movant(s):**

Wilmington Trust, NA, successor

Represented By  
Caren J Castle

**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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-10380 Patricia Coleman

Chapter 13

#14.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK TRUST, NA  
vs  
DEBTOR

Docket 35

\*\*\* VACATED \*\*\* REASON: This court has issued its order approving  
the parties' adequate protection stipulation (dkt. 39).

**Tentative Ruling:**

**Party Information**

**Debtor(s):**

Patricia Coleman

Represented By  
S Renee Sawyer Blume

**Movant(s):**

U.S. Bank Trust, N.A., as Trustee

Represented By  
Merdaud Jafarnia

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-14929 Eddie Barrios

Chapter 13

#15.00 Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK  
vs  
DEBTOR

Docket 45

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and 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. See LBR 9021-1(b)(1)(B).

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Relief applicable to *future* bankruptcy cases ("in rem" relief).

If this order is duly recorded in compliance with any applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case. For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed.

Such relief is granted on the following alternative grounds: (a) under 11 U.S.C. 362(d)(4) if the movant is either (i) the holder of a deed of trust/mortgage secured by real property that is the subject of the motion, (ii)

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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

CONT... **Eddie Barrios**

**Chapter 13**

the purchaser of such property at a foreclosure sale, or (iii) a successor in interest who stands in the shoes of such persons; (b) under the court's authority to grant appropriate relief under 11 U.S.C. 105(a) and 362(d) (regardless whether the movant is a "creditor" or whether real property or personal property is at issue); and (c) under the court's inherent authority combined with 11 U.S.C. 362(d) (same). See generally *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31) (distinguishing *In re Ellis*, 523 B.R. 673 (9th Cir. BAP 2014), and explaining alternative grounds for "in rem" relief).

(3) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Eddie Barrios

Represented By  
Marc A Goldbach

**Movant(s):**

WELLS FARGO BANK, N.A.

Represented By  
Robert P Zahradka

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-15187 Gloria Leticia Lopez

Chapter 13

#16.00 Hrg re: Motion for relief from stay [RP]

CALIBER HOMES LOANS, INC.  
vs  
DEBTOR

Docket 26

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Gloria Leticia Lopez

Represented By  
Raymond Perez

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... Gloria Leticia Lopez**

**Chapter 13**

**Movant(s):**

Caliber Home Loans, Inc.

Represented By  
Christina J O

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-16147 Terry E Bass

Chapter 13

#17.00 Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION  
vs  
DEBTOR

Docket 58

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Terry E Bass

Represented By  
Claudia L Phillips

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... Terry E Bass**

**Chapter 13**

**Movant(s):**

U.S. Bank National Association

Represented By  
Erica T Loftis

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-16528 Cheryl D Hill

Chapter 13

#18.00 **[CASE DISMISSED ON 12/12/16]**

Hrg re: Motion for relief from stay [RP]

HSBC BANK USA, N.A.

Docket 32

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Cheryl D Hill

Represented By  
Axel H Richter

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... Cheryl D Hill**

**Chapter 13**

**Movant(s):**

HSBC BANK USA, N.A.

Represented By  
Matthew R. Clark

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

**2:16-17335 Julia Moreno**

**Chapter 13**

**#19.00** Hrg re: Motion for relief from stay [RP]

HSBC BANK USA  
vs  
DEBTOR

Docket 37

**Tentative Ruling:**

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues raised in the response by Jose Munoz (dkt. 39) and the reply filed by the movant (dkt. 42).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

**Debtor(s):**

Julia Moreno

Pro Se

**Movant(s):**

HSBC Bank USA, National

Represented By  
Brandy N Foreman

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-19228 Patricia Ana Chavez

Chapter 13

#20.00 ***[CASE DISMISSED ON 11/21/16]***

Hrg re: Motion for relief from stay [RP]

NATIONSTAR MORTGAGE, LLC  
vs  
DEBTOR

Docket 31

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and 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. See LBR 9021-1(b)(1)(B).

(1) There is no stay, due to dismissal. See 11 USC 349(b)(3) & 362(c). Termination of the stay is also addressed below because in rare instances dismissals are vacated.

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Relief applicable to future bankruptcy cases ("in rem" relief).

If this order is duly recorded in compliance with any applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this

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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

CONT... Patricia Ana Chavez

Chapter 13

order, unless otherwise ordered by the court presiding over that bankruptcy case. For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed.

Such relief is granted on the following alternative grounds: (a) under 11 U.S.C. 362(d)(4) if the movant is either (i) the holder of a deed of trust/mortgage secured by real property that is the subject of the motion, (ii) the purchaser of such property at a foreclosure sale, or (iii) a successor in interest who stands in the shoes of such persons; (b) under the court's authority to grant appropriate relief under 11 U.S.C. 105(a) and 362(d) (regardless whether the movant is a "creditor" or whether real property or personal property is at issue); and (c) under the court's inherent authority combined with 11 U.S.C. 362(d) (same). See generally *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31) (distinguishing *In re Ellis*, 523 B.R. 673 (9th Cir. BAP 2014), and explaining alternative grounds for "in rem" relief).

(4) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Patricia Ana Chavez

Represented By  
S Renee Sawyer Blume  
Matthew D Resnik

**Movant(s):**

Nationstar Mortgage LLC as

Represented By  
Merdaud Jafarnia

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-19926 Blake Hutton

Chapter 7

#21.00 Hrg re: Motion for relief from stay [RP]

WESCOM CREDIT UNION  
vs  
DEBTOR

Docket 25

**Tentative Ruling:**

Continue to 1/10/17 at 10:00 a.m. to address the following issues.  
Appearances are not required on 12/13/16.

Reasons:

(1) Notice. First, page 2 of the form notice of motion is missing from the filed motion. It appears that interested parties were therefore not informed of the deadline for the filing of oppositions to the motion. Additionally, after the motion was filed, the debtor converted this case to chapter 7. The movant must (a) file and serve a **complete** notice of the continued hearing date, including the deadline for oppositions, and (b) for the chapter 7 trustee, serve a copy of the moving papers.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Blake Hutton

Represented By  
Joshua L Sternberg

**Movant(s):**

Wescom Credit Union

Represented By  
Karel G Rocha

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... Blake Hutton**

**Chapter 7**

**Trustee(s):**

David A Gill (TR)

Pro Se

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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-20524 Renato Soriano Acedillo and Evangeline Placido Acedillo

Chapter 13

#22.00 Hrg re: Motion for relief from stay [RP]

BAYVIEW LOAN SERVICING, LLC  
vs  
DEBTOR

Docket 37

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Party Information**

**Debtor(s):**

Renato Soriano Acedillo

Represented By  
Roland H Kedikian

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**CONT... Renato Soriano Acedillo and Evangeline Placido Acedillo**

**Chapter 13**

**Joint Debtor(s):**

Evangeline Placido Acedillo

Represented By  
Roland H Kedikian

**Movant(s):**

Bayview Loan Servicing, LLC

Represented By  
Christina J O

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-21908 Gloria Burgos

Chapter 13

#23.00 **[CASE DISMISSED ON 11/18/16]**

Hrg re: Motion for relief from stay [RP]

WELLS FARGO BANK, NA  
vs  
DEBTOR

Docket 13

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and 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. See LBR 9021-1(b)(1)(B).

(1) There is no stay, due to dismissal. See 11 USC 349(b)(3) & 362(c). Termination of the stay is also addressed below because in rare instances dismissals are vacated.

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Relief applicable to future bankruptcy cases ("in rem" relief).

If this order is duly recorded in compliance with any applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this

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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

CONT...

**Gloria Burgos**

**Chapter 13**

order, unless otherwise ordered by the court presiding over that bankruptcy case. For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed.

Such relief is granted on the following alternative grounds: (a) under 11 U.S.C. 362(d)(4) if the movant is either (i) the holder of a deed of trust/mortgage secured by real property that is the subject of the motion, (ii) the purchaser of such property at a foreclosure sale, or (iii) a successor in interest who stands in the shoes of such persons; (b) under the court's authority to grant appropriate relief under 11 U.S.C. 105(a) and 362(d) (regardless whether the movant is a "creditor" or whether real property or personal property is at issue); and (c) under the court's inherent authority combined with 11 U.S.C. 362(d) (same). See generally *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31) (distinguishing *In re Ellis*, 523 B.R. 673 (9th Cir. BAP 2014), and explaining alternative grounds for "in rem" relief).

(4) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Gloria Burgos

Pro Se

**Movant(s):**

Wells Fargo Bank, N.A.

Represented By  
Brandye N Foreman

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-24144 Emilio Hernandez

Chapter 13

#24.00 Hrg re: Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON  
VS  
DEBTOR

Docket 8

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and 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. See LBR 9021-1(b)(1)(B).

(1) There is no stay, due to dismissal. See 11 USC 349(b)(3) & 362(c). Termination of the stay is also addressed below because in rare instances dismissals are vacated.

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Relief applicable to future bankruptcy cases ("in rem" relief).

If this order is duly recorded in compliance with any applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case. For the avoidance of doubt, any acts by the movant to obtain exclusive

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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

CONT... Emilio Hernandez

Chapter 13

possession of such property shall not be stayed.

Such relief is granted on the following alternative grounds: (a) under 11 U.S.C. 362(d)(4) if the movant is either (i) the holder of a deed of trust/mortgage secured by real property that is the subject of the motion, (ii) the purchaser of such property at a foreclosure sale, or (iii) a successor in interest who stands in the shoes of such persons; (b) under the court's authority to grant appropriate relief under 11 U.S.C. 105(a) and 362(d) (regardless whether the movant is a "creditor" or whether real property or personal property is at issue); and (c) under the court's inherent authority combined with 11 U.S.C. 362(d) (same). See generally *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31) (distinguishing *In re Ellis*, 523 B.R. 673 (9th Cir. BAP 2014), and explaining alternative grounds for "in rem" relief).

(4) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Emilio Hernandez

Pro Se

**Movant(s):**

The Bank of New York Mellon fka

Represented By  
Erin M McCartney

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-24910 Sung Jin Kim

Chapter 13

#25.00 **CASE DISMISSED ON 11/30/16**

Hrg re: Motion for relief from stay [RP]

SECURITY NATIONAL LIFE INSURANCE CO  
vs  
DEBTOR

Docket 8

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and 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. See LBR 9021-1(b)(1)(B).

(1) There is no stay, due to dismissal. See 11 USC 349(b)(3) & 362(c). Termination of the stay is also addressed below because in rare instances dismissals are vacated.

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Relief applicable to future bankruptcy cases ("in rem" relief).

If this order is duly recorded in compliance with any applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this

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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

CONT... **Sung Jin Kim**

**Chapter 13**

order, unless otherwise ordered by the court presiding over that bankruptcy case. For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed.

Such relief is granted on the following alternative grounds: (a) under 11 U.S.C. 362(d)(4) if the movant is either (i) the holder of a deed of trust/mortgage secured by real property that is the subject of the motion, (ii) the purchaser of such property at a foreclosure sale, or (iii) a successor in interest who stands in the shoes of such persons; (b) under the court's authority to grant appropriate relief under 11 U.S.C. 105(a) and 362(d) (regardless whether the movant is a "creditor" or whether real property or personal property is at issue); and (c) under the court's inherent authority combined with 11 U.S.C. 362(d) (same). See generally *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31) (distinguishing *In re Ellis*, 523 B.R. 673 (9th Cir. BAP 2014), and explaining alternative grounds for "in rem" relief).

(4) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Sung Jin Kim

Pro Se

**Movant(s):**

Security National Life Insurance

Represented By  
Joshua L Scheer

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

**2:13-36848 Virginia Landis Stewart**

**Chapter 13**

**#26.00** Hrg re: Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION  
VS  
DEBTOR

Docket 109

**Tentative Ruling:**

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 111).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

**Debtor(s):**

Virginia Landis Stewart

Represented By  
Kevin T Simon

**Movant(s):**

U.S. Bank National Association, as

Represented By  
Merdaud Jafarnia

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

**2:13-36848 Virginia Landis Stewart**

**Chapter 13**

**#27.00** Cont'd hrg re: Motion for relief from stay [PP]  
fr. 9/27/16, 11/1/16

TOYOTA MOTOR CREDIT CORPORATION  
VS  
DEBTOR

Docket 95

**Tentative Ruling:**

**Tentative Ruling for 12/13/16 (same as for 9/27/16 and 11/1/16):**  
Appearances required but telephonic appearances are encouraged if  
advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges,"  
"Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 101).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Party Information**

**Debtor(s):**

Virginia Landis Stewart

Represented By  
Kevin T Simon

**Movant(s):**

Toyota Motor Credit Corporation

Represented By  
Erica T Loftis

**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**

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**CONT... Virginia Landis Stewart**

**Chapter 13**

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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:15-11521 Alma Jean Anderson

Chapter 13

#28.00 Hrg re: Motion for relief from stay [PP]

WHEELS FINANCIAL GROUP, LLC  
vs  
DEBTOR

Docket 45

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Party Information**

**Debtor(s):**

Alma Jean Anderson

Represented By  
William J Smyth

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... Alma Jean Anderson**

**Chapter 13**

**Movant(s):**

Wheels Financial Group, LLC dba

Represented By  
Sheryl D Noel

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:15-26424 David Silva Padilla and Maria M Diarte De Silva

Chapter 13

#29.00 Hrg re: Motion for relief from stay [PP]

NISSAN MOTOR ACCEPTANCE CORP  
vs  
DEBTOR

Docket 45

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

David Silva Padilla

Represented By

Lisa F Collins-Williams - SUSPENDED -

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**CONT... David Silva Padilla and Maria M Diarte De Silva**

**Chapter 13**

**Joint Debtor(s):**

Maria M Diarte De Silva

Represented By

Lisa F Collins-Williams - SUSPENDED -

**Movant(s):**

NISSAN MOTOR ACCEPTANCE

Represented By

Michael D Vanlochem

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-16294 Hattie R Cole-Williams

Chapter 13

#30.00 Hrg re: Motion for relief from stay [PP]

NISSAN MOTOR ACCEPTANCE CORP  
vs  
DEBTOR

Docket 24

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Hattie R Cole-Williams

Represented By  
Alisa Admiral

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**CONT... Hattie R Cole-Williams**

**Chapter 13**

**Movant(s):**

NISSAN MOTOR ACCEPTANCE

Represented By  
Michael D Vanlochem

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-16802 Joel Daniel Cruz

Chapter 13

#31.00 Hrg re: Motion for relief from stay [PP]

TOYOTA LEASE TRUST  
vs  
DEBTOR

Docket 48

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Joel Daniel Cruz

Represented By  
Erika Luna

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... Joel Daniel Cruz**

**Chapter 13**

**Movant(s):**

Toyota Lease Trust

Represented By  
Erica T Loftis

**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**

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**2:16-17267 Howard Eugene McCrary and Micaha Lang McCrary**

**Chapter 13**

**#32.00** Hrg re: Motion for relief from stay [PP]

DPM ACQUISITION, LLC  
vs  
DEBTO R

Docket 33

**Tentative Ruling:**

Continue to 1/10/17 at 10:00 a.m. to address the following issues.  
Appearances are not required on 12/13/16.

Reasons:

Standing/real party in interest. The movant has not demonstrated an interest in the property which is the subject of the motion. The movant is not the party identified as the creditor holding an interest in the property in the security agreement attached to the motion, nor has the movant demonstrated a transfer of the security agreement.

The deadline for the movant to file and serve a supplemental declaration attaching evidence demonstrating its interest in the property is 12/28/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Howard Eugene McCrary

Represented By  
Barry E Borowitz

**Joint Debtor(s):**

Micaha Lang McCrary

Represented By  
Barry E Borowitz

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... Howard Eugene McCrary and Micaha Lang McCrary**

**Chapter 13**

**Movant(s):**

DPM Acquisition, LLC

Represented By  
Thomas R Mulally

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-23209 Jose Manuel Morales

Chapter 7

#33.00 Hrg re: Motion for relief from stay [PP]

SANTANDER CONSUMER USA INC  
VS  
DEBTOR

Docket 9

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Jose Manuel Morales

Represented By  
Daniel King

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... Jose Manuel Morales**

**Chapter 7**

**Movant(s):**

Santander Consumer USA Inc. dba

Represented By  
Jennifer H Wang

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-25040 Jesus Cazares

Chapter 13

#34.00 Hrg re: Motion for relief from stay [UD]

MABRY MANAGEMENT CO INC  
vs  
DEBTOR

Docket 7

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Party Information**

**Debtor(s):**

Jesus Cazares

Pro Se

**Movant(s):**

Mabry Management Co. Inc.

Represented By

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**CONT... Jesus Cazares**

Carol G Unruh

**Chapter 13**

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-25146 Seidy Vela

Chapter 13

#35.00 Hrg re: Motion for relief from stay [UD]

MABRY MANAGEMENT CO. INC.  
vs  
DEBTOR

Docket 7

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Seidy Vela

Pro Se

**Movant(s):**

Mabry Management Co. Inc.

Represented By

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**CONT... Seidy Vela**

Carol G Unruh

**Chapter 13**

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-24233 Jonathan L. Snagg, Sr.

Chapter 13

#36.00 Hrg re: Motion for relief from stay [UD]

L.B. VILLA PARKL, LLC  
vs  
DEBTOR

Docket 16

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Party Information**

**Debtor(s):**

Jonathan L. Snagg Sr.

Represented By  
Thomas B Ure

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... Jonathan L. Snagg, Sr.**

**Chapter 13**

**Movant(s):**

L.B. Villa Park, LLC, a Limited

Represented By  
Nichole Glowin

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-24233 Jonathan L. Snagg, Sr.

Chapter 13

#37.00 Cont'd hrg re: Motion in Individual Case for Order  
Imposing a Stay or Continuing the Automatic  
Stay as the Court Deems Appropriate  
fr. 11/17/16

Docket 12

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

On 12/17/16, the Court continued the hearing on this matter to allow the parties time to negotiate a possible adequate protection agreement. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 11/17/16:**

Grant, subject to the following conditions, and also subject to any opposition at the hearing. Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

*Key documents reviewed (other than the motion papers):* this Court's order granting application shortening time and setting hearing on shortened notice (dkt. 14).

After the hearing date the Court will prepare an order and the tentative ruling is to include the following language in that order:

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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

CONT...

**Jonathan L. Snagg, Sr.**

**Chapter 13**

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this court provides the foregoing simple process for reconsideration.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Jonathan L. Snagg Sr.

Represented By  
Thomas B Ure

**Movant(s):**

Jonathan L. Snagg Sr.

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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-25142 Eusebio Cruz

Chapter 13

#38.00 Hrg re: Motion for relief from stay [UD]

KIHO ROH  
vs  
DEBTOR

Docket 8

**Tentative Ruling:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and 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. See LBR 9021-1(b)(1)(B).

(1) Existence of stay. Deny motion insofar as it requests an order confirming that the automatic stay does not apply at all, because the movant has not established that the stay has automatically terminated or that an exception to the stay applies (e.g., under 11 U.S.C. 362(c) or (b)(22) and (l)).

(2) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(3) Retroactive relief. Deny the request for retroactive annulment of the stay because Judge Bason is not prepared to issue a blanket annulment with respect to whatever unspecified things might have occurred postpetition.

(4) Relief applicable to future bankruptcy cases ("in rem" relief). Deny request for "in rem" relief for lack of court authority and/or lack of cause

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**CONT... Eusebio Cruz**

**Chapter 13**

shown. For purposes of 11 U.S.C. 362(d)(4) the movant has not demonstrated that the debtor's bankruptcy is part of a scheme to hinder, delay or defraud the movant involving either multiple bankruptcy filings or unauthorized transfers of the subject property.

(5) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Eusebio Cruz	Pro Se
--------------	--------

**Movant(s):**

Kiho Roh	Pro Se
----------	--------

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

**2:16-25446 April Dawn Underwood**

**Chapter 13**

**#39.00** Hrg re: Motion in Individual Case for Order Imposing Stay or Continuing the Automatic Stay as the Court Deems Appropriate

Docket 13

**Tentative Ruling:**

Grant, subject to the following conditions. Appearances are not required.

After the hearing date the Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this court provides the foregoing simple process for reconsideration.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Party Information**

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... April Dawn Underwood**

**Chapter 13**

**Debtor(s):**

April Dawn Underwood

Represented By  
Kevin T Simon

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

**2:16-25331 John Min and Sung Yi Min**

**Chapter 13**

**#40.00** Hrg re: Motion in Individual Case for Order  
Imposing a Stay or Continuing the Automatic  
Stay as the Court Deems Appropriate

Docket 13

**Tentative Ruling:**

Grant, subject to the following conditions. Appearances are not required.

After the hearing date the Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this court provides the foregoing simple process for reconsideration.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Party Information**

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... John Min and Sung Yi Min**

**Chapter 13**

**Debtor(s):**

John Min

Represented By  
Ryan A Stubbe

**Joint Debtor(s):**

Sung Yi Min

Represented By  
Ryan A Stubbe

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

**2:16-25218 Bradford Schumaker and Patricia Schumaker**

**Chapter 13**

**#41.00** Hrg re: Motion in Individual Case for Order  
Imposing a Stay or Continuing the Automatic  
Stay as the Court Deems Appropriate

Docket 13

**Tentative Ruling:**

Grant, subject to the following conditions, and also subject to any opposition at the hearing. The movant's notice of hearing on the motion did not provide a deadline for oppositions (dkt. 13, p. 2), therefore, this court will permit oppositions to be submitted orally at the hearing. In addition, this court presumes that counsel will not bill for appearing at this hearing because the lack of a deadline was counsel's error - if counsel intends anything different then counsel must explain why at the hearing. Appearances required.

After the hearing date the Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this court provides the foregoing simple process for

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**CONT...**      **Bradford Schumaker and Patricia Schumaker**  
reconsideration.

**Chapter 13**

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Bradford Schumaker

Represented By  
Paul Y Lee

**Joint Debtor(s):**

Patricia Schumaker

Represented By  
Paul Y Lee

**Movant(s):**

Patricia Schumaker

Represented By  
Paul Y Lee

Bradford Schumaker

Represented By  
Paul Y Lee

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:16-25376 Wanda Jean Alexander

Chapter 13

#42.00 Hrg re: Motion in Individual Case for Order  
Imposing a Stay or Continuing the Automatic  
Stay as the Court Deems Appropriate

Docket 8

**Tentative Ruling:**

Appearances required by the debtor's counsel to address the following issues.

Although the debtor alleges in her declaration in support of the motion (dkt. 15) that her son will contribute to her household expenses, this court has examined the case docket and it does not appear that the debtor's son has filed a declaration attesting to the contributions he will allegedly make to the debtor's monthly income.

Additionally, a presumption of bad faith has arisen as to this case pursuant to 11 U.S.C. 362(c)(3)(C)(i), under subsections (II) (a previous case under chapter 13 dismissed within one year of the current case after the debtor failed to perform the terms of a plan confirmed by the court) and (III) (the debtor has not demonstrated a substantial change in her financial or personal affairs since the dismissal of her most recent prior chapter 13 case). Section 362(c)(3)(C) requires the debtor to provide clear and convincing evidence that her current case was filed in good faith when a presumption of bad faith arises.

The debtor has argued that she has experienced a substantial change in her personal or financial affairs since dismissal of her most recent prior case because her son has moved in with her and will be contributing income (\$750/mo.) to pay for her household expenses. Dkt. 8, p. 6, para. 3.F. However, this court has reviewed the debtor's Statement of Financial Affairs, and it appears that the debtor's family members Brian and Brittney Loza have been regularly contributing to her income since as early as 2014. Dkt. 1, PDF p. 39. How do her son's contributions represent a substantial net change in her personal or financial affairs?

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**CONT... Wanda Jean Alexander**

**Chapter 13**

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

**Debtor(s):**

Wanda Jean Alexander

Represented By  
Barry E Borowitz

**Movant(s):**

Wanda Jean Alexander

Represented By  
Barry E Borowitz  
Barry E Borowitz

**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**

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**2:14-24103 Eduardo Falcon**

**Chapter 13**

**#43.00** Cont'd hrg re: Motion for relief from stay [PP]  
fr. 11/1/16

U.S. BANK NATIONAL ASSOCIATION  
vs  
DEBTOR

Docket 50

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

At the 11/1/16 hearing on the motion, this court continued the hearing at the request of the parties to allow them additional time to negotiate the terms of an adequate protection order. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 11/1/16:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**CONT... Eduardo Falcon**

**Chapter 13**

U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Grant the request to waive the 14-day stay provided by FRBP 4001(a)(3).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Eduardo Falcon

Represented By  
Tyson Takeuchi  
Scott Kosner

**Movant(s):**

U.S. BANK NATIONAL

Represented By  
Drew A Callahan

**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**

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**2:15-12387 Martin Solorio**

**Chapter 13**

**#44.00** Cont'd hrg re: Motion for relief from stay [RP]  
fr. 10/4/16, 11/1/16

WELLS FARGO BANK  
vs  
DEBTOR

Docket 37

**Tentative Ruling:**

**Tentative Ruling for 12/13/16 (same as for 11/1/16):**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

At the hearing on 11/1/16, this court granted a continuance at the request of the moving party to allow the parties more time to negotiate the terms of an adequate protection agreement. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see the debtor's response, dkt. 39).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 10/4/16:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**CONT... Martin Solorio**

**Chapter 13**

U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Martin Solorio

Represented By  
Rebecca Tomilowitz

**Movant(s):**

Wells Fargo Bank, N.A.

Represented By  
Erica T Loftis  
Mark D Estle

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

**2:15-20483 Jovito Soriano Hombrebueno and Yvonne Baul**

**Chapter 13**

**#45.00** Cont'd hrg re: Motion for relief from stay [RP]  
fr. 11/8/16

LOAN SERVICING GROUP, LLC  
VS  
DEBTOR

Docket 39

**\*\*\* VACATED \*\*\* REASON: This Court has issued its order approving  
the parties' adequate protection agreement.**

**Tentative Ruling:**

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

**Debtor(s):**

Jovito Soriano Hombrebueno

Represented By  
Michael E Clark  
Barry E Borowitz

**Joint Debtor(s):**

Yvonne Baul Hombrebueno

Represented By  
Michael E Clark  
Barry E Borowitz

**Movant(s):**

LOAN SERVICING GROUP, LLC

Represented By  
Robert P Zahradka

**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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:15-25545 James B Williams

Chapter 13

#46.00 Cont'd hrg re: Motion for relief from stay [RP]  
fr. 11/1/16, 11/8/16

DEUTSCHE BANK NATIONAL TRUST  
VS  
DEBTOR

Docket 128

\*\*\* VACATED \*\*\* REASON: This court has issued its order granting the  
parties' adequate protection agreement.

**Tentative Ruling:**

**Party Information**

**Debtor(s):**

James B Williams

Represented By  
Claudia L Phillips

**Movant(s):**

DEUTSCHE BANK NATIONAL

Represented By  
Merdaud Jafarnia

**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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:15-22189 Jose A Saavedra and Margarita Saavedra

Chapter 13

#47.00 Cont'd hrg re: Motion for relief from stay [PP]  
fr. 11/1/16, 11/29/16

BRIDGEST CREDIT COMPANY, LLC  
VS  
DEBTOR

Docket 60

\*\*\* VACATED \*\*\* REASON: This court has entered its order approving  
the parties' adequate protection stipulation (dkt. 68).

**Tentative Ruling:**

**Party Information**

**Debtor(s):**

Jose A Saavedra

Represented By  
William J Smyth

**Joint Debtor(s):**

Margarita Saavedra

Represented By  
William J Smyth

**Movant(s):**

Bridgest Credit Company, LLC,

Represented By  
Michelle R Ghidotti

**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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

2:15-28334 Fanny Florisel Santizo Cifuentes

Chapter 13

#48.00 Cont'd hrg re: Motion for relief from stay [RP]  
fr. 11/1/16, 11/29/16

SETERUS, INC.  
VS  
DEBTOR

Docket 27

\*\*\* VACATED \*\*\* REASON: This court has entered its order approving  
the parties' adequate protection stipulation (dkt. 33).

**Tentative Ruling:**

**Party Information**

**Debtor(s):**

Fanny Florisel Santizo Cifuentes

Represented By  
Jesus L Zuniga

**Movant(s):**

Seterus, Inc. as the authorized

Represented By  
Nichole Glowin

**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**

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**2:15-15902 Julisa Orellana**

**Chapter 13**

**#49.00** Cont'd hrg re: Motion for relief from stay [RP]  
fr. 11/29/16

U.S. BANK TRUST, N.A.  
VS  
DEBTOR

Docket 28

**\*\*\* VACATED \*\*\* REASON: This court has entered its order approving  
the parties' adequate protection stipulation (dkt. 34)**

**Tentative Ruling:**

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

**Debtor(s):**

Julisa Orellana

Represented By  
Danelle Lloyd

**Movant(s):**

U.S. Bank Trust, N.A., as Trustee

Represented By  
Merdaud Jafarnia

**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**

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**2:13-15326 Sandra Sunni Germaine**

**Chapter 13**

**#50.00** Cont'd hrg re: Motion for relief from stay [RP]  
fr. 9/27/16, 10/11/16, 11/8/16, 11/29/16

U.S. BANK NATIONAL ASSOC  
vs  
DEBTOR

Docket 54

**Tentative Ruling:**

**Tentative Ruling for 12/13/16 (same as for 11/29/16 and 11/8/16):**  
Appearances required but telephonic appearances are encouraged if  
advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges,"  
"Bason, N.", "Instructions/Procedures").

There is no tentative ruling, but the parties should be prepared to address the status of their negotiations.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 10/11/16:**

Appearances required but telephonic appearances are encouraged if  
advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges,"  
"Bason, N.", "Instructions/Procedures").

At the 9/27/16 hearing on the motion, this court was persuaded to continue this hearing based on the representations of the debtor's counsel regarding attempted notice to the movant, miscommunications regarding payments, and the anticipated influx of substantial funds with which to cure arrears. This court ordered the debtor to provide notice of the continued hearing via email and U.S. mail, and the filed proof of service (dkt. 57) shows both notice via NEF and U.S. mail. There is no tentative ruling, but the parties should be

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

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

CONT... **Sandra Sunni Germaine**

**Chapter 13**

prepared to address the status of their negotiations.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 9/27/16:**

Grant as provided below. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(1) Termination. Terminate the automatic stay under 11 U.S.C. 362(d)(1). Any co-debtor stay (11 U.S.C. 1301(c)) is also terminated, because it has not been shown to have any basis to exist independent of the stay under 11 U.S.C. 362(a). To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

(2) Effective date of relief. Deny the request to waive the 14-day stay provided by FRBP 4001(a)(3) for lack of sufficient cause shown.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Party Information**

**Debtor(s):**

Sandra Sunni Germaine

Represented By  
Gaurav Datta

**Movant(s):**

U.S. Bank National Association

Represented By  
Gerald S Kim  
Marisol A Nagata  
Brandye N Foreman

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

10:00 AM

**CONT... Sandra Sunni Germaine**

**Chapter 13**

**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**

Tuesday, December 13, 2016

Hearing Room 1545

10:00 AM

**2:16-25599 Angel Aguilar and Celia Aguilar**

**Chapter 13**

**#51.00** Hrg re: Motion in Individual Case for Order  
Imposing a Stay or Continuing the Automatic  
Stay as the Court Deems Appropriate

Docket 13

**Tentative Ruling:**

Grant, subject to the following conditions, and also subject to any opposition at the hearing, pursuant to the Court's order granting application and setting hearing on shortened notice (dkt. 14). Appearances required.

After the hearing date the Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to impose the automatic stay, and to impose it as to all persons rather than just as to selected persons, because one purpose of the automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this court provides the foregoing simple process for reconsideration.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

10:00 AM

**CONT... Angel Aguilar and Celia Aguilar**

**Chapter 13**

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

**Debtor(s):**

Angel Aguilar

Represented By  
Rebecca Tomilowitz

**Joint Debtor(s):**

Celia Aguilar

Represented By  
Rebecca Tomilowitz

**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**

Tuesday, December 13, 2016

Hearing Room 1545

11:00 AM

2:15-27153 Brian Lee

Chapter 7

#1.00 Cont'd hrg re: Application for payment of interim fees  
and/or expenses  
[Thompson & Knight LLP, Special Counsel]  
fr. 11/01/16

Docket 121

**Tentative Ruling:**

Grant. Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Brian Lee

Represented By  
Michael Jay Berger

**Movant(s):**

Thompson & Knight LLP

Represented By  
Bruce J Zabarauskas

**Trustee(s):**

David A Gill (TR)

Pro Se

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

11:00 AM

**2:15-27153 Brian Lee**

**Chapter 7**

**#2.00** Cont'd hrg re: Second Interim Application for Compensation and Reimbursement of Expenses of Michael Jay Berger fr. 11/1/16

Docket 119

**\*\*\* VACATED \*\*\* REASON: Resolved by stipulation (dkt. 156) and order thereon.**

**Tentative Ruling:**

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

**Debtor(s):**

Brian Lee

Represented By  
Michael Jay Berger

**Movant(s):**

Brian Lee

Represented By  
Michael Jay Berger  
Michael Jay Berger

**Trustee(s):**

David A Gill (TR)

Pro Se

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

11:00 AM

**2:16-10039 Edmond K Moussesian**

**Chapter 7**

Adv#: 2:16-01074 United States Trustee (LA) v. Moussesian

**#3.00** Cont'd Status Conference re: Complaint for Denial of Discharge Pursuant to 11 U.S.C. Section 727 (a)(4)(A) and (D) fr. 04/26/16, 6/7/16, 9/13/16

Docket 1

**\*\*\* VACATED \*\*\* REASON: Moot**

**Tentative Ruling:**

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

**Debtor(s):**

Edmond K Moussesian	Pro Se
---------------------	--------

**Defendant(s):**

Edmond K Moussesian	Pro Se
---------------------	--------

**Plaintiff(s):**

United States Trustee (LA)	Represented By Melanie Scott Green
----------------------------	---------------------------------------

**Trustee(s):**

David M Goodrich (TR)	Pro Se
-----------------------	--------

**U.S. Trustee(s):**

United States Trustee (LA)	Pro Se
----------------------------	--------

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

Tuesday, December 13, 2016

Hearing Room 1545

11:00 AM

2:16-11220 Andrew Babakhanlou

Chapter 13

Adv#: 2:16-01075 Issaghoulian v. Babakhanlou

**#4.00** Cont'd status conference re: Complaint for nondischargeability to 11 U.S.C. section 523 (a)(2) and 11 U.S.C. section 523(a)(4) fr. 4/26/16, 6/21/16, 8/9/16, 9/27/16, 10/11/16

Docket 1

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Appearances required. The court has reviewed the parties' joint status report (adv. dkt. 35) and the other filed documents and records in this adversary proceeding.

(1) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (dkt. 29).

(2) Deadlines: This adversary proceeding has been pending since 2/19/16. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 1/31/17

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: 3/21/17

Joint Status Report: 1/24/17

Continued status conference: 2/7/17 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: 3/28/17

Pretrial conference: 4/11/17 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: 4/12/17 (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "Trial Practice")

Trial commencement: 4/17/17 at 9:00 a.m.

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

Tuesday, December 13, 2016

Hearing Room 1545

---

11:00 AM

CONT... Andrew Babakhanlou

Chapter 13

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 10/11/16:**

Appearances required. There is no tentative ruling, but the parties should be prepared to address the status of their mediation efforts.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 9/27/16:**

Continue to 10/11/16 at 11:00 a.m. based upon the statements made by the parties in their joint status report regarding their mediation efforts (adv. dkt. 29). Appearances are not required on 9/27/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 8/9/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Mediation. On 7/15/16, this court entered its order assigning the parties to mediation. The parties should be prepared to discuss the status of their mediation efforts.

(2) Revised deadlines. At the 6/21/16 case status conference, this court set certain deadlines (see tentative ruling for 6/21/16, reproduced in full below) which were to be memorialized in an order to be lodged by the plaintiff. No such order has been lodged. The plaintiff should be prepared to address its failure to lodge a scheduling order as directed by this court.

The parties have stated in their joint status report (dkt. 23) that they will not be

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

Tuesday, December 13, 2016

Hearing Room 1545

---

11:00 AM

CONT...

**Andrew Babakhanlou**

**Chapter 13**

ready for trial until mid-October 2016. With that in mind, the parties should be prepared to address whether they can comply with the following revised schedule. If so, pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 9/2/16

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 9/13/16

Continued status conference: 9/27/16 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: 10/4/16

Pretrial conference: 10/11/16 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: 10/12/16 (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "Trial Practice")

Trial commencement: 10/17/16 at 9:00 a.m.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 6/21/16:**

Appearances required.

(1) Motion to dismiss (dkt. 7). Grant in part and deny in part as follows. Movant is directed to serve and 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.

(a) Section 523(a)(2): grant for technical reasons, but with leave to amend. The complaint alleges "reasonable" reliance by the plaintiff but (as both parties agree) 11 U.S.C. 523(a)(2) requires "justifiable" reliance. See dkt. 9, p.6:2, & dkt. 11, p.2:7. See, e.g., *In re Brown*, 217 B.R. 857, 861-62

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

Tuesday, December 13, 2016

Hearing Room 1545

11:00 AM

CONT... Andrew Babakhanlou

Chapter 13

(Bankr. S.D. Cal. 1998) (explaining the difference).

Leave to amend is appropriate because that one word ("reasonable") is easily replaced (by "justifiable"), and, although the defendant argues that there was no diversion of funds after those funds were lent, that is not the issue. The focus should be on whether the debtor/defendant knowingly misrepresented the state of his finances so as to induce the plaintiff to loan the funds in the first place, thereby proximately causing the plaintiff to advance the funds and ultimately lose the entire \$70,000.

The State Court found that he did, and also found that the plaintiff's reliance on those misrepresentations was "reasonable" (dkt. 1, Ex.1, pp. 5:22-6:3). If this Bankruptcy Court is persuaded of the same things as the State Court (or if the latter's findings of fact and conclusions of law are preclusive, which the parties do not address) then the remaining factual issue appears to be whether the plaintiff's reliance on the defendant's alleged state of finances was justifiable, which cannot be determined on a motion to dismiss.

Note: When amending, the plaintiff may wish to note that the State Court's memorandum decision (dkt. 1, Ex. 1) is missing page 4.

(2) Section 523(a)(4): grant without leave to amend. The tentative ruling is to dismiss the claim under 11 U.S.C. 523(a)(4) for the reasons stated in the defendant's motion and reply (dkt. 7, 11), and to deny leave to amend because the opposition (dkt. 9) does not set forth any possible amendment to the complaint that could fit the existing allegations within the definition of "embezzlement" or other claims under section 523(a)(4).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile establish the interim deadlines set forth below? The tentative ruling is to set a deadline of 7/7/16 to lodge proposed order(s) directing the parties to mediation.

(3) Deadlines: This adversary proceeding has been pending since 2/9/16. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 8/1/16

Expert(s) - deadline for reports: N/A

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

Tuesday, December 13, 2016

Hearing Room 1545

11:00 AM

CONT...

**Andrew Babakhanlou**

**Chapter 13**

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: N/A

Joint Status Report: 7/26/16

Continued status conference: 8/9/16 at 1:00 p.m.

Lodge Joint Proposed Pre-Trial Order: 9/6/16

Pretrial conference: 9/13/16 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: 9/15/16 (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "Trial Practice")

Trial commencement: 9/21/16 at 9:00 a.m.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Party Information**

**Debtor(s):**

Andrew Babakhanlou

Represented By  
Matthew D Resnik  
Kevin T Simon

**Defendant(s):**

Andrew Babakhanlou

Pro Se

**Plaintiff(s):**

Vrej Issaghoulian

Represented By  
Armen Shaghzo

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

Kathy A Dockery (TR)

Pro Se

**U.S. Trustee(s):**

United States Trustee (LA)

Pro Se

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

11:00 AM

**CONT... Andrew Babakhanlou**

**Chapter 13**

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

11:00 AM

**2:15-25089 Armen Janian**

**Chapter 7**

Adv#: 2:16-01008 Forrest Fykes, SR et al v. Armen Janian

**#5.00** Cont'd status conference re: Complaint for nondischargeability of debtor pursuant to 11 U.S.C. section 523(a)(4) and 11 U.S.C. section 523(a)(6) fr. 7/19/16

Docket 1

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Continue to 2/7/17 at 11:00 a.m. at which time this court anticipates addressing, in view of the State Court's determinations as to pending matters, what trial date and other deadlines to set. Appearances are not required on 12/13/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 7/19/16:**

Appearances required. There is no tentative ruling, but the parties should be prepared to address the following issues:

(1) Failure to file a status report. Why did the plaintiff not file a status report updating the Court as to the status of the pending state court litigation (adv. dkt. 4)? Should this Court issue an order to show cause based on plaintiff's disregard of this Court's order?

(2) Status of the state court litigation. What is the status of the state court litigation?

(3) Continued status conference. Assuming that the state court litigation is still pending, this Court intends to set a continued status conference for 11/8/16 at 11:00 a.m. The plaintiff must file a brief status report detailing the current status of the state court litigation by 10/25/16.

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

11:00 AM

**CONT... Armen Janian**

**Chapter 7**

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

**Debtor(s):**

Armen Janian

Represented By  
Leon Nazaretian

**Defendant(s):**

Armen Janian

Pro Se

**Plaintiff(s):**

Forrest Fykes JR

Represented By  
Michael D Anderson

Melissa Fykes

Represented By  
Michael D Anderson

Forrest Fykes, SR

Represented By  
Michael D Anderson

Valerie Fykes

Represented By  
Michael D Anderson

**Trustee(s):**

David M Goodrich (TR)

Pro Se

David M Goodrich (TR)

Pro Se

**U.S. Trustee(s):**

United States Trustee (LA)

Pro Se

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

11:00 AM

**2:14-28176 Rosemary L Bean-Moore**

**Chapter 13**

Adv#: 2:15-01654 Moore v. Bean-Moore

**#6.00** Cont'd status conference re: Complaint for nondischargeability for: 1) Debts incurred through false pretenses, false representation or actual fraud under 11 U.S.C. section 523(a)(2)(A); 2) Debts neither listed nor scheduled pursuant to 11 U.S.C. unscheduled and unlisted debts section 523(a)(3); 3) Debts incurred through fraud or defalcation while acting in a fiduciary capacity section 523(a)(4); 4) Debts incurred for willful and malicious injury to property section 523(a)(6); 5) Revocation of plan confirmation pursuant to 11 U.S.C. section 1330 fr. 2/9/16, 6/7/16, 09/06/16

Docket 1

**\*\*\* VACATED \*\*\* REASON: This court has issued its order continuing this status conference to February 28, 2017 at 1:00 p.m.**

**Tentative Ruling:**

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

**Debtor(s):**

Rosemary L Bean-Moore

Represented By  
Devin Sawdayi

**Defendant(s):**

Rosemary L Bean-Moore

Pro Se

**Plaintiff(s):**

Gerald K Moore

Represented By  
Daren M Schlecter

**Trustee(s):**

Kathy A Dockery (TR)

Pro Se

Kathy A Dockery (TR)

Pro Se

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

11:00 AM

**CONT... Rosemary L Bean-Moore**

**Chapter 13**

**U.S. Trustee(s):**

United States Trustee (LA)

Pro Se

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

11:00 AM

**2:15-24374 Pedro Salcido**

**Chapter 7**

Adv#: 2:15-01498 Grobstein, Chapter 7 Trustee v. Banuelos

**#7.00** Cont'd Status Conference re: Complaint for Sale of Real Property Pursuant to 11 U.S.C. § 363(h) fr. 12/15/15, 5/10/16, 6/21/16, 8/9/16, 10/11/16

Docket 1

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Continue to 2/28/17 at 11:00 a.m. pursuant to the request of the parties in their joint status report (adv. dkt. 48), to provide them additional time to perform under their approved settlement agreement. Appearances are not required on 12/13/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 10/11/16:**

The parties are cautioned that their various attempts at resolution of this matter have been neither fast enough nor candid enough (see order, case no. 15-24374, dkt. 88). Nevertheless, this court is persuaded to continue this matter one more time to 12/13/16 at 11:00 a.m. pursuant to the request of the parties in their joint status report (adv. dkt. 46) for additional time to obtain court approval of their settlement agreement (as it may be modified to address this court's concerns expressed at the hearing on 8/9/16). Appearances are not required on 10/11/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 8/9/16:**

Continue to 10/11/16 at 11:00 a.m. pursuant to the request of the parties in their joint status report (adv. dkt. 42) for additional time to obtain court

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

11:00 AM

**CONT... Pedro Salcido**

**Chapter 7**

approval of their settlement agreement. Appearances are not required on 8/9/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 6/21/16:**

Continue to 8/9/16 at 11:00 a.m. pursuant to the request of the parties in their joint status report (dkt. 40) for additional time to obtain court approval of their settlement agreement. Appearances are not required on 6/21/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 5/10/16:**

Continue to 6/21/16 at 11:00 a.m. pursuant to the request of the parties in their joint status report (dkt. 37) for additional time to finalize their settlement agreement. Appearances are not required on 5/10/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 12/15/15:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures"). The court has reviewed the parties' joint status report (adv. dkt. 26) and the other filed documents and records in this adversary proceeding.

(1) Venue/jurisdiction/authority. Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 1, PDF p. 2, para. 4; 5, PDF p. 2, para. 3).

(2) Mediation. Is there is any reason why this court should not order the

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

Tuesday, December 13, 2016

Hearing Room 1545

11:00 AM

CONT... **Pedro Salcido**

**Chapter 7**

parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below?

(3) Deadlines: This adversary proceeding has been pending since 2/9/15. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 3/15/16

Expert(s) - deadline for reports: 3/29/16

Expert(s) - discovery cutoff (if different from above): N/A

Dispositive motions to be heard no later than: 5/10/16

Joint Status Report: 4/26/16

Continued status conference: 5/10/16 at 11:00 a.m.

Lodge Joint Proposed Pre-Trial Order: 5/24/16

Pretrial conference: 6/7/16 at 2:00 p.m.

Deliver trial exhibits to chambers (2 copies, including direct testimony by declaration unless excused): 6/7/16 (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "Trial Practice")

Trial commencement: 6/13/16 at 9:00 a.m.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Party Information**

**Debtor(s):**

Pedro Salcido

Represented By  
Omero Banuelos

**Defendant(s):**

Kathy Banuelos

Represented By  
Ramiro Flores Munoz

**Plaintiff(s):**

Howard Grobstein, Chapter 7

Represented By  
Nina Z Javan

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

11:00 AM

**CONT... Pedro Salcido**

**Chapter 7**

**Trustee(s):**

Alberta P Stahl (TR)

Pro Se

**U.S. Trustee(s):**

United States Trustee (LA)

Pro Se

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

11:00 AM

**2:13-38034 Boardbrokers, Inc**

**Chapter 7**

Adv#: 2:15-01618 Avery v. American Express Bank FSB

**#8.00** Cont'd Status Conference re: Complaint for: (1) Avoidance and recovery of preferential transfers; avoidance and recovery of fraudulent transfers; and objection to claims fr. 02/09/16, 4/12/16, 6/21/16, 10/11/16

Docket 1

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Continue to 2/28/17 at 11:00 a.m. for the plaintiff to prosecute and perform under the motion to approve settlement under Fed. R. Bankr. P. 9019. See main case dkt. 234-235. Appearances are not required on 12/13/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 10/11/16:**

Continue to 12/13/16 at 11:00 a.m. for the plaintiff to prosecute a motion to approve settlement under Fed. R. Bankr. P. 9019. See notice of settlement, adv. dkt. 24. Appearances are not required on 10/11/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 6/21/16:**

Appearances are not required. The Court has reviewed the parties' joint status report (dkt. 16) and the other filed documents and records in this adversary proceeding.

(1) Mediation. The tentative ruling is to set a deadline of 7/8/16 for the parties to lodge proposed order(s) directing the parties to attend mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

11:00 AM

**CONT... Boardbrokers, Inc**

**Chapter 7**

the deadlines set forth below.

(2) Deadlines: This adversary proceeding has been pending since 11/21/15. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 11/15/16

Expert(s) - deadline for reports: 11/30/16

Expert(s) - discovery cutoff (if different from above): 12/15/16

Dispositive motions to be heard no later than: 2/7/17

Joint Status Report: 9/27/16

Continued status conference: 10/11/16 at 11:00 a.m., telephonic: The purpose of this status conference will be to set a trial date and the related deadlines/dates referenced below, once Judge Bason's calendar for 2017 has been finalized. This Court also may address any other issues appropriate for resolution at a status conference.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "Trial Practice")

Trial commencement: TBD

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 4/12/16:**

Continue to 6/21/16 at 11:00 a.m. pursuant to the request of the parties in their joint status report (dkt. 14) for additional time to engage in settlement discussions. The parties are cautioned that if the matter has not been settled by the continued status conference then this Court anticipates setting a trial date and proceeding on parallel tracks with discovery and other pretrial matters and also mediation or any other attempts at settlement.

Appearances are not required on 4/12/16.

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

Tuesday, December 13, 2016

Hearing Room 1545

11:00 AM

CONT... Boardbrokers, Inc

Chapter 7

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 2/9/16:**

Continue to 4/12/16 at 11:00 a.m. pursuant to the request of the parties in their joint status report (dkt. 12) for additional time to engage in settlement discussions. Appearances are not required on 2/9/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Boardbrokers, Inc

Represented By  
George J Paukert

**Defendant(s):**

American Express Bank FSB

Pro Se

**Plaintiff(s):**

Wesley H. Avery

Represented By  
Matthew A Lesnick

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Jeffrey L Sumpter  
M Douglas Flahaut  
Aram Ordubegian  
Matthew A Lesnick

**U.S. Trustee(s):**

United States Trustee (LA)

Pro Se

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

11:00 AM

**2:13-38034 Boardbrokers, Inc**

**Chapter 7**

Adv#: 2:15-01619 Avery v. American Lumber Company

**#9.00** Cont'd status conference re: Complaint for: (1) Avoidance and recovery of preferential transfers; and (2) Disallowance of claim  
fr. 2/9/16, 2/23/16, 4/12/16, 6/21/16, 10/11/16

Docket 1

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Continue to 2/28/17 at 11:00 a.m. for the plaintiff to prosecute and perform under the motion to approve settlement under Fed. R. Bankr. P. 9019. See main case dkt. 234-235. Appearances are not required on 12/13/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 10/11/16:**

Continue to 12/13/16 at 11:00 a.m. for the plaintiff to prosecute a motion to approve settlement under Fed. R. Bankr. P. 9019. See notice of settlement, adv. dkt. 20. Appearances are not required on 10/11/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 6/21/16:**

Appearances are not required. The Court has reviewed the parties' joint status report (dkt. 11) and the other filed documents and records in this adversary proceeding.

(1) Mediation. The tentative ruling is to set a deadline of 7/8/16 for the parties to lodge proposed order(s) directing the parties to attend mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

11:00 AM

**CONT... Boardbrokers, Inc**  
the deadlines set forth below.

**Chapter 7**

(2) Deadlines: This adversary proceeding has been pending since 11/21/15. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 11/15/16

Expert(s) - deadline for reports: 11/30/16

Expert(s) - discovery cutoff (if different from above): 12/15/16

Dispositive motions to be heard no later than: 2/7/17

Joint Status Report: 9/27/16

Continued status conference: 10/11/16 at 11:00 a.m., telephonic: The purpose of this status conference will be to set a trial date and the related deadlines/dates referenced below, once Judge Bason's calendar for 2017 has been finalized. This Court also may address any other issues appropriate for resolution at a status conference.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD (for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "Trial Practice")

Trial commencement: TBD

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 4/12/16:**

Continue to 6/21/16 at 11:00 a.m. pursuant to the request for additional time to engage in settlement discussions made by the parties in their joint status report (dkt. 9). The parties are cautioned that if the matter has not been settled by the continued status conference then this Court anticipates setting a trial date and proceeding on parallel tracks with discovery and other pretrial matters and also mediation or any other attempts at settlement.

Appearances are not required on 4/12/16.

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

Tuesday, December 13, 2016

Hearing Room 1545

11:00 AM

CONT... Boardbrokers, Inc

Chapter 7

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 2/23/16:**

Continue to 4/12/16 at 11:00 a.m. pursuant to the request for additional time to engage in settlement discussions made by the parties in their joint status report (dkt. 7) . Appearances are not required on 2/23/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Boardbrokers, Inc

Represented By  
George J Paukert

**Defendant(s):**

American Lumber Company

Pro Se

**Plaintiff(s):**

Wesley H. Avery

Represented By  
Matthew A Lesnick

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Jeffrey L Sumpter  
M Douglas Flahaut  
Aram Ordubegian  
Matthew A Lesnick

**U.S. Trustee(s):**

United States Trustee (LA)

Pro Se

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

Tuesday, December 13, 2016

Hearing Room 1545

11:00 AM

**2:13-38034 Boardbrokers, Inc**

**Chapter 7**

Adv#: 2:15-01636 Avery v. Trish Hoffman & Associates, Inc., dba Trish Hoffma

- #10.00** Cont'd Status Conference re: Complaint for: (1) Avoidance and recovery of preferential transfers; (2) Avoidance and recovery of unauthorized postpetition transfers, etc. fr. 2/9/16, 3/8/16, 4/26/16, 5/3/16, 07/19/16

Docket 1

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures"). The court has reviewed the parties' joint status report (docket number 49) and the other filed documents and records in this adversary proceeding.

(1) Current issues

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (docket number 46). This Court intends to defer any mandatory mediation in view of the parties' settlement discussions.

(2) Deadlines.

This adversary proceeding has been pending since 11/21/15. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following. In addition to the deadlines set forth in the scheduling order entered on 7/22/16 (adv. dkt. 51), the following dates and deadlines are set in this matter:

Deadline to complete at least one session of mediation: 2/17/17

Joint Status Report: 3/7/17

Continued status conference: 3/21/17 at 1:00 p.m.

Lodge Joint Proposed Pre-Trial Order: 5/23/17

Pretrial conference: 6/6/17 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: 6/7/17

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

Tuesday, December 13, 2016

Hearing Room 1545

11:00 AM

CONT... **Boardbrokers, Inc**

**Chapter 7**

(for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "Trial Practice")

Trial commencement: 6/12/17 at 9:00 a.m.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 7/19/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures"). The court has reviewed the parties' joint status report (docket number 49) and the other filed documents and records in this adversary proceeding.

(1) Current issues

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (docket number 46). This Court intends to defer any mandatory mediation in view of the parties' settlement discussions.

(2) Deadlines.

This adversary proceeding has been pending since 11/21/15. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for completion of discovery): 1/27/17

Expert(s) - deadline for reports: 2/8/17

Expert(s) - discovery cutoff (if different from above): 2/22/17

Dispositive motions to be heard no later than: 3/24/17

Joint Status Report: 11/29/16

Continued status conference: 12/13/16 at 1:00 p.m. (at which time the following deadlines/dates will be set)

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD

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

Tuesday, December 13, 2016

Hearing Room 1545

---

11:00 AM

CONT... Boardbrokers, Inc

Chapter 7

(for the format of exhibits and other trial procedures, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "Trial Practice")

Trial commencement: TBD [Judge Bason's 2017 calendar is not yet set]

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 5/3/16:**

Appearances required. The court has reviewed the plaintiff's unilateral status report (dkt. 9), as well as the more recent joint status report of certain parties (dkt. 46), and the other filed documents and records in this adversary proceeding.

On 3/16/16, this Court continued this matter to this date and time pursuant to certain parties' stipulation (dkt. 28). There is no tentative ruling but the parties should be prepared to address whether this Court should grant a relatively short continuance for parties to negotiate. If the parties are unable to arrive at a resolution, they should be prepared to suggest trial dates and related deadlines. The parties should also be prepared to address the following issues, to the extent not already addressed in the filed documents.

(1) Venue/jurisdiction/authority.

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, \_\_\_ U.S. \_\_\_ (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re*

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

Tuesday, December 13, 2016

Hearing Room 1545

11:00 AM

CONT... Boardbrokers, Inc

Chapter 7

*Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re Cohen* (Case No. 2:13-bk-26483-NB), dkt. 692 (Memorandum Decision), pp. 5:23-12:8 (discussing issues of jurisdiction and authority).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge) and meanwhile (at a continued status conference) set a trial date and related deadlines?

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

**Debtor(s):**

Boardbrokers, Inc

Represented By  
George J Paukert

**Defendant(s):**

Michael Dwyer

Pro Se

Leija Pro Endeavour LLC

Pro Se

Dream Line Consultants, LLC

Pro Se

Rosanne Dwyer

Pro Se

Allison Weathers-Leija

Pro Se

Patricia Hoffman

Pro Se

Trish Hoffman & Associates, Inc.,

Pro Se

Tallwall, Inc.

Pro Se

Euro Finish LLC

Pro Se

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

11:00 AM

**CONT... Boardbrokers, Inc**

**Chapter 7**

**Plaintiff(s):**

Wesley H. Avery

Represented By  
Matthew A Lesnick

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Jeffrey L Sumpter  
M Douglas Flahaut  
Aram Ordubegian  
Matthew A Lesnick

**U.S. Trustee(s):**

United States Trustee (LA)

Pro Se

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

Tuesday, December 13, 2016

Hearing Room 1545

11:00 AM

**2:13-38034 Boardbrokers, Inc**

**Chapter 7**

Adv#: 2:15-01625 Avery v. Forest Plywood Sales

**#11.00** Cont'd Status Conference re: Complaint for: (1) Avoidance and recovery of preferential transfers; and (2) Disallowance of claim fr. 02/09/16, 4/12/16, 8/9/16

Docket 1

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Continue to 2/28/17 at 11:00 a.m. for the plaintiff to prosecute and perform under the motion to approve settlement under Fed. R. Bankr. P. 9019. See main case dkt. 234-235. Appearances are not required on 12/13/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 8/9/16:**

Appearances required. The court has reviewed the parties' joint status report (dkt. 10) and the other filed documents and records in this adversary proceeding.

(1) Mediation. The tentative ruling is to order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below. The deadline to lodge proposed mediation order(s) is 8/23/16.

(2) Deadlines: This adversary proceeding has been pending since 11/21/15. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Discovery cutoff (for *completion* of discovery): 1/27/17.

Expert(s) - deadline for reports: N/A

Expert(s) - discovery cutoff (if different from above): N/A

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

Tuesday, December 13, 2016

Hearing Room 1545

11:00 AM

CONT...

**Boardbrokers, Inc**

**Chapter 7**

Dispositive motions to be heard no later than: 3/24/17

Joint Status Report: 11/29/16

Continued status conference: 12/13/16 at 11:00 a.m. The purpose of this status conference will be to set a trial date and related deadlines/dates referenced below, once the court's 2017 calendar is finalized. The court may address any other issues appropriate for resolution at a status conference.

Lodge Joint Proposed Pre-Trial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers (2 copies to chambers), including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 4/12/16:**

Continue to 8/9/16 at 11:00 a.m. pursuant to the request of the parties in their joint status report (dkt. 8) for additional time to engage in settlement discussions. The parties are cautioned that if the matter has not been settled by the continued status conference then this Court anticipates setting a trial date and proceeding on parallel tracks with discovery and other pretrial matters and also mediation or any other attempts at settlement.

Appearances are not required on 4/12/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 2/9/16:**

Continue to 4/12/16 at 11:00 a.m. pursuant to the request of the parties in their joint status report (dkt. 7) for additional time to engage in settlement discussions. Appearances are not required on 2/9/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

Tuesday, December 13, 2016

Hearing Room 1545

11:00 AM

CONT... Boardbrokers, Inc

Chapter 7

**Party Information**

**Debtor(s):**

Boardbrokers, Inc

Represented By  
George J Paukert

**Defendant(s):**

Forest Plywood Sales

Pro Se

**Plaintiff(s):**

Wesley H. Avery

Represented By  
Matthew A Lesnick

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Jeffrey L Sumpter  
M Douglas Flahaut  
Aram Ordubegian  
Matthew A Lesnick

**U.S. Trustee(s):**

United States Trustee (LA)

Pro Se

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

Tuesday, December 13, 2016

Hearing Room 1545

11:00 AM

**2:16-20366 Carlos I Sanchez and Hannah L Monk**

**Chapter 7**

**#12.00** Cont'd order to show cause re  
dismissal with 180-Day bar  
fr. 10/11/16

Docket 31

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

No response has been filed by the debtor, so he has waived and/or forfeited any response. As for possible remedies, this court will continue the hearing and consider those on 1/31/17 at 11:00 a.m., concurrent with the status conference to be held in the U.S. Trustee's adversary proceeding seeking denial of the debtors' discharge pursuant to 11 U.S.C. 727(a)(4)(A) and (D) (2:16-ap-01525-NB). Appearances are not required on 12/13/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 10/11/16:**

The tentative ruling is to grant interim relief and continue this matter to 12/13/16 at 11:00 a.m. (without extending the deadline for the response to the existing OSC, dkt. 34). Appearances are not required on 10/11/16.

(1) No discharge. Issue an order barring the debtors from receiving any discharge in this case:

(a) pending resolution of this court's order to show cause (dkt. 31, the "OSC") why this case should not be dismissed with a 180 day bar (11 U.S.C. 109(g)(1)) and

(b) pending resolution of any adversary proceeding under 11 U.S.C. 727, or any other adversary proceeding or contested matter initiated by the U.S. Trustee (see dkt. 34, suggesting possible forgery of credit counseling documents).

(2) Possible bar beyond 180 days. Provide, in the same order, that this court

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

11:00 AM

**CONT... Carlos I Sanchez and Hannah L Monk**

**Chapter 7**

may consider a bar longer than 180 days, in view of the latest information from the U.S. Trustee (dkt. 34) and any other information that may come to light.

(3) Retention of jurisdiction. Provide, in the same order, that this court will retain jurisdiction, notwithstanding any future dismissal or other disposition of this case, to address the foregoing issues and any other issues involving sanctions (in addition to any other usual retention of jurisdiction).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Carlos I Sanchez	Pro Se
------------------	--------

**Joint Debtor(s):**

Hannah L Monk	Pro Se
---------------	--------

**Trustee(s):**

Edward M Wolkowitz (TR)	Pro Se
-------------------------	--------

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

Tuesday, December 13, 2016

Hearing Room 1545

11:00 AM

2:12-38235 Cassandra Al Mayfield

Chapter 7

#13.00 Cont'd hrg re: Debtor's motion to redeem personal property under 11 U.S.C. section 722 fr. 11/29/16

Docket 74

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

*Key documents reviewed (in addition to motion papers):* the debtor's supplemental motion to redeem personal property (dkt. 84), creditor's opposition (dkt. 85).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 11/29/16:**

Continue to 12/13/16 at 11:00 a.m. to address the following issues.  
Appearances are not required on 11/29/16.

Option for shortened time: This court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant serving all papers no later than 12/2/16. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Reasons: The debtor's motion for redemption refers to "Exhibit B" and "Exhibit C," and no such exhibits were attached to the motion. In addition, the debtor has not offered evidence demonstrating the amount of the alleged lump-sum offer from her insurance company. The deadline for the debtor to

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

11:00 AM

**CONT... Cassandra Al Mayfield**

**Chapter 7**

file and serve a supplemental declaration attaching additional evidence in support of her motion is 12/2/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

**Debtor(s):**

Cassandra Al Mayfield

Represented By  
Anthony Obehi Egbase  
Crystle J Lindsey

**Trustee(s):**

Peter J Mastan (TR)

Pro Se

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

2:16-24442 Kaycee Meeks

Chapter 11

#1.00 Status conference re: Chapter 11 case

Docket 11

**Tentative Ruling:**

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Cash collateral. The debtor asserts in her case status report (dkt. 34, p. 3) that she does not use any cash that any party claims as its collateral. However, in her budget motion (dkt. 30, PDF p. 6), the debtor lists rental income received from all three of her real properties. Do none of the debtor's deeds of trust provide her secured creditors with a security interest in the rents received from those properties?

(b) Schedule G. Given the debtor's rental income from three real properties, why has the debtor listed no unexpired leases in her Schedule G? See dkt. 26, p. 16.

(c) Budget vs. schedules. The debtor filed her Schedule I and her budget motion on the same day, 11/15/16 (dkt. 26 and 30, respectively). This court is concerned about disparities between the debtor's income and expenses reported in her Schedule I and those in her proposed budget. Most significantly, the debtor reports \$5,500 in rental income from her Tanglewood property that is not reported in her Schedule I. Conversely, the debtor has listed \$2,000 in expenses for "anticipated taxes" that are not listed in her proposed budget. The debtor's food budget has increased to \$1,000/month in her budget versus \$400 in her Schedule I. The debtor reports only half of the income and expenses related to the 220th Street property in her Schedule I (allegedly split with her sister-in-law), but the full amounts are listed in her budget. What is the explanation for these discrepancies?

In addition, both the budget motion and the debtor's bankruptcy schedule "I" provide only an alleged net monthly income from owning a business, without providing any sort of statement showing gross revenues, expenses, and net income etc as required by the instructions on that schedule "I".

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Kaycee Meeks**

**Chapter 11**

(d) Applications to employ general bankruptcy counsel. The debtor has filed two separate applications to employ general bankruptcy counsel (dkt. 32, 36), one of which includes general allegations that about how work might be allocated (the Pelosi firm appears to focus on regular chapter 11 work, while the Vokshori firm appears to focus on loan restructuring, although the breakdown does not appear to be that definite).

First, will both firms be charging for the expense of preparing employment applications? Second, why did neither firm use the local employment application form (which presumably would have reduced the fees incurred in preparing these employment applications). Third, both applications seek employment under 11 U.S.C. 328 (in addition to under section 327), which might prevent this court from reviewing their fees for reasonableness - why would that ever be appropriate? Fourth, given these issues and the other issues noted above, is the bankruptcy estate being well served by employing two bankruptcy attorneys?

(2) Deadlines/dates. This case was filed on 11/1/16.

(a) Bar date: 2/17/17 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement\*: file by 3/3/17 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 1/31/17 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

**Debtor(s):**

Kaycee Meeks

Represented By  
Henry D Paloci

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

1:00 PM

**2:16-20924 Sam A. Gardian**

**Chapter 11**

**#2.00** Hrg re: Motion under 11 U.S.C. Section 1112(b)(1) to Convert, Dismiss or Appoint a Chapter 11 Trustee with an order directing payment of quarterly fees and for Judgment Thereon

Docket 38

**Tentative Ruling:**

Please see the tentative ruling for the Status Conference (calendar no. 3, 12/13/16 at 1:00 p.m.).

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

**Debtor(s):**

Sam A. Gardian

Represented By  
Mark T Young

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

2:16-20924 Sam A. Gardian

Chapter 11

#3.00 Cont'd status Conference re: Chapter 11 Case  
fr. 11/29/16

Docket 0

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Grant the U.S. Trustee's motion to dismiss (dkt. 38) (which will moot certain adversary proceedings) and also impose a one year bar against being a debtor in bankruptcy, all as set forth below. Appearances are not required.

*Proposed order:* Movant is directed to serve and 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.

*Key documents reviewed (in addition to motion papers):* joinders filed by creditors Kristine Megrikian (dkt. 40) and Valencia Northbridge Homeowners Association (dkt. 41).

The debtor has shown a willful failure to appear in proper prosecution of this case, as detailed in the motion to dismiss and related joinders. (If any further support were needed - which it is not - this court could take judicial notice of the facts set forth by the debtor's former counsel in their motion to withdraw (dkt. 34), which the debtor never contested, and which was granted by this court). In addition, the debtor has a history of multiple bankruptcy cases, and has engaged in outrageous abuse of the bankruptcy system as detailed in those papers. Accordingly, it appears appropriate to dismiss this case with prejudice, meaning a one year bar under 11 U.S.C. 349 (and additionally and alternatively a concurrent 180 day bar under 11 U.S.C. 109 (g)(1)).

The adversary proceedings filed on 11/16/16 (2:16-ap-01497-NB; 2:16-ap-01500-NB; 2:16-ap-01501-NB) will be mooted by any dismissal because they relate to discharge of debts, which will not occur if the case is dismissed.

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

1:00 PM

**CONT... Sam A. Gardian**

**Chapter 11**

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 11/29/16:**

Continue to 12/13/16 at 1:00 p.m. to be heard concurrently with the U.S. Trustee's motion to dismiss or convert (dkt. 38). Appearances are not required on 11/29/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Party Information**

**Debtor(s):**

Sam A. Gardian

Represented By  
Mark T Young

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

2:15-24588 Jeong Hee Choi

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case  
fr. 10/27/15, 11/3/15, 12/15/15, 1/19/16, 2/23/16,  
4/5/16, 6/7/16, 9/6/16, 10/11/16, 11/8/16

Docket 1

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Negotiations with secured lender. At the 11/8/16 status conference, this court continued the status conference to allow the debtor additional time to try to reach an agreement regarding plan treatment for secured creditor The Bank of New York Mellon, *et al.* The debtor's counsel should be prepared to report on the status of those negotiations, and whether a deadline should be set for a fourth amended plan and disclosure statement, or whether this case should be dismissed or converted to chapter 7.

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (timely served, dkt. 81).

(b) Plan/Disclosure Statement\*: if this case is not converted or dismissed at the status conference, 1/10/17 deadline to file (but NOT serve) further amended draft plan and disclosure statement addressing the issues set forth on the record at the hearing.

(c) Continued status conference: if this case is not converted or dismissed at the status conference, 1/31/17 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent,

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

Tuesday, December 13, 2016

Hearing Room 1545

---

1:00 PM

CONT... Jeong Hee Choi

Chapter 11

then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 11/8/16:**

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues (whether to authorize service of the latest proposed disclosure statement, dkt. 160, and plan, dkt. 159). There are issues with these documents which this Bankruptcy Court will review orally at the hearing.

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (timely served, dkt. 81).

(b) Plan/Disclosure Statement\*: if this case is not converted or dismissed at the status conference, 12/6/16 deadline to file (but NOT serve) further amended draft plan and disclosure statement addressing the issues set forth on the record at the hearing.

(c) Continued status conference: if this case is not converted or dismissed at the status conference, 1/10/17 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 10/11/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues (whether to authorize service of the latest proposed disclosure statement, dkt. 155, and plan, dkt. 154)

(a) Monthly net income after plan payments. Exhibit C shows the

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Jeong Hee Choi**

**Chapter 11**

debtor will have \$773.04 in income left over every month after her proposed plan payments have been made. See dkt. 155, PDF p. 7, line 12.

Additionally, the debtor requests \$187.81/mo. for an emergency fund and trustee fees. See Endnote 1 (dkt. 155, PDF p. 21). Why should the debtor be permitted to retain nearly \$1,000/mo. when her general unsecured creditors are only receiving 5% of their claims?

(b) Class 2B: Section 1111(b) election. Exhibit E has not been completely filled out. Under Class 2B, the debtor has not completed the "at least present value" portion of the section 1111(b) election - she has provided no interest rate and the proposed monthly payments are showing up on the form as a negative number: (\$108.33).

Additionally, the debtor has proposed paying the full amount of Class 2B over 40 years at an interest rate of just 3.75%, with a \$387,000 balloon payment at the end of 40 years. As stated in this court's 9/6/16 tentative ruling (reproduced in full, below), such a substantial balloon payment increases the risk of the debtor's nonpayment and presumably requires a higher interest rate to arrive at a present value equal to the current value of the property.

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (timely served, dkt. 81).

(b) Plan/Disclosure Statement\*: 10/25/16 deadline to file (but NOT serve) further amended draft plan and disclosure statement addressing the issues set forth above.

(c) Continued status conference: 11/8/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 9/6/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... Jeong Hee Choi

Chapter 11

(1) Current issues (whether to approve the disclosure statement, dkt. 126, and confirm the proposed plan, dkt. 125):

(a) Service of voting package? The proof of service (dkt. 137) lists very few parties in interest. Were all creditors served?

(b) Lack of favorable votes? The ballot summary (dkt. 143) is not accompanied by copies of ballots, and in any event it appears that no class accepted the plan by the requisite majorities (11 U.S.C. 1126(c)) although the debtor makes an opaque reference to the possibility of another favorable vote (after the deadline?). Therefore the debtor does not appear to qualify for confirmation under 1129(a) or (b). See 11 U.S.C. 1129(a)(8) & (10) and 1129 (b).

(c) Objection by BONY (dkt. 141). The tentative ruling is that BONY would be entitled to a 5% interest rate if it had not made its election under 11 U.S.C. 1111(b), but having made that election it is entitled to (i) the full dollar amount of its claim over time with (ii) a present value equal to the value of its collateral, and with a larger number of dollars being paid it may be that the interest rate can be reduced, not increased (although that depends on how long the debtor proposes to make payments, and other factors). Balloon payments are not outright prohibited, but they tend to increase the risk and may require a higher interest rate.

(d) Feasibility. The debtor asserts that \$30,000 will be contributed to fund payments on the effective date. What is the evidence of that? The debtor's budget is very thin, which calls into question the feasibility of the plan (11 U.S.C. 1129(a)(11)). These issues can be addressed, if relevant, after an amended plan and disclosure statement, addressing BONY's section 1111(b) election, has been filed - if appropriate, this court can set an evidentiary hearing and associated deadlines.

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (timely served, dkt. 81).

(b) Plan/Disclosure Statement\*: 9/20/16 deadline to file (but NOT serve) amended draft plan and disclosure statement in view of BONY's section 1111(b) election.

(c) Continued status conference: 10/4/16 at 1:00 p.m. No written status report is required.

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

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Jeong Hee Choi**  
conference).

**Chapter 11**

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 6/7/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues:

(a) Amended Plan/Disclosure Statement (timely filed 4/12/16, dkt.125, 126). It appears that the debtor has addressed the issues previously noted in this Court's 4/5/16 tentative (included below).

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (timely served, dkt. 81).

(b) Plan/Disclosure Statement\*: this court has reviewed the proposed Plan (dkt. 125) and Disclosure Statement (dkt. 126) and anticipates setting the following deadlines: 6/10/16 for the plan proponent to lodge Judge Bason's form of order authorizing service of the relevant documents and setting deadlines; 9/6/16 at 1:00 p.m. for the combined hearing on approval of the Disclosure Statement and confirmation of the Plan (with the court to set typical deadlines for objections etc.).

(c) Continued status conference: 9/6/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 4/5/16:**

Appearances required by counsel for the debtor but telephonic appearances

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... Jeong Hee Choi

Chapter 11

are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues:

(a) Plan/Disclosure Statement (3/4/16 (timely filed, dchts. 122, 123).

(i) Monthly income. The debtor's cash flow projections result in a negative balance of \$234,553.19 (see dkt. 122, at PDF p. 7). The net income of \$6 listed by the debtor does not make sense. The debtor's proposed monthly plan payment is comprised of two mortgage payments of \$3,098.41 and \$1,504.30 to BNY Mellon, and payments to general unsecured creditors of \$629.62, for a total of \$5,232.33 (*id.*). However, the debtor appears to have double-counted the mortgage payments: first, in the debtor's calculation of total monthly income, since the debtor's schedules I and J already take into account the rental income from the two properties, and then again in the debtor's calculation of the proposed payment plan.

(ii) New value. The \$30,000 Church Contribution should be listed in Exhibit C.

(iii) Two periods. Why does the debtor's plan include two periods (A and B) that seem to propose the same treatment of creditors? (see dkt. 122, at PDF p. 7).

(b) MORs. The debtor's most recent monthly operating report (dkt. 121) attempts to address the issues raised in this Court's previous tentative ruling (*e.g.*, dkt. 115 at PDF p.61, where the debtor appears to have listed the total balance owed, instead of listing monthly mortgage amounts, the number of unpaid monthly payments, and the total postpetition amount unpaid). The debtor appears to have corrected this issue (see dkt. 121, PDF p.16). However, the secondary issue was that the debtor had not revealed the monthly amount owed to PNC Bank N.A. - she stated "Disputed" instead of a monthly amount). The debtor has now omitted PNC Bank N.A. from this list (*id.*). Does the debtor owe any monthly amount to PNC Bank N.A.?

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (timely served, dkt. 81).

(b) Plan/Disclosure Statement\*: file amended documents by 4/12/16.

(DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Jeong Hee Choi**

**Chapter 11**

(c) Continued status conference: 6/7/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 2/23/16:**

Continue to 4/5/16 at 1:00 p.m. Appearances are not required on 2/23/16.

Reasons:

(1) MORs. The debtor's supplemented and most recent monthly operating reports (dkt. 108, 112, 113, 115) are still needlessly confusing and probably incorrect (e.g., dkt. 115 at PDF p.61 is supposed to list monthly mortgage amounts, the number of unpaid monthly payments, and the total postpetition amount unpaid; but instead the debtor appears to have listed the total balance owed; and the debtor also has not revealed the monthly amount owed to PNC Bank N.A. - she states "Disputed" instead of a monthly amount). Nevertheless, this Court presumes that the debtor's counsel will continue working with the office of the U.S. Trustee to assure that future MORs are correct and less confusing.

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (timely served, dkt. 81).

(b) Plan/Disclosure Statement\*: In view of the stipulation regarding the value of the Cypress property (dkt. 116), it appears that the debtor may be able to propose a plan of reorganization. Accordingly, the tentative ruling is to set a deadline of 3/4/16 for the debtor to file a draft plan and a draft disclosure statement, using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time). If counsel for the debtor believes that it is premature to prepare and file a draft plan and draft disclosure statement, then counsel should notify the U.S. Trustee and this Court of an intent to contest this tentative

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Jeong Hee Choi**

**Chapter 11**

ruling, and then appear as this status conference and address that issue.

(c) Continued status conference: (See the date at the start of this tentative ruling.) No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 1/19/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Monthly expenditure reporting. The debtor's monthly expenditure reporting continues to be problematic. In the debtor's October MOR, the debtor lists various disbursements totaling \$555 (see dkt. 103, PDF p. 26, repeated at PDF p. 64), but also refers to "petty cash" expenditures of \$497 (*id.* at PDF p. 26) and \$447 (*id.* at PDF p. 64). Where are those figures coming from? What was the nature of those petty cash expenditures?

Additionally, the expenditures reported by the debtor appear to deviate from the debtor's court-approved budget (dkt. 6, 76). The budget reported expenses of \$100/mo. for rent and \$110/mo. for Medicare, neither of which are appearing on the debtor's MORs. Conversely, the budget did not provide for \$50/mo. in religious donations, which the debtor appears to be paying every month. Finally, although the debtor reported in the budget that her monthly mortgage payments to Nationstar and Shell Point included costs for maintenance and insurance (dkt. 6, PDF p. 9), based upon her MOR reporting it appears that those costs are in fact separate from her mortgage payments. See dkt. 104, PDF p. 49 (separate home insurance payment of \$75.89); p. 57 ("home expenditures" of \$100 listed under petty cash transactions).

Finally, although the debtor has opened cash collateral bank accounts for each of her real properties, it appears the debtor is continuing to use her

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

Tuesday, December 13, 2016

Hearing Room 1545

---

1:00 PM

CONT... Jeong Hee Choi

Chapter 11

general DIP account for all receipts and disbursements, including those related to her real properties. Why is the debtor not segregating her cash collateral funds in their designated accounts?

How can the debtor propose a feasible plan of reorganization in these circumstances? Why should this court not convert or dismiss this case?

(2) Deadlines/dates. This case was filed on 9/21/15. If this court is persuaded not to convert or dismiss this case:

(a) Bar date: 1/8/16 (timely served, dkt. 81).

(b) Plan/Disclosure Statement\*: file by 1/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 2/23/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 12/15/15:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(A) Monthly expenditure reporting. The debtor's October monthly operating report disclosed the debtor's monthly expenditures in one lump sum (\$1,052), describing them only as "personal expenses." See dkt. 93, PDF p. 26. Reporting the debtor's monthly expenses in this fashion is inadequate, as it does not allow the court or the United States Trustee's office to ascertain whether the debtor is complying with the court-approved budget (dkt. 6, 76).

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (timely served, dkt. 81).

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

1:00 PM

**CONT...**

**Jeong Hee Choi**

**Chapter 11**

(b) Plan/Disclosure Statement\*: file by 1/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 1/19/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 11/3/15:**

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) UST motion to dismiss/compliance. Has the debtor complied with the requirements of the Office of the United States Trustee?

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (debtor to serve bar date order no later than 11/3/15).

(b) Plan/Disclosure Statement\*: file by 1/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/15/15 at 1:00 p.m., no status report required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... Jeong Hee Choi

Chapter 11

**Revised Tentative Ruling for 10/27/15:**

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues. The debtor is directed to serve and lodge proposed orders on the following motions via LOU within 7 days after the hearing date.

(a) Utility motion. Grant on a final basis on the same terms as the interim approval (dkt. 65).

(c) Cash collateral (dkt.9) and budget (dkt.6) motions. Grant the motions and approve the budgets proposed by the debtor (e.g., dkt. 6, PDF p. 9), on a final basis, but subject to adjustment as appropriate (e.g., upon a proper motion by a lienholder for relief from the automatic stay this court might - or might not - be persuaded to increase adequate protection payments).

(2) Deadlines/dates. This case was filed on 9/21/15.

(a) Bar date: 1/8/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement\*: file by 1/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 11/3/15 at 11:00 a.m., no status report required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 10/27/15:**

This court anticipates posting a tentative ruling at a later time.

**Party Information**

**Debtor(s):**

Jeong Hee Choi

Represented By

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

1:00 PM

**CONT...**

**Jeong Hee Choi**

Frank J Alvarado

**Chapter 11**

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

1:00 PM

**2:15-28443 Cloudbreak Entertainment, Inc.**

**Chapter 11**

**#5.00** Cont'd Status Conference re: Chapter 11 Case  
fr. 01/05/16, 1/19/16, 2/2/16, 2/23/16, 4/12/16,  
9/6/16

Docket 7

**\*\*\* VACATED \*\*\* REASON: This matter is scheduled to be heard at a  
different time. See # 7 at 2:00 p.m.**

**Tentative Ruling:**

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

**Debtor(s):**

Cloudbreak Entertainment, Inc.

Represented By  
Jeremy V Richards

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

**2:15-29156 Laura Cristina Barragan**

**Chapter 11**

**#6.00** Cont'd status conference re: Chapter 11 Case  
fr. 1/19/16, 2/23/16, 3/1/16, 4/12/16, 05/17/16,  
6/21/16, 8/2/16, 9/27/16, 11/1/16

Docket 7

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Continue to 1/31/17 at 1:00 p.m. to be heard concurrently with the combined hearing on the debtor's third amended chapter 11 plan and disclosure statement (dkt. 148 and 147, respectively). Appearances are not required on 12/13/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 11/1/16:**

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

Amended Chapter 11 Plan and Disclosure Statement (dkt. 143, 142). The debtor should amend Exhibit H (dkt.142). Parts 2-5 are blank, and the debtor can simply restore the text from dkt. 132. In addition, the debtor should add an explanation for the decreased rents for Unit A in the Lubbock property (\$950 reduced to \$875). Then the tentative ruling is to authorize the debtor to serve the voting package.

(2) Deadlines/dates. This case was filed on 12/21/15.

(a) Bar date: 5/30/16 (timely served, dkt. 106)

(b) Plan/Disclosure Statement: Deadline of 11/8/16 to file (but NOT serve) a further amended draft plan and disclosure statement (incorporating the changes noted above) and lodge Judge

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Laura Cristina Barragan**

**Chapter 11**

Bason's form of order authorizing service of the relevant documents and setting deadlines; 12/13/16 at 1:00 p.m. for the combined hearing on approval of the Disclosure Statement and confirmation of the Plan (with the court to set typical deadlines for objections etc.).

(c) Continued status conference: 11/1/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 9/27/16:**

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

Amended Chapter 11 Plan and Disclosure Statement (dkt. 132, 133).

This court will review various issues with these documents orally at the hearing.

(2) Deadlines/dates. This case was filed on 12/21/15.

(a) Bar date: 5/30/16 (timely served, dkt. 106)

(b) Plan/Disclosure Statement: Deadline of 10/11/16 to file (but NOT serve) a further amended draft plan and disclosure statement if sufficient issues have been resolved to finalize those draft documents (see above).

(c) Continued status conference: 11/1/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... **Laura Cristina Barragan**  
disposition at this hearing.

**Chapter 11**

**Revised Tentative Ruling for 8/2/16:**

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

Chapter 11 Plan and Disclosure Statement (dkt. 123, 124). There are numerous issues with these documents, which this Bankruptcy Court will review orally at the hearing.

(2) Deadlines/dates. This case was filed on 12/21/15.

(a) Bar date: 5/30/16 (timely served, dkt. 106)

(b) Plan/Disclosure Statement: Deadline of 9/13/16 to file (but NOT serve) an amended draft plan and disclosure statement if sufficient issues have been resolved to finalize those draft documents (see above).

(c) Continued status conference: 9/27/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 6/21/16:**

Continue to 8/2/16 at 1:00 p.m. Appearances are not required on 6/21/16.

(1) Current issues. N/A

(2) Deadlines/dates. This case was filed on 12/21/15.

(a) Bar date: 5/30/16 (timely served, dkt. 106)

(b) Plan/Disclosure Statement\*: file by 7/12/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Laura Cristina Barragan**

**Chapter 11**

later time).

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

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 5/17/16:**

Continue to 6/21/16 at 1:00 p.m. No written status report is required.

Appearances are not required on 5/17/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 4/12/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Budget motion (dkt. 51). The ruling at the 2/23/16 hearing was to Grant, subject to the limitations on the use of cash collateral. The debtor has not prepared this order.

(2) Deadlines/dates. This case was filed on 12/21/15.

(a) Bar date: 5/30/16 see dkt. 104 requiring service by 4/8/16 - was this order timely served?

(b) Plan/Disclosure Statement\*: file by 6/7/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time). This Court is aware that the debtor has requested a much later deadline (dkt. 25, p.4) but this court is not aware of any reason why so much time is needed. The debtor should be negotiating with secured creditors and other key constituencies already.

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

Tuesday, December 13, 2016

Hearing Room 1545

---

1:00 PM

CONT...

**Laura Cristina Barragan**

**Chapter 11**

(c) Continued status conference: 5/17/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 3/1/16:**

Continue to 4/12/16 at 1:00 p.m. Appearances are not required on 3/1/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 2/23/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Monthly operating reports ("MORs" dkt. 37, 54). Why are there no separate accounts for each rental property? Why are there no reported rental income? The debtor's supplemental declaration (dkt. 52) states that she is currently renting the California property for \$2,400, and her amended cash collateral motion (dkt. 50, p.7) states that she is renting the Texas property for \$1,850. Did she collect this income in December (within the postpetition period) and/or January?

(b) Amended cash collateral motion (dkt. 50). Grant, as set forth in calendar no. 12 (2/23/16 at 1:00 p.m.).

(c) Budget motion (dkt. 51). Grant, subject to the limitations on the use of cash collateral.

(d) United States Trustee compliance issues. Although the US Trustee's motion to dismiss (dkt. 55) is not on for hearing until 3/1/16, the issue of compliance with DIP requirements (including US Trustee requirements) is a proper subject to address at a status conference. The

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... **Laura Cristina Barragan**

**Chapter 11**

tentative ruling is to issue a continuing compliance order as requested in the alternative prayer in the US Trustee's reply (dkt. 68) to the debtor's opposition (dkt. 67).

(2) Deadlines/dates. This case was filed on 12/21/15.

(a) Bar date: 5/30/16 (DO NOT SERVE notice yet - *court will prepare an order after the status conference*).

(b) Plan/Disclosure Statement\*: file by 6/7/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time). This Court is aware that the debtor has requested a much later deadline (dkt. 25, p.4) but this court is not aware of any reason why so much time is needed. The debtor should be negotiating with secured creditors and other key constituencies already.

(c) Continued status conference: 3/1/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 1/19/16:**

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Prior failed case. The debtor's prior case (no. 2:15-bk-22209-NB) was a chapter 13 case that was dismissed because the debtor failed to make postpetition payments under the proposed chapter 13 plan.

(b) Current problems. The debtor has rental properties in both California and Texas, and secured creditors for each, according to her bankruptcy Schedule D (dkt.1), but her cash collateral motion (dkt. 20) only addresses the California property and includes an unrealistic budget (e.g., \$-0- for maintenance and other typically essential items). Her budget motion

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... **Laura Cristina Barragan**

**Chapter 11**

(dkt. 24, Ex.A) lists both properties, but again includes apparently unrealistic budgets (e.g., \$-0- for maintenance on the California property, no utilities on the Texas property, and no advertising or other usual expenses for either property). Her status report (dkt. 25, p.2) only addresses one property (the California property?) and it asserts (dkt. 25, p.5) as does her bankruptcy Schedule G (dkt.1) that the debtor has no unexpired leases (not even month-to-month leases?). In sum, the debtor's papers appear to be inconsistent and unreliable.

In addition, as described in the tentative ruling on the debtor's motion to continue the automatic stay (calendar no. 5.1, 1/19/16 at 1:00 p.m.), the debtor's budget appears to be worse, not better, than in her prior, failed chapter 13 case. How can the debtor propose a feasible reorganization in this case when her finances appear to have worsened?

In addition, based on the cash collateral motion and the budget motion, it appears that the California property, at least, may be losing money on a monthly basis. Why should the debtor not abandon that property?

More generally, why is this case in chapter 11 instead of chapter 13? It appears that the debtor is within the debt limits for chapter 13, and chapter 11 typically is far more expensive, so it seems doubtful that the debtor needs or can afford a chapter 11 case.

(2) Deadlines/dates. This case was filed on 12/21/15. If this court decides not to dismiss or convert this case to another chapter, the debtor should be prepared to discuss relevant dates and deadlines, including a proposed claims bar date, a deadline for the filing of a chapter 11 plan and disclosure statement and a continued status conference date and time.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

**Debtor(s):**

Laura Cristina Barragan

Represented By  
Onyinye N Anyama

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

1:00 PM

**2:15-29156 Laura Cristina Barragan**

**Chapter 11**

**#7.00** Order to show cause re: Sanctions

Docket 152

**Tentative Ruling:**

Appearances required by counsel for the debtor only. There is no tentative ruling, but counsel for the debtor should be prepared to address the issues raised by this court in its order to show cause (dkt. 152).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

**Debtor(s):**

Laura Cristina Barragan

Represented By  
Onyinye N Anyama

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

2:16-19232 Ronald Carvalho Leao

Chapter 11

#8.00 Cont'd status conference re: Chapter 11 case  
fr. 8/9/16, 9/6/16, 10/11/16, 11/8/16

Docket 7

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

Chapter 11 Plan and Disclosure Statement (dkt. 81, 82). This court will review various issues with these documents orally at the hearing.

(2) Deadlines/dates. This case was filed on 7/12/16.

(a) Bar date: 10/28/16 (timely served, dkt. 32)

(b) Plan/Disclosure Statement: Deadline of 12/27/16 to file (but NOT serve) an amended draft plan and disclosure statement.

(c) Continued status conference: 1/17/17 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 11/8/16:**

Continue as set forth below. Appearances are not required on 11/8/16.

(1) Current issues. This court has no issues that it chooses to raise *sua sponte* at this time.

(2) Deadlines/dates. This case was filed on 7/12/16.

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Ronald Carvalho Leao**

**Chapter 11**

(a) Bar date: 10/28/16 (timely served, dkt. 32).

(b) Plan/Disclosure Statement\*: file by 11/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 12/13/16 at 1:00 p.m. No written status report is required.

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

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 10/11/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Budget motion. At the 9/6/16 status conference, this court raised concerns regarding the debtor's excessive communications expenses (see 9/6/16 tentative ruling, reproduced below). The docket does not reflect any amended budget. What remedy should this court impose?

(b) Cash collateral motion. This court's tentative ruling is to approve the cash collateral motion on a final basis, on the same conditions established for interim use of cash collateral (dkt. 54).

(2) Deadlines/dates. This case was filed on 7/12/16.

(a) Bar date: 10/28/16 (timely served, dkt. 32).

(b) Plan/Disclosure Statement\*: file by 11/29/16 using the forms

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Ronald Carvalho Leao**

**Chapter 11**

required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 11/8/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 9/6/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Budget motion. The debtor's expenses set forth in his proposed budget (dkt. 18, PDF p. 8) for his home phone (\$250) and his cell phone (\$320) seem unusually high, particularly for a family with no disclosed dependents. Even assuming that these costs include internet service, this court is concerned that the debtor is paying too much for these services. Why are the debtor's communications costs so high?

(b) Unauthorized payment of prepetition debt? The debtor's opposition (dkt. 48, p.3:1-5) to the UST's motion to dismiss (dkt. 38) appears to state that the debtor paid his bank prepetition debts (overdrafts). If so, what remedy should this court impose for that unauthorized payment of one creditor ahead of others?

(c) UST compliance? Is the debtor current on quarterly UST fees? Have other compliance issues been adequately addressed?

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... Ronald Carvalho Leao

Chapter 11

- (2) Deadlines/dates. This case was filed on 7/12/16.
- (a) Bar date: 10/28/16 (timely served, dkt. 32).
  - (b) Plan/Disclosure Statement\*: file by 11/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).
- Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).
- (c) Continued status conference: 9/13/16 at 1:00 p.m. No written status report is required.
- \*Warning: special procedures apply (see order setting initial status conference).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 8/9/16:**

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues

- (a) Cash collateral. The Bankruptcy Code prohibits the use of cash collateral without court approval (or consent of the secured creditor, but typically that creditor will not consent without provisions that require court approval). See 11 U.S.C. 363(c). Debtors generally must use cash collateral very soon, for everything from paying utilities to adequate protection payments. For that reason, Judge Bason's posted procedures provide automatically shortened time. Why did counsel for the debtor self-calendar the motion (dkt. 17) for 9/6/16 when this case was filed on 7/12/16? Is the debtor violating the Bankruptcy Code?
- (b) Lease of Theresa Street Property. In his Schedule G, the debtor

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Ronald Carvalho Leao**

**Chapter 11**

attests that the lessee for the Theresa Street property is under a one year lease. See dkt. 1, PDF p. 36. In the case status report, the debtor claims the lease is month to month. See dkt. 20, PDF p. 5. Which is it?

(2) Deadlines/dates. This case was filed on 7/12/16.

(a) Bar date: 10/28/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement\*: file by 11/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 9/6/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Party Information**

**Debtor(s):**

Ronald Carvalho Leao

Represented By  
Onyinye N Anyama

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

2:14-16286 Suzanne De Passe

Chapter 11

#9.00 Cont'd status conference re: Chapter 11 case  
fr. 5/6/14, 6/24/14, 8/19/14, 10/28/14, 02/17/15,  
3/3/15, 4/28/15, 6/16/15, 7/21/15, 07/28/15,  
10/6/15, 11/17/15, 1/19/16, 4/5/16, 7/19/16,  
9/27/16, 11/29/16

Docket 4

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Appearances required by counsel for the debtor, but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Dismissal. For the reasons set forth below, this court's tentative ruling is to dismiss this case with a 180-day bar to the debtor being a debtor in bankruptcy, pursuant to 11 U.S.C. 109(g)(1).

This case has been pending since 4/8/14. For the reasons set forth in the tentative ruling for the 9/27/16 status conference (reproduced below), this court was prepared to dismiss this case at that status conference. However, the debtor reached an agreement with the U.S. Trustee to resolve the Trustee's motion to dismiss (dkt. 217, 220), as well as with her senior secured lender (dkt. 225 (amended), dkt. 235). Those stipulations provided a deadline for the debtor to file her amended plan and disclosure statement (12/1/16), and a deadline for confirmation (2/2/17). In light of these agreements, this court was persuaded to give the debtor a chance to propose an amended plan and disclosure statement.

This court has reviewed the amended plan and disclosure statement filed by the debtor on 11/28/16 (dkt. 243, 244). The debtor has proposed, among other things, to: cure the arrears owed her secured creditors over the course of six years; require other secured creditors to go without any payment until the end of six years, asking them instead to wait until the 72nd month for a massive balloon payment that may never come; pay her unsecured creditors on only a quarterly basis, also over the course of six years; keep

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Suzanne De Passe**

**Chapter 11**

approximately \$20,000/month in "carryover cash reserve" for herself (see dkt. 243, Ex. C-2); and all of this based on income the bulk of which remains entirely speculative. The debtor's proposed plan and disclosure statement, which propose a financial windfall to the debtor while many of her creditors continue to go unpaid, are antithetical to this court's prior admonishments regarding the debtor's apparent abuse of the bankruptcy system for her own benefit.

This court's tentative ruling to dismiss with a 180-day bar is consistent with the debtor's signed agreement with the U.S. Trustee. Because the agreement with the U.S. Trustee further required the debtor to pay her unsecured creditors in full in the event of dismissal (without taking into account approximately \$1.5 million in unsecured loans from Vintage LLC), the debtor's counsel should be prepared to address whether the debtor has sufficient funds to pay all of her general unsecured creditors in full.

(2) Deadlines/dates. This case was filed on 4/8/14. No further deadlines/dates have been set in light of the anticipated dismissal of this case.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 11/29/16:**

Continue to 12/13/16 at 1:00 p.m. (1) for the reasons stated in the debtor's status report (dkt. 241), (2) in view of the resolution of the motion to dismiss or convert this case (see dkt. 220), and (3) to provide this court with an initial opportunity to review the debtor's amended plan and disclosure statement, due 12/1/16 pursuant to the APO with JPMC Specialty Mortgage LLC (dkt. 235, PDF p. 5). Appearances are not required on 11/29/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Revised Tentative Ruling for 9/27/16:**

Appearances required by counsel for the debtor, but telephonic appearances

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... Suzanne De Passe

Chapter 11

are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues: U.S. Trustee's Motion to Dismiss or Convert

This court has reviewed the U.S. Trustee's motion to dismiss or convert (dkt. 203), the "joinder" of JPMC Specialty Mortgage, LLC ("JPMC") to that motion (dkt. 213), and the debtor's opposition (dkt. 212). This court has also reviewed the debtor's July and August monthly operating reports (dkt. 211 and 216, respectively) and the records and filed documents in this case. For the following reasons, this court's tentative ruling is to dismiss this case.

(a) Cause under 11 U.S.C. 1112(b)(4)(A)

Cause exists to dismiss or convert a chapter 11 case where there is "substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation." On the one hand, there have been both substantial and continuing losses or diminutions, and the very long time without meaningful income suggests an absence of a "reasonable" likelihood of rehabilitation.

On the other hand, it has never been disputed that there are relatively few creditors, and the secured debt is protected by a very substantial equity cushion. That has been the basis for very substantial leeway given to the debtor; but on balance the tentative ruling is that dismissal is appropriate.

This case has been pending since 4/8/14. In June of 2015, the debtor sold her condominium, generating approximately \$270,000 in proceeds. See June 2015 MOR, dkt. 163. However, since August 2015 (see August 2015 MOR, dkt. 171), the debtor has reported less than \$10,000 in receipts. Her most recent MOR for August 2016 reports a balance of just \$6,391.98 remaining, demonstrating that the debtor has almost completely depleted the estate of the \$270,000 in proceeds from the sale of her condominium for her own personal use. Meanwhile the debtor has amassed over \$500,000 in arrears on the senior lien on her real property (see dkt. 213, PDF p. 10:19-20).

The debtor's opposition (dkt. 212, p. 9) includes assertions about anticipated income. But the tentative ruling is that this is too little too late.

(b) Other "cause" for dismissal: failure to sell residence

When the debtor was unable to propose a viable plan this court granted additional time to pursue the sale of her property as a "plan B" but

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Suzanne De Passe**

**Chapter 11**

the debtor appears to have been treating this as just another opportunity for delay. The debtor has allegedly been marketing her real property for sale for months, yet reports not a single "serious" offer. In this thriving real estate market, that is simply not a colorable excuse.

Now she appears to assert, based upon an alleged consultation with her accountant, that the sale of the property might generate capital gains taxes that exceed the net proceeds. If that were so, she should have raised that issue when the issue of selling her property first arose, not now. All this appears to show is that she has gained additional time with the ruse of purporting to sell her house when that was never realistic (if she is to be believed).

(c) Other "cause" for dismissal: unauthorized acts

The debtor has also demonstrated an apparent disregard for the court and the bankruptcy process on at least two occasions: (A) when she entered into a lease of real property without court authorization, and then having committed to it sought authority to spend \$62,000 to meet her commitment (see dkt. 145) and (B) when she recently used estate funds to pay the debts of her business in order to maintain the "perception" of success (see dkt. 211, PDF p. 4). The tentative ruling is that her repeated failure to adhere to the responsibilities of a debtor in possession also warrants dismissal.

(d) Additional grounds to dismiss/convert. As for the debtor's late MORs, this court is not persuaded that this alone is adequate grounds for dismissal or conversion, but it does reinforce the foregoing tentative rulings about not living up to her obligations as a debtor in possession. In addition, the U.S. Trustee should be prepared to address the debtor's allegations regarding the status of quarterly payments (dkt. 212, p. 7, para. 3-4).

(2) Deadlines/dates. This case was filed on 4/8/14. It does not appear appropriate to extend the deadlines for filing any plan and disclosure statement or selling the house. As stated above, the tentative ruling is to dismiss this case.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 9/27/16:**

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... Suzanne De Passe

Chapter 11

This court anticipates posting a tentative ruling at a later time.

**Tentative Ruling for 7/19/16:**

Continue to 9/27/16 at 1:00 p.m. Appearances are not required on 7/19/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 4/5/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

This Court has reviewed the status report (dkt. 193). There is no tentative ruling, but the parties should be prepared to address an extended deadline to file a motion for a refinance, a sale motion, or a proposed plan that provides for an eventual sale as suggested in the status report.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 1/19/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Status updates. What is the status of (i) the debtor's loan modification on her principal residence and (ii) any other relevant issues in this case?

(b) Receipts. The debtor's October and November MORs appear to reflect that the debtor is continuing to receive no monthly income. Is that accurate? How long does the debtor anticipate she will be without income? How does the debtor intend to fund her plan without regular monthly income?

(c) Disbursements. Despite having reported no income from August

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Suzanne De Passe**

**Chapter 11**

through November 2015 (see dkt. 171; 174-75; 177), it appears the debtor has not decreased her monthly expenses, and continues to spend significant amounts on dining (in particular, this court notes expenditures in excess of \$400 at a single restaurant on 11/27/15, see dkt. 177, PDF pp. 3-4), personal care (one visit in excess of \$400 on 10/16/15, see dkt. 175, PDF p. 3), storage (nearly \$2,100/mo. in November alone, see dkt. 177, PDF p. 2) and automobile-related expenses. This court notes that the debtor's general account balance has dropped from approximately \$185,000 in August 2015 to approximately \$120,000 in November 2015.

While the debtor has designated many of her reported costs as "reimbursable," unless and until the debtor's company once again generates income, it is the debtor's creditors who bear the cost of supporting the debtor's lifestyle. The debtor must be prepared to address the status of her company's earnings, and why this court should not appoint a chapter 11 trustee, convert this case to chapter 7, or dismiss this case.

(2) Deadlines/dates. This case was filed on 4/8/14.

(a) Bar date: 8/11/14 (order timely served on 6/7/14 per dkt. 56).

(b) Amended Plan/Disclosure Statement: 1/14/16. The court will set deadlines and procedures at a later time.\*

(c) Continued status conference: if this case is not converted or dismissed, 2/23/16 at 1:00 p.m., *brief* status report due 2/16/16.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 11/17/15:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Status updates. What is the status of (i) the debtor's loan modification on her principal residence and (ii) any other relevant issues in this case?

(b) Receipts. The debtor's September MOR appears to reflect that the

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Suzanne De Passe**

**Chapter 11**

debtor received no income in the month of September. Is that accurate?  
How long does the debtor anticipate she will be without income?

(c) Amended Plan and Disclosure Statement. This case has been pending since April 2014. This court cannot continue to allow the debtor to remain in bankruptcy without demonstrated progress toward reorganization. The debtor should be prepared to discuss deadlines for the filing of an amended chapter 11 plan and disclosure statement.

(2) Deadlines/dates. This case was filed on 4/8/14.

(a) Bar date: 8/11/14 (order timely served on 6/7/14 per dkt. 56).

(b) Amended Plan/Disclosure Statement: no deadline yet. The court will set deadlines and procedures at a later time.\*

(c) Continued status conference: 1/19/16 at 1:00 p.m. No written status report is required.

\*Warning: special procedures apply. See *Judge Bason's Procedures* (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov) "Judges," "Bason, N.," "Instructions/Procedures," "Procedures").

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 10/6/15:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.," "Instructions/Procedures").

(1) Current issues.

(a) Status updates. What is the status of (i) the debtor's loan modification on her principal residence, (ii) the negotiations with the major studio with which she previously was under contract, and (iii) any other relevant issues in this case?

(b) Debit card expenditures. The debtor's May MOR (dkt. 147) and June MOR (dkt. 163) showed debit card expenses of \$375.12 and \$465.48, respectively. After the debtor received the proceeds from the sale of the Alta Loma property, the debtor's July MOR showed debit card expenses of \$1,525.69 (dkt. 170, p. 3), increasing to \$4,028.06 in August (dkt. 171, p. 4).

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Suzanne De Passe**

**Chapter 11**

What are the reasons behind these dramatic increases in the debtor's monthly expenses? Was the debtor underreporting her actual expenses in prior MORs?

(c) Vehicle lease. In her Schedule B, the debtor lists one automobile, a 2012 BMW described as a "de Passe Jones, LLC company vehicle" with a \$0 value for the estate. Dkt. 20, PDF p. 7. However, in her August MOR, the debtor lists a \$2,361.62 payment to BMW from her general DIP account for a "vehicle lease." Dkt. 171, p. 2. Has the debtor leased a new vehicle without first seeking court authority? If not, why is the debtor paying for a "company vehicle" with funds from her DIP account?

(2) Deadlines/dates. This case was filed on 4/8/14.

(a) Bar date: 8/11/14 (order timely served on 6/7/14 per dkt. 56).

(b) Amended Plan/Disclosure Statement: no deadline yet. The court will set deadlines and procedures at a later time.\*

(c) Continued status conference: 11/17/15 at 1:00 p.m. No written status report is required.

\*Warning: special procedures apply. See *Judge Bason's Procedures* (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov) "Judges," "Bason, N.," "Instructions/Procedures," "Procedures").

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 7/28/15:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.," "Instructions/Procedures").

(1) Current issues.

(a) Status updates. What is the status of (i) the debtor's loan modification on her principal residence, (ii) the negotiations with the Internal Revenue Service, (iii) reconveyance of the Vintage, LLC cross-collateralized liens, and (iv) any other relevant issues in this case?

(b) Chapter 11 Plan (dkt. 124) and Disclosure Statement (dkt. 123). The debtor's counsel should be prepared to address a proposed filing

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... Suzanne De Passe

Chapter 11

deadline for a revised plan and disclosure statement.

(2) Deadlines/dates. This case was filed on 4/8/14.

(a) Bar date: 8/11/14 (order timely served on 6/7/14 per dkt. 56).

(b) Amended Plan/Disclosure Statement: no deadline yet. The court will set deadlines and procedures at a later time.\*

(c) Continued status conference: 10/6/15 at 1:00 p.m. No written status report is required.

\*Warning: special procedures apply. See *Judge Bason's Procedures* (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov) "Judges," "Bason, N.," "Instructions/Procedures," "Procedures").

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 7/21/15:**

Continue to 7/28/15 at 1:00 p.m. to be heard concurrently with the fee applications filed by the debtor's professionals. Appearances are not required on 7/21/15.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.," "Instructions/Procedures," "Procedures;" see the section labeled "Tentative rulings").

**Tentative Ruling for 6/16/15:**

Continue to 7/21/15 at 11:00 a.m. to allow the debtor additional time to finalize the sale of the Alta Loma property, further loan modification discussions and continue negotiations with the Internal Revenue Service. Appearances are not required on 6/16/15.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.," "Instructions/Procedures," "Procedures;" see the section labeled "Tentative rulings").

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... Suzanne De Passe

Chapter 11

**Tentative Ruling for 4/28/15:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Status updates. What is the status of (i) the debtor's loan modification on her principal residence, (ii) the sale of the Alta Loma property, (iii) reconveyance of the Vintage, LLC cross-collateralized liens, and (iv) any other relevant issues in this case?

(b) Income vs. Expenses. It appears, based upon the debtor's monthly operating reports, that the debtor's monthly expenses are exceeding her monthly income. The court realizes that this may be due to an accounting error for February 2015 (dkt. 129, p. 2, fn.1), but the debtor should be prepared to address the status of her anticipated income-producing projects.

(c) Chapter 11 Plan (dkt. 124) and Disclosure Statement (dkt. 123). The tentative ruling is to defer any revisions to the plan documents until after resolution of the issues noted in item "(1)(a)" above. The debtor's counsel should be prepared to address a proposed filing deadline for a revised plan and disclosure statement.

This court notes that creditor Wells Fargo Bank has filed certain objections (dkt. 127-128) to confirmation of the debtor's proposed chapter 11 plan of reorganization. This court having granted the debtor an opportunity to revise her plan and disclosure statement at the prior case status conference (see this court's 3/3/15 tentative ruling, reproduced in full, below), this court will not address Wells Fargo's objections to confirmation at this time.

(2) Deadlines/dates. This case was filed on 4/8/14.

(a) Bar date: 8/11/14 (order timely served on 6/7/14 per dkt. 56).

(b) Amended Plan/Disclosure Statement: no deadline yet. The court will set deadlines and procedures at a later time.\*

(c) Continued status conference: 6/16/15 at 11:00 a.m. No written status report is required.

\*Warning: special procedures apply. See *Judge Bason's Procedures* (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov) "Judges," "Bason, N.," "Instructions/Procedures," "Procedures").

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... Suzanne De Passe

Chapter 11

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Revised Tentative Ruling for 3/3/15:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Status updates. What is the status of (i) the debtor's loan modification on her principal residence, (ii) the sale of the Alta Loma property, (iii) reconveyance of the Vintage, LLC cross-collateralized liens, and (iv) any other relevant issues in this case?

(b) Chapter 11 Plan (dkt. 124) and Disclosure Statement (dkt. 123).

The tentative ruling is to defer any revisions to the plan documents until after resolution of the issues noted in item "(1)(a)" above. Meanwhile, however, this court notes the following:

(i) Accountant compensation. Exhibits A and G do not include the \$10,000 to be paid to the debtor's accountant on the Effective Date (see dkt. 124, p. 15).

(ii) Plan budget/payments. Exhibit A-3 to the Plan purports to be the debtor's proposed budget for the plan term. However, certain expenses appear to be missing, including but not limited to real property insurance, real property taxes and HOA dues.

(iii) Executory contracts. Exhibit B lists a single executory contract with West Grand Media. In Exhibit C-1, the debtor describes various ongoing/upcoming projects, at least one of which appears to involve current contractual obligations which are not listed in Exhibit B. See Exhibit C-1, Category 3, Table 2.c.

(iv) Feasibility. Exhibit C projects that between months 11 through 30, the debtor's net monthly income will total (\$11,686) (dkt. 123, p. 8). Perhaps these projections are an attempt to deal with the uncertainty of projections years into the future, and perhaps (combined with the contemplated sale of the principal residence at the end of the Plan term) they are intended to show that even a "worst case" scenario will result in a 100% dividend. The feasibility of this approach appears to depend on the debtor's

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Suzanne De Passe**

**Chapter 11**

ability to absorb losses based on very considerable revenues from various pending projects. Confirmation of the Plan may require testimony or other evidence regarding the feasibility of this approach.

(v) Unsecured claims. Exhibit F appears to be inconsistent with the debtor's amended Schedule F (dkt. 100) and filed proofs of claim, as follows:

(A) Exxon Mobil. This claim is listed on amended Schedule F (dkt. 100, p. 3), but omitted from Exhibit F.

(B) Employment Development Department. Proof of claim 6-1 asserts a general unsecured claim in the amount of \$643.03, which amount is omitted from Exhibit F.

(C) Vintage LLC. Amended Schedule F includes two Vintage LLC loans which are omitted from Exhibit F: 4/1999 in the amount of \$200,000, and 5/13/1999 in the amount of \$300,000 (dkt. 100, p. 4). Additionally, the 7/30/1999 loan is scheduled in the amount of \$100,000 (dkt. 100, p.5) but is listed on Exhibit F in the amount of \$200,000.

(vi) Liquidation analysis. The debtor's liquidation analysis utilizes figures from the debtor's initial Schedules A and B (dkt. 20), not her amended Schedules A and B (dkt. 122). Additionally, Exhibit G must be revised to include the corrected figure from Exhibit F (see above).

(2) Deadlines/dates. This case was filed on 4/8/14.

(a) Bar date: 8/11/14 (order timely served on 6/7/14 per dkt. 56).

(b) Amended Plan/Disclosure Statement: no deadline yet. The court will set deadlines and procedures at a later time.\*

(c) Continued status conference: 4/28/15 at 11:00 a.m. No written status report is required.

\*Warning: special procedures apply. See *Judge Bason's Procedures* (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov) "Judges," "Bason, N.," "Instructions/Procedures," "Procedures").

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 3/3/15:**

This court will post a tentative ruling at a later time.

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... Suzanne De Passe

Chapter 11

**Tentative Ruling for 2/17/15:**

Continue to 3/3/15 at 11:00 a.m. to allow this court and the Office of the U.S. Trustee additional time to review the debtor's late-filed chapter 11 plan and disclosure statement. Appearances are not required on 2/17/15.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.," "Instructions/Procedures," "Procedures;" see the section labeled "Tentative rulings").

**Tentative Ruling for 10/28/14:**

Appearances required by counsel for the debtor but any appearances may be via telephone if advance arrangements are made in accordance with Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.," "Instructions/Procedures," "Procedures;" see the section labeled "Telephonic Appearances").

(1) Current issues.

(a) The debtor's counsel should be prepared to provide a brief oral update of any relevant issues.

(2) Deadlines/dates. This case was filed on 4/8/14.

(a) Bar date: 8/11/14 (order timely served on 6/7/14 per dkt. 56).

(b) Plan/Disclosure Statement: file by 12/1/2014 **using the latest forms required by Judge Bason** (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).\*

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan or Disclosure Statement *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 12/30/14 at 11:00 a.m. No written status report is required.

\*Warning: special procedures apply. See *Judge Bason's Procedures*

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Suzanne De Passe**

**Chapter 11**

(posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov) "Judges," "Bason, N.," "Instructions/Procedures," "Procedures").

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 8/19/14:**

Appearances required by counsel for the debtor but any appearances may be via telephone if advance arrangements are made in accordance with Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.," "Instructions/Procedures," "Procedures;" see the section labeled "Telephonic Appearances").

(1) Current issues.

(a) Plan and Disclosure Statement Deadline. At the prior status conference held on 6/24/14, this court set a deadline of 9/1/14 for the filing of the debtor's chapter 11 plan and disclosure statement. In light of the debtor's motion to extend the exclusivity period to 10/1/14 (dkt. 83), the tentative ruling is to grant a concomitant extension of the deadline to file the plan and disclosure statement.

(b) The debtor's counsel should be prepared to provide a brief oral update of any additional relevant issues.

(2) Deadlines/dates. This case was filed on 4/8/14.

(a) Bar date: 8/11/14 (order timely served on 6/7/14 per dkt. 56).

(b) Plan/Disclosure Statement: file by 10/1/2014 **using the latest forms required by Judge Bason** (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).\*

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan or Disclosure Statement *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 10/28/14 at 11:00 a.m. No written

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Suzanne De Passe**

**Chapter 11**

status report is required.

*\*Warning: special procedures apply. See Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov) "Judges," "Bason, N.," "Instructions/Procedures," "Procedures").*

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 6/24/14:**

Appearances required by counsel for the debtor but any appearances may be via telephone if advance arrangements are made in accordance with Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.," "Instructions/Procedures," "Procedures;" see the section labeled "Telephonic Appearances").

(1) Current issues.

The debtor should be prepared to provide a brief oral update of any relevant issues.

(2) Deadlines/dates. This case was filed on 4/8/14.

(a) Bar date: 8/11/14 (the amended order setting bar date was timely served on 6/7/14 per dkt. 56).

(b) Plan/Disclosure Statement: file by 9/1/2014 **using the latest forms required by Judge Bason** (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).\*

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan or Disclosure Statement *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 8/19/14 at 11:00 a.m. No written status report is required.

*\*Warning: special procedures apply. See Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov) "Judges," "Bason, N.,"*

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

Suzanne De Passe

Chapter 11

"Instructions/Procedures," "Procedures").

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 5/6/14:**

The parties should be prepared to address the matters noted below. If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

Appearances required by counsel for the debtor and by the debtor but any appearances may be via telephone if advance arrangements are made in accordance with Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.," Instructions/Procedures," "Procedures;" see the section labeled "Telephonic Appearances").

(1) Current issues.

(a) Real Property Sale. The debtor has expressed her intent to sell her real property located at 1100 Alta Loma Road (see dkt. 24). When does the debtor anticipate filing her application to employ a real estate broker and/or appraiser?

(b) Settlement. The status report (dkt. 24 p.15) anticipates some revenues from a settlement. Will the settlement require a notice and motion under Bankruptcy Rule 9019, or not?

(c) Plan forms. Judge Bason is in the process of revising his posted forms of plan and disclosure statement. The debtor will be required to use the revised forms.

(2) Deadlines/dates. This case was filed on 4/2/14.

(a) Bar date: 7/1/2014 (DO NOT SERVE notice yet - court will prepare an order after the status conference).\*

(b) Plan/Disclosure Statement: file by 8/1/2014 (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).\*

Note: If the U.S. Trustee wishes to file initial comments on any draft

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Suzanne De Passe**

**Chapter 11**

Plan or Disclosure Statement *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 6/24/14 at 11:00 a.m., no status report is required.

\*Warning: special procedures apply. See *Judge Bason's Procedures* (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov) "Judges," "Bason, N.," "Instructions/Procedures," "Procedures").

**Party Information**

**Debtor(s):**

Suzanne De Passe

Represented By  
Marcus G Tiggs

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

2:16-12012 Rescue One Ambulance

Chapter 11

#10.00 Cont'd status conference re: Chapter 11 case  
fr. 5/3/16, 7/19/16, 8/9/16, 9/6/16, 10/11/16,  
11/29/16

Docket 11

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues. The debtor's counsel should be prepared to provide a brief oral update of any relevant issues, and to suggest a deadline for filing a plan and disclosure statement.

(2) Deadlines/dates. This case was filed on 2/18/16.

(a) Bar date: 7/20/16 (timely served, dkt. 98).

(b) Plan/Disclosure Statement\*: to be set at the status conference

(c) Continued status conference: 2/7/17 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 11/29/16:**

Continue to 12/13/16 at 1:00 p.m. Appearances are not required on 11/29/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... Rescue One Ambulance

Chapter 11

**Tentative Ruling for 10/11/16:**

Continue as set forth below. Appearances are not required on 10/11/16.

(1) Current issues.

(a) Cash flow and finances generally. The debtor's latest monthly operating report ("MOR") (dkt. 207, for Aug. 2017) appears to be much more compliant with the format required for MORs and appears to show a (very thin) positive cash flow. Meanwhile, the debtor has entered into stipulations and a proposed settlement (e.g., dkt. 213, 215, 232, 233, 235, 237, 239) that might enable it to reach financial stability.

Given this financial situation, it appears appropriate not to incur the expense of an additional status conference at this time, and instead continue the status conference. It also appears appropriate to vacate the deadline to file a proposed plan and disclosure statement until there can be a longer postpetition track record.

(b) Auto insurance. The August MOR shows that the debtor's vehicle insurance was paid through 10/4/16. See August MOR, dkt. 166, PDF p. 19. This court presumes that the debtor will maintain continuous vehicle insurance, and any failure to do so would be a very serious concern at the continued status conference.

(2) Deadlines/dates. This case was filed on 2/18/16.

(a) Bar date: 7/20/16 (timely served, dkt. 98).

(b) Plan/Disclosure Statement\*: vacate any prior deadlines for the reasons set forth above.

(c) Continued status conference: 11/29/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 9/6/16:**

Appearances required by counsel for the debtor but telephonic appearances

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... **Rescue One Ambulance**

**Chapter 11**

are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Dismissal or conversion? The debtor's amended/new monthly operating reports ("MORs") (dkt. 180-186) are not in proper format (they are blank and/or show \$0 everywhere) and the attached financial statements appear to show ongoing and substantial losses (and the records filed in support of the May 2016 MOR appear to be incomplete). Is dismissal or conversion of this case appropriate?

(2) Deadlines/dates. Continue to 10/11/16 at 1:00 p.m. if this case is not dismissed or converted. No written status report is required.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 8/9/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Payroll and Tax Bank Accounts. Why does the debtor have negative ending balances in both its payroll (-\$683) and tax (-\$23.56) bank accounts, causing it to incur numerous charges for insufficient funds totaling over \$700? See June MOR, dkt. 166, PDF pp. 35, 37, 49.

(2) Deadlines/dates. This case was filed on 2/18/16.

(a) Bar date: 7/20/16 (timely served, dkt. 98).

(b) Plan/Disclosure Statement\*: file by 9/17/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at

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

Tuesday, December 13, 2016

Hearing Room 1545

---

1:00 PM

CONT...

**Rescue One Ambulance**

**Chapter 11**

least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 10/11/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 7/19/16:**

Continue to 8/9/16 at 1:00 p.m. Appearances are not required on 7/19/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 5/3/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Cash collateral motion (dkt. 13), and motion for relief from automatic stay (dkt. 28). This Court has issued orders approving stipulations with the IRS (dkt. 86, 88) and AFS/IBEX (dkt. 81, 82) and otherwise addressing the use of cash collateral and setoffs (dkt. 25, 33), and has authorized the payment of insurance premiums as adequate protection (dkt. 59, 67, 75), and the debtor's latest budget declaration (dkt. 85) now appears to provide for income taxes and professionals (accountant, attorneys, etc.), as well as other ordinary and necessary items that were previously omitted from the budget, all of which appears to resolve the debtor's motion for use of cash collateral (dkt. 13) and the IRS' motion for relief from the automatic stay (see dkt. 28, 56, 65, 68, 69, 70). To the extent that the debtor is using the cash

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... **Rescue One Ambulance**

**Chapter 11**

collateral of the EDD, or any other person who may assert an interest in the debtor's cash, notice appears to have been sufficient for present purposes and the existing orders appear to provide adequate protection of any such interests.

For all of these reasons, the tentative ruling is not to set any continued hearing on these motions, and instead any future extension of the authorization to use cash collateral can be made (i) on the existing terms, by lodging a proposed order containing the signature of the IRS' counsel approving it as to form or, alternatively, (ii) for any proposed changes in terms, pursuant to a further stipulation with the IRS (subject to approval by this Court) that need only be served (at least 7 days prior to the expiration of the latest period for authorized use of cash collateral) on the US Trustee and not any other parties in interest unless they request special notice.

(b) Rejection of lease? Has the debtor reached any agreement with the lessor of its prior premises regarding termination of the lease, or of the arrangement for month to month occupancy? Will the debtor be seeking to reject any lease (see Status Report, dkt. 50, item 7 at p. 6:13)?

(c) Application for Compensation (dkt. 91). The tentative ruling is to approve the fees as reduced by the stipulation with the United States Trustee (dkt. 115; see also dkt. 95, 96, 108, 113), in the amount of \$29,779.50.

(d) MORs. This Court has no issues to raise sua sponte with respect to the second monthly operating report (dkt. 107, "MOR"), but this Court notes that another MOR filed in this case (dkt. 111) actually pertains to a different case, so the debtor should file a notice of errata regarding the latter MOR.

(2) Deadlines/dates. This case was filed on 2/18/16.

(a) Bar date: 7/20/16 (timely served, dkt. 98).

(b) Plan/Disclosure Statement\*: file by 7/19/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT...

**Rescue One Ambulance**

**Chapter 11**

(c) Continued status conference: 7/19/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Revised Tentative Ruling for 3/22/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Budget (supplement at dkt. 42) The "Office Rent" line item states, "Debtor's relocation is necessary to avoid crowding issues and complaints by the City and the landlord" and a footnote states in part, "Current landlord will be increasing rent by 150% every month." The budget reflects an increase from \$2,100 for March to \$7,000 per month for this line item for April and later months.

Is such an increase truly necessary and appropriate for a debtor in bankruptcy? Has the debtor found a suitable location? Is the debtor asserting that any such change is anything other than a transaction out of the ordinary course (11 U.S.C. 363(b)) requiring notice and a hearing and the approval of this Court?

In addition, the budget does not appear to provide for income taxes or professionals (accountant, attorneys, etc.). Why not? Are there any other ordinary and necessary items that are omitted from the budget? If so, why?

(b) Status Report (dkt.50) Under item 12, the debtor asserts that it is not a "health care business" and therefore a health care ombudsman is not required. At the last status conference, however, counsel for the United States Trustee suggested that one probably is required. Why does the debtor disagree?

(c) Relief from Stay Motion (dkt. 28), cash collateral motion (dkt. 13),

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

Tuesday, December 13, 2016

Hearing Room 1545

---

1:00 PM

CONT... **Rescue One Ambulance**

**Chapter 11**

stipulation with IRS (dkt. 59), and proposed order (dkt. 60). The proposed stipulation would provide a replacement lien on all of the debtor's assets, which arguably could be read to include avoidance actions, any claims under 11 U.S.C. 506(c), and the like. The tentative ruling is not to include those things, and to limit the replacement lien such that it is no more than the priority and other characteristics of the existing lien (pursuant to Judge Bason's standard terms). In addition, to the extent that the stipulation changes the terms on which the debtor proposes to use cash collateral, and what the debtor will give up in return, have parties in interest been provided adequate notice and an opportunity for hearing pursuant to Rule 4001?

(d) Loan to fund payroll. Did Debtor enter into no-interest unsecured loan to make payroll, as contemplated at a prior hearing? Has this been documented?

(2) Deadlines/dates. This case was filed on 2/18/16.

(a) Bar date: 6/20/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement\*: file by 7/19/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 5/3/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

1:00 PM

**CONT... Rescue One Ambulance**

**Chapter 11**

**Tentative Ruling for 3/22/16:**

This court anticipates posting a tentative ruling at a later time.

**Party Information**

**Debtor(s):**

Rescue One Ambulance

Represented By  
Michael Jay Berger

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

1:00 PM

**2:16-13813 Susan Elizabeth Hernandez**

**Chapter 11**

**#11.00** Cont'd hrg re: Motion in Individual Ch 11 Case for Order Approving A Budget for Interim Use of The Debtor's cash and Postpetition Income  
fr. 5/31/16, 8/2/16, 9/27/16, 11/8/16

Docket 29

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Grant, as modified (see dkt. 81). Appearances are not required.

*Proposed order:* Movant is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

*Key documents reviewed (in addition to motion papers):* the declaration of Ausan Elizabeth Hernandez regarding her vehicle expenses, filed 11/17/16 (dkt. 81).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 11/8/16:**

See tentative ruling for chapter 11 status conference (11/8/16, 1:00 p.m., calendar no. 7).

**Tentative Ruling for 9/27/16:**

See tentative ruling for chapter 11 status conference (9/27/16, 1:00 p.m., calendar no. 7).

**Tentative Ruling for 8/2/16:**

See tentative ruling for chapter 11 status conference (8/2/16, 1:00 p.m., calendar no. 8).

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

1:00 PM

**CONT... Susan Elizabeth Hernandez**

**Chapter 11**

**Tentative Ruling for 5/31/16:**

See tentative ruling for chapter 11 status conference (5/31/16, 1:00 p.m.,  
calendar no. 12).

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

**Debtor(s):**

Susan Elizabeth Hernandez

Represented By  
Onyinye N Anyama

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

2:16-19500 Richard Todd Hicks and Edith Armstrong Hicks

Chapter 11

#12.00 Cont'd status conference re: Chapter 11 case  
fr. 9/6/16, 10/25/16, 11/1/16

Docket 9

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Continue as set forth below. Appearances are not required on 12/13/16.

(1) Current issues.

(a) Budget motion. The budget motion is approved on a final basis on the same conditions set forth in this court's interim order (dkt. 49). The debtor's counsel is directed to serve and lodge a proposed order via LOU within 7 days after the hearing date.

(b) Finances generally. The debtors' latest monthly operating report ("MOR") (dkt. 48, for October 2016) shows expenditures which appear to be much more in line with the debtors' budget than their prior MORs.

Given this financial situation, it appears appropriate not to incur the expense of an additional status conference at this time, and instead continue the status conference.

(2) Deadlines/dates. This case was filed on 7/18/16.

(a) Bar date: 11/1/16 (served 9/2/16, dkt. 30).

(b) Plan/Disclosure Statement\*: file by 1/10/17 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 1/31/17 at 1:00 p.m. No written status report is required.

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

1:00 PM

CONT...

**Richard Todd Hicks and Edith Armstrong Hicks**

**Chapter 11**

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 11/1/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

Budget issues. The August and September monthly operating reports (dkt. 34 and 42, respectively) show that the debtors' monthly expenses are exceeding their monthly income: in August, the ending balance on the debtors' general account dropped from approximately \$10,400 to approximately \$6,800; in September, the account balance increased from approximately \$6,800 to \$8,000, but only because the debtors pulled \$3,000 out of savings to supplement their income. Additionally, the debtors' MORs continue to reflect high expenditures for travel, dining out and entertainment. How can this court approve the debtors' proposed amended budget (dkt. 38) when it appears the debtors are unable or unwilling stick to it?

(2) Deadlines/dates. This case was filed on 7/18/16.

(a) Bar date: 11/1/16 (served 9/2/16, dkt. 30).

(b) Plan/Disclosure Statement\*: file by 11/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/13/16 at 1:00 p.m. No status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... **Richard Todd Hicks and Edith Armstrong Hicks**  
disposition at this hearing.

Chapter 11

**Tentative Ruling for 9/6/16:**

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Application to employ general bankruptcy counsel. Why have proposed counsel not self-calendared a hearing on their employment application (dkt. 12) in response to the objection of the United States Trustee ("UST," dkt. 19)? As noted by the UST, that is the procedure required by LBR 9013-1(o).

(b) Debtors' undisclosed credit card debt. The debtors list five credit card accounts in their Schedule E/F, but claim to "not have" the amounts owed on those accounts, despite using them recently. See dkt. 1, PDF pp. 28-34. What efforts are the debtors taking to ascertain those amounts? What deadline should this court set for the debtors to file an amended Schedule E/F?

(c) Budget motion. The debtors' monthly expenses appear overstated: \$1,200 for utilities; \$425 for clothing; and \$1,600 for food (for a family of four, or three given that their eldest daughter appears to be attending college in Atlanta and no longer resides at home). In addition, the debtors appear to have omitted any expenses for real estate taxes and insurance (as distinguished from medical insurance), although perhaps those are included in their mortgage payments.

(d) July MOR. Why does the July Monthly Operating Report ("MOR") (dkt. 21) start with 7/25/16, omitting the first week of the debtor's bankruptcy case (filed on 7/18/16)?

(2) Deadlines/dates. This case was filed on 7/18/16.

(a) Bar date: 11/1/16 (due to be served 9/2/16, per dkt. 26).

(b) Plan/Disclosure Statement\*: file by 11/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 10/25/16 at 1:00 p.m. No status report is required.

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

1:00 PM

**CONT...**

**Richard Todd Hicks and Edith Armstrong Hicks**

**Chapter 11**

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

**Debtor(s):**

Richard Todd Hicks

Represented By  
Michael Jones

**Joint Debtor(s):**

Edith Armstrong Hicks

Represented By  
Michael Jones

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

1:00 PM

**2:16-19500 Richard Todd Hicks and Edith Armstrong Hicks**

**Chapter 11**

**#13.00** Cont'd hrg re: Motion in Individual Ch 11 Case for Order Approving a Budget for the Use of Debtor's Cash and Post-Petition Income fr. 10/25/16, 11/1/16

Docket 22

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Please see the tentative ruling for the Status Conference (calendar no. 12, 12/13/16 at 1:00 p.m.).

**Tentative Ruling for 11/1/16:**

Please see the tentative ruling for the Status Conference (calendar no. 8, 11/1/16 at 1:00 p.m.).

**Party Information**

**Debtor(s):**

Richard Todd Hicks

Represented By  
Michael Jones  
Sara Tidd

**Joint Debtor(s):**

Edith Armstrong Hicks

Represented By  
Michael Jones  
Sara Tidd

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

1:00 PM

**2:16-18455 Jose Luis Nunez Claver**

**Chapter 11**

**#14.00** Cont'd hrg re: Motion in Individual Ch 11 Case for Order approving a budget for the use of the debtor's cash and postpetition income fr. 9/6/16, 11/1/16

Docket 21

**Tentative Ruling:**

**Tentative ruling for 12/13/16 (same as for 9/6/16 and 11/1/16):**

Please see the tentative ruling for the status conference (calendar no. 16, 12/13/16 at 1:00 p.m.).

**Party Information**

**Debtor(s):**

Jose Luis Nunez Claver

Represented By  
Onyinye N Anyama

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

1:00 PM

**2:16-18455 Jose Luis Nunez Claver**

**Chapter 11**

**#15.00** Cont'd hrg re: Motion for order  
determining value of collateral  
fr. 11/1/16

Docket 50

**\*\*\* VACATED \*\*\* REASON: Order approving Stipulation entered on  
11/10/16 (dkt. 69)**

**Tentative Ruling:**

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

**Debtor(s):**

Jose Luis Nunez Claver

Represented By  
Onyinye N Anyama

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

2:16-18455 Jose Luis Nunez Claver

Chapter 11

#16.00 Cont'd status conference re: Chapter 11 case  
fr. 8/9/16, 9/6/16, 11/1/16

Docket 10

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Chapter 11 Plan and Disclosure Statement (dkt. 72, 73). This court will review various issues with these documents orally at the hearing.

(b) Budget motion (dkt. 21). The debtor's most recent monthly operating report (MOR, dkt. 71) shows very high expenses for the month of October, including high cash expenditures for "house repair" (\$500) and "household expenses" (\$600), in addition to other expenses made for "home maintenance" not with cash. The total expenditures reported for the month were approximately \$3,350, whereas, as this Court noted during the previous hearing on this matter, his proposed budget allows for approximately \$2,700 per month (dkt. 21, p. 8). The debtor should be prepared to address this ongoing issue.

(2) Deadlines/dates. This case was filed on 6/24/16.

(a) Bar date: 10/28/2016 (timely served, dkt. 34).

(b) Plan/Disclosure Statement (dkt. 73, 72): this court will address possible deadlines and procedures at the status conference.

(c) Continued status conference: 1/31/17 at 1:00 p.m., No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent,

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

Tuesday, December 13, 2016

Hearing Room 1545

---

1:00 PM

CONT... Jose Luis Nunez Claver

Chapter 11

then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 11/1/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Cash collateral motion (dkt. 20). Grant on a final basis, on the same terms as the interim ordre (dkt. 41).

(b) Budget motion (dkt. 21). The debtor's most recent monthly operating report (MOR, dkt. 55) reflects high expenditures for home repair and maintenance and a large amount of cash expenditures (which tend to be hard to verify and therefore are suspect). The total expenditures reported for the month were approximately \$3,700, whereas his proposed budget allows for approximately \$2,700 per month (dkt. 21, p. 8). The debtor should be prepared to address those issues.

(c) Valuation motion (dkt. 50). Continue to 12/13/16 at 1:00 p.m. to allow creditor Wilmington time to conduct its own appraisal of the subject property.

(2) Deadlines/dates. This case was filed on 6/24/16.

(a) Bar date: 10/28/2016 (timely served, dkt. 34).

(b) Plan/Disclosure Statement\*: file by 11/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 12/13/16 at 1:00 p.m., No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... Jose Luis Nunez Claver

Chapter 11

**Tentative Ruling for 9/6/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Rental Income. The debtor's proposed budget (dkt. 21, PDF p.8) and cash collateral motion (dkt. 20, PDF p.5) reports rental income in the amount of \$1,500. However, the debtor's schedule I (dkt. 1, PDF p.26) reports that the rental income is only \$1,400. What is the correct amount of the debtor's rental income?

(2) Deadlines/dates. This case was filed on 6/24/16.

(a) Bar date: 10/28/2016 (timely served, dkt. 34).

(b) Plan/Disclosure Statement\*: file by 11/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

(c) Continued status conference: 11/1/16 at 1:00 p.m., No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 8/9/16:**

Appearances required by counsel for the debtor and by the debtor(s) themselves.

(1) Current issues.

(a) Reliance on large family contribution. In the debtor's prior chapter 13 case (2:12-bk-19005-NB, dkt. 54) relief from the automatic stay was granted based on an alleged failure to make 17 mortgage payments; the debtor requested voluntary dismissal of that case; and it was dismissed with a

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

Tuesday, December 13, 2016

Hearing Room 1545

1:00 PM

CONT... **Jose Luis Nunez Claver**

**Chapter 11**

180-day bar to being a debtor in bankruptcy on 10/8/15. In this case the debtor relies on large family contributions (\$1,200 per month). See dkt. 1, Schedule I & J, PDF pp. 25-28, dkt. 20 (cash collateral motion), dkt. 21 (budget motion).

There are no declarations attesting to the family's willingness and ability to make these family contribution, let alone any supporting evidence such as bank account statements or paychecks with a budget showing sufficient disposable income. Is this case feasible? Has it been filed in good faith?

(b) Cash collateral. The Bankruptcy Code prohibits the use of cash collateral without court approval (or consent of the secured creditor, but typically that creditor will not consent without provisions that require court approval). See 11 U.S.C. 363(c). Debtors generally must use cash collateral very soon, for everything from paying utilities to adequate protection payments. For that reason, Judge Bason's posted procedures provide automatically shortened time. Why did counsel for the debtor self-calendar the motion (dkt. 20) for 9/6/16 when this case was filed on 6/24/16 (dkt.1)? Is the debtor violating the Bankruptcy Code?

(c) Lien stripping. The debtor's status report states that the debtor intends to file a lien-stripping motion but no such motion has been filed yet. Why not?

(2) Deadlines/dates. This case was filed on 6/24/16.

(a) Bar date: 10/28/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement\*: file by 11/29/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 9/6/16 at 1:00 p.m. No written status report is required.

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

1:00 PM

**CONT...**

**Jose Luis Nunez Claver**

**Chapter 11**

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

**Debtor(s):**

Jose Luis Nunez Claver

Represented By  
Onyinye N Anyama

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

2:00 PM

**2:16-16363 Lake Mathews Mineral Properties, LTD**

**Chapter 11**

**#1.00** Cont'd hrg re: Motion for relief from stay [NA]  
fr. 9/6/16, 9/27/16, 11/8/16

PECAS, LLC  
vs  
DEBTOR

Docket 57

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Please see the tentative ruling for the status conference (calendar no. 2, 12/13/16 at 2:00 p.m.).

**Tentative Ruling for 11/8/16:**

Please see the tentative ruling for the status conference (calendar no. 5, 11/8/16 at 2:00 p.m.).

**Tentative Ruling for 9/27/16:**

See calendar no. 4 (tentative ruling for chapter 11 status conference, 9/27/16, 1:00 p.m.).

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

**Debtor(s):**

Lake Mathews Mineral Properties,

Represented By  
Michael Jay Berger

**Movant(s):**

PECAS, LLC.

Represented By  
Cassandra J Richey

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

2:16-16363 Lake Mathews Mineral Properties, LTD

Chapter 11

#2.00 Cont'd status conference re: Chapter 11 Case  
fr. 6/21/16, 7/19/16, 9/6/16, 9/27/16, 11/8/16

Docket 6

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Appearances required.

(1) Current issues

The newly appointed Chapter 11 Trustee (dkt. 112, 114) should be prepared to provide a summary of the current status of any negotiations regarding the motion by creditor Pecas, LLC ("Pecas") for relief from the automatic stay/abstention (dkt. 57), the underlying assets of the bankruptcy estate (principally if not exclusively its claims involving a share of certain mineral rights), and any other current issues.

(2) Deadlines/dates. This case was filed on 5/13/16.

(a) Bar date: 9/1/16 (timely served, dkt. 38).

(b) Plan/Disclosure Statement\*: no deadline for now.

(c) Continued status conference: 1/17/17 at 2:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 11/8/16:**

Appearances required.

(1) Current issues

(a) Appointment of a chapter 11 trustee. This Court has reviewed the responses and related documents (dkt. 88-100) to this Court's order to show

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

Tuesday, December 13, 2016

Hearing Room 1545

---

2:00 PM

CONT... **Lake Mathews Mineral Properties, LTD** **Chapter 11**

cause why this court should not appoint a trustee or order other remedies (the "OSC," dkt. 78). The parties should be prepared to address the merits of the OSC and responses.

(b) Motion by creditor Pecas, LLC's ("Pecas") for relief from the automatic stay/abstention (dkt. 57). The tentative ruling is to continue this matter to the same time and date as the continued status conference in this case, so that whoever is in charge of the bankruptcy estate can engage in meaningful analysis and then negotiate and/or litigate with Pecas in an appropriate forum.

(2) Deadlines/dates. This case was filed on 5/13/16.

(a) Bar date: 9/1/16 (timely served, dkt. 38).

(b) Plan/Disclosure Statement\*: no deadline for now.

(c) Continued status conference: 12/13/16 at 2:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 9/27/16:**

Appearances required by counsel for the debtor.

(1) Current issues

The tentative ruling is to issue an order to show cause ("OSC") as follows: "The debtor must show cause why a trustee should not be appointed - or alternatively why an examiner should not be appointed or the case should not be converted or dismissed - because of the numerous deficiencies outlined below, despite the pendency of this case since May 13, 2016." The tentative ruling is to set the hearing on that OSC for the same date and time as the continued Status Conference as set forth below, with a deadline of 9/28/16 for the debtor to lodge a proposed OSC that attaches, adopts, and incorporates by reference a copy of this tentative ruling (including all prior tentative rulings reproduced below). The order should further provide (i) that the debtor must serve a copy of the signed order on all known parties in

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... **Lake Mathews Mineral Properties, LTD** **Chapter 11**

interest no later than one business day after the order is issued, and (ii) that the deadline is 10/4/16 for the debtor to file and serve any brief in response to the OSC (not to exceed 10 pages, exclusive of any supporting evidence).

(a) Equity holders list. The debtor has failed to provide anything approaching (i) a comprehensive list of the persons who may be equity holders including (ii) disclosure of whatever lack of information or disputed issues may exist and (iii) what efforts have been made to remedy those things and provide notice to all persons who might conceivably be equity interest holders, despite prior express cautions by this court at the hearings on 6/21/16 and 7/29/16 and in the tentative rulings prior to those hearings (reproduced below). The documents remain internally inconsistent (*e.g.*, the multiple classes of equity are all mixed together without disclosure of their different interests and obligations; the percentages, when listed, do not add up to 100%; some percentages or other information have changed without explanation; etc.). *Compare, e.g.*, dkt. 44, PDF pp. 5-8 *with* PDF pp. 9-11, *and with* dkt. 59 (amended list of equity holders filed 8/2/16).

(b) Failure to prosecute this case. The debtor's sole meaningful asset appears to be its litigation (*see, e.g.*, MORs for June, July & Aug., dkt. 54, 62, 75, showing essentially no activity or income). Yet the debtor has failed to file its long-promised adversary proceeding to resolve conflicting alleged interests in the assets that the estate claims to own.

In fact, the debtor has not even filed its application to employ Mr. Palmieri as special litigation counsel, despite express cautions by this court at the hearings on 6/21/16 and 7/29/16 and in the tentative rulings prior to those hearings (reproduced below).

(c) Motion by creditor Pecas, LLC's ("Pecas") for relief from the automatic stay/abstention (dkt. 57). Pecas seeks relief under 11 U.S.C. 362 (d)(1), and it argues that mandatory abstention applies under 28 U.S.C. 1334 (c)(2), which essentially requires abstention as to "non-core" matters that are pending in State court if those matters can be "timely adjudicated" therein. The debtor's response (dkt. 64) primarily raises the following arguments.

First, it argues (dkt. 64, MPA, pp.4:17-21, 5:7-11) that there is no evidence that the matters pending in the courts of the State of California can be timely adjudicated, especially given the multiplicity of claims. True, but nor is there any contrary evidence, and no party has briefed who has the burden of proof. Nevertheless, the debtor at least initially has the better argument because this Bankruptcy Court takes judicial notice that the State courts have

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

Tuesday, December 13, 2016

Hearing Room 1545

---

2:00 PM

CONT... **Lake Mathews Mineral Properties, LTD**

**Chapter 11**

been hampered by budget cuts and numerous delays (as reported in legal and other newspapers, and as reflected in proceedings in other cases before this court). That begs the question, however, whether litigation in this court will be any faster (at least without appointment of a chapter 11 trustee).

Second, the debtor argues (dkt. 64, MPA, p.6:4-7) that mandatory abstention does not apply because "adjudication of [Pecas'] state court complaint and the multiple claims to arise from the distribution from the MWD should be found to be core proceedings to be tried in this Court." Neither Pecas nor the debtor provide any analysis of what claims are or are not core proceedings. Pecas, as the party asserting mandatory abstention, presumably has the burden to establish that element.

Third, the debtor argues (dkt. 64, MPA, pp. 3:24-27, 4:7-15, 5:26-6:1) that it did not file this bankruptcy case in bad faith and that this is the best forum to bring litigation to sort out all the conflicting claims, rights, and interests. But as outlined above it has failed to do so.

Based on the foregoing, the parties have not presented a very complete picture of either the facts or the law regarding relief from the automatic stay. The essential elements for mandatory abstention have already been reviewed, so for the moment this court focuses on "cause" for relief from the automatic stay under 11 U.S.C. 362(d)(1) (which, incidentally, are similar to the considerations for discretionary abstention).

"Cause" [for relief from the automatic stay] is determined on a case-by-case basis." *In re Tucson*, 912 F.2d 1162, 1166 (9th Cir.1990). In determining whether "cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799-800 (Bankr. D. Utah 1984). See *In re Kronmeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559-60 (Bankr. C.D. Cal.2004). Those factors are: (1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... **Lake Mathews Mineral Properties, LTD**

**Chapter 11**

proceeds in question; (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at \*4 (C.D. Cal. Dec. 9, 2011).

Keeping these factors in mind, this court makes the following observations. On the one hand, the debtor apparently filed this bankruptcy case on the eve of a deposition in State court and in an attempt to delay trial in State court, and as described above the debtor has failed to prosecute this bankruptcy case and the promised adversary proceeding. On the other hand, it is often true that one advantage of a bankruptcy case can be to combine multiple conflicting and inconsistent actions in State courts into a single forum; sometimes the litigation in bankruptcy court can be faster; and the procedural rules in bankruptcy cases are designed for relatively speedy and inexpensive resolutions of disputes (because the bankruptcy estate often cannot afford exhaustive litigation).

It may be in the best interests of creditors, equity holders, and all parties to resolve the various disputes in this forum if that can be done expeditiously. Because that latter issue is uncertain, and because the parties have not squarely addressed the other critical legal and factual issues referenced above, the tentative ruling is to continue the hearing on this motion until the date of the continued status conference set forth below.

In addition, because the dynamics of the situation may be very much changed if a chapter 11 trustee is appointed, the tentative ruling is to direct the parties not to file any further briefs on the automatic stay/abstention issues for now. A briefing schedule can be addressed, if appropriate, at a continued hearing.

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... **Lake Mathews Mineral Properties, LTD**

**Chapter 11**

(2) Deadlines/dates. This case was filed on 5/13/16.

(a) Bar date: 9/1/16 (timely served, dkt. 38).

(b) Plan/Disclosure Statement\*: Vacate the current deadline (3/15/17) due to the above problems.

(c) Continued status conference: 10/11/16 at 2:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 7/19/16:**

Appearances required by counsel for the debtor and by the principals for the debtor(s) themselves, because they did not appear at the initial status conference.

(1) Current issues.

(a) 2004 Examination. The parties stipulated to a 2004 examination of several principal persons in this case (see dkt. 43). Have these concluded?

(b) Consensual resolution. At the prior hearing, there was some amount of discussion that certain issues had been consensually resolved. Have any issues been consensually resolved?

(c) Employment of professionals. This Court has reviewed the further declaration of Mr. Berger (dkt. 35) and it appears to resolve the issues raised by this Court. When does the debtor anticipate filing an amended application to employ Mr. Palmieri as special litigation counsel?

(d) Amended list of equity holders and other amended bankruptcy schedules. The debtor included two versions of the list of equity shareholders (*compare* dkt. 44, PDF pp. 5-8 *with* PDF pp. 9-11), and these two versions are not entirely consistent. For example, one version lists James D Homes Class A interest as 34.715% but the other version lists his interest as 18.904%. By way of another example, LHSM, Inc. is listed as owning 85% of Class B shares in one list of equity shareholders while in the other it is listed as owning only 5%. While these can likely be corrected and clarified (and they must be), this Court is concerned that this inconsistency may be

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... **Lake Mathews Mineral Properties, LTD**  
endemic of larger disclosure problems.

**Chapter 11**

(2) Deadlines/dates. This case was filed on 5/13/16.

(a) Bar date: 9/1/16 (timely served, dkt. 38).

(b) Plan/Disclosure Statement\*: file by 3/15/17 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 9/6/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 6/21/16:**

Appearances required by counsel for the debtor and by the principal(s) for the debtor themselves.

(1) Current issues. This Court has reviewed the debtor's status report (dkt. 19), the applications to employ counsel (dkt. 15, 22), and all other filed papers in this case.

(a) Is the bankruptcy petition authorized? Is the corporate resolution (dkt. 1, PDF p. 6) sufficient to authorize this bankruptcy? The resolution is not by the debtor but instead by its general partner, Lawrence Holmes Senior Mining, Inc. ("Holmes Mining"). Does the debtor's partnership agreement authorize its general partner to file a bankruptcy petition without the consent of the debtor's own directors (not Holmes Mining's directors)?

Even if such authorization would be sufficient, has it actually been

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

Tuesday, December 13, 2016

Hearing Room 1545

---

2:00 PM

CONT... **Lake Mathews Mineral Properties, LTD**

**Chapter 11**

authorized? The corporate resolution is entitled a "board" resolution but only three of the four signature lines are signed. Typically an organization's governing documents require any resolutions that are not unanimous to be adopted at an actual meeting (in person or telephonic), and if Holmes Mining's governing documents follow that pattern then it appears that the resolution is incomplete and ineffective.

(b) Are the bankruptcy disclosures accurate?

(i) Equity interests in the debtor. The disclosed equity interest holders (dkt. 1, PDF p. 10) are unclear. None of the people identified appear to hold a direct interest in the debtor, but, rather hold interests in related entities or in the debtor's profits. Is this correct?

Even assuming that the persons disclosed are equity holders in the debtor at the amount of the interests stated, the interests stated do not equal 100%. Moreover, the debtor posits (dkt. 19, Attachment 1) that the original owners of the mining claim sold far more than 100% of the ownership interests in that claim (or in the debtor itself - the debtor is not entirely clear on that issue). Who (else) owns an interest in the debtor, and/or has a possible claim in this bankruptcy case, and/or should be included in the matrix of persons to receive notices in this case?

(ii) Does the debtor own real property or own equity in an entity that owns real property? Compare Bankruptcy Schedule A/B (dkt. 1, PDF p. 14) with Bankruptcy Schedule D (dkt. 1, PDF pp. 17-24) and Bankruptcy Schedule G (dkt. 1, PDF p. 26). Does the debtor only own a 25% interest in PECAS, LLC, with an asserted ability to unwind the transaction whereby the debtor transferred all of its assets to PECAS, LLC, in exchange for its 25% interest in that entity?

(iii) Creditors and other parties in interest. Has the debtor included on the matrix all persons who should received notices in this case, including persons who might assert an interest in the property and/or a competing interest in PECAS, LLC, and all other creditors?

(c) Should this Bankruptcy Court abstain/dismiss this case? The debtor appears to be non-operating, with no assets or operations except for its litigation, and no disclosed need for imposition of the automatic stay or other bankruptcy tools. Why is it not appropriate to defer to the State Courts to address the litigation. More broadly, why is this debtor in bankruptcy?

(d) Employment of general bankruptcy counsel (dkt. 15, 18). The proposed payment of fees by a third party raises ethical concerns addressed

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... **Lake Mathews Mineral Properties, LTD**

**Chapter 11**

below.

(e) Employment of special litigation counsel (dkt. 22).

(i) Form F 2014-1. The application is not accompanied by the local form (as required by Judge Bason) which might address some of the issues noted below.

(ii) Payment of fees by third party. This proposal raises ethical concerns addressed below. For that matter, the application is unclear about whether the fees have been and/or will be paid by Holmes Mining or Terrence O'Hearn.

(iii) Represented parties? The employment application and attached retainer letters are not sufficiently clear about who is or will be represented by proposed special counsel, Mr. Palmieri. In the so-called Merritt action he apparently represents Mr. James D. Holmes and the debtor. In the PECAS action he apparently represents at least Holmes Mining and the debtor. It is also possible that other persons are or were represented by the applicant in these matters. How can parties in interest and this Court assess potential conflicts of interest without knowing who is represented?

(iv) Actual and potential conflicts. In the retainer agreements for both the Merritt action and the PECAS action, Mr. Palmieri states that there are actual conflicts (e.g., "when an attorney represents more than one client in any proceeding, a conflict arises"). See, e.g., dkt. 22, PDF p. 22. A debtor in bankruptcy cannot waive conflicts on behalf of creditors, and conflicts generally are disqualifying (see generally 11 U.S.C. 327(a) & (e)), so is Mr. Palmieri simply disqualified from being retained as special counsel?

Even if the stated "conflicts" are potential or hypothetical rather than actual, and even if the ethical and legal impediments to employment could be addressed with sufficient disclosure and monitoring to guard against any nascent conflicts (issues about which this Court does not express an opinion), there does not appear to have been sufficient disclosure or proposed monitoring procedures. The employment application does not even describe the nature of the underlying litigation, making it difficult to assess what conflicts might exist or arise. Apart from the lack of notice to creditors and other parties in interest, even the debtor's board members (whoever they are) have not signed the retainer letters (or at least they are not identified as such).

Mr. Palmieri refers to a lien on the debtor's property to secure payment of his fees. Does that create a disqualifying conflict?

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT...

Lake Mathews Mineral Properties, LTD

Chapter 11

Do these issues preclude employment of the applicant?

(iii) Potential conflicts and issues with Mr. Parmieri himself. The application states that the debtor owes Mr. Palmieri \$150,000, but that he "has no expectation of ever being paid directly by Debtor[.]" Dkt. 22, PDF p. 29. Is he waiving his claim against the debtor?

The retainer agreements obligate the debtor to pay \$10,000 per month on outstanding balances (dkt. 22, PDF p. 20, 25), they include an agreement to the reasonableness of him charging his stated \$490 hourly rate (for services yet to be rendered), and as noted above they appear to contemplate attorney fee liens. Are these provisions (and others) an effort to circumvent the payment procedures of the Federal Rules of Bankruptcy Procedures and the Bankruptcy Code?

(iv) Compensation. Does the applicant seek compensation under 11 U.S.C. 328 or 330 (*compare* dkt. 22, p. 3:11 *with* dkt. 22 PDF p. 29, para 4)? Assuming the former, why is this appropriate? If the debtor is ultimately responsible for all fees, why is it appropriate for this Court not to review fees under section 330 (for reasonableness) rather than insulate such fees from review under section 328?

(e) Payment of fees by a third party. A third party who funds a retainer for the debtor (the "Funder") generally has some pre-existing relationship with the debtor, and/or some motivation to providing the funding. Those things increase the likelihood that the Funder could be the recipient of an avoidable preference, or might have alter ego liability, or otherwise might have interests that are adverse to (or at least not fully aligned with) the bankruptcy estate or creditors. For these reasons, although payment of a retainer by a third party is not outright prohibited, it is fraught with ethical concerns. At the hearing, proposed counsel (both proposed general bankruptcy counsel and proposed special litigation counsel) should be prepared to address the following.

(i) Connections. What are all of the connections between the Funder, on the one hand, and the debtor's proposed counsel or any of the other types of persons listed in FRBP 2014, on the other hand -- *e.g.*, have there been any economic or business or personal connections between the Funder and proposed counsel, or the debtor, or any creditor or other party in interest, or their respective attorneys or accountants?

(ii) Terms. What are the precise agreements, understandings or expectations regarding the funds -- *e.g.*, are the retainers paid so far have been described as a "gift," but will future payments be a loan, a gift, an

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... **Lake Mathews Mineral Properties, LTD**

**Chapter 11**

investment, or something else?

(iii) Informed consent of funder. Has the Funder been advised regarding actual and potential conflicts of interest, and that the sole attorney-client relationship and duty of loyalty is with the debtor, not the Funder? There are declarations that purport to provide consent, signed by Steven Winstead (see dkt. 18; dkt. 22, PDF pp. 9-11), but these declarations are insufficient in at least several ways.

For example, is Mr. Winstead authorized to bind Holmes Mining to make past, present, and future gift contributions to the debtor for all fees incurred? Does there have to be notice to any owners of Holmes Mining that these waivers or agreements have been entered into?

Who, if anyone, advised Mr. Winstead and/or Holmes Mining and any other parties about potential or actual conflicts? Did they have independent counsel? Was it the debtor's proposed counsel? Have all Funders given their informed consent? Are those things in writing?

(iv) Informed consent of debtor. Has the debtor likewise been fully advised and given informed consent? Who provided such advice? Are these things in writing?

(v) Other considerations. Has proposed counsel demonstrated or represented to the Court the absence of an actual or potential conflict, a lack of disinterestedness, or any other basis for disqualification? See *In re Kelton Motors, Inc.*, 109 B.R. 641 (Bankr. D. Vt. 1989); *In re Hathaway Ranch Partnership*, 116 B.R. 208, 219 (Bankr. C.D. Cal. 1990); *In re Park-Helena Corp.*, 63 F.3d 877 (9th Cir. 1995).

(2) Deadlines/dates. This case was filed on 5/13/16. If this case is not dismissed or converted, the tentative ruling is to set the following deadlines.

(a) Bar date: 9/1/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement\*: file by 3/15/17 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

2:00 PM

**CONT...**

**Lake Mathews Mineral Properties, LTD**

**Chapter 11**

object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 8/9/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Party Information**

**Debtor(s):**

Lake Mathews Mineral Properties,

Represented By  
Michael Jay Berger

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

**2:16-25483 Riverwood Gas and Oil LLC**

**Chapter 11**

**#3.00** Cont'd status conference re: Chapter 11 case  
fr. 11/29/16

Docket 1

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Appearances required.

(1) Current issues

Counsel for the debtor should be prepared to address why no status report has been filed (see dkt. 3); why the docket does not reflect that anything has been done in this case to date; and why this court should not convert or dismiss this case.

(2) Deadlines/dates. This case was filed on 11/23/16. If this case is not converted or dismissed, the tentative ruling is to set the following:

(a) Bar date\*: to be set during the status conference.

(b) Plan/Disclosure Statement\*: same.

(c) Continued status conference: 2/7/17 at 2:00 p.m., status report due 1/24/17.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 11/29/16:**

Appearances required by counsel for the debtor and by the debtor(s) themselves, pursuant to the order setting this status conference (dkt. 3).

(1) Current issues.

(a) First Day Motions. The debtor should be prepared to address the necessity of first day motions such as cash collateral, payroll, utilities, etc. To

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

2:00 PM

**CONT... Riverwood Gas and Oil LLC**

**Chapter 11**

the extent that those motions are necessary, why have they not yet been filed?

(2) Deadlines/dates. This case was filed on 11/23/16.

(a) Bar date\*: to be set at the continued status conference.

(b) Plan/Disclosure Statement\*: same.

(c) Continued status conference: 12/13/16 at 2:00 p.m., initial status report due 11/29/16.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

**Debtor(s):**

Riverwood Gas and Oil LLC

Represented By  
Joseph M Hoats

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

2:00 PM

**2:15-28443 Cloudbreak Entertainment, Inc.**

**Chapter 11**

**#4.00** Cont'd hrg re: First application of Gordon Fishburn & Major LLP d/b/a The Brentwood Management Group as Business Management Consultant for Allowance and Payment of Interim Compensation and Reimbursement of Expenses fr. 11/01/16, 11/29/16

Docket 115

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Please see the tentative ruling for the case status conference (calendar no. 7, 12/13/16 at 2:00 p.m.).

**Tentative Ruling for 11/29/16:**

Please see the tentative ruling for the status conference (calendar no. 11, 11/29/16 at 2:00 p.m.).

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

**Debtor(s):**

Cloudbreak Entertainment, Inc.

Represented By  
Jeremy V Richards

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

2:00 PM

**2:15-28443 Cloudbreak Entertainment, Inc.**

**Chapter 11**

**#5.00** Cont'd hrg re: First Application of Pachulski Stang Ziehl & Jones LLP  
for Allowance and Payment of Interim Compensation and  
Reimbursement of Expenses  
fr. 11/01/16, 11/29/16

Docket 113

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Please see the tentative ruling for the case status conference (calendar no. 7,  
12/13/16 at 2:00 p.m.).

**Tentative Ruling for 11/29/16:**

Please see the tentative ruling for the status conference (calendar no. 11,  
11/29/16 at 2:00 p.m.).

**Party Information**

**Debtor(s):**

Cloudbreak Entertainment, Inc.

Represented By  
Jeremy V Richards

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

2:00 PM

**2:15-28443 Cloudbreak Entertainment, Inc.**

**Chapter 11**

**#6.00** Cont'd hrg re: Browne George Ross LLP's first application for Allowance and Payment of interim compensation and reimbursement of expenses fr. 11/01/16, 11/29/16

Docket 114

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

Please see the tentative ruling for the case status conference (calendar no. 7, 12/13/16 at 2:00 p.m.).

**Tentative Ruling for 11/29/16:**

Please see the tentative ruling for the status conference (calendar no. 11, 11/29/16 at 2:00 p.m.).

**Party Information**

**Debtor(s):**

Cloudbreak Entertainment, Inc.

Represented By  
Jeremy V Richards

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

**2:15-28443 Cloudbreak Entertainment, Inc.**

**Chapter 11**

**#7.00** Cont'd Status Conference re: Chapter 11 Case  
fr. 01/05/16, 1/19/16, 2/2/16, 2/23/16, 4/12/16,  
9/6/16, 11/29/16

Docket 7

**Tentative Ruling:**

**Revised Tentative Ruling for 12/13/16:**

Continue to 2/28/17 at 2:00 p.m. pursuant to the parties' request in the status conference statement (dkt. 181, p.3). Appearances are not required on 12/13/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 12/13/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

The parties should be prepared to update this court on the status of this case including their negotiations, why this court should not order mandatory mediation, which parties in interest should be included in such mediation, and any other appropriate procedures regarding payment of professionals, filing documents under seal, etc.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement: no deadline

(c) Continued status conference: 2/28/17 at 1:00 p.m. (no written status report required; telephonic appearances permitted provided that parties comply with posted procedures for same).

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

Tuesday, December 13, 2016

Hearing Room 1545

---

2:00 PM

CONT... **Cloudbreak Entertainment, Inc.**

**Chapter 11**

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 11/29/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Fee applications. The tentative ruling is (1) after the reductions that Browne concedes, to overrule the Britton objection to Browne's fees; (2) to sustain in part the limited objection of Ms. West by allowing 100%, but temporarily deferring any payment (either from any retainer or from other sources), on account of the fee applications, with a deadline of 12/12/16 for Ms. West to file (a) an adversary proceeding to determine the relative priorities of her rights and interests in the royalties, and/or other funds in which the debtor's estate asserts an interest, as against the debtor, its creditors, and other parties in interest, and (b) a request (motion) for adequate protection of her alleged claims or interests (pursuant to 11 U.S.C. 361 and 363(c), (e), (p), and Rule 7001(2), (7) & (9), Fed. R. Bankr. P.). In addition, this court anticipates providing a tentative ruling on the merits of Ms. West's asserted rights and interests, and addressing what documents (already filed or filed in future) do or do not have to be under seal, and establishing a mutually workable procedure for any sealed documents.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement: no deadline

(c) Continued status conference: 4/4/17 at 1:00 p.m. (no written status report required; telephonic appearances permitted provided that parties comply with posted procedures for same).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

Tuesday, December 13, 2016

Hearing Room 1545

---

2:00 PM

CONT... Cloudbreak Entertainment, Inc.

Chapter 11

**Tentative Ruling for 9/6/16:**

Continue to 12/13/16 at 1:00 p.m. based on the debtor's current status report (dkt. 112). Appearances are not required on 9/6/16.

The debtor is directed to file a brief status report two weeks before the continued status conference.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 4/12/16:**

Continue to 9/6/16 at 11:00 a.m. to address the following issues.  
Appearances are not required on 4/12/16.

Based on the statements made in the debtor's status report (dkt. 92), this Court continues this status conference as set forth above. The debtor shall file a brief status report two weeks before the continued status conference.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 2/2/16:**

Continue to 2/23/16 at 2:00 p.m. unless any opposition/response to employment or recusal are filed prior to 1/30/16. Appearances are not required on 2/2/16.

*Reasons:* At the hearing on 1/19/16, this court stated that the status conference would be continued without further hearing if no oppositions/responses to employment or recusal were received by the deadline for such things, which is 1/29/16. As of the preparation of this tentative ruling (on 1/29/16) no such documents have yet been filed.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... Cloudbreak Entertainment, Inc.

Chapter 11

**Revised Tentative Ruling for 1/19/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

*Key documents reviewed:* Motion for relief from automatic stay (dkt. 11), the debtor's opposition (dkt. 33), and the movant's reply (dkt. 46); and the debtor's application to employ Browne George Ross LLP as special counsel under 11 U.S.C. 327(e) and supporting papers (dkt. 26-30, 44, 45).

(1) Current issues.

(a) Background. Claimant Britton's motion for relief from the automatic stay (dkt. 11) seeks to modify the automatic stay to liquidate the parties' claims in the underlying State Court action (*Britton v. Riggs*, LA Superior Ct. No. BC 496298). Just before trial was set to commence, the debtor filed this bankruptcy case, and trial has now been continued to 2/10/16. The debtor has filed an application (dkt. 26) to employ its existing attorneys in the State Court action as special counsel.

In view of the apparent urgency of these matters, this Bankruptcy Court issued an order raising a number of its initial concerns (dkt. 35), held a preliminary hearing on 1/8/16, and directed the debtor to serve a supplemental notice addressing certain issues. In addition, when Judge Bason's law clerk learned of certain attenuated connections between him and the parties in this case, those matters were disclosed on the record (dkt. 39), and the debtor was directed to serve those disclosures on all parties in interest.

The debtor complied with these notice requirements (see dkt. 44, 43, 45) and the period for any response expires on 1/29/16 (fixed date in dkt. 39 as to this court's disclosures; and service on 1/11/16 + 14 days' notice + 3 days for service via U.S. mail = 1/29/16 as to the employment application). As of the time when this tentative ruling has been prepared (1/18/16) no response on either matter appears on the docket.

(b) Relief from the automatic stay. The tentative ruling is to modify the automatic stay as follows, effective immediately upon (i) entry of an order of this court granting the employment application (so that the debtor can defend

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT...

**Cloudbreak Entertainment, Inc.**

**Chapter 11**

and prosecute its claims in the State Court action) and (ii) resolution of any request to be heard regarding recusal. Specifically, the automatic stay would be modified to permit litigation of the State court action insofar as *liquidating* claims by Mr. Britton against the debtor and its principal, Mr. Riggs, as well as liquidating any counterclaims, including all subsidiary disputes such as whether the statute of limitations should be tolled and any alter ego issues, but not to permit *enforcement* of any judgment against any property in which the debtor asserts an interest absent further order of this Bankruptcy Court.

Judge Bason is not persuaded by the debtor's argument that the statute of limitations issue should be addressed by this Bankruptcy Court before any State Court litigation is permitted to continue. The principles underlying the *Rooker Feldman* doctrine (that this Bankruptcy Court may not act as essentially an appellate court for State Court determinations), as well as comity, a respect for the State Court's determination of these issues, conservation of judicial resources, the avoidance of forum shopping, and not permitting a party to obtain "two bites at the apple" all weigh against deciding the statute of limitations issues here. The State Court issued a detailed tentative ruling (dkt. 46-1, Ex.A, pp.23-26) regarding the statute of limitations issues, including its conclusion that those issues could not be determined as a matter of law because a reasonable trier of fact "may well determine that the delay in filing the action was due to the Defendants' fraud or other misconduct such that Defendants should be estopped from asserting the statute of limitations," and the State Court apparently adopted that tentative ruling when it denied the defendants' motion for summary judgment and declined to address the statute of limitations issues before trial. Judge Bason is not persuaded that this Bankruptcy Court can or should revisit that determination.

As to any claims that are truly alter ego claims (as distinguished from fraudulent transfer claims or other avoidance actions that belong to this bankruptcy estate), the tentative ruling is that under the *Ahcom* decision (623 F.3d 1248 (9th Cir. 2010)), any such claims do not belong to the bankruptcy estate and, therefore, the automatic stay would not prevent claimant Mr. Britton from seeking to establish and pursue any alter ego claims against Mr. Riggs. Alternatively, the tentative ruling is to modify the automatic stay (if it applied) to permit such true alter ego claims to be litigated (when and if the State Court determines that they should be) because if those issues turn out to be relevant then they will have to be litigated anyway, and the State Court

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

Tuesday, December 13, 2016

Hearing Room 1545

---

2:00 PM

CONT... **Cloudbreak Entertainment, Inc.**

**Chapter 11**

would be the proper forum in which to litigate them. To the extent that the debtor seeks to stay (enjoin) any such alter ego claims against Mr. Riggs in this bankruptcy case, such an injunction would have to be the subject of a separate adversary proceeding. See, e.g., *In re Excel Innovations, Inc.*, 502 F.3d 1086 (9th Cir. 2007).

(c) Employment of special litigation counsel. The tentative ruling is to conditionally approve employment of special litigation counsel for the reasons stated at the preliminary hearing on 1/8/16 and in the application (dkt. 26) and debtor's supplemental disclosures (dkt. 44). The condition is that no order approving such employment should be lodged until after the period for responses to such application or to this court's disclosures has expired (on 1/29/16), and of course if any such response is filed then this court will consider such responses (at a hearing as set forth below).

The potential for alter ego claims does not appear to create any cognizable conflict, at least at this stage of the litigation. Although it could be argued that there would be a conflict because any recovery that Mr. Britton could obtain from Mr. Riggs would *decrease* his claim against the debtor, and therefore theoretically *benefit* the debtor, it seems more likely at this stage that both Mr. Riggs and the debtor have a unified interest in contesting any asserted grounds for alter ego liability (i) so as to assure that Mr. Riggs devotes his energies to the debtor's future success and ability to pay its creditors, and (ii) so as to attempt to assure that there is a level playing field among the debtor's creditors (which, arguably, there would not be if one creditor - Mr. Britton - could pursue alter ego recoveries before other creditors could seek to do the same).

Of course, counsel for the debtor (both general and special counsel) and Mr. Riggs himself will need to monitor the situation continually. If a conflict or potential conflict does develop, they will need to file appropriate disclosures and/or seek a supplemental ruling from this court regarding the terms of any continued employment of special counsel.

(d) Tentative hearing. If any response is filed to either the employment application or this court's disclosures, then a hearing will take place on 2/2/16 at 2:00 p.m. to address those things. If there is any such response, the debtor must notify chambers so that the matter may be added to this court's calendar for that day.

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... Cloudbreak Entertainment, Inc.

Chapter 11

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement\*: file by 7/1/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 2/2/16 at 2:00 p.m. (no written status report required; telephonic appearances permitted provided that parties comply with posted procedures for same).

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 1/19/16:**

This court anticipates posting a tentative ruling at a later time.

**Tentative Ruling for 1/5/16:**

Appearances required by counsel for the debtor and by the principal of the debtor.

(1) Current issues.

(a) Affiliated businesses. The debtor's status report (dkt. 20, p.8:17-9:3) requests that the debtor be excused from providing financial information concerning affiliates in both the status report and monthly operating reports. The tentative ruling is to grant that request.

(b) Service of status report. This court's form status report must be served on, *inter alia*, all of the debtor's secured creditors and the top 20

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... **Cloudbreak Entertainment, Inc.**

**Chapter 11**

largest general unsecured creditors. It appears that there are no secured creditors, but that unsecured creditors were not served (see dkt. 20, p. 10). The tentative ruling is to direct the debtor, no later than 1/6/16, to serve all parties in interest with a copy of the status report and this tentative ruling, and then parties in interest may, if they choose, raise any appropriate issues at future status conferences.

(c) Plan and disclosure statement. The debtor has suggested (dkt. 20, p.4:20-23) a deadline of 4/30/16 to file initial drafts. The debtor should be prepared to address the associated procedures, including the local form plan and whether that deadline is consistent with the pending litigation with creditor Layne Leslie Britton (dkt. 11), currently set for trial in State court for 2/10/16.

(2) Deadlines/dates. This case was filed on 12/1/15.

(a) Bar date: Bar date: 2/8/16 (timely served, dkt. 19 & 25).

(b) Plan/Disclosure Statement\*: file by 4/30/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the next status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 1/19/16 at 1:00 p.m. (no written status report required; telephonic appearances permitted provided that parties comply with posted procedures for same).

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Party Information**

**Debtor(s):**

Cloudbreak Entertainment, Inc.

Represented By

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

2:00 PM

**CONT...**

**Cloudbreak Entertainment, Inc.**

Jeremy V Richards

**Chapter 11**

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

2:00 PM

**2:16-14355 MEDomics, LLC**

**Chapter 11**

Adv#: 2:16-01311 Sommer v. Wells Fargo Bank NA

**#8.00** Cont'd hrg re: Motion for an injunction in aid  
of automatic stay pursuant to 11 U.S.C.  
section 105(a)  
fr. 08/02/16, 9/6/16, 10/11/16

Docket 2

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

See tentative ruling for chapter 11 status conference (12/13/16, 2:00 p.m.,  
calendar no. 12).

**Tentative Ruling for 10/11/2016:**

See tentative ruling for chapter 11 status conference (10/11/16, 1:00 p.m.,  
calendar no. 9).

**Tentative Ruling for 9/6/16:**

See tentative ruling for chapter 11 status conference (9/6/16, 1:00 p.m.,  
calendar no. 18).

**Tentative Ruling for 8/2/16:**

See tentative ruling for chapter 11 status conference (8/2/16, 2:00 p.m.,  
calendar no. 9).

**Party Information**

**Debtor(s):**

MEDomics, LLC

Represented By  
Illyssa I Fogel

**Defendant(s):**

Wells Fargo Bank NA

Pro Se

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

---

2:00 PM

**CONT... MEDomics, LLC**

**Chapter 11**

**Plaintiff(s):**

Steve S. Sommer

Represented By  
Daniel I Barness

**Trustee(s):**

David M Goodrich (TR)

Pro Se

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

2:00 PM

**2:16-14355 MEDomics, LLC**

**Chapter 11**

**#9.00** Cont'd hrg re: Motion for relief from stay [NA]  
fr. 5/31/16, 7/19/16, 08/02/16, 9/6/16, 10/11/16

WELLS FARGO BANK, NATIONAL ASSOCIATION  
VS  
DEBTOR

Docket 61

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

See tentative ruling for chapter 11 status conference (12/13/16, 2:00 p.m., calendar no. 12).

**Tentative Ruling for 10/11/2016:**

See tentative ruling for chapter 11 status conference (10/11/16, 1:00 p.m., calendar no. 9).

**Tentative Ruling for 9/6/2016:**

See tentative ruling for chapter 11 status conference (9/6/16, 1:00 p.m., calendar no. 18).

**Tentative Ruling for 8/2/16:**

See tentative ruling for chapter 11 status conference (8/2/16, 2:00 p.m., calendar no. 9).

**Tentative Ruling for 5/31/16:**

Continue to 7/19/16 at 1:00 p.m. to address the following issues.  
Appearances are not required on 5/31/16.

*Key documents reviewed:* motion of Wells Fargo Bank, N.A. ("Wells Fargo") for relief from automatic stay (dkt. 61); debtor's response (dkt. 72); Wells Fargo's reply (dkt. 77, at p. ); and joinder of Dr. Sommer (debtor's principal and, apparently, its major creditor and landlord) (dkt. 78).

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

Reasons:

(1) Wells Fargo apparently seeks relief primarily against Dr. Sommers, but also against the debtor. Wells Fargo contends that it seeks to recover primarily from Dr. Sommers, who owns the subject property, and Wells Fargo further agrees that the stay will remain in effect as to enforcement of any judgment against this debtor (retaining the right to file a proof of claim, if appropriate) (see dkt. 61, p. 3, para. 4.b.). It appears, however, that any relief against Dr. Sommers is in effect relief against the debtor, or at least it has the potential to have a very substantial negative impact against the debtor.

According to the debtor's bankruptcy schedule G (dkt. 29, PDF p. 22-23), it leases the property. It is unclear whether foreclosure against Dr. Sommers would wipe out the debtor's leasehold interest, but that might well be so, and then the debtor's business might well collapse. Moreover, conceivably the debtor would have no right to continue its occupancy even long enough to allow it to find/lease new premises, move out equipment, sell its business or equipment to a purchaser, or otherwise protect its value, and that would harm all other creditors, employees, and other parties in interest. See *In re Perl*, 811 F.3d 1120 (9th Cir. 2016).

This Court expresses no opinion whether those consequences necessarily would flow from granting Wells Fargo the relief that it requests from the automatic stay; but the point is that Wells Fargo has not addressed these issues, and on the present record its acts that are nominally only against Dr. Sommers apparently have the potential to harm severely the interests of other creditors. That weighs against granting relief to Wells Fargo, provided that its interests can be adequately protected within the meaning of 11 U.S.C. 361 & 362(d)(1).

Adequate protection in this case appears to rest largely on the debtor's ability to maintain and grow its value as a viable business, and for those purposes it needs a space in which to operate. Wells Fargo has not presented any evidence that the value of the debtor's business is declining.

To the contrary, the only evidence before this Court (albeit mostly presented on different motions) suggests that the debtor may have a viable strategy to reorganize its finances and exit from bankruptcy. Presumably, as in most cases, the best proof of whether that is so will be the debtor's postpetition performance, with greater leeway being afforded to the debtor for a short period at the start of the case.

Accordingly, on the present record it appears that Wells Fargo is

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

adequately protected, and that it is in the best interests of the bankruptcy estate and other creditors not to grant relief from the automatic stay at this time.

The remainder of this tentative ruling addresses whether there are additional considerations that weigh either in favor of relief from the automatic stay or against it. There are considerations on both sides.

(2) Prepetition agreement not to oppose relief from the automatic stay. The debtor analogizes to prepetition agreements to waive the bankruptcy discharge, or not to file a bankruptcy petition at all, and Wells Fargo points out that those are not the actual situation. Neither party cites to relevant reported decisions, which generally disfavor prepetition agreements to relief from the automatic stay, but which also sometimes weigh them to some extent in favor of granting such relief, especially when the debtor (and other creditors) have obtained benefits in exchange for such waivers. See, e.g., *Matter of Pease*, 195 B.R. 431, 433 (Bankr. D. Neb. 1996) (prepetition waiver unenforceable on public policy grounds); *In re Jenkins Court Associates Ltd. P'ship*, 181 B.R. 33, 36 (Bankr. E.D. Pa. 1995) (finding that a prepetition waiver of the automatic stay, on the facts of that case, amounted to an unenforceable restraint on filing for bankruptcy); *but compare In re Excelsior Henderson Motorcycle Mfg. Co., Inc.*, 273 B.R. 920, 923-24 (Bankr. S.D. Fla. 2002) ("Although an order of this court granting relief from stay may debilitate the Debtor somewhat, the Debtor accepted that risk when it agreed to the prepetition waiver of the automatic stay" particularly because "[t]here was no prepetition waiver in the original loan agreement" and where "[t]he agreement not to object to the motion to lift stay was bargained for[.]"); *In re Club Tower L.P.*, 138 B.R. 307, 311 (Bankr. N.D. Ga. 1991) (finding no violation of public policy when "enforcing a pre-bankruptcy agreement provision by which a debtor agrees not to oppose the granting to a lender of relief from stay"); *In re Citadel Properties, Inc.*, 86 B.R. 275, 275 (Bankr. M.D. Fla. 1988) (enforcing a prepetition waiver of the automatic stay where the parties entered into a settlement agreement that allowed the creditor to seek immediate relief from the automatic stay).

In sum, the debtor's prepetition agreement with Wells Fargo weighs somewhat in favor of granting relief from the automatic stay, but it is not determinative. For the reasons set forth in part "(1)" of this tentative ruling above, it still appears to be appropriate not to grant such relief, at least at this

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

early stage of this bankruptcy case.

(3) To protect Dr. Sommer from Wells Fargo's litigation, it appears that either he must file his own bankruptcy case or the debtor must seek injunctive relief. Some of the debtor's arguments rely on protection of its principal, Dr. Sommers, because he is (apparently) essential to the debtor's business, and his ability to preserve and grow the debtor's value will be greatly impeded if Wells Fargo is granted relief from the automatic stay. That is somewhat persuasive in the short term.

But in general, if it is important for the debtor's viability to shield Dr. Sommers from litigation then the remedy is one of two things. He could file his own bankruptcy case (to obtain the protections of the automatic stay, in exchange for the burdens and obligations of being a debtor in bankruptcy). Alternatively the debtor could bring an adversary proceeding seeking injunctive relief. See Rule 7001, Fed. R. Bankr. P; *In re Excel Innovations, Inc.*, 502 F.3d 1086 (9th Cir. 2007); *In re Am. Hardwoods, Inc.*, 885 F.2d 621, 626 (9th Cir. 1989).

This is an additional reason to continue this hearing for a short period of time. If the debtor (or Dr. Sommer) wish to pursue one of these avenues, or any other relief that they believe to be essential or advisable to protect the debtor, then they may do so. They are cautioned, however, without pursuing such alternatives he probably cannot use the debtor as a shield for very long.

(4) Other considerations for granting or denying relief from the automatic stay to proceed before a non-bankruptcy forum. At the continued hearing the parties should be prepared to discuss the 'Curtis' factors, considered in determining whether or not relief from stay to proceed before a non-bankruptcy forum is appropriate. *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronemeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004).

(5) Further briefing and evidence. The parties may, if they wish, file supplemental briefs or evidence on the same schedule as if Wells Fargo were filing and serving a new motion for hearing at the above date and time. This Court strongly encourages the parties, however, to attempt to reach a consensual resolution (and, if they wish, they can grant each other additional

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

time to file papers, or agree to a continued hearing date, to provide themselves with time to attempt such a resolution).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Tentative Ruling for 8/2/16:**

See tentative ruling for chapter 11 status conference (8/2/16, 2:00 p.m., calendar no. 9).

**Tentative Ruling for 5/31/16:**

Continue to 7/19/16 at 1:00 p.m. to address the following issues.

Appearances are not required on 5/31/16.

*Key documents reviewed:* motion of Wells Fargo Bank, N.A. ("Wells Fargo") for relief from automatic stay (dkt. 61); debtor's response (dkt. 72); Wells Fargo's reply (dkt. 77, at p. ); and joinder of Dr. Sommer (debtor's principal and, apparently, its major creditor and landlord) (dkt. 78).

Reasons:

(1) Wells Fargo apparently seeks relief primarily against Dr. Sommers, but also against the debtor. Wells Fargo contends that it seeks to recover primarily from Dr. Sommers, who owns the subject property, and Wells Fargo further agrees that the stay will remain in effect as to enforcement of any judgment against this debtor (retaining the right to file a proof of claim, if appropriate) (see dkt. 61, p. 3, para. 4.b.). It appears, however, that any relief against Dr. Sommers is in effect relief against the debtor, or at least it has the potential to have a very substantial negative impact against the debtor.

According to the debtor's bankruptcy schedule G (dkt. 29, PDF p. 22-23), it leases the property. It is unclear whether foreclosure against Dr. Sommers would wipe out the debtor's leasehold interest, but that might well be so, and then the debtor's business might well collapse. Moreover, conceivably the debtor would have no right to continue its occupancy even long enough to allow it to find/lease new premises, move out equipment, sell its business or equipment to a purchaser, or otherwise protect its value, and

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

that would harm all other creditors, employees, and other parties in interest. See *In re Perl*, 811 F.3d 1120 (9th Cir. 2016).

This Court expresses no opinion whether those consequences necessarily would flow from granting Wells Fargo the relief that it requests from the automatic stay; but the point is that Wells Fargo has not addressed these issues, and on the present record its acts that are nominally only against Dr. Sommers apparently have the potential to harm severely the interests of other creditors. That weighs against granting relief to Wells Fargo, provided that its interests can be adequately protected within the meaning of 11 U.S.C. 361 & 362(d)(1).

Adequate protection in this case appears to rest largely on the debtor's ability to maintain and grow its value as a viable business, and for those purposes it needs a space in which to operate. Wells Fargo has not presented any evidence that the value of the debtor's business is declining.

To the contrary, the only evidence before this Court (albeit mostly presented on different motions) suggests that the debtor may have a viable strategy to reorganize its finances and exit from bankruptcy. Presumably, as in most cases, the best proof of whether that is so will be the debtor's postpetition performance, with greater leeway being afforded to the debtor for a short period at the start of the case.

Accordingly, on the present record it appears that Wells Fargo is adequately protected, and that it is in the best interests of the bankruptcy estate and other creditors not to grant relief from the automatic stay at this time.

The remainder of this tentative ruling addresses whether there are additional considerations that weigh either in favor of relief from the automatic stay or against it. There are considerations on both sides.

(2) Prepetition agreement not to oppose relief from the automatic stay. The debtor analogizes to prepetition agreements to waive the bankruptcy discharge, or not to file a bankruptcy petition at all, and Wells Fargo points out that those are not the actual situation. Neither party cites to relevant reported decisions, which generally disfavor prepetition agreements to relief from the automatic stay, but which also sometimes weigh them to some extent in favor of granting such relief, especially when the debtor (and other creditors) have obtained benefits in exchange for such waivers. See, e.g., *Matter of Pease*, 195 B.R. 431, 433 (Bankr. D. Neb. 1996) (prepetition waiver

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

unenforceable on public policy grounds); *In re Jenkins Court Associates Ltd. P'ship*, 181 B.R. 33, 36 (Bankr. E.D. Pa. 1995) (finding that a prepetition waiver of the automatic stay, on the facts of that case, amounted to an unenforceable restraint on filing for bankruptcy); *but compare In re Excelsior Henderson Motorcycle Mfg. Co., Inc.*, 273 B.R. 920, 923-24 (Bankr. S.D. Fla. 2002) ("Although an order of this court granting relief from stay may debilitate the Debtor somewhat, the Debtor accepted that risk when it agreed to the prepetition waiver of the automatic stay" particularly because "[t]here was no prepetition waiver in the original loan agreement" and where "[t]he agreement not to object to the motion to lift stay was bargained for[.]"); *In re Club Tower L.P.*, 138 B.R. 307, 311 (Bankr. N.D. Ga. 1991) (finding no violation of public policy when "enforcing a pre-bankruptcy agreement provision by which a debtor agrees not to oppose the granting to a lender of relief from stay"); *In re Citadel Properties, Inc.*, 86 B.R. 275, 275 (Bankr. M.D. Fla. 1988) (enforcing a prepetition waiver of the automatic stay where the parties entered into a settlement agreement that allowed the creditor to seek immediate relief from the automatic stay).

In sum, the debtor's prepetition agreement with Wells Fargo weighs somewhat in favor of granting relief from the automatic stay, but it is not determinative. For the reasons set forth in part "(1)" of this tentative ruling above, it still appears to be appropriate not to grant such relief, at least at this early stage of this bankruptcy case.

(3) To protect Dr. Sommer from Wells Fargo's litigation, it appears that either he must file his own bankruptcy case or the debtor must seek injunctive relief. Some of the debtor's arguments rely on protection of its principal, Dr. Sommers, because he is (apparently) essential to the debtor's business, and his ability to preserve and grow the debtor's value will be greatly impeded if Wells Fargo is granted relief from the automatic stay. That is somewhat persuasive in the short term.

But in general, if it is important for the debtor's viability to shield Dr. Sommers from litigation then the remedy is one of two things. He could file his own bankruptcy case (to obtain the protections of the automatic stay, in exchange for the burdens and obligations of being a debtor in bankruptcy). Alternatively the debtor could bring an adversary proceeding seeking injunctive relief. See Rule 7001, Fed. R. Bankr. P; *In re Excel Innovations, Inc.*, 502 F.3d 1086 (9th Cir. 2007); *In re Am. Hardwoods, Inc.*, 885 F.2d 621,

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

626 (9th Cir. 1989).

This is an additional reason to continue this hearing for a short period of time. If the debtor (or Dr. Sommer) wish to pursue one of these avenues, or any other relief that they believe to be essential or advisable to protect the debtor, then they may do so. They are cautioned, however, without pursuing such alternatives he probably cannot use the debtor as a shield for very long.

(4) Other considerations for granting or denying relief from the automatic stay to proceed before a non-bankruptcy forum. At the continued hearing the parties should be prepared to discuss the 'Curtis' factors, considered in determining whether or not relief from stay to proceed before a non-bankruptcy forum is appropriate. *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronemeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004).

(5) Further briefing and evidence. The parties may, if they wish, file supplemental briefs or evidence on the same schedule as if Wells Fargo were filing and serving a new motion for hearing at the above date and time. This Court strongly encourages the parties, however, to attempt to reach a consensual resolution (and, if they wish, they can grant each other additional time to file papers, or agree to a continued hearing date, to provide themselves with time to attempt such a resolution).

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Party Information**

**Debtor(s):**

MEDomics, LLC

Represented By  
Illyssa Fogel  
Michael Jay Berger

**Movant(s):**

Wells Fargo Bank, National

Represented By  
Edward J Miller

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

2:00 PM

**CONT... MEDomics, LLC**

**Chapter 11**

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

**2:16-14355 MEDomics, LLC**

**Chapter 11**

**#10.00** Cont'd hrg re: Application For Order (Nunc Pro Tunc and Prospective) Authorizing Insider Compensation  
fr. 11/8/16, 11/29/16

Docket 166

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

See tentative ruling for chapter 11 status conference (12/13/16, 2:00 p.m., calendar no. 12).

**Tentative Ruling for 11/29/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

On 11/8/16 this Court continued the hearing on this matter to allow creditor Wells Fargo and the Chapter 11 Trustee time to respond to Dr. Sommer's supplemental declaration (dkt. 184) regarding his motion for compensation. There is no tentative ruling, but the parties should be prepared to address (a) Wells Fargo's response to Dr. Sommer's declaration (dkt. 189), (b) the current status of the proposed settlement between the Chapter 11 Trustee, the US Trustee, and the debtor (dkt. 182), and more generally (c) the factual and legal circumstances in favor of or against a change in compensation.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 11/8/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures"). The parties should be prepared to

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

2:00 PM

**CONT... MEDomics, LLC**

**Chapter 11**

address whether creditor Wells Fargo will agree to the settlement between the Chapter 11 Trustee, the US Trustee, and Dr. Sommer setting his monthly compensation at \$10,833.33. See the response to Wells Fargo Bank's objection to application for order approving insider compensation, and the earlier objection of the U.S. Trustee (see dkt. 169, 172, 182). If no settlement has been reached, the parties should be prepared to address the factual and legal circumstances in favor of or against a change in compensation.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

**Debtor(s):**

MEDomics, LLC

Represented By  
Illyssa I Fogel

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Steven Werth

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

**2:16-14355 MEDomics, LLC**

**Chapter 11**

**#11.00** Cont'd hrg re: Motion for order authorizing additional staffing and for adequate protection and other relief fr. 11/29/16

Docket 191

**Tentative Ruling:**

**Tentative Ruling for 12/13/16:**

See tentative ruling for chapter 11 status conference (12/13/16, 2:00 p.m., calendar no. 12).

**Tentative Ruling for 11/29/16:**

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether it is appropriate to hear this matter on shortened time and, if so, then (b) the merits of the motion and related papers (see dkt. 191-194).

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

**Debtor(s):**

MEDomics, LLC

Represented By  
Illyssa I Fogel

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Steven Werth

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

2:16-14355 MEDomics, LLC

Chapter 11

#12.00 Cont'd status conference re: Chapter 11 case  
fr. 5/3/16, 6/7/16, 7/5/16, 8/2/16, 9/6/16, 10/11/16,  
11/29/16

Docket 6

**Tentative Ruling:**

**Revised Tentative Ruling for 12/13/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

"[A]t any time, on request of an entity that has an interest in property used, sold, or leased, or proposed to be used, sold, or leased, by the [debtor/trustee], the court, with or without a hearing, shall prohibit or condition such use, sale, or lease as is necessary to provide adequate protection of such interest." 11 U.S.C. 363(e). Such property includes cash collateral. See 11 U.S.C. 363(c)(2). Wells Fargo asserts an interest in the rents that the debtor has been and is (or should be) paying to its landlord (Dr. Sommer), and it has opposed the Dr. Sommer Motions on the basis of lack of adequate protection (among other things).

In addition, this court may raise that issue *sua sponte* (see 11 U.S.C. 105(a)) and may convert or dismiss this case for cause including, among other things, "substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation," or "gross mismanagement of the estate," or "unauthorized use of cash collateral substantially harmful to 1 or more creditors," or "failure to comply with an order of the court" (see 11 U.S.C. 1112, *and* dkt. 5 at p.2:5, & dkt. 6)

This court previously permitted the disbursement of up to \$60,000 to Dr. Sommer, at the discretion of the Chapter 11 Trustee (dkt. 206). All rights were reserved, however, to require disgorgement of those funds.

(a) Dr. Sommer's motions. Dr. Sommer has filed motions (1) for increased insider compensation (dkt. 166), (2) for additional staffing (as a

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

2:00 PM

**CONT... MEDomics, LLC**

**Chapter 11**

form of what he calls "adequate protection" of his interests) (dkt. 191), and (3) to be paid administrative expenses (which he claims to have advanced - without prior authorization - on behalf of the bankruptcy estate) (dkt. 196) (*dkts. 166, 191, 196 collectively*, "Dr. Sommer's Motions"). This Court has reviewed Dr. Sommer's Motions and the responses of Wells Fargo, the Chapter 11 Trustee, the debtor's former bankruptcy counsel The Law Offices Of Michael Jay Berger, and attorney Gregory W. Brittain, Esq. (dkt. 218, 219, 220, 221). The tentative ruling is to deny the motions for the following reasons.

(i) Lack of adequate protection for Wells Fargo

This Court has reviewed the business plan and projections offered by Dr. Sommer in support of his motion for additional staffing (the "business plan," dkt. 192), and is unpersuaded that the expenditures outlined in Dr. Sommer's Motions provide adequate protection to Wells Fargo.

First, the evidence offered by Dr. Sommer in support of the projected collection rate bears the weaknesses that the Chapter 11 Trustee identified in his opposition to the motion for order authorizing additional staffing (dkt. 218, p. 4-5). Specifically, the Court notes that the projection made in the Business Analysis of the debtor conducted by Michael d'Amato (dkt. 192) as well as the projected income statements prepared by Grobstein Teeple, LLP ("the Grobstein firm" (dkt. 191, ex. C) project that gross receipts will more than double in the future, but there is no adequate foundation for that assumption.

Dr. Sommer has not included evidence to support such a projection, which is especially dubious in light of the lack of collections reflected in the MOR for October 2016 (dkt. 186). Furthermore, these projections appear to have been based on historical collections which were the result of older medical techniques, and have not been shown to be good predictors of future collections.

Dr. Sommer has represented to the Court that the debtor is now engaged in new techniques, which he believes "should increase overall revenue dramatically." (dkt. 18, p.4:2-5), but has not offered the Court any evidence as to how. Furthermore while the projected income statements prepared by the Grobstein firm to support the motion for additional staffing reflect increased gross receipts, they are expressly based on the assumption that future collections will be at least 2.5% higher than historical collections (dkt. 191, ex C, p.12). Dr. Sommer has not offered any evidence that the new

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

techniques will bear collection results even similar to historical collection rates, much less exceeding them. Finally, as Wells Fargo points out in its combined oppositions to Dr. Sommer's Motions (Well's Fargo's "Combined Opposition," dkt. 217), the Grobstein firm not only relies entirely of Dr. Sommer's estimates for the future, but also expressly disclaims any opinion as to their accuracy (dkt. 217, p. 3).

Second and alternatively, though Dr. Sommer has made much of the idea that the "third era of medicine" in which the debtor is involved is important humanitarian work that must be done for what he believes to be moral reasons, he has not demonstrated that the debtor can sustain this work as a business model. It may well be the case that the work the debtor is engaged in is important medical work (this court does not have sufficient evidence to say one way or the other), but Dr. Sommer has failed to produce any evidence at all demonstrating that *this* debtor is specially situated to engage in that work (as compared with other labs engaged in similar work), and that the debtor can use that special expertise to generate funds with which to repay creditors, so he fails to show how this is relevant from a business perspective.

As to the public interest (assuming without deciding that this court could to take that into consideration at the expense of creditors), Dr. Sommer has not shown that the public interest requires that this particular debtor be kept as a going concern. If this medical technology is so incredible and important, this court is not convinced that there will not be other companies, institutions of higher education, charities, foundations, or other institutions to carry it on should the debtor not be able to.

All of the foregoing is further reinforced by the fact that Dr. Sommer has produced no evidence suggesting that insurance companies are currently willing to pay the debtor for its services, or will be in the future. This is problematic, given that Mr. d'Amato's business analysis suggests that the business depends on payment through insurance companies (with 97% of procedure bills being submitted to the patient's insurance company) (dkt. 192, Exhibit B, p.8).

As Wells Fargo notes in its Combined Opposition, it is entitled to the rents which the debtor should be paying. The more the Chapter 11 Trustee

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

resolves to spend, or the Court orders be spent, while the debtor appears to be failing, the less it appears Wells Fargo will ever recover. Based on the foregoing, even if the expenditures requested by Dr. Sommer in his motions might ultimately be worth the gamble for unsecured creditors because they have nothing to lose (which he has not shown), this court cannot approve them because of the lack of adequate protection for Wells Fargo.

(ii) Failure to show that the expenses are "actual and necessary"

In his motion for allowance of payment of administrative expenses, Dr. Sommer seeks the reimbursement of expenditures made in the course of business under 11 U.S.C. section 503. Section 503(b)(1) of the Bankruptcy Code provides:

After notice and a hearing, there shall be allowed administrative expenses, other than claims allowed under section 502(f) of this title, including

(1)(A) the actual, necessary costs and expenses of preserving the estate. [11 U.S.C. sec. 503(b)(1)(A)]

It is well established that the burden of proving an administrative expense claim is on the claimant. *In re Santa Monica Beach Hotel, Ltd.*, 209 B.R. 722, 725 (9th Cir. B.A.P., 1997). In addition, in order to keep the cost of administrative expenses down, the actual, necessary costs of preserving the estate have been construed narrowly. *Id.* Courts have generally interpreted the "actual" and "necessary" requirement as a question of whether a transaction with the bankruptcy estate "directly and substantially benefitted the estate." *Collier on Bankruptcy*, P 503.06 (16th 2016); *see also Microsoft Corp. v. DAK Indus., Inc.*, 853F.2d 700, 706 (9th Cir. 1988).

This Court remains unconvinced that the expenditure was necessary beyond the \$47,448.24 which the Chapter 11 Trustee concedes in his opposition to the motion for allowance and payment of administrative expenses (dkt. 219, p.4-7). That is so both for the reasons stated by the Chapter 11 Trustee and, more broadly and alternatively, because Dr. Sommer has not established that there was a reasonable basis on which this court would have authorized the expenditures if he had sought prior approval (because he has not shown any viable business plan, for the reasons set forth in the immediately preceding section of this tentative ruling). Dr. Sommer must bear the risk that the expenditures were not actual and

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

necessary, because he made the expenditures without the approval of the Court or the Chapter 11 Trustee, and is now retroactively seeking approval.

(iii) Conclusions regarding Dr. Sommer's Motions

The tentative ruling is to allow Dr. Sommer to retain \$47,448.24 but otherwise deny all three of the Dr. Sommer Motions. The tentative ruling is to direct Wells Fargo to lodge appropriate orders.

(b) Wells Fargo's motion for relief from the automatic stay (dkt. 61), and consideration of revisions to the terms of the order temporarily granting injunctive relief (2:16-ap-01311, dkt. 15).

For the same reasons set forth above, the tentative ruling is to grant further relief to Wells Fargo in two respect. First, it appears to be entitled to further relief on its motion for relief from the automatic stay by terminating the stay. Second, it appears appropriate to revise the terms of the order granting temporary injunctive relief (2:16-ap-01311, dkt. 15), as contemplated in that order at any future hearing thereon, by also terminating that preliminary injunction.

(c) Conversion, dismissal, and/or other next steps

The parties should be prepared to address what next steps this court should take, if it adopts the foregoing tentative rulings.

(2) Deadlines/dates. This case was filed on 4/5/16.

(a) Bar date: 6/30/16 (timely served, dkt. 54)

(b) Plan/Disclosure Statement\*: to be set, if relevant, at a future status conference.

(c) Continued status conference: 1/17/17 at 2:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 12/13/16:**

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

This court anticipates posting a tentative ruling at a later time.

**Tentative Ruling for 11/29/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

This court has sua sponte moved the existing status conference from 12/13/16 to this 11/29/16 date in view of the other matters that are pending. This court contemplates that a further continued status conference will take place on 12/13/16 at 2:00 p.m. as previously scheduled.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 10/11/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues

(a) Background. Creditor Wells Fargo Bank, N.A. ("Wells Fargo") has opposed the use of what it asserted was its cash collateral (*e.g.*, case dkt. 43) and has sought relief from the automatic stay (case dkt. 61) to pursue its remedies both against the debtor and against the debtor's principal, guarantor, landlord, and creditor Dr. Steve S. Sommer. Dr. Sommer sought injunctive relief against Wells Fargo to stop it from foreclosing (pursuant to his guaranty) on his home (adv. no. 2:16-bk-01311-NB, dkt. 2). This court has granted limited relief to both parties.

Specifically, this court's orders (case dkt.146 & adv.dkt.15) (the "Limited Injunction Orders") have modified the automatic stay (to the extent it applies) and granted preliminary injunctive relief such that Wells Fargo may proceed with its action in State Court against Dr. Sommer and may send out notices of foreclosure sale (if scheduled after 10/23/16) but, unless and until this court grants further relief, Wells Fargo continues to be stayed and is enjoined from actually foreclosing. This court also granted limited authority to

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT...

**MEDomics, LLC**

**Chapter 11**

use cash collateral (*see, e.g.*, case dkt. 37, 53), which at first appeared to be the cash collateral of Wells Fargo but now appears to be the cash collateral of a different creditor ("Socket").

Meanwhile Dr. Sommer has exhibited a propensity to violate this court's orders and his duties as a debtor in possession (*e.g.*, without seeking authorization he paid the debtor's employees and repaid alleged debts to himself). *See, e.g.*, dkt. 159 (amended 1st MOR showing loan repayment). So this Bankruptcy Court ordered the appointment of a Chapter 11 Trustee, David M. Goodrich ("Trustee") (case dkt. 114). Dr. Sommer's scientific skills and hard work appear to be critical to the debtor's successful reorganization (despite any shortcomings as a business manager or as a fiduciary for creditors). He continues to act as the debtor's principal, under the supervision of the Trustee.

From the inception of this bankruptcy case, Dr. Sommer has been hopeful that a new business model and better collection of accounts will lead to higher revenues. Some degree of success in these matters (by both the Trustee and Dr. Sommer) appears to be reflected in the most recent monthly operating report ("MOR") (for Aug.2016, dkt.157). This limited success has led to the following current matters.

(a) Dr. Sommer's request for increased compensation. Dr. Sommer seeks to increase his monthly compensation by approximately double. *See* dkt. 166, 169. The Trustee opposes that request and seeks to restrict spending to \$40,000 per month, based on concerns that revenues may dip for seasonal or other reasons, and also based on the inconsistencies in what Dr. Sommer claims to have earned in the past. *See* dkt. 152, 153, 166, 169.

The tentative ruling is that the burden is on Dr. Sommer to set a hearing on his proposed increase in compensation. The tentative ruling is also that on the one hand Dr. Sommer's monthly pay should be increased somewhat, based on the evidence of his long working hours and the benefits to the debtor, but on the other hand it appears to be necessary and appropriate to limit that increase as necessary to avoid unduly jeopardizing the debtor's nascent financial turnaround. The parties should be prepared to address these issues, including not only fairness to Dr. Sommer and the debtor/bankruptcy estate, but also fairness to Wells Fargo and other creditors (*e.g.*, whether Dr. Sommer has provided any evidence to the Trustee or this court that without increased pay he will be unable to pay Wells Fargo).

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

(b) Other possible requests. Dr. Sommer reportedly wants the Trustee to pay more to the debtor's employees, and to "repay" what he now apparently characterizes as "loans" that he made to the debtor's employees out of his own pocket to cover their payroll (as distinguished from an unauthorized loan that he made to the debtor to pay its employees, or an equity contribution that he made to the debtor for the same purpose and to protect his equity and fend off foreclosure of his house, or any other possible characterization of the transaction). See dkt. 152, 153. The Trustee, meanwhile, reportedly seeks to increase his bond. See MOR dkt.157 p.16.

The tentative ruling is that these things are not properly before this court at this time. If a proper motion or application is filed and served, this court will address these issues.

(c) Continuation of status quo. The tentative ruling is to continue indefinitely the Limited Injunction Orders (dkt.146 & Adv.dkt.15) (subject to further modification if necessary or appropriate in view of future developments). In other words, Wells Fargo can continue to litigate with Dr. Sommer and taking steps that are preconditions to foreclosure, but it will still be prohibited from actually foreclosing.

(2) Deadlines/dates. This case was filed on 4/5/16.

(a) Bar date: 6/30/16 (timely served, dkt. 54)

(b) Plan/Disclosure Statement\*: to be set at a future status conference.

(c) Continued status conference: 12/13/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 9/6/16:**

Continue all matters to 10/11/16 based on the relatively positive report (dkt. 152) of the Chapter 11 Trustee (see also dkt. 153, status report of Dr. Sommer), and meanwhile (1) foreclosure of Dr. Sommer's house will continue

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

to be prohibited by this court's orders (dkt. 146 and adv. no. 2:16-ap-01311-NB, dkt. 15), and (2) Socket Capital and the Chapter 11 Trustee may lodge any stipulation, or file any other relevant papers, regarding the proposed use of cash collateral. Appearances are not required on 9/6/16.

If you wish to dispute the above tentative ruling, please see Judge Bason's Procedures (posted at [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov)) then search for "tentative rulings".

**Revised Tentative Ruling for 8/2/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Background. Creditor Wells Fargo Bank, N.A. ("Wells Fargo") has opposed the use of its cash collateral (e.g., case dkt. 43) and has sought relief from the automatic stay (case dkt. 61) to pursue its remedies both against the debtor and against the debtor's principal, guarantor, landlord, and creditor Dr. Steve S. Sommer (Wells Fargo has, commendably, recognized that it might need such relief, at least to foreclose on the property rented by the debtor, even though Dr. Sommer stipulated prepetition to such relief). This Bankruptcy Court has granted Wells Fargo some relief, and also some relief to the debtor/bankruptcy estate, by providing very limited authority to the debtor to use cash collateral (case dkt. 37, 53).

More recently, primarily due to Dr. Sommer's non-compliance with the orders of this Bankruptcy Court regarding the use of cash collateral, this Bankruptcy Court has ordered the appointment of a Chapter 11 Trustee, and has approved the US Trustee's selection of David M. Goodrich ("Trustee") to serve in that role (case dkt. 114, order issued 6/15/16). Dr. Sommer continues to act as the debtor's principal, under the supervision of the Trustee.

Dr. Sommer, apparently recognizing that the automatic stay that protects the debtor might not actually protect him or his interests, or might be modified to eliminate any such protection, filed a motion for an injunction (case dkt. 119, filed 6/24/16). At a status conference in this case on 7/5/16, this Bankruptcy Court (i) expressed the view that the relief requested by Dr.

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

Sommer appears to require an adversary proceeding (see Rule 7001(7), Fed. R. Bankr. P.), (ii) set certain deadlines for Dr. Sommer to commence any such adversary proceeding, and (iii) continued certain matters, such as Wells Fargo's motion for relief from the automatic stay, with no party objecting, to this date and time.

On 7/8/16 Dr. Sommer withdrew his motion in the main case for injunctive relief (case dkt. 126). On 7/13/16 he commenced his adversary proceeding (case dkt. 131, commencing Adv. No. 2:16-bk-01311-NB) and filed a motion (adv. dkt. 2) seeking essentially the same relief. Wells Fargo has filed opposition papers (adv. dkt. 8-9), and Dr. Sommer has (untimely) filed reply papers (dkt. 10-11).

Meanwhile, from the inception of this bankruptcy case, Dr. Sommer has been hopeful that a new business model and better collection of accounts will lead to higher revenues. In his motion for an injunction, Dr. Sommer states that postpetition revenue has significantly increased. But it is unclear whether this actually has happened. It does not appear to be reflected on monthly operating reports (see, e.g., dkt. 129).

(b) Adversary proceeding 2:16-bk-01311-NB: motion for preliminary injunction (adv. dkt. 2). It appears to be undisputed that Dr. Sommer performs essential functions for the debtor and his ongoing assistance may be critical to the debtor's ability to function at all, let alone any hope of providing a dividend to creditors. In addition, Dr. Sommer apparently devotes a huge number of hours each week to the debtor, and he has suffered from health problems in the past, so he has strong reasons for wanting to be protected from Wells Fargo.

But the burdens on Dr. Sommer, and his benefits to the debtor, are not the only considerations. Ultimately the issue is whether providing injunctive relief to protect Dr. Sommer from Wells Fargo's pursuit of its remedies is the only means, and the most appropriate means, of providing some protection to Dr. Sommer and attempting to assure his ongoing assistance to the debtor.

(i) Standing. The tentative ruling is that the motion must be denied because Dr. Sommer has not adequately established standing to bring the motion. The debtor, through the chapter 11 trustee, is the only party with standing to request an injunction under 11 U.S.C. 105(a), at least unless Dr. Sommer can establish an exception to this rule. See adv. dkt. 8, p. 3:9-18; *In re Consol. Pioneer Mortgage Entities*, 205 B.R. 422, 425 (9th Cir. BAP 1997)

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

Tuesday, December 13, 2016

Hearing Room 1545

---

2:00 PM

CONT... MEDomics, LLC

Chapter 11

("And more importantly, standing to enjoin the actions of a third party rests with the debtor, debtor in possession, or the trustee, and not with the third party.") (internal citations and punctuation omitted).

It is true that standing sometimes can be established by creditors to act on behalf the estate, such as when a debtor in possession fails or refuses to act in the best interests of creditors, or when the debtor/trustee joins in a creditor's request for relief. See adv. dkt. 10, p. 8:10-9:2, and see generally, e.g., 11 U.S.C. 1109; *In re Lahijani*, 325 B.R. 282, 288 (9th Cir. BAP 2005); *Matter of Ring*, 178 B.R. 570, 577 (Bankr. S.D. Ga. 1995) (creditor had standing under 11 U.S.C. 105 for purposes of contempt proceeding).

But in this case the Trustee has not joined in Dr. Sommer's request for relief. In addition, as set forth below, Dr. Sommer has not established that such request is truly necessary or appropriate in the best interests of the estate.

(ii) Dr. Sommer can file his own bankruptcy. Until his reply, Dr. Sommer largely ignored this Court's question, posed in the context of its tentative ruling on Wells Fargo's motion for relief from stay, asking why he could not file his own bankruptcy if he sought to stay Wells Fargo's acts against him or his property interests. There are dangers to granting non-debtors such as Dr. Sommer the protections of a stay without the concurrent obligations of the bankruptcy code.

For example, if Dr. Sommer had to file his own bankruptcy case he would have to disclose certain financial matters that might include constructively fraudulent transfers, preferences, or other avoidable transfers that Dr. Sommer may have made to third parties, or that he might have received from the debtor. In addition to such disclosure requirements, a bankruptcy petition by Dr. Sommer would offer other benefits, such as tolling of statutes of limitations as provided in 11 U.S.C. 108. In other words, Dr. Sommer has not shown how it is appropriate to enjoin acts against him and thereby provide him with one of the principal benefits of bankruptcy protection without the concomitant obligations and protections for his own creditors and the debtor's creditors.

Dr. Sommer contends that there are two weaknesses with the proposition that he file his own bankruptcy. First, he contends that this is not an "adequate remedy at law."

While it is true that bankruptcy is an equitable proceeding, and in that sense not a "remedy at law," it is also true that injunctive relief is an equitable

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

remedy. The burden is on Dr. Sommer to show why it is equitable to provide him with the protection of an injunction without the burdens and protections that typically would accompany such protection.

Second, Dr. Sommer contends that he would lose the non-exempt equity in his home which is a possible source of funding for this estate. This argument also fails.

If there is substantial equity then presumably Dr. Sommer can provide a treatment of Wells Fargo in his own bankruptcy case that will (A) provide adequate protection and full present value to Wells Fargo (see 11 U.S.C. 361-363 & 1129(a)&(b)) while also (B) using any excess equity for the benefit of the debtor and himself. He has not shown how that would be impossible or inequitable.

(iii) Alternatively, Dr. Sommer can elect not to file his own bankruptcy petition. Dr. Sommer has not established that it necessarily would be detrimental to the bankruptcy estate if Wells Fargo were free to continue pursuing foreclosure against the property rented by the debtor, and its other remedies. Wells Fargo appears in its own self-interest to have an incentive not to destroy the debtor's business, if that business is truly viable and could be a realistic source of payment to Wells Fargo (and other creditors). Alternatively, even if Wells Fargo is unwilling to work with the debtor and Dr. Sommer, the foreclosure process will take several months (according to the un rebutted allegations by Wells Fargo) and there may be other remedies such as selling the property and using its alleged equity.

(iv) Conclusion. Although this Bankruptcy Court recognizes that Dr. Sommer's services may be essential for the debtor, and that he might be unable to devote as much time to the debtor or even choose to abandon the debtor if he does not obtain the injunctive relief that he seeks, he has not shown how it is appropriate to grant him the benefits of a stay without the burdens and protections for creditors that normally are required for such a stay. The tentative ruling is to deny his motion for a preliminary injunction, except for a very brief period described below for Dr. Sommer to file his own bankruptcy petition, if he chooses to do so.

(c) Motion for relief from the automatic stay. For the reasons set forth in this Court's original tentative ruling (see matter number 7 for 8/2/16 at 2:00 p.m., including a copy of the tentative ruling for 5/31/16) and based on Wells Fargo's largely un rebutted analysis of the *Curtis* factors (2:16-ap-01311-NB, adv. dkt. 8:2-9:12), the tentative ruling is to modify the automatic stay as

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

follows. After a short period described below, Wells Fargo (i) may pursue its remedies against Dr. Sommer or his interests, including any foreclosure of the property that is rented by the debtor, but (ii) not actually hold any foreclosure sale prior to a future date, to be set at this 8/2/16 hearing after hearing from the Trustee regarding the debtor's present and anticipated performance, and not otherwise collect from the debtor.

The tentative ruling is to such that short period at 21 days from this hearing date - *i.e.*, through 8/23/16. This further stay is intended to provide Dr. Sommer an opportunity to determine whether or not he will file his own bankruptcy petition, or pursue some other (legal and proper) form of relief.

(d) Cash collateral. This Bankruptcy Court previously directed Dr. Sommer's counsel to communicate with chambers to discuss why the order regarding cash collateral had been rejected. As far as this Court is aware, no such communication was made and, based on a review of this Court's records of rejected orders, it is unclear that Dr. Sommer's counsel ever properly lodged the order (it would appear on the docket or in this Court's rejected order list, but it does not appear in either place). Accordingly, Dr. Sommer's counsel should be prepared to address why he has not taken care of lodging a proposed cash collateral order.

(2) Deadlines/dates. This case was filed on 4/5/16. If this Court does not convert or dismiss this case, it intends to set the following deadlines.

(a) Bar date: 6/30/16 (timely served, dkt. 54)

(b) Plan/Disclosure Statement\*: Any prior deadlines are vacated. The parties should be prepared to address what deadlines may be appropriate.

(c) Continued status conference: 9/6/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 8/2/16:**

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Background. This Court held a status conference in this case on 7/5/16. At that status conference, this Court set certain deadlines for Dr. Sommer to commence an adversary proceeding, and continued certain matters, such as Wells Fargo's motion for relief from the automatic stay, with no party objecting, to this date and time.

(b) Adversary proceeding 2:16-bk-01311-NB: motion for preliminary injunction (adv. dkt. 2). This Court has reviewed plaintiff and creditor Dr. Steve S. Sommer's motion for a preliminary injunction (adv. dkt. 2) and the opposition thereto (adv. dkt. 8, 9). On 7/27/16, Dr. Sommer filed an untimely reply.

(i) Standing. As an initial matter, the tentative ruling is that the debtor, through the chapter 11 trustee, and not Dr. Sommer, is the only party with standing to request an injunction under 11 U.S.C. 105(a). Adv. dkt. 8, p. 3:9-18; see *In re Consol. Pioneer Mortgage Entities*, 205 B.R. 422, 425 (9th Cir. BAP 1997) ("And more importantly, standing to enjoin the actions of a third party rests with the debtor, debtor in possession, or the trustee, and not with the third party.") (internal citations and punctuation omitted). Accordingly, on this basis, the tentative ruling is that the motion for injunctive relief must be denied.

However, because standing can be established by creditors on behalf the estate under certain circumstances, such as those cited by Dr. Sommer in his reply (adv. dkt. 10, p. 8:10-9:2), this Court will assume without deciding that Dr. Sommer *could* establish standing, either as a creditor or by having the debtor join in his action. See, e.g., 11 U.S.C. 1109; *In re Lahijani*, 325 B.R. 282, 288 (9th Cir. BAP 2005); *Matter of Ring*, 178 B.R. 570, 577 (Bankr. S.D. Ga. 1995) (holding that a creditor has standing under 11 U.S.C. 105 for purposes of a contempt proceeding).

(ii) Dr. Sommer can file his own bankruptcy. Until his reply, Dr. Sommer largely ignored this Court's question, posed in the context of its tentative ruling on the motion for relief from stay, asking why he could not file his own bankruptcy and obtain the benefits of the automatic stay, subject to the obligations of the bankruptcy code.

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT...

**MEDomics, LLC**

**Chapter 11**

In requesting an injunction rather than filing a bankruptcy, Dr. Sommer does not have to disclose his own financial situation and there are possibly fraudulent transfers, preferences, or other avoidable transfers that Dr. Sommer may have made. As to these possible avoidable transfers, Dr. Sommer is obtaining the benefit of the automatic stay without the tolling of statutes of limitations provided by 11 U.S.C. 108. Dr. Sommer has not shown how this is fair.

These considerations are strengthened by the fact that Dr. Sommer's financial success is tied to the success (or failure) of this debtor's reorganization. If Dr. Sommer was simply a standard CEO, perhaps it would be proper to issue an injunction because he would have no incentive to file his own bankruptcy to protect the entity. This is not the case with Dr. Sommer.

Dr. Sommer contends that there are two weaknesses with the proposition that he file his own bankruptcy. First, he contends that this is not an "adequate remedy at law." While this is true, it is a remedy available to him and by analogy it must be considered. Second, he contends that he would lose the non-exempt equity in his home which is a possible source of funding for this estate. This argument also fails. As explained above, Dr. Sommer would essentially be gaining the benefit of the automatic stay, as against Wells Fargo, without any of the substantial burdens of being a debtor in bankruptcy. The automatic stay and other powers afforded to a debtor in possession are the quid pro quo of the disclosure and other requirements of the bankruptcy code. Dr. Sommer cannot have it both ways.

(iii) Motion is denied. Because Dr. Sommer failed to address these issues, and because the issuance of an injunction is not proper here for the reasons set forth above, the Court's tentative ruling is to deny the motion.

(c) Motion for relief from the automatic stay. For the reasons set forth in this Court's original tentative ruling (see matter number 7 for 8/2/16 at 2:00 p.m., tentative ruling for 5/31/16) and based on Wells Fargo's undisputed analysis of the *Curtis* factors (2:16-ap-01311-NB, adv. dkt. 8:2-9:12), the tentative ruling is to grant relief from the automatic stay subject to an expanded 21-day stay of any actions by Wells Fargo to enforce its interests against Dr. Sommer or the debtor. This further stay is intended to provide Dr. Sommer an opportunity to determine whether or not he will file his own bankruptcy.

(d) Cash collateral. This Court directed Dr. Sommer's counsel to

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

contact chambers to discuss why the order regarding cash collateral had been rejected. As far as this Court is aware, no contact was made. Based on this Court's review of its records of rejected orders, it is unclear that Dr. Sommer's counsel ever properly lodged the order (it would appear on the docket or in this Court's rejected order list, but it appears neither place). Accordingly, Dr. Sommer's counsel should be prepared to address why he did not contact chambers and why he has not correctly lodged a cash collateral order.

(e) Revenue. In his motion for an injunction, Dr. Sommer states that postpetition revenue has significantly increased. Has this actually happened? Why is this not reflected on monthly operating reports (see, e.g., dkt. 129)?

(2) Deadlines/dates. This case was filed on 4/5/16. If this Court does not convert or dismiss this case, it intends to set the following deadlines.

(a) Bar date: 6/30/16 (timely served, dkt. 54)

(b) Plan/Disclosure Statement\*: file by 8/31/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 9/6/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 7/5/16:**

Appearances required but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges,"

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

"Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) Chapter 11 trustee. On 6/15/16, this Court issued an order approving appointment of a chapter 11 trustee. The chapter 11 trustee should be prepared to update this Court on the status of this case. Does this Court need to set a new deadline for the filing of a disclosure statement and plan, or establish alternative procedures for any exit strategy from chapter 11?

(b) U.S. Trustee's motion to dismiss, convert, or appoint a chapter 11 trustee (dkt. 83). Because this Court has appointed a chapter 11 trustee, this Court's tentative ruling is to deny as moot the U.S. Trustee's motion.

(c) Cash collateral. On 6/7/16, this Court denied, subject to certain conditions, the debtor's continued use of cash collateral. The parties should be prepared to update this Court as to the status of this matter.

(2) Deadlines/dates. This case was filed on 4/5/16.

(a) Bar date: 6/30/16 (timely served, dkt. 54)

(b) Plan/Disclosure Statement\*: file by 8/31/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 9/6/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

**Tentative Ruling for 6/7/16:**

Appearances required by counsel for the debtor but telephonic appearances are encouraged if advance arrangements are made (see [www.cacb.uscourts.gov](http://www.cacb.uscourts.gov), "Judges," "Bason, N.", "Instructions/Procedures").

(1) Current issues.

(a) New counsel. If this Court adopts its tentative ruling to authorize withdrawal of debtor's bankruptcy counsel of record, the debtor should be prepared to address the status of finding new counsel and whether this case should be dismissed or converted, because this is an unrepresented limited liability company. See LBR 9011-2.

(b) Success of new test. As this Court understands, the debtor's new test was implemented relatively recently. Are there any indicia of how it is being received in the market? The most current monthly operating report (dkt. 69, PDF p. 18) shows a net loss of \$4,003.06. Is the new test attracting the hoped-for business?

(c) Healthcare ombudsman. This Court has reviewed the report of the healthcare ombudsman (dkt. 94) and at this time does not anticipate requiring further services but appreciates the ombudsman's willingness to be available in future if needed.

(d) Rejection of Arcadia lease. At the status conference held on 5/3/16, the debtor stated an intention to reject the lease in Arcadia. Why has it not done so? What is the justification of the costs of this delay?

(e) Progress re: Dr. Sommer. The debtor does not appear to have taken any action to obtain injunctive or similar relief regarding Dr. Sommer. Will the debtor be able to reorganize absent such relief?

(f) United States Trustee's motion to dismiss and apparent failure to pay payroll taxes. In addition to the other issues raised in the United States Trustee's motion to dismiss, at the continued hearing, the debtor should be prepared to address whether or not it has paid postpetition payroll taxes and whether any unpaid taxes have been brought current. See dkt. 83, Ex.1&2.

(g) Dismissal or conversion. In view of the foregoing, and based on the debtor's apparent use or non-use of cash collateral, is there any plausible way for this case to proceed? Should this case be dismissed or converted?

(2) Deadlines/dates. This case was filed on 4/5/16. If this Court does not convert or dismiss this case, it intends to set the following deadlines.

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT...

**MEDomics, LLC**

**Chapter 11**

(a) Bar date: 6/30/16 (timely served, dkt. 54)

(b) Plan/Disclosure Statement\*: file by 8/31/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 7/19/16 at 1:00 p.m. No written status report is required.

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

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Tentative Ruling for 5/3/16:**

Appearances required by counsel for the debtor and by the principal for the debtor.

(1) Current issues

(a) Status report. The debtor's status report (dkt. 26) is not on the form required by this Court's order (dkt. 5, p. 2, para. 2), making it difficult to see what may have been omitted (e.g., item 12 evades the question whether a health care ombudsman is required, as now stipulated with the US Trustee, dkt. 40). At the hearing, the debtor's new counsel should be prepared to address whether anything else has been omitted.

(b) Exit strategy. The debtor appears to be relying on "a combination of pursuing receivables more aggressively and promoting [its] new test" which this Court understands was only recently developed. Dkt. 26, pp. 1:27-2:1. Has the debtor started to implement this strategy? Are there any indicia of progress so far?

(c) Founder's note. The debtor scheduled a "Founder Note" from the

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

CONT... MEDomics, LLC

Chapter 11

debtor's principal, Dr. Steve Sommer, apparently making him the estate's largest general unsecured creditor. Before any plan will be proposed, is it necessary to address whether this was an equity contribution instead of a loan? Alternatively, should that be addressed in any disclosure statement?

(d) Assumption/rejection of leases. At the hearing on the debtor's motion for authority to use cash collateral, the debtor stated an intention to assume or reject certain leases. When does the debtor anticipate filing a motion to reject the leases, and is the cost of delay justified?

(e) Former counsel's retainer. The debtor's former counsel, Illyssa Fogel, Esq., apparently accepted \$21,700 out of an agreement for \$100,000 in fees for handling this case. See dkt. 29, PDF p. 29. Will Ms. Fogel be returning any of that to the estate?

(f) Application to employ general bankruptcy counsel. Debtor's proposed general bankruptcy counsel states that it requests a \$20,000 postpetition retainer (of which it has already received \$10,000 as a gift from Alan Rin. See dkt. 33, p. 10-11, para 22. This Court requests that the United States Trustee be prepared to address its position on this arrangement. Is "Alan Rin" related to "Adam Rin," the former alternate managing member of the debtor? See dkt. 30.

(2) Deadlines/dates. This case was filed on 4/5/16.

(a) Bar date: 6/30/16 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Plan/Disclosure Statement\*: file by 8/31/16 using the forms required by Judge Bason (DO NOT SERVE yet, except on the U.S. Trustee - the court will set a deadline and procedures at a later time).

Note: If the U.S. Trustee wishes to file initial comments on any draft Plan documents *before* the regular deadline, it should do so at least two weeks prior to the subsequent status conference (but, whether or not any comments are filed, all rights are reserved to object to the Disclosure Statement or Plan when deadline(s) for such objections are established).

(c) Continued status conference: 6/5/16 at 1:00 p.m. No written status report is required.

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

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

2:00 PM

**CONT... MEDomics, LLC**

**Chapter 11**

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

**Party Information**

**Debtor(s):**

MEDomics, LLC

Represented By  
Illyssa Fogel

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

2:00 PM

**2:16-14355 MEDomics, LLC**

**Chapter 11**

**#13.00** Cont'd hrg re: Motion for allowance and  
payment of administrative expenses  
fr. 11/29/16

Docket 196

**Tentative Ruling:**

See tentative ruling for chapter 11 status conference (12/13/16, 2:00 p.m.,  
calendar no. 12).

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

**Debtor(s):**

MEDomics, LLC

Represented By  
Illyssa I Fogel

**Trustee(s):**

David M Goodrich (TR)

Represented By  
Steven Werth

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

Tuesday, December 13, 2016

Hearing Room 1545

2:00 PM

:

Chapter 0

Adv#: 2:16-01520 Ironridge Global IV, Ltd. et al v. SCRIPSAMERICA, INC. et al

#14.00 Status conference re: Notice of Removal

Docket 1

**Tentative Ruling:**

Appearances required. The court has reviewed the filed documents and records in this adversary proceeding.

(1) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, \_\_\_ U.S. \_\_\_ (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). See generally *In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(2) Mediation. Is there is any reason why this court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below?

(3) Deadlines: This adversary proceeding has been pending since 11/30/16. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to serve and lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

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

**Tuesday, December 13, 2016**

**Hearing Room 1545**

2:00 PM

**CONT...**

**Chapter 0**

Discovery cutoff (for *completion* of discovery): to be set at continued status conference.

Joint Status Report: 1/24/17

Continued status conference: 2/7/17 at 11:00 a.m.

If you do not appear, and the matter is not adequately resolved by consent, then you may waive your right to be heard on matters that are appropriate for disposition at this hearing.

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

**Defendant(s):**

Carlos E Needham	Pro Se
Needham Law Firm, A.P.C.	Pro Se
SCRIPSAMERICA, INC.	Pro Se

**Plaintiff(s):**

John Kirkland	Represented By Matthew A Lesnick
Brendan O'Neil	Represented By Matthew A Lesnick
Ironridge Global IV, Ltd.	Represented By Matthew A Lesnick
Ironridge Global Partners, LLC	Represented By Matthew A Lesnick