Judge Robert Kwan, Presiding Courtroom 1675 Calendar

Wednesday, December 16, 2020

Hearing Room

1675

11:00 AM

2:13-29180 Sarkis Investments Company, LLC

Chapter 11

#1.10 Hearing re: Second interim application for approval of compensation and expense reimbursement of Foley & Lardner, LLP

Docket 720

*** VACATED *** REASON: Hearing vacated per order entered on 12/10/20- mb.

Tentative Ruling:

Off calendar. Hearing vacated on the court's own motion by prior order, which provides that the application may be renoticed for hearing in compliance with LBR 5005-2(d). No appearances are required on 12/16/20.

Party Information

Debtor(s):

Sarkis Investments Company, LLC

Represented By
Ashley M McDow
Michael T Delaney
Fahim Farivar
Shane J Moses

Judge Robert Kwan, Presiding Courtroom 1675 Calendar

Wednesday, December 16, 2020

Hearing Room

1675

11:00 AM

2:18-13759 Charles Peters

Chapter 11

#1.20 Cont'd hearing re: Confirmation of plan

fr. 8/18/20, 10/21/20, 12/9/20

Docket 257

Tentative Ruling:

Supplemental tentative ruling as of 12/16/20. The court has reviewed the fifth amended plan and debtor's supplemental declaration filed on 12/14/20. The court has the following observations: (1) the objection of secured creditor Deutsche Bank is unresolved, and the proposed plan treatment of this creditor in the latest amended plan is opposed, and thus, plan confirmation is still a contested matter; (2) the income and expense schedules in the supplemental documents is unclear regarding the monthly payments on the first and second liens on the mobile home park are for the refinanced loans, taking out the existing loans; (3) the information is incomplete as to whether the refinancing loan satisfies the requirements of postpetition financing under 11 U.S.C. 364, that is, debtor did not provide information on the terms of refinancing loans as ordered; (4) while the amount of general unsecured claims is small, the amount of the priority tax claims, especially of the City of Beverly Hills, is large, and debtor needs to show that the plan is feasible to pay off the city's claims; (5) the plan language is inconsistent as to payoff of priority tax claims within 5 years of the order for relief since the payoff start date is 2/1/21 when the order for relief is the petition date of 4/3/18; (6) the plan does not contain the language in LBR 3020-1(b) regarding revesting of property of the reorganized debtor in a Chapter 7 estate if the case is converted later. Debtor and other witnesses may have to offer testimony during the hearing to provide evidence to address these issues. The court is holding off on entering orders on the final fee applications of estate professionals pending a ruling confirming the plan. Appearances are required on 12/16/20.

Updated tentative ruling as of 12/11/20. Debtor is to address the issues that were discussed at the hearing on 12/7/20 regarding plan treatment of secured creditor Deutsche Bank and evidence in support of plan feasibility as well as the other issues identified in the prior tentative ruling and as discussed at the prior hearing. The court has reviewed the declaration of debtor's insolvency

Judge Robert Kwan, Presiding Courtroom 1675 Calendar

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CONT... Charles Peters

Chapter 11

counsel regarding feasibility, filed on 12/9/20, but because loans are being refinanced and one secured lender is being paid off, it would be helpful if debtor provided updated income and expense projections for 2021 since the amounts of the debt service on the real property loans are changing, and such information is not provided in the declaration. The counsel declaration does not account for payment of the priority tax claim of the City of Beverly Hills or the payments of the general unsecured claims of the IRS and American Express. Debtor should be available to testify in support of feasibility, and interested parties will be able to inquire regarding feasibility based on the newly filed counsel declaration. Appearances are required on 12/16/20, but counsel and self-represented parties must appear by telephone.

TO PARTIES WHO INTEND TO APPEAR AT THE HEARING ON THIS MATTER:

PLEASE TAKE NOTICE that the court hearing before Judge Robert Kwan of the United States Bankruptcy Court for the Central District of California will be conducted telephonically. However, instead of having to physically appear in court, you must appear by telephone because the court is not conducting in person hearings on that date in light of the public health conditions from the COVID-19 pandemic. The courtroom will be locked; parties must appear by telephone and will not be permitted to appear in the courtroom.

In order to appear for the court hearing by telephone, you will need to arrange to make the telephone call through CourtCall, the contract telephone appearance service, which arranges telephone appearances before this court. CourtCall's telephone number is: (866) 582-6878. Through March 31, 2021, CourtCall is offering discounted rates to attorneys and FREE access for parties who do not have an attorney (pro se or self-represented parties). You need make an advance reservation with CourtCall to appear by telephone before the hearing, preferably a week before the hearing, and no later than the day before the hearing. After you made your telephone appearance reservation with CourtCall, on the day of the court hearing, you will need to call CourtCall at its telephone number at least 5 minutes before the scheduled hearing, and identify the United States Bankruptcy Court in Los Angeles as the court and Judge Robert Kwan as the judge, and the CourtCall operator will put you into the telephonic court hearing. Given the large demand for

Judge Robert Kwan, Presiding Courtroom 1675 Calendar

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CONT... Charles Peters

Chapter 11

telephone court appearances, there may be some delay in connecting to the hearing. If you are having problems connecting to the hearing, please call and advise Judge Kwan's courtroom deputy at (213) 894-3385.

Updated tentative ruling as of 12/7/20. The plan needs to resolve certain issues before it can be confirmed: (1) the objection of secured creditor Deutsche Bank to plan confirmation that the plan cannot modify its lien on debtor's principal residence under 11 U.S.C. 1123(b)(5), the plan does not provide for the full amount of the loan as of the confirmation date and the proposed treatment of paying the secured claim over 30 years with 2% interest does not meet the cramdown "fair and equitable" standards of 11 U.S.C. 1129(b)(2)(A)(i) - unless this dispute is consensually resolved, plan confirmation is a contested proceeding requiring an evidentiary hearing to determine whether the loan term can be stretched out and what the appropriate "cramdown" rate of interest is (i.e., formula v. blended rate, compare Till v. SCS Credit Corp, 541 U.S. 465, 478-479 (2004); In re Sunnyslope Housing Ltd. Partnership, 859 F.3d 637, 646 (9th Cir. 2017) with In re Boulders on the River, Inc., 164 B.R. 99, 106 (9th Cir. BAP 1994); In re North Valley Mall, LLC, 432 B.R. 825, 832 (Bankr. C.D. Cal. 2010)) - the court is not inclined to approve as "fair and equitable" the treatment of the secured claim for purposes of 11 U.S.C. 1129(b) with a stretch-out of an additional 13-14 years on a loan maturing in 16-17 years with 2% interest where the contract rate is a variable APR rate loan between 3 and 6.25%, because of the default risk to the creditor, In re Fowler, 903 F.2d 694, 697 (9th Cir. 1990), though the proof of claim lists the current variable rate to be 2%; evidence may have to be taken on the appropriate cramdown interest rate and the valuation of the property and lien, though the issue of loan modification for the subject property under 11 U.S.C. 1123(b)(5) is a legal issue, In re Wages, 508 B.R. 161, 165 (9th Cir. BAP 2014) with In re Scarborough, 461 F.3d 406, 410-413 (3rd Cir. 2006); (2) the plan does not comply with 11 U.S.C. 1129(a) (9)(C) requiring priority tax claims be paid in full with interest not later than 5 years from the date of the order for relief on 4/3/18, or by 4/3/23, rather than 1/1/26 as proposed in the plan, and debtor must demonstrate feasibility of paying the total unobjected-to priority tax claims of IRS and Beverly Hills in the approximate amount of \$93,000; (3) debtor needs to demonstrate feasibility by showing that he can pay off administrative expense claims pursuant to 11 U.S.C. 1129(a)(9)(A) since the amounts of these claims as

Judge Robert Kwan, Presiding Courtroom 1675 Calendar

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Chapter 11

reflected in the final fee applications have run higher than listed in the plan and disclosure statement. Debtor must show that the plan is feasible that he can pay the administrative expense claims and the priority tax claims as proposed in the plan or by the deadline for payment of priority tax claims in April 2023. According to debtor in his plan confirmation brief, since approval of the disclosure statement, he has obtained approval of a refinancing loan for the mobile home park which should demonstrate plan feasibility to pay off administrative expense claims, priority tax claims and other claims, but there is no evidence of this in the record. The plan or plan confirmation order must include the language in LBR 3020-1(b) concerning postconfirmation requirements, including revesting property of the reorganized debtor in a Chapter 7 bankruptcy estate if the case is converted to Chapter 7.

Appearances are required on 12/9/20, but counsel and self-represented parties must appear by telephone.

TO PARTIES WHO INTEND TO APPEAR AT THE HEARING ON THIS MATTER:

PLEASE TAKE NOTICE that the court hearing before Judge Robert Kwan of the United States Bankruptcy Court for the Central District of California will be conducted telephonically. However, instead of having to physically appear in court, you must appear by telephone because the court is not conducting in person hearings on that date in light of the public health conditions from the COVID-19 pandemic. The courtroom will be locked; parties must appear by telephone and will not be permitted to appear in the courtroom.

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United States Bankruptcy Court Central District of California Los Angeles Judge Robert Kwan, Presiding

Courtroom 1675 Calendar

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Chapter 11

scheduled hearing, and identify the United States Bankruptcy Court in Los Angeles as the court and Judge Robert Kwan as the judge, and the CourtCall operator will put you into the telephonic court hearing. Given the large demand for telephone court appearances, there may be some delay in connecting to the hearing. If you are having problems connecting to the hearing, please call and advise Judge Kwan's courtroom deputy at (213) 894-3385.

Prior tentative ruling as of 10/19/20. No tentative ruling on the merits in light of the objection of administrative expense creditor Law Offices of Michael Jay Berger. Debtor should discuss when he would be able to refinance his real property to pay administrative expense claimants since they all have to consent to the proposed treatment of their claims pursuant to 11 U.S.C. 1129(a)(9)A). The plan should incorporate the mandatory language of LBR 3020-1(b) referring to revesting of property of the reorganized debtor in a Chapter 7 estate if the case is converted to Chapter 7 for a postconfirmation default. The plan should correct typographical and spelling errors, such as plan date of "October 7, 2010," or the court being the "Los Angele Division" or the court address of "155 E. Temple St" in the case caption for the plan. Appearances are required on 10/21/20, but counsel and self-represented parties must appear by telephone.

Party Information

Debtor(s):

Charles Peters

Represented By Frank Edel Blanco Giovanni Orantes Luis A Solorzano

Judge Robert Kwan, Presiding Courtroom 1675 Calendar

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11:00 AM

2:18-13759 Charles Peters

Chapter 11

#1.30 Cont'd status conference re: Management of chapter 11 case fr. 9/2/20, 10/21/20, 12/9/20

Docket 1

Tentative Ruling:

Updated tentative ruling as of 12/11/20. No tentative ruling on the merits. Appearances are required on 12/16/20, but counsel and self-represented parties must appear by telephone.

TO PARTIES WHO INTEND TO APPEAR AT THE HEARING ON THIS MATTER:

PLEASE TAKE NOTICE that the court hearing before Judge Robert Kwan of the United States Bankruptcy Court for the Central District of California will be conducted telephonically. However, instead of having to physically appear in court, you must appear by telephone because the court is not conducting in person hearings on that date in light of the public health conditions from the COVID-19 pandemic. The courtroom will be locked; parties must appear by telephone and will not be permitted to appear in the courtroom.

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Chapter 11

telephone court appearances, there may be some delay in connecting to the hearing. If you are having problems connecting to the hearing, please call and advise Judge Kwan's courtroom deputy at (213) 894-3385.

Party Information

Debtor(s):

Charles Peters

Represented By Frank Edel Blanco Giovanni Orantes Luis A Solorzano

Judge Robert Kwan, Presiding Courtroom 1675 Calendar

Wednesday, December 16, 2020

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1675

11:30 AM

2:17-23722 Kody Branch of California, Inc.

Chapter 7

Adv#: 2:19-01466 Avery v. Gia Phu Fashion Garment Co.

#1.00 Cont'd status conference re: Complaint for avoidance, recovery, and preservation of fraudulent and unauthorized postpetition transfers fr. 5/19/20, 8/18/20, 9/30/20

Docket 1

*** VACATED *** REASON: Cont'd from 12/16/20 to 2/3/21 at 1:30 p.m. per stip & order entered on 12/10/20-mb.

Tentative Ruling:

Updated tentative ruling as of 12/11/20. Off calendar. Continued by stipulation and order to 2/3/21 at 1:30 p.m. No appearances are required on 12/16/20.

Party Information

Debtor(s):

Kody Branch of California, Inc.

Represented By

John-Patrick M Fritz

Defendant(s):

Gia Phu Fashion Garment Co. Pro Se

Plaintiff(s):

Wesley H. Avery Represented By

David Wood D Edward Hays

Trustee(s):

Wesley H. Avery Represented By

Kristofer R McDonald Richard A Marshack D Edward Hays David Wood

Judge Robert Kwan, Presiding Courtroom 1675 Calendar

Wednesday, December 16, 2020

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1675

11:30 AM

2:17-23722 Kody Branch of California, Inc.

Chapter 7

Adv#: 2:19-01469 Avery v. Trinh Vuong Garment Co., Ltd.

#2.00 Cont'd status conference re: Complaint for avoidance, recovery, and preservation of preferential and fraudulent transfers fr. 5/19/20, 8/18/20, 9/30/20

Docket 1

Tentative Ruling:

Updated tentative ruling as of 12/11/20. Off calendar. The court has reviewed plaintiff's unilateral status report stating that he will need to obtain an alias summons and serve defendant and requests that the status conference be continued to 2/3/21 at 1:30 p.m. The court grants this request and on its own motion continues the status conference to 2/3/21 at 1:30 p.m. No appearances are required on 12/16/20.

Party Information

Debtor(s):

Kody Branch of California, Inc. Represented By

John-Patrick M Fritz

Defendant(s):

Trinh Vuong Garment Co., Ltd. Pro Se

Plaintiff(s):

Wesley H. Avery Represented By

David Wood D Edward Hays

Trustee(s):

Wesley H. Avery Represented By

Kristofer R McDonald

Wednesday, December 16, 2020

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CONT... Kody Branch of California, Inc.

Chapter 7

Richard A Marshack D Edward Hays David Wood

Judge Robert Kwan, Presiding Courtroom 1675 Calendar

Wednesday, December 16, 2020

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1675

11:30 AM

2:17-23722 Kody Branch of California, Inc.

Chapter 7

Adv#: 2:19-01472 Avery v. Shanghai Medicines and Health Products Import and

#3.00 Cont'd status conference re: Complaint for avoidance, recovery, and preservation of preferential and fraudulent transfers fr. 5/19/20, 8/18/20, 9/30/20

Docket 1

Tentative Ruling:

Updated tentative ruling as of 12/11/20. Off calendar. The court has reviewed plaintiff's unilateral status report stating that he will need to obtain an alias summons and serve defendant and requests that the status conference be continued to 2/3/21 at 1:30 p.m. The court grants this request and on its own motion continues the status conference to 2/3/21 at 1:30 p.m. No appearances are required on 12/16/20.

Party Information

Debtor(s):

Kody Branch of California, Inc.

Represented By

John-Patrick M Fritz

Defendant(s):

Shanghai Medicines and Health Pro Se

Plaintiff(s):

Wesley H Avery Represented By

David Wood D Edward Hays

Trustee(s):

Wesley H. Avery Represented By

Kristofer R McDonald Richard A Marshack D Edward Hays

Wednesday, December 16, 2020

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11:30 AM

CONT... Kody Branch of California, Inc.

Chapter 7

David Wood

Judge Robert Kwan, Presiding Courtroom 1675 Calendar

Wednesday, December 16, 2020

Hearing Room

1675

11:30 AM

2:17-23722 Kody Branch of California, Inc.

Chapter 7

Adv#: 2:19-01475 Avery v. Van

#4.00 Cont'd status conference re: Complaint for avoidance, recovery, and preservation of preferential and fraudulent transfers fr. 5/19/20, 8/18/20, 9/30/20

Docket 1

Tentative Ruling:

Updated tentative ruling as of 12/11/20. Off calendar. Continued by stipulation and order to 2/3/21 at 1:30 p.m. No appearances are required on 12/16/20.

Party Information

Debtor(s):

Kody Branch of California, Inc.

Represented By

John-Patrick M Fritz

Defendant(s):

Trinh Thi Hong Van Pro Se

Plaintiff(s):

Wesley H Avery Represented By

David Wood D Edward Hays

Trustee(s):

Wesley H. Avery Represented By

Kristofer R McDonald Richard A Marshack D Edward Hays David Wood

12/16/2020 2:57:28 PM

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2:17-23722 Kody Branch of California, Inc.

Chapter 7

Adv#: 2:19-01476 Avery v. Chau

#5.00 Cont'd status conference re: Complaint for avoidance, recovery, and preservation of preferential, fraudulent, unauthorized postpetition transfers; and disallowance of claim fr. 5/19/20, 8/18/20, 9/30/20

Docket 1

*** VACATED *** REASON: Cont'd from 12/16/20 to 2/3/21 at 1:30 p.m. per stip & order entered on 12/10/20-mb.

Tentative Ruling:

Updated tentative ruling as of 12/11/20. Off calendar. Continued by stipulation and order to 2/3/21 at 1:30 p.m. No appearances are required on 12/16/20.

Party Information

Debtor(s):

Kody Branch of California, Inc. Represented By

John-Patrick M Fritz

Defendant(s):

Cong Ty Tnhh Anh Chau Pro Se

Plaintiff(s):

Wesley H Avery Represented By

David Wood D Edward Hays

Trustee(s):

Wesley H. Avery Represented By

Kristofer R McDonald Richard A Marshack D Edward Hays

12/16/2020 2:57:28 PM

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CONT... Kody Branch of California, Inc.

Chapter 7

David Wood

Judge Robert Kwan, Presiding Courtroom 1675 Calendar

Wednesday, December 16, 2020

Hearing Room

1675

11:30 AM

2:17-23722 Kody Branch of California, Inc.

Chapter 7

Adv#: 2:19-01477 Avery v. Shaoxing LeiLei Import & Export Company

#6.00 Cont'd status conference re: Complaint for avoidance, recovery, and preservation of fraudulent, unauthorized postpetition transfers; and disallowance of claim fr. 5/19/20, 8/18/20, 9/30/20

Docket 1

Tentative Ruling:

Updated tentative ruling as of 12/11/20. Off calendar. Continued by stipulation and order to 2/3/21 at 1:30 p.m. No appearances are required on 12/16/20.

Party Information

Debtor(s):

Kody Branch of California, Inc.

Represented By

John-Patrick M Fritz

Defendant(s):

Shaoxing LeiLei Import & Export Pro Se

Plaintiff(s):

Wesley H Avery Represented By

David Wood D Edward Hays

Trustee(s):

Wesley H. Avery Represented By

Kristofer R McDonald Richard A Marshack D Edward Hays David Wood

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Judge Robert Kwan, Presiding Courtroom 1675 Calendar

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2:17-23722 Kody Branch of California, Inc.

Chapter 7

Adv#: 2:19-01478 Avery v. Shaoxing Tuchang Knitting Textile Co., Ltd.

#7.00 Cont'd status conference re: Complaint for avoidance, recovery, and preservation of preferential fraudulent, unauthorized postpetition transfers; and disallowance of claim fr. 5/19/20, 8/18/20, 9/30/20

Docket 1

Tentative Ruling:

Updated tentative ruling as of 12/11/20. Off calendar. Continued by stipulation and order to 2/3/21 at 1:30 p.m. No appearances are required on 12/16/20.

Party Information

Debtor(s):

Kody Branch of California, Inc.

Represented By

John-Patrick M Fritz

Defendant(s):

Shaoxing Tuchang Knitting Textile Pro Se

Plaintiff(s):

Wesley H Avery Represented By

David Wood D Edward Hays

Trustee(s):

Wesley H. Avery Represented By

Kristofer R McDonald Richard A Marshack D Edward Hays David Wood

Judge Robert Kwan, Presiding Courtroom 1675 Calendar

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11:30 AM

2:20-18801 Hollywood for Children, Inc., a New York non-profi

Chapter 11

#8.00 Cont'd status conference re: Chapter 11 case (Subchapter V) fr. 11/18/20

Docket 1

Tentative Ruling:

Updated tentative ruling as of 12/14/20. The court has reviewed debtor's updated status report. No tentative ruling on the merits. Appearances are required on 12/16/20, but counsel and self-represented parties must appear by telephone.

TO PARTIES WHO INTEND TO APPEAR AT THE HEARING ON THIS MATTER:

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CONT... Hollywood for Children, Inc., a New York non-profi

Chapter 11

will put you into the telephonic court hearing. Given the large demand for telephone court appearances, there may be some delay in connecting to the hearing. If you are having problems connecting to the hearing, please call and advise Judge Kwan's courtroom deputy at (213) 894-3385.

Prior tentative ruling as of 11/16/20. No tentative ruling on the merits. Appearances are required on 11/18/20, but counsel and self-represented parties must appear by telephone.

Party Information

Debtor(s):

Hollywood for Children, Inc., a New Represented By

Daniel A Lev

Trustee(s):

Andrew W. Levin (TR) Pro Se

Judge Robert Kwan, Presiding Courtroom 1675 Calendar

Wednesday, December 16, 2020

Hearing Room

1675

1<u>1:30 AM</u>

2:18-10290 People Who Care Youth Center, Inc.

Chapter 11

#8.10 Cont'd status conference re: Post confirmation of plan fr. 11/18/20, 12/2/20, 12/9/20

Docket 119

Tentative Ruling:

Updated tentative ruling as of 12/11/20. No tentative ruling on the merits. Appearances are required on 12/16/20, but counsel and self-represented parties must appear by telephone.

TO PARTIES WHO INTEND TO APPEAR AT THE HEARING ON THIS MATTER:

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CONT... People Who Care Youth Center, Inc.

Chapter 11

demand for telephone court appearances, there may be some delay in connecting to the hearing. If you are having problems connecting to the hearing, please call and advise Judge Kwan's courtroom deputy at (213) 894-3385.

Party Information

Debtor(s):

People Who Care Youth Center, Inc. Represented By

John-Patrick M Fritz
David B Golubchik

Judge Robert Kwan, Presiding Courtroom 1675 Calendar

Wednesday, December 16, 2020

Hearing Room

1675

1:30 PM

2:13-17409 Ayers Bath (U.S.A.), Co.,Ltd.

Chapter 7

#9.00

Cont'd status conference re: Renewed motion of Foremost Groups, Inc. to amend the judgment of the bankruptcy court to add Tangshan Ayers Bath Equipment Co. Ltd. as judgment debtor

fr. 8/4/20, 10/28/20, 12/2/20

Docket 118

*** VACATED *** REASON: Cont'd from 12/16/20 to 1/19/21 at 1:30 p.m. per order entered on 12/3/20-mb.

Tentative Ruling:

Updated tentative ruling as of 12/11/20. Off calendar. Continued by stipulation and order to 1/19/21 at 1:30 p.m. No appearances are required on 12/16/20.

Prior tentative ruling as of 7/31/20. Since discovery as extended ended on 7/17/20, the court will set the matter for a pretrial conference. The court requests that counsel review and be thoroughly familiar with Local Bankruptcy Rule 7016-1 regarding preparation of a pretrial stipulation to be submitted for the pretrial conference. The court will discuss scheduling of the pretrial conference and will preliminarily discuss the conduct of the trial which may be remotely by videoconferencing in light of the Covid-19 pandemic. Appearances are required on 8/4/20, but counsel and self-represented parties must appear by telephone.

Party Information

Debtor(s):

Ayers Bath (U.S.A.), Co.,Ltd. Represented By

Jeffrey S Renzi Ryan S Fife

Trustee(s):

Alfred H Siegel (TR) Represented By

Anthony A Friedman