

**United States Bankruptcy Court
Central District of California
Riverside
Judge Scott Clarkson, Presiding
Courtroom 126 Calendar**

Tuesday, May 10, 2016

Hearing Room 126

10:00 AM

6:15-12890 Roxas Dental Corporation

Chapter 7

#1.00

Hemar, Roussio & Heald, LLP - movant attorney

Motion for Relief from Stay

Bank of America vs DEBTOR
(Motion filed 4/28/15)

(Cont. from 3/8/16)

RE: Bank of America vs. Roxas Dental Corp., Case Number KC067201 LASC
East

EH _____

Docket 9

***** VACATED *** REASON: Motion Withdrawn on 3/24/16 - jc**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Roxas Dental Corporation

Represented By
Winfield S Payne III

Movant(s):

Bank of America, N.A.

Represented By
Raffi Khatchadourian

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Scott Clarkson, Presiding
Courtroom 126 Calendar**

Tuesday, May 10, 2016

Hearing Room 126

10:00 AM

6:15-22070 Lorena W Rangel

Chapter 7

#2.00

Luke Daniels - movant attorney

Motion for Relief from Stay

Su Hsing Yeh and the Tsai Family Trust vs. DEBTOR
(Motion filed 4/19/16)

Re: 3514 Lindsay Street, Riverside, CA 92509

EH_____

Docket 35

Tentative Ruling:

Grant pursuant to 11 U.S.C. §362(d)(1) and §362(d)(2) with annulment and 4001(a)(3) waiver, as requested.

Movant has submitted evidence that its acts in commencing the unlawful detainer proceeding were taken without knowledge of the filing. Further, Debtor has not provided any evidence that annulment is not warranted. Pursuant to 11 USC §362(g), debtor bears the burden of proof on this issue. See also, *Souang v. Fularon*, 2011 Bankr. LEXIS 4335 (9th Cir. BAP 2011) ("the debtor bears the ultimate burden of proving that the request for retroactive relief from the stay should be denied.")

Note: This matter appears to be uncontested. Accordingly, no court appearance by Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.

Movant to lodge an order within seven (7) days.

Party Information

**United States Bankruptcy Court
Central District of California
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Tuesday, May 10, 2016

Hearing Room 126

10:00 AM

CONT... Lorena W Rangel

Chapter 7

Debtor(s):

Lorena W Rangel

Pro Se

Movant(s):

Su Hsing Yeh

Represented By
Luke P Daniels

Trustee(s):

Robert Whitmore (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Scott Clarkson, Presiding
Courtroom 126 Calendar**

Tuesday, May 10, 2016

Hearing Room 126

10:00 AM

6:16-11391 Maria D Ramos

Chapter 7

#3.00

McCarthy & Holthus - movant attorney

Motion for Relief from Stay

Select Portfolio Servicing, Inc. vs. DEBTOR, chapter 7 trustee
(Motion filed 4/7/16)

Re: 1521 Elma Privado, Ontario, CA 91764

EH_____

Docket 18

***** VACATED *** REASON: Case Dismissed 4/28/16 - jc**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maria D Ramos

Pro Se

Movant(s):

Select Portfolio Servicing, Inc. as

Represented By
Kristin A Zilberstein

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Scott Clarkson, Presiding
Courtroom 126 Calendar**

Tuesday, May 10, 2016

Hearing Room 126

10:00 AM

6:16-11763 Akoni Keali'i Tenorio and Cindy April Tenorio

Chapter 7

#4.00

Cooksey, Toolen, Gage, Duffy & Woog - movant attorney

Motion for Relief from Stay

Santander Consumer USA, Inc. vs. DEBTORS, Karl T. Anderson, trustee
(Motion filed 4/7/16)

Re: 2007 GMC Acadia VIN: 1GKER13707J106192

EH_____

Docket 9

Tentative Ruling:

Grant pursuant to 11 U.S.C. §362(d)(1) and §362(d)(2) with 4001(a)(3) waiver.

Note: This matter appears to be uncontested. Accordingly, no court appearance by Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.

Movant to lodge an order within seven (7) days.

Party Information

Debtor(s):

Akoni Keali'i Tenorio

Represented By
Kristin R Lamar

Joint Debtor(s):

Cindy April Tenorio

Represented By
Kristin R Lamar

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, May 10, 2016

Hearing Room 126

10:00 AM

CONT... Akoni Keali'i Tenorio and Cindy April Tenorio

Chapter 7

Movant(s):

Santander Consumer USA Inc.

Represented By
Sheryl K Ith

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Scott Clarkson, Presiding
Courtroom 126 Calendar**

Tuesday, May 10, 2016

Hearing Room 126

10:00 AM

6:16-11774 Jeffrey Scott Gomez and Mary Beth Pascual Villalba

Chapter 7

#5.00

Buckley Madole, P.C. - movant attorney

Motion for Relief from Stay

Toyota Motor Credit Corporation vs. DEBTORS
(Motion filed 4/18/16)

Re: 2010 Toyota Camry

EH_____

Docket 14

Tentative Ruling:

Grant pursuant to 11 U.S.C. §362(d)(1) and §362(d)(2) with 4001(a)(3) waiver.

Note: This matter appears to be uncontested. Accordingly, no court appearance by Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.

Movant to lodge an order within seven (7) days.

Party Information

Debtor(s):

Jeffrey Scott Gomez

Represented By
James P Doan

Joint Debtor(s):

Mary Beth Pascual Villalba

Represented By
James P Doan

**United States Bankruptcy Court
Central District of California
Riverside
Judge Scott Clarkson, Presiding
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Tuesday, May 10, 2016

Hearing Room 126

10:00 AM

CONT... Jeffrey Scott Gomez and Mary Beth Pascual Villalba

Chapter 7

Movant(s):

Toyota Motor Credit Corp

Represented By
Mark D Estle

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Scott Clarkson, Presiding
Courtroom 126 Calendar**

Tuesday, May 10, 2016

Hearing Room 126

10:00 AM

6:16-11846 Jairo Antonio Vasquez and Blanca Rosa Vasquez

Chapter 7

#6.00

Cooksey, Toolen, Gage, Duffy & Woog - movant attorney

Motion for Relief from Stay

Santander Consumer USA, Inc. vs. DEBTORS, Charles W. Daff, trustee
(Motion filed 4/6/16)

Re: 2008 Toyota Corolla, VIN 1NXBR32E88Z957338

EH_____

Docket 7

Tentative Ruling:

Grant pursuant to 11 U.S.C. §362(d)(1) and §362(d)(2) with 4001(a)(3) waiver and annulment, as requested.

Movant has submitted evidence that its acts in gaining possession of the vehicle on 3/2/16 (the petition date) were taken without knowledge of the filing. Further, Debtors have not provided any evidence that annulment is not warranted. Pursuant to 11 USC §362(g), debtor bears the burden of proof on this issue. See also, *Souang v. Fularon*, 2011 Bankr. LEXIS 4335 (9th Cir. BAP 2011) ("...the debtor bears the ultimate burden of proving that the request for retroactive relief from the stay should be denied.")

Note: This matter appears to be uncontested. Accordingly, no court appearance by Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.

Movant to lodge an order within seven (7) days.

Party Information

**United States Bankruptcy Court
Central District of California
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CONT... Jairo Antonio Vasquez and Blanca Rosa Vasquez

Chapter 7

Debtor(s):

Jairo Antonio Vasquez Pro Se

Joint Debtor(s):

Blanca Rosa Vasquez Pro Se

Movant(s):

Santander Consumer USA Inc. Represented By
Sheryl K Ith

Trustee(s):

Charles W Daff (TR) Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, May 10, 2016

Hearing Room 126

10:00 AM

6:16-12089 Ladonna Nicole Harris

Chapter 7

#7.00

Vanlochem & Associates LLP - movant attorney

Motion for Relief from Stay

Carfinance Capital vs. DEBTOR
(Motion filed 4/5/16)

Re: 2013 DODGE AVENGER, VIN # 1C3CDZAG8DN652511

EH_____

Docket 9

***** VACATED *** REASON: Stipulated Order entered 4/15/16 - jc**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ladonna Nicole Harris

Represented By
Nicholas M Wajda

Movant(s):

Carfinance Capital

Represented By
Michael D Vanlochem

Trustee(s):

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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10:00 AM

6:16-12490 Ana Karen Techman

Chapter 7

#8.00

Cooksey, Toolen, Gage, Duffy & Woog - movant attorney

Motion for Relief from Stay

Wells Fargo Bank vs. DEBTOR, Todd Frealy, chapter 7 trustee
(Motion filed 4/4/16)

RE: 2014 Nissan Altima VIN: 1N4AL3AP6EN212975

EH_____

Docket 8

Tentative Ruling:

Grant pursuant to 11 U.S.C. §362(d)(1) and §362(d)(2) with 4001(a)(3) waiver.

Note: This matter appears to be uncontested. Accordingly, no court appearance by Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.

Movant to lodge an order within seven (7) days.

Party Information

Debtor(s):

Ana Karen Techman

Represented By
Luis G Torres

Movant(s):

Wells Fargo Bank, N.A., d/b/a Wells

Represented By
Sheryl K Ith

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, May 10, 2016

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10:00 AM

CONT... Ana Karen Techman

Chapter 7

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Scott Clarkson, Presiding
Courtroom 126 Calendar**

Tuesday, May 10, 2016

Hearing Room 126

10:00 AM

6:16-12642 Phillip Michael Koolhoven

Chapter 7

#9.00

French, Lyon Tang - movant attorney

Motion for Relief from Stay

Bank of the West vs. DEBTOR
(Motion filed 4/18/16)

Re: 2014 Ford Mustang Vehicle ID No. 1ZVBP8CF9E5200983

EH_____

Docket 8

Tentative Ruling:

Grant pursuant to 11 U.S.C. §362(d)(1) and §362(d)(2) with 4001(a)(3) waiver.

Note: This matter appears to be uncontested. Accordingly, no court appearance by Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.

Movant to lodge an order within seven (7) days.

Party Information

Debtor(s):

Phillip Michael Koolhoven

Represented By
James P Doan

Movant(s):

Bank of the West

Represented By
Mary Ellmann Tang

**United States Bankruptcy Court
Central District of California
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10:00 AM

CONT... Phillip Michael Koolhoven

Chapter 7

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Scott Clarkson, Presiding
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Tuesday, May 10, 2016

Hearing Room 126

10:00 AM

6:16-12794 Leonides Ayala Villa

Chapter 7

#10.00

Cooksey, Toolen, Gage, Duffy & Woog - movant attorney

Motion for Relief from Stay

TD Auto Finance, LLC vs. DEBTOR, Karl T. Anderson, trustee
(Motion filed 4/8/16)

Re: 2013 Nissan Altima V6 VIN: 1N4BL3AP9DN491485

EH_____

Docket 9

Tentative Ruling:

Grant pursuant to 11 U.S.C. §362(d)(1) and §362(d)(2) with 4001(a)(3) waiver.

Note: This matter appears to be uncontested. Accordingly, no court appearance by Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.

Movant to lodge an order within seven (7) days.

Party Information

Debtor(s):

Leonides Ayala Villa

Represented By
Marlin Branstetter

Movant(s):

TD Auto Finance, LLC

Represented By
Sheryl K Ith

**United States Bankruptcy Court
Central District of California
Riverside
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Hearing Room 126

10:00 AM

CONT... Leonides Ayala Villa

Chapter 7

Trustee(s):

Karl T Anderson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Scott Clarkson, Presiding
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Tuesday, May 10, 2016

Hearing Room 126

10:00 AM

6:16-13308 Richard C. Vickerman

Chapter 7

#11.00

Ruzicka, Wallace & Coughlin, LLP - movant attorney

Motion for Relief from Stay

Palm Drive Court LLC vs. DEBTOR
(Motion filed 4/15/16)

Re: 14881 Palm Drive #A-16, Desert Hot Springs CA 92240

EH_____

Docket 7

Tentative Ruling:

Tentative for 5/10/16 is to GRANT.

Movant seeks relief from stay to continue an unlawful detainer proceeding. Debtor submitted a Response [Dk. 10] to the Court, dated 4/25/16, which was received by Chambers on 5/3/16. Upon reviewing the docket, the Court noted that the Response had not been filed, so had it docketed after receipt by Chambers on 5/4/16. As there is no proof of service attached to the Response, the Court is unable to verify proper service.

The Response does not contain a declaration in support, as required by LBR 9013-1(f) and (i). In the Response, Debtor contends (1) the lease agreement upon which Movant relies is fabricated and (2) that he has paid the required monthly payments.

Appearances required.

Party Information

Debtor(s):

Richard C. Vickerman

Represented By
Christopher Hewitt

**United States Bankruptcy Court
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Courtroom 126 Calendar**

Tuesday, May 10, 2016

Hearing Room 126

10:00 AM

CONT... Richard C. Vickerman

Chapter 7

Movant(s):

PALM DRIVE COURT LLC

Represented By
Richard Sontag

Trustee(s):

Helen R. Frazer (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Scott Clarkson, Presiding
Courtroom 126 Calendar**

Tuesday, May 10, 2016

Hearing Room 126

11:00 AM

6:12-14795 Moses Ferretiz and Armida Ferretiz

Chapter 7

#12.00

Hrg. on trustee's final report; applications for compensation

EH_____

Docket 0

Tentative Ruling:

Tentative for 5/10/16 is to APPROVE as requested.

Note: This matter appears to be uncontested. Accordingly, no court appearance by Trustee is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Trustee will be so notified.

Trustee to lodge an order within seven (7) days.

Party Information

Debtor(s):

Moses Ferretiz

Represented By
Matthew J Olson

Joint Debtor(s):

Armida Ferretiz

Represented By
Matthew J Olson

Trustee(s):

Howard B Grobstein (TR)

Represented By
Talin Keshishian
Steven T Gubner
Travis M Daniels

**United States Bankruptcy Court
Central District of California
Riverside
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Tuesday, May 10, 2016

Hearing Room 126

11:00 AM

6:12-24902 Vision West Investments, LLC

Chapter 7

#13.00

Hrg. on Application for Compensation Second And Final Fee Application Of Goe & Forsythe, LLP, Counsel To Chapter 7 Trustee for Robert P Goe, Trustee's Attorney, Period: 1/1/2013 to 4/19/2016, Fee: \$94,893.50, Expenses: \$1,243.35

EH_____

Docket 135

Tentative Ruling:

Tentative for 5/10/16:

This matter is CONTINUED to 5/24/16 at 11:00 a.m. to coincide with the hearing on the Trustee's motion.

No appearances required.

Party Information

Debtor(s):

Vision West Investments, LLC

Represented By
George Hanover
Summer Shaw

Movant(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Marc C Forsythe
Steven M Speier (TR)

Trustee(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Marc C Forsythe
Steven M Speier (TR)

United States Bankruptcy Court
Central District of California
Riverside
Judge Scott Clarkson, Presiding
Courtroom 126 Calendar

Tuesday, May 10, 2016

Hearing Room 126

11:00 AM

6:12-24902 Vision West Investments, LLC

Chapter 7

#14.00

Hrg. on chapter 7 trustee's Motion filed 4/19/16 and Renewed Motion for Order (1) Approving Payment of Administrative Expenses; (2) Dismissing Case for Cause; and (3) Exoneration of Trustee's Bond

EH_____

Docket 134

*** VACATED *** REASON: Stipulation approved to continue hearing to 5/24/16 @ 11:00 a.m. -my

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vision West Investments, LLC

Represented By
George Hanover
Summer Shaw

Movant(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Marc C Forsythe
Steven M Speier (TR)

Trustee(s):

Steven M Speier (TR)

Represented By
Robert P Goe
Marc C Forsythe
Steven M Speier (TR)

**United States Bankruptcy Court
Central District of California
Riverside
Judge Scott Clarkson, Presiding
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Tuesday, May 10, 2016

Hearing Room 126

11:00 AM

6:13-23655 Ruthann Regina Evans

Chapter 7

#15.00

Hrg. on Motion for Order Approving Compromise of Controversy

EH_____

Docket 50

Tentative Ruling:

Tentative for 5/10/16 is to APPROVE.

Note: This matter appears to be uncontested. Accordingly, no court appearance by Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.

Movant to lodge an order within seven (7) days.

Party Information

Debtor(s):

Ruthann Regina Evans

Represented By
Thomas Watkins

Movant(s):

John P Pringle (TR)

Represented By
Toan B Chung

Trustee(s):

John P Pringle (TR)

Represented By
Toan B Chung

**United States Bankruptcy Court
Central District of California
Riverside
Judge Scott Clarkson, Presiding
Courtroom 126 Calendar**

Tuesday, May 10, 2016

Hearing Room 126

11:00 AM

6:14-22509 Jameson Arnone Sampley and Jennifer Lynn Moreland

Chapter 7

#16.00

Hrg. on chapter 7 trustee's motion filed 4/11/16 for Turnover of Property held by debtors pursuant to 11 usc § 542(A) and (E)

EH_____

Docket 23

***** VACATED *** REASON: Trustee's dismissal of motion filed 5/6/16 -
jc**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jameson Arnone Sampley

Represented By
Priscilla C Solario

Joint Debtor(s):

Jennifer Lynn Moreland

Represented By
Priscilla C Solario

Movant(s):

Larry D Simons (TR)

Pro Se

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Scott Clarkson, Presiding
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Tuesday, May 10, 2016

Hearing Room 126

11:00 AM

6:15-13848 Jose Paz Carrillo and Marisela Carrillo

Chapter 7

#17.00

Hrg. on Motion for disallowing claim No. 1-1 of Baseline Financial Services

EH_____

Docket 0

***** VACATED *** REASON: Claim #1 has been Withdrawn - jc**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Paz Carrillo

Represented By
David R Chase

Joint Debtor(s):

Marisela Carrillo

Represented By
David R Chase

Trustee(s):

Charles W Daff (TR)

Represented By
Lynda T Bui
Rika Kido

**United States Bankruptcy Court
Central District of California
Riverside
Judge Scott Clarkson, Presiding
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Tuesday, May 10, 2016

Hearing Room 126

11:00 AM

6:15-15818 James Edward Conti

Chapter 7

#18.00

Hrg. on Motion and Chapter 7 Trustee filed 4/8/16 for Order Disallowing Claim No. 1 Filed By City National Bank as Being Duplicative and Superseded By Claim No. 5

EH_____

Docket 78

Tentative Ruling:

Tentative for 5/10/16 is to GRANT.

Note: This matter appears to be uncontested. Accordingly, no court appearance by Movant is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Movant will be so notified.

Movant to lodge an order within seven (7) days.

Party Information

Debtor(s):

James Edward Conti

Pro Se

Movant(s):

Karl T Anderson (TR)

Represented By
Leonard M Shulman
Elyza P Eshaghi

Trustee(s):

Karl T Anderson (TR)

Represented By
Leonard M Shulman
Elyza P Eshaghi

**United States Bankruptcy Court
Central District of California
Riverside
Judge Scott Clarkson, Presiding
Courtroom 126 Calendar**

Tuesday, May 10, 2016

Hearing Room 126

11:00 AM

6:15-15002 Gustavo Daniel Dorati

Chapter 7

#18.10

Hrg. on Trustee's Motion (1) Authorizing payment of the administrative claims of the trustee and her professional; and (2) Dismissing the Debtor's chapter 7 case pursuant to stipulation between the trustee and the Debtor

EH_____

Docket 93

Tentative Ruling:

Tentative for 5/10/2016 is to DENY.

Helen Frazer, the chapter 7 trustee ("Trustee") filed a Motion for Order (1) Authorizing Payment of Administrative Claims of the Trustee and Her Professional; and (2) Dismissing the Debtor's Chapter 7 Case Pursuant to Stipulation Between the Trustee and the Debtor [Dk. 99] ("Motion"). The Trustee seeks approval of a stipulation between the Trustee and the Debtor to dismiss this chapter 7 case (and to dismiss the Trustee's pending fraudulent transfer action against the Debtor's two children), to pay herself \$5,000, to pay her counsel \$28,000, and to return the remaining balance of estate funds totaling \$126,394.24 in cash to Security Investments Group, Inc. ("SIG") (a non-debtor entity owned and controlled by the Debtor).

The largest unsecured creditor, LBS Financial CU ("LBS"), filed an opposition on April 20, 2016 [Dk. 97] ("Opposition"), asserting that the Motion lacks evidence, and that dismissal is not in the best interests of the estate and would result in prejudice to LBS.

The Trustee filed a reply [Dk. 104] ("Reply") asserting that the \$126,000 in funds currently being held by the estate are being held "in trust" for SIG, pursuant to the *lis pendens*, and that therefore those funds may not be administered. Reply at page 2, lines 14-17. The Reply also states, without citation to the record, that "the Court has indicated that it does not believe the recordation of the *lis pendens* is supported by the particular Adversary Proceeding filed in this case." Reply at page 2, lines 18-20. No further

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CONT... Gustavo Daniel Dorati

Chapter 7

explanation for this assertion is given, and the Court would note that the Trustee's counsel has specifically asserted that the *lis pendens* was proper. (The *lis pendens* was recorded by the Trustee on November 5, 2015. See Notice of Lis Pendens [Adv. Dk. 4].)

The Court has questions and comments:

1. What benefits to the estate has the Trustee's counsel provided?
2. How has the Trustee's counsel earned its proposed fee of \$28,000?
3. How has the Trustee earned a \$5,000 commission?
4. At the time of the transfer of 510,000 shares to the Debtor's children, what was the value of those shares? Why can't a money judgment be rendered against the Debtor's children in that amount?
5. Why isn't LBS being prejudiced by this dismissal (except for the fact that it has an opportunity to address its remedies under state law)? Note that the Ninth Circuit BAP in the case of *In re Hickman*, 384 B.R. at 840 indicates that being able to return to state court is not lack of prejudice.
6. The Court is not inclined to allow a trustee and her counsel to take the entire available amount of estate funds for fees and not provide any distribution to the creditors.
7. The Court notes that the Motion not only seeks dismissal, but it also seeks approval of a stipulation between the Trustee and the Debtor that would result in the dismissal of the avoidance action currently pending against the Debtor's children. If approved, consideration would flow from the estate to the Debtor (via SIG), the Trustee, and Trustee's counsel. This appears, in substance, to be a *sub rosa* settlement without consideration of the fair and equitable standard or the A&C factors.

Parties must appear and respond to all of these questions and other questions that the Court will raise at the hearing.

Party Information

Debtor(s):

Gustavo Daniel Dorati

Pro Se

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Central District of California
Riverside
Judge Scott Clarkson, Presiding
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Hearing Room 126

11:00 AM

CONT... Gustavo Daniel Dorati

Chapter 7

Trustee(s):

Helen R. Frazer (TR)

Represented By
Leonard M Shulman
Elyza P Eshaghi

**United States Bankruptcy Court
Central District of California
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Tuesday, May 10, 2016

Hearing Room 126

11:00 AM

6:15-21958 Sean Phillip Coy

Chapter 7

#18.20

Hrg. on Motion to Avoid Lien Judicial Lien with Morgan Hill Homeowners Association

EH_____

(Cont. from 4/26/16)

Docket 18

Tentative Ruling:

Tentative for 5/10/2016:

None listed.

Tentative for 4/26/2016 is to DENY.

This tentative relates to both Calendar Item numbers 29 and 30.

The Debtor filed two motions [Dks. 18,19] ("Motions") to avoid liens under § 522(f), seeking to avoid a notice of levy and a judgment lien—both of which arise from statutory liens held by Morgan Hills Homeowners Association ("Morgan Hills"). Morgan Hills filed responses in opposition [Dks. 20,21], and the Debtor filed replies in support [Dks. 25,26]. For the reasons set forth below, the Motions are DENIED because the notice of levy and judgment lien arise from homeowners association liens, which are statutory liens and not avoidable under § 522(f).

Section 522(f) allows a debtor to avoid a judicial lien, including a lien arising from a judgment or levy, but does not allow avoidance of a statutory lien. See *In re Reece*, 274 B.R. 515, 517 (Bankr. D. Ariz. 2001). The homeowners' association liens are statutory liens and are unavoidable under § 522(f) even though Morgan Hills sought to enforce them by obtaining a judgment lien or a levy (*i.e.*, judicial liens). See *id*; *In re Wiltcher*, 204 B.R. 488, 491 (Bankr. S.D.

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11:00 AM

CONT... Sean Phillip Coy Chapter 7

Miss. 1996); *In re Beckley*, 210 B.R. 391 (Bankr. M.D. Fla. 1997); *Glinka v. Hinesburg Sand and Gravel, Inc. (In re APC Construction)*, 132 B.R. 690, 694 (D. Vt. 1991). See also *Young v. 1200 Buena Vista Condominiums*, 477 B.R. 594 (W.D. Pa. 2012).

The Motions are DENIED.

Party Information

Debtor(s):

Sean Phillip Coy

Represented By
Norma Duenas

Movant(s):

Sean Phillip Coy

Represented By
Norma Duenas

Trustee(s):

Charles W Daff (TR)

Pro Se

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Hearing Room 126

11:00 AM

6:15-21958 Sean Phillip Coy

Chapter 7

#18.30

Hrg. on Motion to Avoid Lien Judicial Lien with Morgan Hill Homeowners Association

EH_____

(Cont. from 4/26/16)

Docket 19

Tentative Ruling:

Tentative for 5/10/2016:

None listed.

Tentative for 4/26/2016 is to DENY.

See tentative for Calendar Item No. 29.

Party Information

Debtor(s):

Sean Phillip Coy

Represented By
Norma Duenas

Movant(s):

Sean Phillip Coy

Represented By
Norma Duenas

Trustee(s):

Charles W Daff (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, May 10, 2016

Hearing Room 126

11:00 AM

6:15-17762 Leo N. Jocson and Tania V. Jocson

Chapter 7

#18.40

Hrg. on Trustee's final report; applications for final fees and expenses

EH_____

Docket 39

Tentative Ruling:

Tentative for 5/10/16 is to APPROVE as requested.

Note: This matter appears to be uncontested. Accordingly, no court appearance by Trustee is required. Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required and Trustee will be so notified.

Trustee to lodge an order within seven (7) days.

Party Information

Debtor(s):

Leo N. Jocson

Represented By
Carlos M Jaramillo

Joint Debtor(s):

Tania V. Jocson

Represented By
Carlos M Jaramillo

Trustee(s):

Steven M Speier (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 126

1:30 PM

6:13-25500 S J Medical LLC, a California Limited Liability Co

Chapter 11

#19.00

Hrg. on Post Confirmation Status Conference

(Cont. from 12/15/15)

EH____

Docket 0

Tentative Ruling:

Tentative for 5/10/16:

The Court has received and reviewed the post-confirmation status report filed 5/2/16 [Dk. 234]. The Court notes that the post-confirmation status report was due of 4/26/16 and was filed 6 days late. The Court will excuse the late-filing in this instance but the Reorganized Debtor is cautioned that future compliance with the Court's deadlines is required.

This matter is CONTINUED to November 15, 2016 at 1:30 p.m. A status report is due 14 days in advance.

Appearances are excused.

Tentative for 12/15/15:

The Court has received and reviewed the post-confirmation status report filed

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CONT... S J Medical LLC, a California Limited Liability Co Chapter 11

10/14/15 [Dk. 230] and will CONTINUE this matter to May 10, 2016 at 1:30 p.m. A status report is due 14 days in advance.

Appearances are excused.

Tentative for 7/21/15:

The Court has received and reviewed the post-confirmation status report filed 7/6/15 [Dk. 229] and will CONTINUE this matter to December 15, 2015 at 1:30 p.m. A status report is due 14 days in advance.

Appearances are excused.

Revised tentative for 3/17/2015:

Based on the disallowance of claim number 2-1 of Peter Katsiyiannis, M.D., the plan is consensual and the Court is inclined to confirm.

Tentative for 3/17/15 is to CONTINUE the confirmation hearing to 5/5/2015 at 1:30 p.m.

Tentative for 3/3/2015 is to DENY confirmation.

Peter T. Katsiyiannis, M.D. ("PK") held an allowed unsecured claim for \$42,000.00. POC 2-4. Debtor's plan classifies PK's claim in Class 4, along with the general unsecured claim of Alfred Santos.

On December 22, 2014, PK voted to reject the plan. See Ballot Errata Dk. 191. On February 4, 2015, Debtor filed an objection to claim [Dk. 193], which Debtor later amended on February 11, 2015 to be a motion to disallow PK's claim [Dk. 201]. Debtor asserts in its brief [Dk. 188] that it has a consensual plan based on Debtor's contention that PK's claim should not be counted for

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CONT... S J Medical LLC, a California Limited Liability Co Chapter 11

voting purposes. See Debtor's Brief Dk. 188 at page 7, lines 17-23 ("As a result of the Debtor's objection to the PK claim, PK does not have an allowed claim for purposes of voting on the Plan.") (citing *In re M. Long Arabians*, 103 B.R. 211, 215 (B.A.P. 9th Cir. 1989)).

In re M. Long Arabians is distinguishable from the present case. In *Long Arabians*, creditor Bell Road's claims were not allowed claims at the time that it attempted to vote them against the plan. Indeed, there were pending claim objections and those claims were already classified as disputed in the plan. The bankruptcy court held that because Bell Road did not seek temporary allowance for voting purposes, Bell Road did not have an allowed claim for voting purposes under 1126(a). The Ninth Circuit BAP upheld this ruling, noting that Bell Road "assumed that its claims had been fully allowed." *In re M. Long Arabians*, 103 B.R. 211, 215 (B.A.P. 9th Cir. 1989).

In the present case, PK's claim was an allowed claim at the time that he voted it against the plan. Debtor objected to PK's claim only after PK voted against the plan. At the time of PK's vote, PK held an allowed claim, which counts for the purposes of plan confirmation notwithstanding the fact that Debtor recently filed a motion to disallow that claim.

Because PK's vote is valid and because he is one of the only two members of Class 4, his vote to reject the plan means the class has rejected the plan. See 11 U.S.C. § 1126(c). Because Class 4 has rejected the plan, it is not a consensual plan, and must therefore meet the cramdown requirements of 1129(b).

In addition, the plan fails the best interests of creditors test of § 1129(a)(7), which requires, in pertinent part, that any impaired rejecting class "receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under chapter 7 of this title on such date. . . ." As stated above, Class 4 is an impaired rejecting class, and it appears that Class 4 would be paid in full in a chapter 7. So, to meet the best interests of creditors test, the plan must pay Class 4 not less than what Class 4 would receive in a chapter 7. In chapter 7, however, class 4 would be paid in full based on the \$1.5 million in equity in the

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CONT... S J Medical LLC, a California Limited Liability Co Chapter 11

property, along with \$193,198.50 (as of January 31, 2015 as per most recent MOR) in cash on hand in Debtor's operating account. See Bank of America Statement, Dk. 203, page 17 of 19.

Under the plan, however, Class 4 will receive nothing on the effective date and will likely receive nothing if the property is not sold.

The Debtor's liquidation analysis states that general unsecured creditors in Class 4 will receive a 100% payout under the plan. This assumes the property will be sold before April 1, 2017. If the property is not sold by April 1, 2017, the date the forbearance agreement with U.S. Bank expires, then U.S. Bank will foreclose and unsecured creditors in Class 4 will receive nothing. The plan provides that:

If the Property is not sold by April 1, 2017, then [U.S.] Bank could exercise its right under the Forbearance Agreement and proceed to initiate foreclosure proceedings. If [U.S.] Bank is able to successfully foreclose on the Property, it is likely that none of the Debtor's other creditors will receive anything, other than what they might be paid from the post-confirmation net income from the operation of the Property.

Second Amended Plan, Dk. 175 at page 17, ¶1.

As for the administrative claim of Goe & Forsythe for approximately \$180,000, the plan provides to pay \$50,000 on or around the effective date and to pay the remaining \$130,000 at the rate of \$3,000 per month until the sale occurs. This means that Class 4 will likely not receive any payments from "post-confirmation net income" under the plan.

Because the plan fails to meet the cramdown requirements and also fails to meet the best interests of creditors test, confirmation of the plan must be denied.

Tentative for 9/30/14:

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CONT... S J Medical LLC, a California Limited Liability Co Chapter 11

Before the Court is a hearing on the adequacy of the Debtor's Disclosure Statement. The facts are straightforward: The Debtor owns and operates a commercial building, which has approximately \$2,000,000 in equity. The Court has previously ordered this case a Single Asset Real Estate case [order entered 11/15/13 Dk. 39]. The Debtor has a single secured creditor, U.S. Bank, with whom the Debtor has entered into a Forbearance Agreement, approved by the Court by an order entered 6/5/14 [Dk.113]. The Debtor's obligation to the secured creditor is guaranteed by its members. The Debtor possess two insider unsecured creditors and two general unsecured creditors.

Although the Debtor labels the plan a "reorganizing plan," the Debtor proposes to pay creditors 100% through a sale of the property by no later than April 1, 2017. In the interim, the Debtor proposes to use its operating funds to pay its counsel, (with whom it presently has a dispute over the approximately \$174,000 in fees and has reached no agreement regarding payment) and will then allocate \$4,000 per month, pro rata, to the unsecured creditors. If the property is not sold by April 1, 2017, the unsecured creditors receive nothing more as the property will be foreclosed upon by the secured creditor.

The Court notes the following:

1. Neither the Plan nor the First Amended Disclosure Statement list the amount of insider claims in Class 5. The amounts should be listed.
2. A dispute over payment of fees exists. The Debtor does not possess sufficient cash on hand on the Effective Date to pay more than \$50,000 to its counsel and no agreement has been reached regarding any additional or further amounts.
3. As proposed, it is unclear how much and when unsecured creditors will receive any interim payments, pending the sale (or foreclosure) of the property. For instance, if the Debtor pays the entire balance of fees owed by making monthly payments of \$4,000 (the amount of disposable income the Debtor will allocate to unsecured creditors), payment of the fees might exceed the time period for sale of the property and unsecured creditors would receive nothing. The disclosure statement should clarify this risk.
4. The Plan, and Disclosure Statement, are unclear regarding whether or

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CONT... S J Medical LLC, a California Limited Liability Co Chapter 11

not a discharge is sought. This provision should be clarified. A liquidating debtor is not entitled to a discharge.

Appearances required.

Party Information

Debtor(s):

S J Medical LLC, a California

Represented By
Marc C Forsythe

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6:15-17799 Wrightwood Guest Ranch LLC

Chapter 11

#20.00

Hrg. on Chapter 11 Trustee's Motion filed 4/19/16 For Authority To Use Cash Collateral On A Limited Basis Through July 31, 2016

EH_____

Docket 259

Tentative Ruling:

Tentative for 5/10/2016:

None listed.

Party Information

Debtor(s):

Wrightwood Guest Ranch LLC

Represented By
Riley C Walter
Michael L Wilhelm

Movant(s):

Richard J Laski (TR)

Represented By
Aram Ordubegian
M Douglas Flahaut

Trustee(s):

Richard J Laski (TR)

Represented By
Aram Ordubegian
M Douglas Flahaut

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6:15-17799 Wrightwood Guest Ranch LLC

Chapter 11

#21.00

Neufeld Marks - movant

Motion for Relief from Stay

GreenLake Real Estate Fund, LLC vs. DEBTOR
(Motion filed 4/1/16)

Re: 78 Big Pines Highway Wrightwood, CA 92397

EH_____

Docket 244

Tentative Ruling:

Tentative for 5/10/16:

The Court is inclined to GRANT relief from stay for the limited purpose of allowing GreenLake to record a notice of default.

GreenLake Real Estate Fund, LLC ("GreenLake") seeks relief from stay under § 362(d)(1). An opposition was filed by the Chapter 11 Trustee on 4/26/16 [Dk. 269]. The Creditor's Committee filed an opposition on 4/25/16 [Dk. 264] and a joinder on 4/26/16 [Dk. 265]. The Chapter 11 Trustee filed a Declaration of Steven Speier on 4/28/16 [Dk. 271]. GreenLake filed an evidentiary objection on 5/3/16 [Dk. 278] and a Reply on 5/3/16 [Dk. 277].

Background

The involuntary Chapter 11 was filed on August 5, 2015. The Order for Relief was entered on August 31, 2016. Richard J. Laski was appointed as the Chapter 11 Trustee (Trustee) by an order entered 1/20/16 [Dk. 187].

Motion for Relief

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CONT... **Wrightwood Guest Ranch LLC**

Chapter 11

GreenLake asserts "cause" exists based upon the following grounds:

1. Lack of adequate protection due to Debtor's failure to maintain sufficient insurance coverage on the property.
2. The Debtor and Chapter 11 Trustee have not segregated cash collateral and have used cash collateral without conformity with 11 U.S.C. § 363(c).
3. There is ongoing waste and mismanagement of the estate.
4. Debtor has failed to make any payments under the loan since June 2015 and has failed to make any payments to GreenLake post-petition, even though GreenLake has a secured interest in Debtor's property including cash collateral; and
5. There has been undue delay and failure in the filing of a reorganization plan, and based on Debtor's finances, no reorganization plan would be feasible.

At a minimum, GreenLake requests that it receive relief so that it may proceed with recording a Notice of Default, and initiate the foreclosure process.

The Court will address each of GreenLake's arguments in turn.

1. Lack of Adequate Protection Due to Inadequate Insurance Coverage

GreenLake states that existing insurance coverage does not cover the zip lines, which GreenLake asserts are included as part of the improvements and fixtures on the Property and are subject to GreenLake's security interest. [Dk. 244, pg. 16:10-13].

GreenLake also asserts that the coverage amounts (\$1,000,000 per occurrence) are less than those required under the relevant loan documents, which require coverage of \$2,000,000 per occurrence. [Dk. 244, pg. 16:16-19]. The Trustee asserts the insurance coverage is adequate, and if GreenLake wishes additional coverage, they may obtain forced-place insurance. [Dk. 269, pg. 5:23-26].

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CONT...

Wrightwood Guest Ranch LLC

Chapter 11

2. The Debtor and Chapter 11 Trustee have not segregated cash collateral and have used cash collateral without conforming with 11 U.S.C. § 363(c).

GreenLake points out that the Court denied Debtor's motion for cash collateral in January 2016, and that, notwithstanding the denial, Debtor and the Trustee have continued to use cash collateral as reflected by the MORs. [Dk. 244, pg. 15:4-20]. The Trustee does not specifically respond to this allegation.

3. There has been waste and mismanagement of the estate, which is ongoing.

GreenLake asserts that the Debtor and Trustee have to collect rent from WCT for the months of August, September, and December of 2015 as well as January and February of 2016. [Dk. 244, pg. 12:4-7]. GreenLake relies on MORs filed earlier in the case by Debtor and specific actions and transactions conducted by Debtor's principal Richard Hallet. The Court notes that most, if not all, of the transactions to which GreenLake objects occurred prior to the appointment of the Trustee.

The Trustee asserts that there has been no waste or mismanagement since his appointment.

4. Debtor has failed to make any payments under the loan since June 2015 and has failed to make any payments to GreenLake post-petition, even though GreenLake has a secured interest in Debtor's property including without limitation cash collateral

The Trustee submitted a declaration [Dk. 271] of Steven Speier opining that the property is not declining in value. *Id.* ¶4. In addition, the Trustee points out that an adequate equity cushion alone may constitute adequate protection even if regular payments are not being made. *See In re Mellor*, 734 F.2d 1396, 1400 (9th Cir. 1984). In its Reply, GreenLake states that the motion is not based on the value of the property. However, without evidence as to value, the Court is unable to find that the equity cushion is, for example, eroding, in which case lack of post-petition debt service payments may

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CONT... Wrightwood Guest Ranch LLC

Chapter 11

become relevant to the adequate protection analysis.

5. There has been undue delay and failure in the filing of a reorganization plan, and based on Debtor's finances, there is no feasible reorganization plan that can be put forth.

The Court notes that the Trustee was appointed in January 2016. Since then, the Trustee has marketed the property and obtained a sale procedures order. A sale of the property is scheduled for July 19, 2016. There appears to be no undue delay.

Evidentiary Objections

With respect to GreenLake's evidentiary objections, the Court rules as follows:

1. The following objections are sustained: 4, 5, 6, 7
2. The following objections are overruled: 1, 2, 3, 8

Conclusion

For these reasons, the Court finds that stay relief should be granted for the limited purpose of allowing GreenLake to record a notice of default.

Party Information

Debtor(s):

Wrightwood Guest Ranch LLC

Represented By
Riley C Walter
Michael L Wilhelm

Movant(s):

GreenLake Real Estate Fund LLC

Represented By
Yuriko M Shikai

Trustee(s):

Richard J Laski (TR)

Represented By
Aram Ordubegian

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CONT...

Wrightwood Guest Ranch LLC

M Douglas Flahaut

Chapter 11

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6:15-17799 Wrightwood Guest Ranch LLC

Chapter 11

#22.00

Hrg. on Chapter 11 Status Conference

EH_____

(Cont. from 3/1/16)

Docket 0

Tentative Ruling:

Tentative for 5/10/16:

The status conference is CONTINUED to 7/19/2016 at 1:30 p.m. A status report is due 14 days in advance.

Tentative for 3/1/16:

The status conference is CONTINUED to 5/10/16 at 1:30 p.m. A status report is due 14 days in advance.

Appearances are excused.

Tentative for 1/12/16:

See tentative for #20.

Personal appearances by all parties, except the United States Trustee, are required in Courtroom 5C, located at 411 West Fourth Street, Santa Ana, CA 92701.

Tentative for 12/1/2015:

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CONT... Wrightwood Guest Ranch LLC

Chapter 11

The Court will CONTINUE this matter to 1/12/2016 at 1:30 p.m. to coincide with the hearing on the disclosure statement.

Party Information

Debtor(s):

Wrightwood Guest Ranch LLC

Represented By
Riley C Walter
Michael L Wilhelm

Trustee(s):

Richard J Laski (TR)

Represented By
Aram Ordubegian
M Douglas Flahaut

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Hearing Room 126

1:30 PM

6:15-18644 BSA International Aerospace Co.

Chapter 11

#23.00

Hrg. on Sea Sound Aero-Technology, LLC motion filed 4/19/16 for order to: (1) Conditionally approve the Disclosure Statement for the second amended joint chapter 11 plan or reorganization; (2) Approve solicitation and tabulation procedures; (3) Establish plan confirmation schedule; and (4) Establish claim bar dates

EH_____

Docket 144

Tentative Ruling:

Tentative for 5/10/16 is to APPROVE the Second Amended Disclosure Statement.

Party Information

Debtor(s):

BSA International Aerospace Co.

Represented By
Todd L Turoci

Movant(s):

Sea Sound Aero-Technology, LLC

Represented By
Carol Chow

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Hearing Room 126

1:30 PM

6:16-11880 Ambassador Energy, Inc.

Chapter 11

#24.00

Hrg. on Chapter 11 Status Conference

EH_____

(Cont. from 4/26/16)

Docket 0

Tentative Ruling:

Tentative for 5/10/16:

The Court is inclined to set the following dates/deadlines:

1. Deadline for filing a Plan and Disclosure Statement: July 15, 2016. The failure to time file a plan and disclosure statement may result in the dismissal or conversion of the case.
2. Deadline for filing proofs of claims claims: July 5, 2016, with notice of the deadline served upon all creditors by no later than May 17, 2016
3. Deadline to Object to claims - August 31, 2016
4. Deadline to file any avoidance actions - August 31, 2016
5. Continued status conference: August 30, 2016 at 1:30 p.m. A status report is due 14 days in advance.

Debtor is to lodge a scheduling order within seven (7) days.

Tentative for 4/26/16:

This matter is CONTINUED to 5/10/16 at 1:30 p.m. to allow Debtor time to file the budget, with an appropriate declaration, required by this Court's order entered 3/7/16 [Dk. 7]. The budget and declaration are to be filed by no later than 5/2/16. A new status report is not required for the 5/10/16 status conference.

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CONT... Ambassador Energy, Inc.

Chapter 11

No appearances are required for the 4/26/16 hearing.

Party Information

Debtor(s):

Ambassador Energy, Inc.

Represented By
Robert B Rosenstein