

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, December 3, 2020

Hearing Room 5B

10:00 AM

8: -

Chapter

#0.00 All hearings on this calendar will be conducted using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

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<https://cacb.zoomgov.com/j/1610243936>

ZoomGov meeting number: 161 024 3936

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Chapter

Judge Theodor C. Albert's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-theodor-c-albert> under the
"Telephonic Instructions" section.

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proceedings, please:

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Chapter

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
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Thursday, December 3, 2020

Hearing Room 5B

10:00 AM

8:13-11495 Point Center Financial, Inc.

Chapter 7

Adv#: 8:15-01089 Howard B. Grobstein, Chapter 7 Trustee v. CALCOMM CAPITAL, INC., a

- #1.00** STATUS CONFERENCE RE: Third Amended Complaint for 91) Intentional Interference with Contractual Relations; (2) Turnover; (3) Avoidance of Pre-Petition Fraudulent Transfers; (4) Avoidance of Unauthorized Post-Petition Transfers; (5) Recovery of Pre-Petition Fraudulent Transfers and Unauthorized Post-Petition Transfers; (6) Breach of Fiduciary Duty (7) Aiding and Abetting Breach of Fiduciary Duty and (8) Declaratory Relief.
(con't from 9-03-20 per order approving stip. to cont. s/c entered 8-28-20)

Docket 83

Tentative Ruling:

Tentative for 12/3/20:
Continue to February 25, 2021 @10:00 a.m.

Appearance: optional

Tentative for 2/27/20:
Status conference continued to May 28, 2020 at 10:00AM. Looks like this case is drifting. Continue one last time.

Tentative for 11/7/19:
See #15 at 11:00AM. Are parties prepared to set deadlines on complaint issues?

Tentative for 6/8/17:
Status conference continued to September 7, 2017 at 10:00 a.m. with expectation that involuntary proceeding will be clarified and settlement

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CONT... **Point Center Financial, Inc.**
examined.

Chapter 7

Tentative for 2/9/17:
Status Conference continued to May 25, 2017 at 10:00 a.m. Personal
appearance not required.

Party Information

Debtor(s):

Point Center Financial, Inc.	Represented By Robert P Goe Jeffrey S Benice Carlos F Negrete - INACTIVE -
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Defendant(s):

Estancia Atascadero Investments,	Pro Se
Georgetown Commercial Center,	Pro Se
Island Way Investments I, LLC	Pro Se
Island Way Investments II, LLC	Pro Se
Lake Olympia Missouri City	Pro Se
Michigan Avenue Grand Terrace	Pro Se
Mission Ridge Ladera Ranch, LLC	Pro Se
Olive Avenue Investors, LLC	Represented By Jonathan Shenson
Enterprise Temecula, LLC	Pro Se
Palm Springs Country Club	Pro Se
Pinnacle Peak Investors, LLC	Pro Se
Provo Industrial Parkway, LLC	Pro Se
South 7th Street Investments, LLC	Represented By

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CONT... Point Center Financial, Inc.

Chapter 7

Jonathan Shenson

Spanish and Colonial Ladera Pro Se

Summerwind Investors, LLC Pro Se

Van Buren Investors, LLC Pro Se

White Mill Lake Investments, LLC Pro Se

Richard K. Diamond, solely in his Pro Se

Park Scottsdale, LLC Pro Se

Encinitas Ocean Investments, LLC Pro Se

El Jardin Atascadero Investments, Pro Se

Dillon Avenue 44, LLC Pro Se

CALCOMM CAPITAL, INC., a
Represented By
Nancy A Conroy
Sean A OKeefe

NATIONAL FINANCIAL
Represented By
Nancy A Conroy

POINT CENTER MORTGAGE
Represented By
Carlos F Negrete - INACTIVE -
Nancy A Conroy
Jonathan Shenson

NATIONAL FINANCIAL
Represented By
Carlos F Negrete - INACTIVE -
Sean A OKeefe

Dan J. Harkey
Represented By
Nancy A Conroy
Sean A OKeefe

M. Gwen Melanson
Represented By
Nancy A Conroy

RENE ESPARZA
Represented By

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CONT... Point Center Financial, Inc.

Chapter 7

Nancy A Conroy

DOES 1-30, inclusive	Pro Se
16th Street San Diego Investors,	Pro Se
6th & Upas Investments, LLC	Pro Se
Altamonte Springs Church	Pro Se
Andalucia Investors, LLC	Pro Se
Anthem Office Investors, LLC	Pro Se
Buckeye Investors, LLC	Pro Se
Calhoun Investments, LLC	Pro Se
Capital Hotel Investors, LLC	Pro Se
Champagne Blvd Investors, LLC	Represented By Jonathan Shenson
Cobb Parkway Investments, LLC	Pro Se
Deer Canyon Investments, LLC	Pro Se

Plaintiff(s):

Howard B. Grobstein, Chapter 7	Represented By John P Reitman Rodger M Landau Roye Zur Monica Rieder
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Trustee(s):

Howard B Grobstein (TR)	Represented By Rodger M Landau Roye Zur Kathy Bazoian Phelps John P Reitman Robert G Wilson - SUSPENDED - Monica Rieder
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**United States Bankruptcy Court
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CONT... Point Center Financial, Inc.

Chapter 7

Jon L Dalberg
Michael G Spector
Peter J Gurfein
Jack A Reitman

**United States Bankruptcy Court
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10:00 AM

8:13-11495 Point Center Financial, Inc.

Chapter 7

Adv#: 8:16-01041 Howard Grobstein, as Chapter 7 trustee v. NATIONAL FINANCIAL

#2.00 STATUS CONFERENCE RE: Complaint for Avoidance and Recovery of Fraudulent Transfers or, in the Alternative Avoidance and Recovery of Preferential Transfers
(con't from 9-03-20 per order approving stip. to cont. s/c entered 8-28-20)

Docket 1

Tentative Ruling:

Tentative for 12/3/20:
Continue to February 25, 2021 @10:00 a.m.

Appearance: optional.

Tentative for 2/27/20:
Status conference continued to May 28, 2020 at 10:00AM. Some of these cases appear to be drifting. Continue one last time.

Tentative for 12/5/19:
Why no status report?

See #16.

Party Information

Debtor(s):

Point Center Financial, Inc.

Represented By
Robert P Goe
Jeffrey S Benice
Carlos F Negrete

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CONT... Point Center Financial, Inc.

Chapter 7

Defendant(s):

NATIONAL FINANCIAL

Pro Se

Plaintiff(s):

Howard Grobstein, as Chapter 7

Represented By
Roye Zur

Trustee(s):

Howard B Grobstein (TR)

Pro Se

Howard B Grobstein (TR)

Represented By
Rodger M Landau
Roye Zur
Kathy Bazoian Phelps
John P Reitman
Robert G Wilson
Monica Rieder
Jon L Dalberg
Michael G Spector
Peter J Gurfein

U.S. Trustee(s):

United States Trustee (SA)

Pro Se

**United States Bankruptcy Court
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8:14-11335 Plaza Healthcare Center LLC

Chapter 11

Adv#: 8:16-01071 Plaza Healthcare Center, LLC et al. v. Country Villa Service Corporation

#3.00 CONT STATUS CONFERENCE RE: Complaint for: (1) Avoidance and recovery of preferential transfers [11 U.S.C. Sections 547(b), 550(a), and 552]; and (2) Disallowance of any claims held by Defendant [11 U.S.C. Section 502(d)]; and (3) Turnover of any and all amounts paid on any and all disallowed claims [11 U.S.C. Section 542]

[fr: 5/25/16, 6/22/16, 9/28/16, 11/22/16, 1/24/17, 3/29/17, 6/21/17, 6/28/17, 8/30/17, 9/7/17, 11/1/17, 1/31/18, 3/28/18, 8/1/18, 8/15/18, 11/7/18, 3/13/19, 9/11/19, 12/11/19, 6/3/20]

Docket 1

***** VACATED *** REASON: OFF CALENDAR - NOTICE OF
VOLUNTARY DISMISSAL OF AN ADVERSARY PROCEEDING FILED
11-30-20**

Tentative Ruling:

No appearances necessary. The hearing will be continued to December 2, 2020 at 10:00 a.m.

Party Information

Debtor(s):

Plaza Healthcare Center LLC

Represented By

Ron Bender
Lindsey L Smith
Krikor J Meshefejian
Monica Y Kim
Kurt Ramlo
Michelle S Grimberg
Philip A Gasteier

Defendant(s):

Country Villa Service Corporation

Pro Se

**United States Bankruptcy Court
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10:00 AM

CONT... Plaza Healthcare Center LLC

Chapter 11

Plaintiff(s):

Plaza Healthcare Center, LLC et al.

Represented By
Ron Bender
Lindsey L Smith
Jacqueline L James

U.S. Trustee(s):

United States Trustee (SA)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 5B

10:00 AM

8:17-13759 Maria T. Misa

Chapter 7

Adv#: 8:18-01001 Tender Care 24/7 Home Health, Inc. et al v. Misa

**#4.00 STATUS CONFERENCE RE: Complaint to Determine Debt to be
Nondischargeable Pursuant to 11 U.S.C. Section 523(a)(6)
(set from p/c hrg held on 2-06-20)**

Docket 1

Tentative Ruling:

Tentative for 12/3/20:

Continue as requested to projected completion of state court trial. November 11, 2021 @ 10:00 a.m.?

Appearance: optional.

Tentative for 2/6/20:

Discuss appropriate approach to this action in view of appellate court's reversal of default. Moratorium order? Continuance?

Tentative for 12/12/19:

Where is the joint pre-trial stipulation and order?

Tentative for 5/9/19:

Deadline for completing discovery: November 15, 2019
Last date for filing pre-trial motions: November 30, 2019
Pre-trial conference on: December 12, 2019
Joint pre-trial order due per local rules.

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CONT... Maria T. Misa

Chapter 7

Tentative for 3/7/19:

Status conference continued to May 30, 2019 at 10:00 a.m. Further continuances should not be expected and the long-promised motion for summary judgment needs to be filed.

Tentative for 12/13/18:

Status conference continued to March 7, 2019 at 10:00 a.m. for purposes of filing and hearing a motion for summary judgment.

Tentative for 9/13/18:

Status conference continued to December 13, 2018 at 10:00 a.m. Personal appearance not required.

Tentative for 7/12/18:

Status conference continued to September 13, 2018 at 10:00AM for purpose of obtaining Superior Court judgment.

Tentative for 5/31/18:

Status Conference continued to July 12, 2018 at 10:00am. Notice to provide that failure to appear may result in striking of answer and entry of default judgment.

Tentative for 3/29/18:

In view of the parallel Superior Court case, should a relief of stay be granted with moratorium of this action pending a judgment in Superior Court?

Party Information

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CONT... Maria T. Misa

Chapter 7

Debtor(s):

Maria T. Misa

Represented By
W. Derek May

Defendant(s):

Maria T. Misa

Pro Se

Plaintiff(s):

Tender Care 24/7 Home Health, Inc.

Represented By
Carol G Unruh

Perla Neri

Represented By
Carol G Unruh

Trustee(s):

Weneta M Kosmala (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Thursday, December 3, 2020

Hearing Room 5B

10:00 AM

8:18-13394 Stephen Nguyen

Chapter 7

Adv#: 8:19-01041 Fidelity Mortgage Lenders, Inc., Profit Sharing Pl v. Nguyen

#5.00 STATUS CONFERENCE RE: Complaint For: (1) NonDischargeability of Debt Pursuant to 11 USC Section 523(a)(2); (2) Nondischargeability Of Debt Pursuant to 11 USC Section 523(a)(6)
(cond't from 7-23-20)

Docket 1

Tentative Ruling:

Tentative for 12/3/20:

Continue to January 28, 2021 @ 10:00 a.m. to allow prove up and entry of judgment.

Tentative for 7/23/20:

Continue to December 3, 2020 at 10:00am per request.

Tentative for 3/12/20:

Status conference continued to June 25, 2020 at 10:00AM.

Tentative for 12/12/19:

Status conference continued to March 12, 2020 at 10:00AM. Appearance optional.

Tentative for 8/1/19:

Status conference continued to September 5, 2019 at 10:00AM, with the expectation that prove up to occur in meantime.

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CONT... Stephen Nguyen

Chapter 7

Tentative for 5/30/19:
Why no status report?

Party Information

Debtor(s):

Stephen Nguyen

Represented By
Daniel King

Defendant(s):

Stephen Nguyen

Pro Se

Plaintiff(s):

Fidelity Mortgage Lenders, Inc.,

Represented By
Zi Chao Lin

Trustee(s):

Karen S Naylor (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

8:19-10158 BP Fisher Law Group, LLP

Chapter 11

Adv#: 8:19-01065 BP Fisher Law Group, LLP v. LoanCare, LLC.

**#6.00 STATUS CONFERENCE RE: Complaint For (1) Breach of Contract; (2) Open Book Account; (3) Quantum Meruit
(con't from 9-24-20 per order appr. stip to cont. s/c entered 9-16-20)**

Docket 1

***** VACATED *** REASON: CONTINUED TO 2-11-2021 AT 10:00 .M.
PER ORDER APPROVING STIPULATION TO EXTEND DEADLINE TO
RESPOND TO COMPLAINT ENTERED 11-19-20**

Tentative Ruling:

Tentative for 6/27/19:
Status of answer/ default?

Party Information

Debtor(s):

BP Fisher Law Group, LLP

Represented By
Marc C Forsythe

Defendant(s):

LoanCare, LLC.

Pro Se

Plaintiff(s):

BP Fisher Law Group, LLP

Represented By
Benjamin Cutchshaw

**United States Bankruptcy Court
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Hearing Room 5B

10:00 AM

8:19-10158 BP Fisher Law Group, LLP

Chapter 11

Adv#: 8:19-01066 BP Fisher Law Group, LLP v. SELECT PORTFOLIO SERVICING, INC.

**#7.00 STATUS CONFERENCE RE: Complaint For (1) Breach Of Contract; (2) Open Book Account; (3) Quantum Meruit
(con't from 9-24-20 per order approving stip to cont. s/c entered 9-17-20)**

Docket 1

***** VACATED *** REASON: CONTINUED TO 2-04-2021 AT 10:00 A.M.
PER ORDER APPROVING STIPULATION TO CONTINUE STATUS
ENTERED 11-23-20**

Tentative Ruling:

Tentative for 6/27/19:
Why no status report?

Party Information

Debtor(s):

BP Fisher Law Group, LLP

Represented By
Marc C Forsythe

Defendant(s):

SELECT PORTFOLIO

Pro Se

Plaintiff(s):

BP Fisher Law Group, LLP

Represented By
Benjamin Cutchshaw

**United States Bankruptcy Court
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Thursday, December 3, 2020

Hearing Room 5B

10:00 AM

8:19-12162 John Louis Katangian

Chapter 11

Adv#: 8:19-01181 City of Los Angeles v. Katangian

**#8.00 STATUS CONFERENCE RE: Complaint to Determine Non-dischargeability of Debt
(cont'd from 3-5-20)**

Docket 1

Tentative Ruling:

Tentative for 12/3/20:

The court is not inclined to merely wait while an appeal of the state court judgment proceeds, which could take years, but since there seems to be some recognition of a possible settlement, the status conference may be continued to February 11 @ 10:00 a.m. at which time the parties can expect that deadlines will be imposed at that time. Of course, a Rule 56 motion can also be filed as appropriate in meantime.

Appearance: required

Tentative for 12/5/19:

Status conference continued to March 5, 2020 at 10:00AM. Appearance waived.

Party Information

Debtor(s):

John Louis Katangian

Represented By
Michael R Totaro

Defendant(s):

Shelline Marie Katangian

Pro Se

Joint Debtor(s):

Shelline Marie Katangian

Represented By
Michael R Totaro

**United States Bankruptcy Court
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CONT... John Louis Katangian

Chapter 11

Plaintiff(s):

City of Los Angeles

Represented By
Wendy A Loo

**United States Bankruptcy Court
Central District of California
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Hearing Room 5B

10:00 AM

8:19-12795 Lorraina C. Navarette

Chapter 7

Adv#: 8:19-01209 Lindbergh v. Navarette

#9.00 CONT STATUS CONFERENCE RE: Complaint re: Objection/recovation of discharge under section 727(c)(d)(e) and Dischargeability under section 523(a) (6), willful and malicious injury
**[Another summons issued on 1/21/2020]
(case reassigned per administrative order 20-07 dated 7-15-2020)
(cont'd from 9-24-20)**

[fr: 1/21/20, 4/7/20, 6/23/20]

Docket 3

Tentative Ruling:

Tentative for 12/3/20:

Why did Plaintiff not join in the status report? The unilateral report filed by defendant is not illuminating. A continuance is probably indicated but the parties need to appear with an explanation as to where this case is going and how much time is needed.

Tentative for 9/24/20:

why no status report?

Prior Tentative:

Appearances necessary. Telephonic appearances only. Any party who wishes to appear must register in advance by contacting CourtCall at (866) 582-6878.

Party Information

Debtor(s):

Lorraina C. Navarette

Represented By

Patricia M Ashcraft - SUSPENDED BK -

**United States Bankruptcy Court
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Thursday, December 3, 2020

Hearing Room 5B

10:00 AM

8:18-11155 Kenneth David Bishop

Chapter 7

Adv#: 8:20-01032 Marshack v. Foster

#10.00 STATUS CONFERENCE RE: Complaint for: 1. Avoidance and Recovery of Preferential Transfer; 2. Avoidance and Recovery of Intentional Fraudulent Transfer and; 3. Avoidance and Recovery of Constructively Fraudulent Transfer (con't from 9-03-20 per order granting application to cont. s/c entered 8-31-20)

Docket 1

***** VACATED *** REASON: OFF CALENDAR - NOTICE OF VOLUNTARY DISMISSAL OF AN ADVERSARY PROCEEDING FILED 9-16-20**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kenneth David Bishop

Represented By
Leonard M Shulman

Defendant(s):

Hal Foster

Pro Se

Plaintiff(s):

Richard A Marshack

Represented By
Robert P Goe

Trustee(s):

Richard A Marshack (TR)

Represented By
Robert P Goe

**United States Bankruptcy Court
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Hearing Room 5B

10:00 AM

8:18-11154 i.i. Fuels, Inc.

Chapter 7

Adv#: 8:20-01088 Marshack v. Interstate Oil Company

**#11.00 STATUS CONFERENCE RE: Complaint for (1) Avoidance of Preferential Transfers; (2) Recovery of Preferential Transfers; (3) Preservation of Preferential Transfers; and (4) Disallowance of Claims
(cont'd from 10-29-20 per order granting stip. to cont. s/c entered 9-02-20**

Docket 1

***** VACATED *** REASON: CONTINUED TO 1-07-21 AT 10:00 A.M.
PER ORDER GRANTING SECOND STIPULATION TO CONTINUE
STATUS HEARING ENTERED 11-03-20**

Tentative Ruling:

Tentative for 8/6/20:
What is status of answer? Continue?

Party Information

Debtor(s):

i.i. Fuels, Inc.

Represented By
Leonard M Shulman

Defendant(s):

Interstate Oil Company

Pro Se

Plaintiff(s):

Richard A. Marshack

Represented By
Robert P Goe

Trustee(s):

Richard A Marshack (TR)

Represented By
Robert P Goe

**United States Bankruptcy Court
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Hearing Room 5B

10:00 AM

8:20-10545 Katie Ki Sook Kim

Chapter 7

Adv#: 8:20-01093 Romex Textiles, Inc. v. Kim

**#12.00 STATUS CONFERENCE RE: Complaint to determine dischargeability of a debt and objection to discharge
(case reassigned from Judge Catherine E. Bauer per admin order 20-07 dated 7-15-20)
(cont'd from 9-03-20)**

Docket 1

Tentative Ruling:

Tentative for 12/3/20:

Continue to January 28, 2021 @ 10:00 a.m. to permit appearance by defendant and a meaningful joint status report, or entry of default as appropriate

Appearance: optional

Tentative for 9/3/20:

Per request, continued to December 3 @ 10:00 a.m. Plaintiff to give notice.

Party Information

Debtor(s):

Katie Ki Sook Kim

Represented By
Joon M Khang

Defendant(s):

Katie Ki Sook Kim

Pro Se

Plaintiff(s):

Romex Textiles, Inc.

Represented By
Nico N Tabibi

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CONT... Katie Ki Sook Kim

Chapter 7

Trustee(s):

Richard A Marshack (TR)

Represented By
Anerio V Altman

**United States Bankruptcy Court
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8:19-14912 Igor Shabanets

Chapter 7

Adv#: 8:20-01125 OOO KARENTA v. Shabanets

#13.00 STATUS CONFERENCE RE: Complaint For Nondischargeability of Debt
Pursuant to 11 USC Sections 523(a)(2)(A); 523(a)(3)(B); 523(a)(4), 523(a)(6)

Docket 1

Tentative Ruling:

Tentative for 12/3/20:

Deadline for completing discovery: November 1, 2021

Last date for filing pre-trial motions: November 19, 2021

Pre-trial conference on: December 9, 2021 @ 10:00 a.m.

Party Information

Debtor(s):

Igor Shabanets

Represented By
Bruce A Boice

Defendant(s):

Igor Shabanets

Pro Se

Plaintiff(s):

OOO KARENTA

Represented By
Elena Steers

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays

**United States Bankruptcy Court
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10:00 AM

8:13-16402 Gentile Family Industries

Chapter 11

Adv#: 8:20-01126 GENTILE FAMILY INDUSTRIES v. Gentile, Sr. et al

#14.00 STATUS CONFERENCE RE: Complaint For: 1. Declaratory Relief; 2. Interference With Contractual Relations; 3. Tortious Interference With Contract; 4. Temporary Restraining Order, Preliminary Injunction And Permanent Injunction Pursuant to 11 USC Section 105

Docket 1

***** VACATED *** REASON: CONTINUED TO 1-28-2021 AT 11:00 A.M.
PER ORDER APPROVING STIPULATION RE: REFERRAL OF
MATTER TO MEDIATION & RESCHEDULING DEFENDANTS'
MOTION TO DISMISS & (2) STATUS CONFERENCE ENTERED 10-22-
10**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gentile Family Industries

Represented By
Jeffrey W Broker

Defendant(s):

Philip J Gentile Sr.

Pro Se

Phillip J Gentile Jr.

Pro Se

Plaintiff(s):

GENTILE FAMILY INDUSTRIES

Represented By
Jeffrey W Broker

**United States Bankruptcy Court
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8:20-11517 Boyu Liu

Chapter 7

Adv#: 8:20-01129 FS Hawaii Inc v. Liu

#15.00 STATUS CONFERENCE RE Complaint of Creditor FS Hawaii, Inc: 1) Objecting to the Discharge of Debtor Under 11 U.S.C. Section 727 (a)(2)(3), (4) and (5); 2) For Avoidance of Fraudulent Transfers Under 11 U.S.C. Section 548

Docket 1

Tentative Ruling:

Tentative for 12/3/20:

Deadline for completing discovery: July 30, 2021

Last date for filing pre-trial motions: August 13, 2021

Pre-trial conference on: August 26, 2021 @ 10:00 a.m.

Joint pre-trial order due per local rules.

Refer to mediation. Order appointing mediator to be lodged by plaintiff within 10 days. One day of mediation to be completed by June 1, 2021.

Appearance: optional

Party Information

Debtor(s):

Boyu Liu

Represented By
Richard G Heston

Defendant(s):

Boyu Liu

Pro Se

Plaintiff(s):

FS Hawaii Inc

Represented By
Carlos A De La Paz

Trustee(s):

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, December 3, 2020

Hearing Room 5B

10:00 AM

8:19-11975 Farhad Mohebbi

Chapter 7

Adv#: 8:20-01130 Kosmala v. Mohebbi et al

#16.00 STATUS CONFERENCE RE:Complaint: (1) For Imposition of Resulting Trusts ; (2) Declaratory Relief; (3) Turnover of Property of The Estate Pursuant to 11 U.S.C. § 542(a); and (4) For Authorization to Sell Real Property in Which Co-Owner Holds Interest Pursuant to 11 U.S.C. § 363(h)

Docket 1

Tentative Ruling:

Tentative for 12/3/20:
See #29

Deadline for completing discovery: May 31, 2021
Last date for filing pre-trial motions: June 18, 2021
Pre-trial conference on: July 1, 2021 @ 10:00 a.m.

Party Information

Debtor(s):

Farhad Mohebbi

Represented By
Halli B Heston

Defendant(s):

Farhad Mohebbi

Pro Se

Nasim A Mohebbi

Pro Se

Plaintiff(s):

Weneta M.A. Kosmala

Represented By
Reem J Bello

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Reem J Bello

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, December 3, 2020

Hearing Room 5B

10:00 AM

8:20-11631 Hoan Dang

Chapter 7

Adv#: 8:20-01131 OneSource Distributors, LLC v. Dang et al

#17.00 STATUS CONFERENCE RE: Complaint For: Determination Of
Nondischargeability Of Debt Pursuant To 11 USC Section 523(a)(2), Section
523(a)(4), And 11 USC Section 523(a)(6)

Docket 1

***** VACATED *** REASON: CONTINUED TO 1-14-21 AT 10:00 A.M.
PER ORDER APPROVING STIPULATION TO CONTINUE STATUS
CONFERENCE AND EXTENDING DEADLINE FOR DEFENDANTS TO
FILE ANSWER TO THE COMPLAINT ENTERED 11-16-20**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hoan Dang

Represented By
James C Bastian Jr

Defendant(s):

Hoan Dang

Pro Se

Diana Hongkham Dang

Pro Se

Joint Debtor(s):

Diana Hongkham Dang

Represented By
James C Bastian Jr

Plaintiff(s):

OneSource Distributors, LLC

Represented By
Pamela J Scholefield

Trustee(s):

Karen S Naylor (TR)

Represented By
Nathan F Smith
Arturo M Cisneros

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
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Hearing Room 5B

10:00 AM

CONT...

Hoan Dang

James C Bastian Jr

Chapter 7

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, December 3, 2020

Hearing Room 5B

10:00 AM

8:20-11631 Hoan Dang

Chapter 7

Adv#: 8:20-01133 Toll Bros, Inc. v. Dang et al

#18.00 STATUS CONFERENCE RE: Complaint to Determine Dischargeability of Debt

Docket 1

***** VACATED *** REASON: CONTINUED TO 1-14-21 AT 10:00 A.M.
PER ORDER APPROVING STIPULATION TO CONTINUE STATUS
CONFERENCE AND EXTENDING DEADLINE FOR DEFENDANTS TO
FILE ANSWER TO THE COMPLAINT ENTERED 11-16-20**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Hoan Dang

Represented By
James C Bastian Jr

Defendant(s):

Hoan Dang

Pro Se

Diana Hongkham Dang

Pro Se

Joint Debtor(s):

Diana Hongkham Dang

Represented By
James C Bastian Jr

Plaintiff(s):

Toll Bros, Inc.

Represented By
Nichole M Wong

Trustee(s):

Karen S Naylor (TR)

Represented By
Nathan F Smith
Arturo M Cisneros
James C Bastian Jr

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, December 3, 2020

Hearing Room 5B

10:00 AM

8:15-13008 Anna's Linens, Inc.

Chapter 11

Adv#: 8:15-01293 Martz-Gomez v. Anna's Linens, Inc.

#19.00 PRE-TRIAL CONFERENCE RE: Class Action Adversary Proceeding Complaint [Violation of Worker Adjustment and Retraining Notification Act, 29 U.S.C. Section 2101 - 2109 and California Labor Code Section 1400 ET SEQ.] (set from status conference held on 10-8-15) (cont'd from 9-24-20 per order approving stipulation entered 9-10-2020)

Docket 1

***** VACATED *** REASON: CONTINUED TO 3-04-21 PER ORDER APPROVING STIPULATION TO MODIFY SCHEDULING ORDER ENTERED 11-16-20**

Tentative Ruling:

Tentative for 10/8/15:
Deadline for completing discovery: June 1, 2016
Last date for filing pre-trial motions: June 20, 2016
Pre-trial conference on: July 7, 2016 at 10:00 a.m.
Joint pre-trial order due per local rules.

Party Information

Debtor(s):

Anna's Linens, Inc.

Represented By
David B Golubchik
Lindsey L Smith
Eve H Karasik
John-Patrick M Fritz
Todd M Arnold
Ian Landsberg
Juliet Y Oh

Defendant(s):

Anna's Linens, Inc.

Pro Se

Plaintiff(s):

Linda Martz-Gomez

Represented By

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, December 3, 2020

Hearing Room 5B

10:00 AM

CONT... Anna's Linens, Inc.

Chapter 11

Gail L Chung
Jack A Raisner
Rene S Roupinian

U.S. Trustee(s):

United States Trustee (SA)

Represented By
Michael J Hauser

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, December 3, 2020

Hearing Room

5B

10:00 AM

8:13-20028 Tara Jakubaitis

Chapter 7

Adv#: 8:15-01426 Marshack v. Jakubaitis et al

#20.00 PRE-TRIAL CONFERENCE RE: Adversary Complaint for 1. Turnover of Property of The Estate - 11 U.S.C. Section 542; 2. Avoidance of Fraudulent Transfer - 11 U.S.C. Section 544; 3. Revocation of Discharge - 11 U.S.C. Section 727(d)
(set at s/c held 8-15-19)
(cont'd from 9-24-20)

Docket 1

Tentative Ruling:

Tentative for 12/3/20:

It is more than disappointing that we still cannot accomplish even the simplest of tasks in this case, i.e. a joint pretrial stipulation. The court will order the two counsel to meet at a time and place to be set upon the record for purposes of combining the two unilateral stipulations into a useable joint pretrial stipulation. If the parties cannot agree then, as the LBRs contemplate, there shall be set forth a list of the areas of disagreement in the single document. The court expects that everything that can be agreed upon will be and that each side will extend its utmost cooperation. This is the last chance to do this right before sanctions are imposed which can include either /or striking of pleadings or monetary sanctions. Continue to January 28, 2021 @ 10:00 a.m. for further pretrial conference and evaluation of the effort. Appearance required.

Tentative for 9/24/20:

The court will spare all a long recital of the frustrations occasioned by the continued and dismal lack of cooperation in these related cases, or the parties' seeming indifference to either the court's orders or to the LBRs. The court will only state this is not the first time. Here we are, at the date of pretrial conference and we have nothing at all from the defendant, and what might be worse, no explanation either. So be it. Plaintiff's unilateral pretrial order is adopted. How the defendant can still make a case around those provisions is

**United States Bankruptcy Court
Central District of California
Santa Ana
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Hearing Room

5B

10:00 AM

CONT... Tara Jakubaitis

Chapter 7

unclear. A trial date will be scheduled approximately three months hence. The court will hear argument whether this should be in person or via Zoom.

Tentative for 2/27/20:

This is supposed to be a pre-trial conference. Sadly, it is not that and this is hardly the first time in this series of cases where the court has been sorely frustrated.

As required by the LBRs, the parties were to have met and conferred in good faith to narrow the issues so that trial time could be focused on those items truly in dispute. Local Rule 7016-1 sets forth a very specific timeline and list of duties incumbent on each side. At LBR 7016-1(b)(1)(C) Plaintiff was to have initiated a meet and confer *at least 28 days* before the date set for the pre-trial conference. According to Defendant's papers, this did not occur 28 days before the originally scheduled pretrial conference of Feb. 6, *or indeed at all* until February 13 when Plaintiff reportedly filed his "Pretrial Stipulation" in which he claims it was Defendants who "refused to participate in the pretrial stipulation process" necessitating what is actually a unilateral stipulation. Defendant on the next day, February 14, filed his Unilateral Pretrial Stipulation. Defendant does acknowledge at his page 2, line 1-2 that Plaintiff sent something over to Defendant on January 28, but it was reportedly "not complete in any respect." As to the original date of the Pretrial Conference of February 6, that was *very late*. Whether that document was anything close to what was later filed unilaterally on Feb. 13 is not clarified. But what is very clear is that these two unilateral "stipulations" are largely worthless in the main goal of narrowing issues inasmuch as the parties seem to be discussing two entirely different complaints. Defendant focuses on what the former trustee (now deceased) may have known about the existence of a loan undisclosed on the schedules made by Frank to WeCosign, Inc., which loan was reportedly worthless in any case, and about how that knowledge should be imputed to Plaintiff Marshack. But why the trustee's knowledge,

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Santa Ana
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Thursday, December 3, 2020

Hearing Room 5B

10:00 AM

CONT... Tara Jakubaitis

Chapter 7

imputed or otherwise, should justify an alleged misstatement or omission to list assets under oath, is never quite explained. One presumes Defendant will argue materiality. Plaintiff focuses on the alleged use of another corporation, Tara Pacific, as the repository of funds taken from WeCosign as an alleged fraudulent conveyance and then used by Frank and Tara as a piggy bank between 2010 and 2012 and upon alleged misstatements in the schedules about Tara's and Frank's actual average income. While this sounds like a fraudulent conveyance theory the gist seems to be that Tara and Frank were using ill-gotten gains to live on while denying in respective schedules that they had any income (or assets) thus comprising a false oath. There probably are connections between these different stories, but that is not made at all clear (and it must be made clear). Plaintiff's overlong "stipulation" is written more like a 'cut and paste' brief containing long tables with over 59 footnotes inserted. One presumes this represents a good faith compilation of bank records, but even that is left unclear. But the language used reads purely as advocacy, not an attempt to narrow the disputed facts in a way the other side can sign.

Buried in the Defendant's recitations (at page 4, ¶ 13) is the argument that the case should be dismissed as outside the statute of limitation (or statute of repose in Defendant's terms) described at §727(e)(1). Why this was not raised 50+ months ago when the action was filed by Rule 12(b) motion or otherwise is not explained. What the Defendant expects the court to do with this point now is also not explained.

In sum, this case is still a disorganized mess. This is not the first time the court has voiced its utter frustration with this series of cases. Rather than being ready for trial, we are very much still at the drawing board. The court is not happy about it as this is hardly a young case.

What is the remedy? The court could order sanctions against either side, or maybe both sides, and that would be richly deserved. The court could decide that Plaintiff as the party with the initial duty under the LBRs should

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Thursday, December 3, 2020

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10:00 AM

CONT... Tara Jakubaitis

Chapter 7

suffer the brunt of just consequences by a dismissal, as the ultimate sanction. But however tedious and frustrating this has become the court would rather see these cases decided on their merits (if any) *if that is possible*. But what the court will not do is to further indulge these parties in disobeying the LBRs and generally continuing to shamle along, never getting anywhere. Therefore, **it is ordered**:

1. The parties will immediately meet and confer about reducing the two unilateral 'stipulations' into an intelligible, single, useful list of items not in dispute and therefore requiring no further litigation;
2. The resulting stipulation will be concise, user-friendly and focused on the actual legal issues to be tried;
3. The stipulation will contain a concise list of exhibits to be offered at trial identified by number for Plaintiff and letter for Defendant;
4. The parties will attempt in good faith to resolve any evidentiary objections to admission of the exhibits, and if agreement cannot be reached, state concisely the reasons for or against admissibility;
5. The stipulation will contain a list of witnesses to be called by each side, with a very brief synopsis of the expected testimony;
6. All factual matters relevant and truly in dispute will be listed, by short paragraph;
7. All legal issues to be decided will be separately listed, by paragraph;
8. Any threshold issues such as Defendants argument about statute of repose will be separately listed along with a suggested

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, December 3, 2020

Hearing Room

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10:00 AM

CONT...

Tara Jakubaitis

Chapter 7

means of resolving the issue; and

9. Both sides will estimate expected length of trial, mindful that the court requires all direct testimony by declaration with the witnesses available at trial for live cross and re-direct.

In sum the parties are to do their jobs. If the court's order is not followed *in enthusiastic good faith, and completely* with the goal of narrowing the issues, and if the resulting product is not a concise, user-friendly joint pretrial stipulation, the offending party or parties will be subject to severe sanctions which may include monetary awards and/or the striking or either the complaint or answer.

Continue about 60 days to accomplish the above.

Tentative for 8/15/19:

Status conference continued to October 24, 2019 at 10:00AM

Once the confusion over which action, which claim, and which defendant remains is cleared up, a series of deadlines will be appropriate to expedite resolution.

Tentative for 10/25/18:

See #12.

Tentative for 2/15/18:

Status?

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10:00 AM

CONT... Tara Jakubaitis

Chapter 7

Tentative for 1/25/18:
See #11, 12 and 13.

Tentative for 9/14/17:
Why no status report from defendant? Should trial be scheduled before
discovery is complete?

Tentative for 7/13/17:
It looks like discovery disputes must be resolved before any hard dates can
be set.

Tentative for 5/4/17:
Status conference continued to June 29, 2017 at 10:00 a.m. Do deadlines
make sense at this juncture given the ongoing disputes over even
commencing discovery?

Tentative for 3/23/17:
See #13.1

Tentative for 12/8/16:
No status report?

Tentative for 3/10/16:
See #6 and 7.

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Central District of California
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Thursday, December 3, 2020

Hearing Room 5B

10:00 AM

CONT... Tara Jakubaitis

Chapter 7

Tentative for 1/14/16:
Status conference continued to March 10, 2016 at 11:00 a.m. to coincide with
motion to dismiss.

Party Information

Debtor(s):

Tara Jakubaitis

Represented By
Christopher P Walker
Fritz J Firman
Benjamin R Heston

Defendant(s):

Tara Jakubaitis

Pro Se

Frank Jakubaitis

Pro Se

Plaintiff(s):

Richard Marshack

Represented By
Arash Shirdel

Trustee(s):

Richard A Marshack (TR)

Pro Se

Richard A Marshack (TR)

Pro Se

U.S. Trustee(s):

United States Trustee (SA)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, December 3, 2020

Hearing Room 5B

10:00 AM

8:18-10969 Luminance Recovery Center, LLC

Chapter 7

Adv#: 8:18-01064 Marshack v. Castanon et al

#21.00 PRE-TRIAL CONFERENCE RE: Complaint For Declaratory Relief Regarding Property Of The Estate Pursuant To 11 USC § 541 (set from s/c hrg held on 12-5-19) (rescheduled from 5-7-2020 at 10:00 a.m.) (cont'd from 10-01-20 per order approving stip. to extend dates in modified scheduling order entered 9-04-20)

Docket 1

***** VACATED *** REASON: CONTINUED TO 1-28-21 AT 10:00 A.M. PER ORDER APPROVING STIPULATION TO FURTHER EXTEND DATES IN MODIFIED SCHEDULING ORDER ENTERED 11-20-20**

Tentative Ruling:

Tentative for 12/5/19:
Status conference continued to May 7, 2020 at 10:00AM
Deadline for completing discovery: March 30, 2020
Last date for filing pre-trial motions: April 17, 2020
Pre-trial conference on:
Joint pre-trial order due per local rules.

Tentative for 10/3/19:
See #16. Should the 5/15 scheduling order be revisited?

Party Information

Debtor(s):

Luminance Recovery Center, LLC

Represented By
Jeffrey I Golden
Beth Gaschen

Defendant(s):

Michael Edward Castanon

Represented By
Rhonda Walker

**United States Bankruptcy Court
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Judge Theodor Albert, Presiding
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Thursday, December 3, 2020

Hearing Room 5B

10:00 AM

CONT... Luminance Recovery Center, LLC

Chapter 7

Carlos A De La Paz

BeachPointe Investments, Inc.

Represented By
Evan C Borges

George Bawuah

Represented By
Evan C Borges

Jerry Bolnick

Represented By
Evan C Borges

Jonathan Blau

Represented By
Evan C Borges

Joseph Bolnick

Represented By
Evan C Borges

Maria Castanon

Pro Se

Kenneth Miller

Represented By
Evan C Borges

Peter Van Petten

Represented By
Evan C Borges

Raymond Midley

Represented By
Evan C Borges

Veronica Marfori

Represented By
Evan C Borges

Dennis Hartmann

Represented By
Thomas W. Dressler

Plaintiff(s):

Richard A. Marshack

Represented By
Sharon Oh-Kubisch
Robert S Marticello

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays

**United States Bankruptcy Court
Central District of California
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Hearing Room 5B

10:00 AM

CONT... Luminance Recovery Center, LLC

Chapter 7

David Wood
Kyra E Andrassy
Jeffrey I Golden
Beth Gaschen
Matthew Grimshaw

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, December 3, 2020

Hearing Room 5B

10:00 AM

8:10-26382 Fariborz Wosoughkia

Chapter 7

Adv#: 8:19-01001 MAHDAVI v. Wosoughkia et al

#22.00 PRE-TRIAL CONFERENCE RE: Complaint To Determine Non-Dischargeability Of Debt Based On Fraud And Objecting To Discharge Of Debtors
(cont'd from 10-01-20 per order re: stip. to cont. pre-trial conf. entered 9-04-20)

Docket 1

***** VACATED *** REASON: CONTINUED TO 1-28-21 AT 10:00 A.M.
ORDER RE: STIPULATION TO CONTINUE PRE-TRIAL CONFERENCE
HEARING ENTERED 12-01-20**

Tentative Ruling:

Tentative for 9/12/19:

Deadline for completing discovery: February 1, 2020
Last date for filing pre-trial motions: February 18, 2020
Pre-trial conference on: March 12, 2020 at 10:00AM
Joint pre-trial order due per local rules.

Tentative for 6/6/19:
See # 23 & 24 - Motions to Dismiss

Tentative for 3/28/19:
Deadline for completing discovery: September 30, 2019
Last Date for filing pre-trial motions: October 23, 2019
Pre-trial conference on October 10, 2019 at 10:00am
Joint Pre-trial order due per LBRs.
Refer to Mediation. Order appointing mediator to be lodged by Plaintiff within 10 days.

Party Information

**United States Bankruptcy Court
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Hearing Room 5B

10:00 AM

CONT... Fariborz Wosoughkia

Chapter 7

Debtor(s):

Fariborz Wosoughkia

Represented By
Carlos F Negrete - INACTIVE -

Defendant(s):

Fariborz Wosoughkia

Pro Se

Natasha Wosoughkia

Pro Se

Joint Debtor(s):

Natasha Wosoughkia

Represented By
Carlos F Negrete - INACTIVE -

Plaintiff(s):

BIJAN JON MAHDAVI

Represented By
Craig J Beauchamp

**United States Bankruptcy Court
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Thursday, December 3, 2020

Hearing Room

5B

10:00 AM

8:19-11359 Ronald E. Ready

Chapter 7

Adv#: 8:19-01154 Paramount Residential Mortgage Group Inc v. Ready

#23.00 PRE-TRIAL CONFERENCE RE: Complaint for Nondischargeability of Debt Pursuant to 11 U.S.C. Section 523(a)(2) and 11 U.S.C. Section 523(a)(6) (con't from 10-8-2020 per order appr. stip. to con't ent.10-07-20)

Docket 1

***** VACATED *** REASON: CONTINUED TO 1-28-21 AT 10:00 A.M.
PER ORDER APPROVING THE STIPULATION TO CONTINUE
PRETRIAL CONFERENCE AND MOTION CUTOFF DATE ENTERED 11
-25-26**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ronald E. Ready

Represented By
Joseph A Weber
Fritz J Firman

Defendant(s):

Ronald E Ready

Represented By
Fritz J Firman

Plaintiff(s):

Paramount Residential Mortgage

Represented By
Shawn N Guy

Trustee(s):

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, December 3, 2020

Hearing Room 5B

11:00 AM

8:19-14912 Igor Shabanets

Chapter 7

Adv#: 8:20-01079 Remares Global, LLC, a Florida limited liability c v. Shabanets et al

#24.00 Motion To Set Aside Entry Of Default Of Olga Shabanets, As Trustee Of The 2012 Irrevocable Trust Agreement Of Igor Shabanets Dated November 12, 2012; Oldga Shabnets, An Individual, To Complaint

Docket 57

Tentative Ruling:

Tentative for 12/3/20:

Defendant, Olga Shabanets and her 2012 Trust have filed this second motion to set aside the default judgment. Her motion is substantially similar to the one she filed a few months ago, which was denied. The differences between the old motion and the new one are the declarations attached. Otherwise, they appear to be almost identical. But, as discussed below, the new declarations add little clarity as to why Olga failed to file an answer to the summons and complaint. For clarity, the prior tentative from October 1, 2020 is incorporated herein by reference.

As the opposition to the current motion points out, there are several inconsistencies in Olga's latest version of events, as follows:

The dates at which Olga resided at 2 Monarch Cove seem to vary from the last declaration in which Olga stated that she was forced to leave 2 Monarch in August of 2019, but now she states that she moved back into or visited 2 Monarch in September of 2019 and vacated once again in October of 2019 (allegedly permanently).

The opposition also notes that the signatures on Olga's old declaration and new declaration are completely different, which may be an indicator that one or both of the declarations are not truly hers. In fact, a look at the signature on the latest declaration purporting to be Olga's looks very similar to Zinaida Lysenko's (Olga's mother) signature found on her declaration. Allegedly, Olga does not speak or write in English which adds a dimension of uncertainty since no translation of her purported declaration is offered. In any case, it is at least suspicious and, therefore, unreliable.

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Hearing Room 5B

11:00 AM

CONT... Igor Shabanets

Chapter 7

The new motion also does not explain whether Olga set-up mail forwarding when she left 2 Monarch in August of 2019, whether she collected old mail when she returned to 2 Monarch in September of 2019, whether her mother delivered any mail to her, and why she did not learn of the lawsuit against her and the Trust through her attorney, Boice, who was also timely served with a copy of the summons and complaint.

As in the previous motion, Olga has again not demonstrated that the failure to answer the complaint was excusable and not the result of her own culpable actions or inaction. Similarly, as in the previous motion, the latest motion does not demonstrate that Olga has a meritorious defense, but reads like threadbare recitals of causes of action without sufficient supporting facts alleged or analysis to determine whether such a defense would be viable.

In sum, this latest motion, like the previous motion, leaves the court with several unanswered questions, of which it is Olga's burden to clarify in order to succeed on this motion. Thus, Olga has again not carried her burden and the motion will be denied.

Party Information

Debtor(s):

Igor Shabanets

Represented By
Bruce A Boice

Defendant(s):

Igor Shabanets

Pro Se

Olga Shabanets

Represented By
Bruce A Boice

Olga Shabanets, as trustee of the

Represented By
Bruce A Boice

Richard A Marshack

Represented By
D Edward Hays

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
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Thursday, December 3, 2020

Hearing Room 5B

11:00 AM

CONT... Igor Shabanets

Chapter 7

Plaintiff(s):

Remares Global, LLC, a Florida

Represented By
Alan W Forsley

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
Tinho Mang

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
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Thursday, December 3, 2020

Hearing Room 5B

11:00 AM

8:15-13008 Anna's Linens, Inc.

Chapter 7

Adv#: 8:18-01107 Naylor v. Watanabe

#25.00 Motion to Continue Pre-Trial Conference, Discovery Completion Deadline, Pre-Trial Motion Filing Deadline, and Deadlines Related to Expert Witnesses

Docket 60

Tentative Ruling:

Tentative for 12/3/20:

Grant requested continuance of deadlines, Further extensions should not be expected. Pre Trial conference continued to April 29, 2021 @ 10:00 a.m.

Movant to submit order. Appearance optional.

Party Information

Debtor(s):

Anna's Linens, Inc.

Represented By
David B Golubchik
Lindsey L Smith
Eve H Karasik
John-Patrick M Fritz
Todd M Arnold
Ian Landsberg
Juliet Y Oh
Jeffrey S Kwong

Defendant(s):

Neil Watanabe

Represented By
Jonathan Seligmann Shenson
Lauren N Gans

Plaintiff(s):

Karen Sue Naylor

Represented By
Todd C. Ringstad
Brian R Nelson
Christopher Minier

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, December 3, 2020

Hearing Room 5B

11:00 AM

CONT... Anna's Linens, Inc.

Chapter 7

Trustee(s):

Karen S Naylor (TR)

Represented By

Nanette D Sanders

Brian R Nelson

James C Bastian Jr

Melissa Davis Lowe

Steven T Gubner

Jason B Komorsky

Christopher Minier

Jerrold L Bregman

Todd C. Ringstad

Brett Ramsaur

Richard C Donahoo

Andrew Still

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, December 3, 2020

Hearing Room 5B

11:00 AM

8:15-13008 Anna's Linens, Inc.

Chapter 7

Adv#: 8:18-01108 Naylor v. Miller

#26.00 Motion to Continue Pre-Trial Conference, Discovery Completion Deadline, Pre-Trial Motion Filing Deadline, and Deadlines Related to Expert Witnesses

Docket 70

Tentative Ruling:

Tentative for 12/3/20:

Same as #25; grant requested continuance of deadlines, Further extensions should not be expected. Pre Trial conference continued to April 29, 2021 @ 10:00 a.m. Movant to submit order. Appearance optional.

Party Information

Debtor(s):

Anna's Linens, Inc.

Represented By
David B Golubchik
Lindsey L Smith
Eve H Karasik
John-Patrick M Fritz
Todd M Arnold
Ian Landsberg
Juliet Y Oh
Jeffrey S Kwong

Defendant(s):

Dale Miller

Represented By
Jonathan Seligmann Shenson
Lauren N Gans

Plaintiff(s):

Karen Sue Naylor

Represented By
Todd C. Ringstad
Brian R Nelson
Christopher Minier

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
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Thursday, December 3, 2020

Hearing Room 5B

11:00 AM

CONT... Anna's Linens, Inc.

Chapter 7

Trustee(s):

Karen S Naylor (TR)

Represented By

Nanette D Sanders

Brian R Nelson

James C Bastian Jr

Melissa Davis Lowe

Steven T Gubner

Jason B Komorsky

Christopher Minier

Jerrold L Bregman

Todd C. Ringstad

Brett Ramsaur

Richard C Donahoo

Andrew Still

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, December 3, 2020

Hearing Room 5B

11:00 AM

8:15-13008 Anna's Linens, Inc.

Chapter 7

Adv#: 8:18-01109 Naylor v. Gladstone

#27.00 Motion to Continue Pre-Trial Conference, Discovery Completion Deadline, Pre-Trial Motion Filing Deadline, and Deadlines Related to Expert Witnesses

Docket 54

Tentative Ruling:

Tentative for 12/3/20:

Same as #25; grant requested continuance of deadlines, Further extensions should not be expected. Pre Trial conference continued to April 29, 2021 @ 10:00 a.m. Movant to submit order. Appearance optional.

Party Information

Debtor(s):

Anna's Linens, Inc.

Represented By
David B Golubchik
Lindsey L Smith
Eve H Karasik
John-Patrick M Fritz
Todd M Arnold
Ian Landsberg
Juliet Y Oh
Jeffrey S Kwong

Defendant(s):

Alan Gladstone

Represented By
Jonathan Seligmann Shenson
Lauren N Gans

Plaintiff(s):

Karen Sue Naylor

Represented By
Todd C. Ringstad
Brian R Nelson
Christopher Minier

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, December 3, 2020

Hearing Room 5B

11:00 AM

CONT... Anna's Linens, Inc.

Chapter 7

Trustee(s):

Karen S Naylor (TR)

Represented By

Nanette D Sanders

Brian R Nelson

James C Bastian Jr

Melissa Davis Lowe

Steven T Gubner

Jason B Komorsky

Christopher Minier

Jerrold L Bregman

Todd C. Ringstad

Brett Ramsaur

Richard C Donahoo

Andrew Still

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, December 3, 2020

Hearing Room

5B

11:00 AM

8:15-13008 Anna's Linens, Inc.

Chapter 7

Adv#: 8:18-01110 Naylor v. Doll

#28.00 Motion to Continue Pre-Trial Conference, Discovery Completion Deadline, Pre-Trial Motion Filing Deadline, and Deadlines Related to Expert Witnesses

Docket 42

Tentative Ruling:

Tentative for 12/3/20:

Same as #25; grant requested continuance of deadlines, Further extensions should not be expected. Pre Trial conference continued to April 29, 2021 @ 10:00 a.m. Movant to submit order. Appearance optional.

Party Information

Debtor(s):

Anna's Linens, Inc.

Represented By
David B Golubchik
Lindsey L Smith
Eve H Karasik
John-Patrick M Fritz
Todd M Arnold
Ian Landsberg
Juliet Y Oh
Jeffrey S Kwong

Defendant(s):

Carie Doll

Represented By
Jonathan Seligmann Shenson
Lauren N Gans

Plaintiff(s):

Karen Sue Naylor

Represented By
Todd C. Ringstad
Brian R Nelson
Christopher Minier

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, December 3, 2020

Hearing Room 5B

11:00 AM

CONT... Anna's Linens, Inc.

Chapter 7

Trustee(s):

Karen S Naylor (TR)

Represented By

Nanette D Sanders

Brian R Nelson

James C Bastian Jr

Melissa Davis Lowe

Steven T Gubner

Jason B Komorsky

Christopher Minier

Jerrold L Bregman

Todd C. Ringstad

Brett Ramsaur

Richard C Donahoo

Andrew Still

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
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Thursday, December 3, 2020

Hearing Room 5B

11:00 AM

8:19-11975 Farhad Mohebbi

Chapter 7

Adv#: 8:20-01130 Kosmala v. Mohebbi et al

#29.00 Motion to Dismiss Adversary Complaint Pursuant to FRCP 12(b)(6)

Docket 5

Tentative Ruling:

Tentative for 12/3/20:

This is the Defendants' Motion to Dismiss under Rule 12(b).

The Defendants, Farhad and Nasim Mohebbi, were married in 1991. They purchased two properties during their marriage, known as the Sonrisa and Weyburn properties (the "Properties"). The Sonrisa Property is located 30282 Sonrisa Lane, Laguna Niguel, California 90201. The Weyburn Property is located 24812 Weyburn Drive, Laguna Hills, California 92653. During their marriage, Nasim's earnings were the primary source of income for the marital community. The Debtors filed a petition for dissolution of their marriage on April 14, 2006 and lived apart for about a year and a half.

Allegedly as a result of their separation, they executed a Marriage Settlement Agreement that detailed how they would deal with their Properties and other assets. It divided the Debtors' community property and gave Nasim, the wife, the Properties as her separate property. Farhad, the husband, obtained his chiropractic practice as his separate property. The Debtors were separated and apart for more than a year. They reconciled and remarried about 11 months after the Marriage Settlement Agreement and, prior to remarrying, they executed a Premarital Agreement. The essence of the Premarital Agreement provided that whatever property that was held by either party prior to marriage, including Nasim's ownership of the Properties, would continue to be separate property. Furthermore, it included that any other property purchased during marriage would be the separate property of whoever acquired the property. In March 2010, the Debtors executed a Property Agreement, which was created allegedly for estate planning purposes. The effect of it was that it only confirmed that the Properties were Nasim's separate property. It did not purport to transfer any interest in the Properties.

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CONT... Farhad Mohebbi

Chapter 7

The Chapter 7 Trustee, the Plaintiff, for the bankruptcy estate of the Debtor, Farhad Mohebbi, has filed a complaint for Judgment: (1) imposing a resulting trust on the Properties and an order declaring title in the Properties to be in the name of the Trustee for the benefit of the estate and Nasim; (2) declaring the Properties to be property of the Estate; (3) requiring that the Properties be turned over to the Trustee for the benefit of the estate; (4) that the Trustee may sell both the Estate's interest and interest of Nasim; (5) awarding Trustee's attorney's fees and costs and (g) For other relief just and proper.

In their Rule 12(b) motion Defendants urge the following points:

1. Argument #1: There were no Transfers of Property that would Create a Resulting Trust

Trustee argues that Farhad transferred title to the Properties to Nasim but intended to retain the benefit or occupancy of the Properties. In the complaint, the Trustee argues that Farhad transferred only bare legal title to the Properties, as an intra-family transfer for no consideration. The Trustee argues that Nasim took bare legal title to both the Properties as joint tenants and that the Debtor, Farhad, did not intend Nasim to receive his beneficial share of the interest in Properties. More so, the Trustee alleges that the Debtor continued to live in, receive benefits and enjoy the Properties and even made payments relating to it. Based on that the Trustee believes that she is entitled to the imposition of a trust on the Properties and an order declaring title to the Properties to be in the name of both Debtors as joint tenants and thus part of the bankruptcy estate.

Defendants argue that there were no transfers of property that would create a resulting trust. Defendants argue that Farhad had no intention to retain any of his interest in the Properties. Evidence of this was that there was fair consideration given which was that Farhad received his practice in exchange of Nasim getting title to the Properties. Under this theory Farhad received no benefits from the Properties. Furthermore, after reconciling, the Debtors formed a Trust and executed a Property Agreement. This, according to the Defendants, only confirmed that the Properties were still Nasim's

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CONT... Farhad Mohebbi

Chapter 7

separate properties. Furthermore, Farhad lived with his friend and then mother when they were separated which allegedly shows that he did not benefit from the Properties nor did he intend to receive a benefit in the future.

Thus, as the argument goes, there was no actual transfer of interest that would create a trust. Rather the only transfer of the Properties that occurred was done pursuant to a 2007 Divorce Judgment with the intention to distribute the community property of the Debtors from their first marriage. The goal of this Agreement was allegedly to give Nasim the benefit of the Properties as an unmarried person and to exclusion of Farhad and that Farhad would enjoy the benefits of his chiropractic practice. Any agreements that were signed by the Debtors allegedly just made sure that Nasim would keep her separate property as separate and that even after their remarriage, the property they obtained would be separate.

2. Argument #2: The Only Transfer of Property Occurred in June 2007 and is Beyond Any Applicable Statutes of Limitation.

The Trustee's argument is that a resulting trust was created because the Properties were in the name of both Defendants, both parties continued to enjoy the Properties and thus, in equity, the estate should be entitled to those Properties in the bankruptcy estate

The Defendants argue that the only transfer of property was from the 2007 Divorce Judgment and was done for the purpose of equally distributing the community property from their first marriage. Furthermore, the Defendants argue that even if the Trustee's claim that the transfer was wrong or improper, six years have passed since that transfer and it exceeds the statute of limitations. Defendants argue that the Trustee could bring an action no more than one year after the transfer was made.

3. Argument #3: Since the Trustee's Argument for a Resulting Trust must fail, the Additional Relief requested in conjunction with the Claim for Declaratory Relief, Turnover and Authorization to Sell Must Also Fail.

In the Complaint Trustee is requesting declaratory relief in the form of a judicial declaration that that Farhad is a joint owner of the Properties and

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CONT... Farhad Mohebbi

Chapter 7

not just Nasim. The Trustee further requests that such interests be declared property of the bankruptcy estate. The Trustee also asks for an order that would compel the turnover of the Properties again for the benefit of the estate so it could be used for the Debtor's creditors. Lastly, the Trustee asks for an order that the Trustee can sell both the Estate's interest and Nasim's interest.

Defendants respond that because the Trustee's cause of action failed to state a cause of action upon which relief can be granted pursuant to FRCP 12 (b)(6) then any additional relief that the Trustee requested in conjunction with the claim as a corollary should also be denied and/or the remedies associated with the claim such as turnover or sale of joint interest should also be dismissed.

4. Rule 12(b) Standards

A motion to dismiss for a failure to state a claim is governed by FRCP Rule 12 (b)(6) and applies to adversary proceedings in bankruptcy cases. FRBP 7012 (b). FRCP 12(b)(6) requires a court to consider whether a complaint fails to state a claim upon which relief may be granted. When considering a motion under FRCP 12(b)(6), a court takes all the allegations of material fact as true and construes them in the light most favorable to the nonmoving party. *Parks School of Business v. Symington*, 51 F.3d 1480, 1484 (9th Cir. 1995). A complaint should not be dismissed unless a plaintiff could prove no set of facts in support of his claim that would entitle him to relief. *Id.* Motions to dismiss are viewed with disfavor in the federal courts because of the basic precept that the primary objective of the law is to obtain a determination of the merits of a claim. *Rennie & Laughlin, Inc. v. Chrysler Corporation*, 242 F.2d 208, 213 (9th Cir. 1957). There are cases that justify, or compel, granting a motion to dismiss. The line between totally unmeritorious claims and others must be carved out case by case by the judgment of trial judges, and that judgment should be exercised cautiously on such a motion. *Id.*

"While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff's obligation to provide the grounds of his entitlement to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do."

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Chapter 7

Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 554-556, 127 S. Ct. 1955, 1964-65 (2007) A complaint must contain enough factual matter to state a claim to relief that is plausible on its face. *Ashcroft v. Iqbal*, 556 U.S.662, 129 S. Ct. 1937, 1949 (2009) citing *Twombly*. A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. *Id.* The plausibility standard asks for more than a sheer possibility that a defendant has acted unlawfully. *Id.* The tenet that a court must accept as true all factual allegations is not applicable to legal conclusions. *Id.* Threadbare recitals of elements supported by conclusory statements are not sufficient. *Id.* The facts stated by the nonmoving party from the record are accepted as true and any inferences that are drawn by the court are in the favor of the nonmoving party. *Everest & Jennings, Inc. v. Am Motorists Ins. Co.* 23 F. 3d 226 (1994). Furthermore, the court has to find whether it is beyond doubt that the plaintiff can prove no set of facts support their claim. *Id.* This standard has been tempered in the *Iqbal* and *Twombly* cases to require that the plaintiff must state enough facts that create a plausible claim for relief. But it has not changed that Rule 12(b) motions are not the place to sort out disputed questions of fact. Instead, the court must indulge all disputes of fact in favor of the nonmoving party. As discussed below, this precept alone is enough to defeat this motion.

5.. A Resulting Trust is a Remedy Derived from Circumstances and Limitations Runs from a Date Uncertain

A resulting trust is remedial and is created when a transferor makes or causes to be made a disposition of property in circumstances where equity seeks to prevent an inequitable result. Under Defendants' cited case *Tawansy v. Leslie (In re Raymond Renaissance Theatre)*, 583 B.R. 735, 746 (Bankr. C.D. Cal. 2018) such an implied trust does not need a writing or express declaration of trust; it is dependent on the circumstances. *Id.* citing *Honkanen v. Hopper (In re Honkanen)* 446 B.R. 373, 379 (9th Cir BAP 2011) and *Swimmer v. Moeller (In re Moeller)*, 466 B.R. 525 (Bankr. S.D. Cal. 2012). The statute of limitation on a resulting trust does not begin to run until there has been a repudiation of the trust. *McCosker v. McCosker*, 122 Cal. App. 2d 498, 501 (1954). In an action to establish a trust and for accounting related to resulting trust, the applicable statute of limitations is four years. *Id.*

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Farhad Mohebbi

Chapter 7

Furthermore, under Cal. Code Civ Procedure §343, an action for relief must be commenced within four years after the cause of action shall have accrued, which may not have even begun pre-petition given the resulting trust theory and lack of any repudiation.

6. Conclusion

Based on the facts and the law of this case the Motion to Dismiss cannot be granted. First, it is replete with questions of fact which cannot be decided in a Rule 12 context. For example, Defendants urge that the court be persuaded by a declaration from their attorney about the bona fides of his documents prepared in connection with the divorce and property separation. But the court is confined to the four corners of the complaint in a Rule 12 motion, and the court cannot say that the theory alleged by the Trustee is so implausible as to run afoul of the Iqbal and Twombly standard. In the complaint, the Trustee has provided grounds for jurisdiction for the bankruptcy court under 28 USC §1334 and 11 USC §§105 and 323. The Trustee has also included allegations enough, if proven, to show why she is entitled to relief and has made several demands for the relief sought, which include declaratory relief and turnover of the Properties and more. None of this is to say that the result might not be different in a Rule 56 context or at trial where the parties may consult the evidentiary record; it is to say, however, that at this stage a statement of the case is made sufficient to defeat a Rule 12 motion.

Deny

Party Information

Debtor(s):

Farhad Mohebbi

Represented By
Halli B Heston

Defendant(s):

Farhad Mohebbi

Represented By
Richard G Heston

Nasim A Mohebbi

Represented By
Richard G Heston

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Santa Ana
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CONT... Farhad Mohebbi

Chapter 7

Plaintiff(s):

Weneta M.A. Kosmala

Represented By
Reem J Bello
Jeffrey I Golden

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Reem J Bello

**United States Bankruptcy Court
Central District of California
Santa Ana
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Thursday, December 3, 2020

Hearing Room 5B

2:00 PM

8: Thomas D. Sands Matter

Chapter 0

Misc#: 2:20-00102 Thomas D. Sands Matter

#30.00 Notice Of Disciplinary Hearing Involving Thomas D. Sands (the "Attorney")

Docket 10

Tentative Ruling:

- NONE LISTED -