

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

Tuesday, December 8, 2020

Hearing Room 5B

10:30 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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Video/audio web address:

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

ZoomGov meeting number: 161 024 3936

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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.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect early so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

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Tentative Ruling:

- NONE LISTED -

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8:20-12585 Dae Young Joung and Erin Joung

Chapter 7

#1.00 Motion for relief from the automatic stay PERSONAL PROPERTY

**JPMORGAN CHASE BANK, N.A.
Vs
DEBTORS**

Docket 13

Tentative Ruling:

Tentative for 12/8/20:
Grant. Appearance is optional.

Party Information

Debtor(s):

Dae Young Joung

Represented By
Young K Chang

Joint Debtor(s):

Erin Joung

Represented By
Young K Chang

Movant(s):

JPMORGAN CHASE BANK, N.A.

Represented By
Joseph C Delmotte

Trustee(s):

Karen S Naylor (TR)

Pro Se

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8:19-14941 LeAnn Michelle Gause and Tiffany Denise Gause

Chapter 13

**#1.10 Motion for relief from the automatic stay PERSONAL PROPERTY
(cont'd from 12-01-20)**

SCHOOLSFIRST FEDERAL CREDIT UNION
Vs.
DEBTORS

Docket 36

***** VACATED *** REASON: OFF CALENDAR - SETTLED BY
STIPULATION RE: ORDER GRANTING MOTION FOR RELIEF FROM
AUTOMATIC STAY ENTERED 12-03-20**

Tentative Ruling:

Tentative for 12/1/20:
Grant. Appearance optional.

Party Information

Debtor(s):

LeAnn Michelle Gause

Represented By
Christopher J Langley

Joint Debtor(s):

Tiffany Denise Gause

Represented By
Christopher J Langley

Movant(s):

SchoolsFirst Federal Credit Union

Represented By
Paul V Reza

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:19-14941 LeAnn Michelle Gause and Tiffany Denise Gause

Chapter 13

#1.20 Motion for relief from the automatic stay PERSONAL PROPERTY
(cont'd from 12-01-20)

SCHOOLSFIRST FEDERAL CREDIT UNION
Vs.
DEBTORS

Docket 37

***** VACATED *** REASON: OFF CALENDAR - SETTLED BY
STIPULATION RE: ORDER GRANTING MOTION FOR RELIEF FROM
AUTOMATIC STAY ENTERED 12-03-20**

Tentative Ruling:

Tentative for 12/1/20:
Grant absent post-petition current status or APO.

Party Information

Debtor(s):

LeAnn Michelle Gause

Represented By
Christopher J Langley

Joint Debtor(s):

Tiffany Denise Gause

Represented By
Christopher J Langley

Movant(s):

SchoolsFirst Federal Credit Union

Represented By
Paul V Reza

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:18-13420 Kevin Sadeghi

Chapter 7

#2.00 Trustee's Final Report And Applications For Compensation:

RICHARD A. MARSHACK, CHAPTER 7 TRUSTEE

LAKE FOREST BANKRUPTCY, ATTORNEY FOR CHAPTER 7 TRUSTEE

U.S. BANKRUPTCY COURT, CHARGES

GROBSTEIN TEEPLE LLP, OTHER PROFESSIONAL FEES

Docket 61

Tentative Ruling:

Tentative for 12/8/20:

Allow as prayed. Appearance optional.

Party Information

Debtor(s):

Kevin Sadeghi

Represented By
Allan O Cate

Trustee(s):

Richard A Marshack (TR)

Represented By
Anerio V Altman

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8:14-17318 Antoine A Johnson and Kelly J Johnson

Chapter 7

**#3.00 Motion for Order Disallowing Debtors' Claimed Exemption and Requiring Turnover of Non-Exempt Funds
(cont'd from 11-03-20)**

Docket 36

Tentative Ruling:

Tentative for 12/8/20:

The court incorporates herein its previous tentative from Nov. 3. At the Trustee's suggestion the court continued the hearing to a date which would allow determination of the body of claims after a claims bar, which was thought to be a modest number ,thereby creating a path to settlement. What is the status?

Tentative for 11/3/20:

This is the chapter 7 trustee, Jeffrey Golden's ("Trustee's") motion for order disallowing debtors Antoine and Kelly Johnson's ("Debtors'") claimed exemption and requiring turnover of non-exempt funds. Debtors oppose the motion.

1. Background

Debtors filed a Voluntary Petition under Chapter 7 on December 19, 2014. Jeffrey I. Golden was the duly appointed and acting Chapter 7 Trustee of the resulting Estate. After investigation of the affairs of the Debtors, including a review of the schedules and statements and questioning of the Debtors during a Trustee Meeting under 11 U.S.C. § 341(a), Trustee found no assets to be administered, and filed a "no asset report" on February 2, 2015. The Debtors received their discharge on April 6, 2015, and the case was closed the following day.

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Antoine A Johnson and Kelly J Johnson

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Thereafter, Trustee received correspondence dated October 10, 2019 from Archer Systems, LLC ("Archer"), the court-appointed settlement administrator in multi-district litigation relating to an allegedly harmful diabetes medication apparently prescribed to Debtor Antoine A. Johnson. According to the correspondence, the Debtors retained counsel to stake their claim ("Claim") in the product liability litigation, based upon an injury date of September 8, 2014, which was pre-petition. The Claim is apparently in the process of being cleared for settlement in a gross amount of \$466,400, with a projected net of approximately \$260,924.53.

Trustee notified Archer on October 15, 2019 that the Estate has an interest in the Claim, which was not scheduled by the Debtors or disclosed to Trustee, and which therefore remained property of the Estate even after the closing of the case under 11 U.S.C. § 554(d) (assuming the September 8, 2014 date is accurate). At Trustee's request, the Office of the United States Trustee filed a motion seeking the reopening of the case for the administration of the Claim. The motion was granted by Order entered March 19, 2020, and Trustee was reappointed. (See Docket, Exhibit "A", Docket Nos. 29, 30.) Five months later, the Debtors filed amended Schedules B and C, adding the Claim as an asset (identified as "Personal Injury Claim Settlement"), valued at \$259,000, and claiming the Claim as exempt in full under Cal. Civ. Proc. Code § 704.140(b).

2. Is the Asset Property of The Estate and/or Exempt?

The answer, as Trustee argues, is that it is probably too early to decide. Debtors argue that Trustee's motion fails to sufficiently link the settlement to the pre-bankruptcy past, which is the test Trustee's motion must pass. See 11 U.S.C. §541(a)(1). Further, Debtors argue that even if Trustee could establish such a connection, the asset would be exempt under Cal. Civ. Proc. §704.140, which exempts awards of damages or settlements arising from a personal injury to the extent necessary to support a spouse or dependents of the judgment debtor. Trustee asserts that he has reason to believe that he can show such a link to the period prior to Debtors' bankruptcy case, including using Debtors own schedules. At present, Trustee, the date of

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CONT... **Antoine A Johnson and Kelly J Johnson**

Chapter 7

Debtor's initial injury is not known, which makes assessing whether the estate has an interest impossible or at least difficult at this point. As to the claim of exemption, Trustee cites *In re Milden*, 1997 U.S. App. LEXIS 7726 at *18 (9th Cir. 1997) citing *In re Haaland*, 89 B.R. 845 (Bankr. S.D. Cal. 1988), aff'd in part, rev'd in part on other grounds *sub nom. Haaland v. Corporate Management, Inc.*, 172 B.R. 74, 77 (S.D. Cal. 1989) for the proposition that the exemption under § 704.140 does not apply to past earnings. Trustee asserts that there is no evidence to establish when Mr. Johnson became disabled, or what the value of his lost wages would have been from that point to the date of filing. Thus, Trustee concludes, the non-exempt portion of the Estate's interest in the Claim is an unknown, at present.

Trustee suggests continuing this matter to a date in mid-December because the claims bar date is November 30. Trustee asserts that, to date, claims total only \$8,381.18. A continuance to a date in mid-December would allow for the establishment of the body of creditors, the presentation of additional evidence concerning lost wages, and possible settlement negotiations concerning a reasonable resolution of the Estate's interest in the proceeds. Debtors argue that principles of equity tilt toward finding in their favor. However, if the asset is property of the estate, then it should be made available for distribution to Debtors' pre-petition creditors and the question is whether any part is exemptible. Thus, Trustee probably has the right of it. Also, Trustee points out that because the issue is properly framed as a proceeding to determine the validity, priority, or extent of a lien or other interest in property, ownership of the asset must be determined through an adversary proceeding.

Continue to December 8 @ 11:00 a.m.

Party Information

Debtor(s):

Antoine A Johnson

Represented By
Douglas L Weeks

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CONT... Antoine A Johnson and Kelly J Johnson

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Joint Debtor(s):

Kelly J Johnson

Represented By
Douglas L Weeks

Trustee(s):

Jeffrey I Golden (TR)

Represented By
Erin P Moriarty

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8:20-11350 Jae Kook Jun and Jee Hee Jun

Chapter 7

#4.00 Debtor's Notice of Motion and Motion to Avoid Lien Under 11 U.S.C. Section 522(f) (Real Property)

Docket 12

Tentative Ruling:

Party Information

Debtor(s):

Jae Kook Jun

Represented By
Andrew S Cho

Joint Debtor(s):

Jee Hee Jun

Represented By
Andrew S Cho

Trustee(s):

Thomas H Casey (TR)

Pro Se