

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1639 Calendar**

Thursday, October 13, 2022

Hearing Room 1639

11:30 AM

2: -

ZOOM INFORMATION

Chapter

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

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Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1639 Calendar**

Thursday, October 13, 2022

Hearing Room 1639

11:30 AM

2:22-13453 Charles James Branham

Chapter 7

#1.00 Hearing RE: [10] Motion for compensatory damages, punitive damages, and attorneys fees and costs against Intuit Financing, Inc. D/B/A Quickbooks Capital for intentionally violating the automatic stay

Docket 10

Tentative Ruling:

Notice/Service

When the Bankruptcy Code was drafted, there was no specific provision authorizing the imposition of sanctions for stay violations, so courts treated the stay as an "order" and used civil contempt power to impose sanctions for knowing violations. *America's Servicing Co. v. Schwartz-Tallard (In re Schwartz-Tallard)*, 803 F.3d 1095, 1098 (9th Cir. 2015). In 1984, § 362 was amended to add what is now § 362(k) (previously § 362(h), and without the exception of § 362(k)(2)). As opposed to the civil sanction approach, the statutory provision makes an award of actual damages and attorney's fees mandatory and permits imposition of punitive damages when appropriate. *Id.* at 1099.

There is nothing in § 362(k) that requires a contempt proceeding to obtain the relief provided for, and neither the FRBP nor the LBR has specific provisions outlining the procedures to be followed on a motion pursuant to § 362(k)(1). However, the court typically sees relief of this nature requested by means of a motion for order to show cause why the allegedly offending creditor should not be sanctioned. Those motions are filed pursuant to LBR 9020-1, which applies to a motion for order to show cause re: contempt.

While courts regularly make a distinction between proceedings for damages under § 362(k) and contempt proceedings (largely due to the different type of damages allowable as to each), that does not appear to stop them from referring to proceedings under § 362(k) as a proceeding for sanctions or contempt. See, e.g., *Moon v. Rushmore Loan Mgmt. Svcs., LLC (In re Moon)*, No. NV-20-1199-BFL, 2021 WL 414608 (B.A.P. 9th Cir. 2021)

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1639 Calendar**

Thursday, October 13, 2022

Hearing Room 1639

11:30 AM

CONT... **Charles James Branham** **Chapter 7**
(referring to motions for damages under § 362(k)(1) as "contempt motions").

The court has been unable to find discussion in caselaw of the standard for service of a motion filed as one for relief under § 362(k)(1) and not styled as a motion for order to show cause or filed as an adversary proceeding. Even without specific prescription in the rules, however, it seems necessary for a party against which a debtor seeks an award of compensatory and punitive damages to be served in the same manner as it would have to be served in an adversary or contempt proceeding, *i.e.*, pursuant to FRBP 7004.

Here, the Debtor served "Quickbooks Loan" (which does not appear to be an entity or even the same DBA of the creditor – "Quickbooks Capital" – stated in the Motion) at 2700 Coast Ave., Mountain View, CA 94043 (the "Mountain View Address"). The Debtor states that the creditor is actually Intuit Financing, Inc. ("Intuit"), which, according to the California Secretary of State's website, does have a business address at the Mountain View Address. However, that is not the agent for service of process for Intuit, and no agent or officer is identified, as would be required by FRBP 7004(b)(3) for service on a corporation.

At a minimum, the court requires service on the Creditor pursuant to FRBP 7004. Please also be prepared to address whether the motion should be filed as one for an order to show cause why the Creditor should not be sanctioned under § 362(k)(1).

Party Information

Debtor(s):

Charles James Branham

Represented By
D Justin Harelik

Trustee(s):

Edward M Wolkowitz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1339 Calendar**

Thursday, October 13, 2022

Hearing Room 1339

11:30 AM

2:21-11893 Matrix International Textile, Inc.

Chapter 11

#2.00 Hearing RE: [175] First and Final Fee Application of Subchapter V Trustee for Allowance and Payment of Fees and Reimbursement of Expenses Through the Effective Date of the Debtor's Plan; for Moriah Douglas Flahaut (TR), Trustee Chapter 9/11, Period: 3/12/2021 to 8/26/2022, Fee: \$40,937.00, Expenses: \$87.58.

Docket 175

Tentative Ruling:

The first and final application for allowance of fees and costs was properly noticed in accordance with FRBP 2002 and Local Bankruptcy Rule ("LBR") 2016-1 and set for hearing in accordance with LBRs 2016-1 and 9013-1(d). The failure of any party to file written opposition at least 14 days prior to the hearing pursuant to LBR 9013-1(f) is deemed consent to the granting of the relief sought in the application. LBR 9013-1(h); *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the application contains the information required in LBR 2016-1(a) and a *prima facie* case has been established in support of the application, an actual hearing is not necessary. The Court will resolve the matter without oral argument. LBR 9013-1(j)(3). NO APPEARANCE IS NECESSARY.

GRANT all relief requested. The application is approved and payment of the requested amounts is approved.

Applicant to submit order within seven days.

Party Information

Debtor(s):

Matrix International Textile, Inc.

Represented By
Raymond H. Aver

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1339 Calendar**

Thursday, October 13, 2022

Hearing Room 1339

11:30 AM

CONT... Matrix International Textile, Inc.

Chapter 11

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1639 Calendar**

Thursday, October 13, 2022

Hearing Room 1639

11:30 AM

2:22-11970 Camierda 1, LLC

Chapter 11

#3.00 Hearing RE: [100] First and Final Application for Compensation and Reimbursement of Expenses of the Michael Jay Berger, General Counsel, Period: 4/21/2022 to 7/20/2022, Fee: \$32,916.50, Expenses: \$287.76.

Docket 100

Tentative Ruling:

The first and final application for allowance of fees and costs was properly noticed in accordance with FRBP 2002 and Local Bankruptcy Rule (“LBR”) 2016-1 and set for hearing in accordance with LBRs 2016-1 and 9013-1(d). The failure of any party to file written opposition at least 14 days prior to the hearing pursuant to LBR 9013-1(f) is deemed consent to the granting of the relief sought in the application. LBR 9013-1(h); *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the application contains the information required in LBR 2016-1(a) and a *prima facie* case has been established in support of the application, an actual hearing is not necessary. The Court will resolve the matter without oral argument. LBR 9013-1(j)(3). NO APPEARANCE IS NECESSARY.

GRANT all relief requested. The application is approved and payment of the requested amounts is approved.

Applicant to submit order within seven days.

Party Information

Debtor(s):

Camierda 1, LLC

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1639 Calendar**

Thursday, October 13, 2022

Hearing Room 1639

11:30 AM

2:21-19016 STEVEN J. RIFKIND

Chapter 11

#4.00 CONT'D Post Confirmation Status Conference
fr. 7-14-22

Docket 98

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

STEVEN J. RIFKIND

Represented By
Keith C Owens
Nicholas A Koffroth

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1639 Calendar**

Thursday, October 13, 2022

Hearing Room 1639

11:30 AM

2:22-14708 William Holdings, LLC

Chapter 11

#5.00 CONT'D Hearing RE: [29] Debtor's motion for order authorizing interim use of cash collateral [LBR 2081-1 and LBR 9075] fr. 9-22-22

Docket 29

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

William Holdings, LLC

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1639 Calendar**

Thursday, October 13, 2022

Hearing Room 1639

11:30 AM

2:22-14708 William Holdings, LLC

Chapter 11

#6.00 Status Hearing RE: [1] Chapter 11 Voluntary Petition Non-Individual. LLC

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

William Holdings, LLC

Represented By
Michael Jay Berger

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1639 Calendar**

Thursday, October 13, 2022

Hearing Room 1639

11:30 AM

2:16-22745 Yu Hua Long Investments LLC

Chapter 11

#7.00 Hearing RE: [688] Motion for Order Temporarily Allowing Magnus Member Claims Solely for Purposes of Voting on Teng Huang's First Amended Liquidating Plan Under Chapter 11 Dated August 24, 2022 (as it May be Amended or Modified)

Docket 688

Tentative Ruling:

The court understands and respects a party's interest and desire to object to any relief requested in a case, but the arguments raised in opposition to the motion are unpersuasive, as was the case with the motion granting the same proposed relief for the other plan of reorganization filed in this case. See Docket no. 566.

Once again, the standard set forth in the case law for temporarily allowing the claims at issue for voting purposes has been met here. Notwithstanding objection to a claim or interest, the court after notice and a hearing may temporarily allow the claim or interest in an amount which the court deems proper for the purpose of accepting or rejecting a plan. FRBP 3018(a). Neither the Bankruptcy Code nor the Bankruptcy Rules provide any guidelines for determining how to temporarily allow a claim for voting purposes. *In re Sandia Resorts, Inc.*, 557 B.R. 217, 220 (Bankr. D.N.M. 2016). The court, therefore, has discretion to determine the amount of a claim for the limited purpose of voting. *Id.* The claimant requesting temporary allowance of its claim under Rule 3018(a) bears the burden of presenting "sufficient evidence that it has a colorable claim capable of temporary evaluation." *Id.*

A creditor may request the temporary allowance of a claim under one of the following nonexclusive circumstances: when an objection to the claim has been filed and the objection was filed too late to be heard prior to the confirmation hearing, when fully hearing the objection would delay the administration of the case, or when the objection is frivolous or of questionable merit. *In re Armstrong*, 294 B.R. 344, (10th Cir. BAP 2003) (citing 9 *Collier on Bankruptcy* ¶ 3018.01[5] (Lawrence P. King. Ed., 15th ed.

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1639 Calendar**

Thursday, October 13, 2022

Hearing Room 1639

11:30 AM

CONT... Yu Hua Long Investments LLC

Chapter 11

2003); *In re Zolner*, 173 B.R. 629, 633 (Bankr. N.D. Ill. 1994)).

At this stage, the claims of the Magnus Creditors satisfy the "sufficient evidence" standard for permitting temporary allowance of the claims, given the time that would be needed to finally resolve the claim objections and the interest in moving this plan and the other plan forward -- unless Teng Huang is arguing that his plan should not go forward until the claim objections are fully resolved, which is something the parties may wish to develop at oral argument if that is the case.

The court bases this ruling on the evidence submitted with the proofs of claim, the oppositions to the motions seeking to disallow, and the papers submitted with this motion and the prior motion to temporarily allow, as well as the full record in this case -- including the participation of the chapter 11 trustee and the court's earlier order on temporary allowance.

Grant, in the amounts set forth in the Motion

Party Information

Debtor(s):

Yu Hua Long Investments LLC

Represented By
M. Jonathan Hayes

Trustee(s):

Timothy Yoo (TR)

Represented By
Philip A Gasteier
Jeffrey S Kwong
Timothy J Yoo

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1639 Calendar**

Thursday, October 13, 2022

Hearing Room 1639

11:30 AM

2:16-22745 Yu Hua Long Investments LLC

Chapter 11

#8.00 Hearing RE: [690] Motion for Order Granting Leave for Magnus Members to File Amended Proofs of Claim

Docket 690

Tentative Ruling:

Whether to allow an amendment to a timely filed proof of claim is within the discretion of the court. *In re Tulare Local Healthcare Dist.*, No. 17-13797-B-9, 2021 Bankr. LEXIS 1138, at *8 (Bankr. C.D. Cal. 2021) (*citing In re Roberts Farms, Inc.*, 980 F.2d 1248, 1251 (9th Cir. 1992)); *see also Venhaus v. Wilson (In re Wilson)*, 96 B.R. 257, 262 (B.A.P. 9th Cir. 1988). In exercising its discretion, the court must look to whether the opposing party would be "unduly prejudiced" by the amendment. *In re Roberts Farms, Inc.*, 980 F.2d at 1251. Undue prejudice includes "bad faith or unreasonable delay in filing the amendment, impact on other claimants, reliance by the debtor or other creditors, and change of the debtor's position." *Id*; *see also In re Tulare Local Healthcare Dist.*, 2021 Bankr. LEXIS at *9.

Applying this analysis, the court does not find that allowing amendment of the claims of the Magnus Creditors would unduly prejudice Teng Huang or other parties. On the contrary, amending the claims will provide more clarity for all as the court prepares to address plan confirmation and the ultimate resolution of the claims.

It's difficult to see how Teng Huang can object to proofs of claim on the grounds that they are unsupported and cryptic, yet then object to the claimants' request to amend those proofs of claim to provide more clarity. Once the amended proofs of claim are filed, Teng Huang can still contest them. The motion objecting to the claims as currently filed is far from resolution. The court sees no prejudice to Teng Huang in connection with the

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1639 Calendar**

Thursday, October 13, 2022

Hearing Room 1639

11:30 AM

CONT... Yu Hua Long Investments LLC
claims resolution process.

Chapter 11

Grant. Amended proofs of claim must be filed within 14 days of entry of the order.

Party Information

Debtor(s):

Yu Hua Long Investments LLC

Represented By
M. Jonathan Hayes

Trustee(s):

Timothy Yoo (TR)

Represented By
Philip A Gasteier
Jeffrey S Kwong
Timothy J Yoo

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1639 Calendar**

Thursday, October 13, 2022

Hearing Room 1639

11:30 AM

2:16-22745 Yu Hua Long Investments LLC

Chapter 11

#8.10 CONT'D Hearing RE: [526] Omnibus Objection to Claim #12,13,14,16,23 by Claimants Nelson L. Huang; The Staunton Group, LLC; Richton Ltd; Mountainfield Properties, LLC; WYPN Property, LLC. in the amount of \$ 69,000,000 Each
fr. 5-12-22, 6-16-22, 7-6-22, 8-18-22, 9-15-22, 9-29-22

Docket 526

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Yu Hua Long Investments LLC

Represented By
M. Jonathan Hayes

Trustee(s):

Timothy Yoo (TR)

Represented By
Philip A Gasteier
Jeffrey S Kwong
Timothy J Yoo

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1639 Calendar**

Thursday, October 13, 2022

Hearing Room 1639

11:30 AM

2:16-22745 Yu Hua Long Investments LLC

Chapter 11

#8.20 CONT'D Hearing RE: [548] Omnibus Objection to Claim #10,11 by Claimant Gary F. Wang, Eva Y. Wang. in the amount of \$ 69,000,000 Each fr. 6-16-22, 7-6-22, 8-18-22, 9-15-22, 9-29-22

Docket 548

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Yu Hua Long Investments LLC

Represented By
M. Jonathan Hayes

Trustee(s):

Timothy Yoo (TR)

Represented By
Philip A Gasteier
Jeffrey S Kwong
Timothy J Yoo

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1639 Calendar**

Thursday, October 13, 2022

Hearing Room 1639

11:30 AM

2:22-12552 Global Alliance Distributors, Inc.

Chapter 11

#8.30 CONT'D Hearing RE: [17] Emergency Motion of Debtor and Debtor in Possession for an Order: (1) Authorizing Use of Cash Collateral on an Interim Basis in Accordance with the Proposed Budget; (2) Granting Replacement Liens; (3) Scheduling a Final Hearing on Permanent Use of Cash Collateral; (4) After Hearing, Authorizing Permanent Use of Cash Collateral; and (5) Authorizing Approval of Pre-Petition Wages, Salaries, and Other Compensation on a Retroactive Basis
fr. 5-10-22, 5-12-22, 5-23-22, 6-2-22, 6-9-22, 6-16-2,
7-21-22, 8-3-22, 8-18-22, 9-1-2, 9-15-22, 9-29-22

Docket 17

*** VACATED *** REASON: Cont'd from 10/13/22 to 10/27/22 at 11:30 a.m. per stip and order entered on 10/12/22.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Global Alliance Distributors, Inc.

Represented By
Sheila Esmaili

Movant(s):

Global Alliance Distributors, Inc.

Represented By
Sheila Esmaili

Trustee(s):

Susan K Seflin (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1639 Calendar**

Thursday, October 13, 2022

Hearing Room 1639

11:30 AM

2:22-13239 Andrew Howard Rammell

Chapter 7

Adv#: 2:22-01137 Bayport Credit Union v. Rammell

#9.00 CONT'D Status Hearing RE: [1] Adversary case 2:22-ap-01137. Complaint by Bayport Credit Union against Andrew Howard Rammell. false pretenses, false representation, actual fraud))
fr. 9-1-22

Docket 1

Tentative Ruling:

The Clerk of the court has entered default. Please update the court on plans to file a motion for default judgment or other activity in this matter.

Party Information

Debtor(s):

Andrew Howard Rammell

Represented By
Michael Jay Berger

Defendant(s):

Andrew Howard Rammell

Pro Se

Plaintiff(s):

Bayport Credit Union

Represented By
Randall P Mroczynski

Trustee(s):

Wesley H Avery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1639 Calendar**

Thursday, October 13, 2022

Hearing Room 1639

11:30 AM

2:22-12303 Kislon Kim

Chapter 7

Adv#: 2:22-01146 Free Sunshine Apparel, Inc. a California Corporati v. Kim, dba Gold Reed,

#10.00 Hearing RE: [14] Motion to Quash Service of Summons, and/or to Dismiss Complaint

Docket 14

Tentative Ruling:

Deny.

The defendant isn't entitled to prosecute this motion (filed on 9/21/2022) because the Clerk of the court entered default on 8/22/2022. A defendant may not appear in an action, file counterclaims, or support a defense once default is entered. *See Great American Ins. Co. v. M.J. Menefee Construction, Inc.*, No. CVF06-0392-AWI-DLB, 2006 WL2522408, at *2 (E.D. Cal. Aug. 29, 2006); *see also Langer v. San Pedro Street Properties, LLC*, 2018 WL 5880748, at *1 n.2 (C.D. Cal. November 8, 2018) (court could not consider the defendant's objection because it was filed after the clerk entered default); *see also Cohen v. Murphy*, 2004 WL 2779942, at *1 (N.D. Cal. 2004) (entry of the defendants' default cuts off their right to appear in the action or to present evidence).

If the defendant believes that there is reason to set aside the entry of default, the Defendant must move to set aside the entry of default. *See Langer*, 2018 WL 5880748 at *1 n.2. The Defendant can file a motion under FRCP 55(c), which permits the court to set aside an entry of default for good cause. Fed. R. Civ. P. 55(c).

Party Information

Debtor(s):

Kislon Kim

Represented By
Sung Woo Choi

Defendant(s):

Kislon Kim, dba Gold Reed, dba

Represented By
Sung Woo Choi

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1639 Calendar**

Thursday, October 13, 2022

Hearing Room 1639

11:30 AM

CONT... Kison Kim

Chapter 7

DOES 1-10

Pro Se

Plaintiff(s):

Free Sunshine Apparel, Inc. a

Represented By
Jacquelyn H Choi

Min Hee Lee

Represented By
Jacquelyn H Choi

Trustee(s):

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Deborah Saltzman, Presiding
Courtroom 1639 Calendar**

Thursday, October 13, 2022

Hearing Room 1639

11:30 AM

2:22-12303 Kison Kim

Chapter 7

Adv#: 2:22-01146 Free Sunshine Apparel, Inc. a California Corporati v. Kim, dba Gold Reed,

#11.00 CONT'D Status Hearing RE: [1] Adversary case 2:22-ap-01146. Complaint by Free Sunshine Apparel, Inc. a California Corporation, Min Hee Lee against Kison Kim, dba Gold Reed, dba High Call, DOES 1-10. false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)),(68 (Dischargeability - 523(a)(6), willful and malicious injury))
fr. 9-22-22

Docket 1

Tentative Ruling:

Default has been entered.

Party Information

Debtor(s):

Kison Kim

Represented By
Sung Woo Choi

Defendant(s):

Kison Kim, dba Gold Reed, dba

Pro Se

DOES 1-10

Pro Se

Plaintiff(s):

Free Sunshine Apparel, Inc. a

Represented By
Jacquelyn H Choi

Min Hee Lee

Represented By
Jacquelyn H Choi

Trustee(s):

John P Pringle (TR)

Pro Se