

**United States Bankruptcy Court
Central District of California
Los Angeles
Judge Ernest Robles, Presiding
Courtroom 1568 Calendar**

Monday, February 24, 2020

Hearing Room 1568

9:00 AM

2:16-25740 QUIGG LA11, LLC

Chapter 7

Adv#: 2:18-01405 Elissa D. Miller, solely in her capacity as chapte v. American Express

#1.00 Trial Date Set

RE: [1] Adversary case 2:18-ap-01405. Complaint by Elissa D. Miller, solely in her capacity as chapter 7 trustee against American Express Company, a New York Corporation, American Express Travel Related Services Company, Inc., a New York Corporation. (Charge To Estate). Complaint for (1) Avoidance and Recovery of Preferential Transfers, (2) Preservation of Preferential Transfers, and (3) Disallowance of Claims Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Lev, Daniel)

10-28-19

Docket 1

***** VACATED *** REASON: CONTINUED 5-25-20 AT 9:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

QUIGG LA11, LLC

Represented By
David M Reeder

Defendant(s):

American Express Company, a New

Pro Se

American Express Travel Related

Pro Se

Plaintiff(s):

Elissa D. Miller, solely in her

Represented By
Asa S Hami
Daniel A Lev

Trustee(s):

Elissa Miller (TR)

Represented By
Daniel A Lev

**United States Bankruptcy Court
Central District of California
Los Angeles
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CONT...

QUIGG LA11, LLC

Asa S Hami
Jessica Vogel

Chapter 7

**United States Bankruptcy Court
Central District of California
Los Angeles
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Monday, February 24, 2020

Hearing Room 1568

9:00 AM

2:17-13266 Golden Diamond International Inc.

Chapter 7

Adv#: 2:18-01303 Krasnoff, Chapter 7 Trustee v. Complete Business Solutions Group, Inc. et al

#2.00 Trial Date Set

RE: [27] Amended Complaint Trustee's First Amended Complaint for Interpleader by Sonia Singh on behalf of Brad D Krasnoff (TR), Brad D. Krasnoff, Chapter 7 Trustee against all defendants. (RE: related document(s)1 Adversary case 2:18-ap-01303. Complaint by Brad D. Krasnoff, Chapter 7 Trustee against Complete Business Solutions Group, Inc., ML Factors Funding LLC, Last Chance Funding, Inc., TVT Capital LLC, Finishline Capital, Inc., Karish Kapital LLC, Yellowstone Capital West. (Charge To Estate). Trustee's Complaint for Interpleader Nature of Suit: (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) filed by Plaintiff Brad D. Krasnoff, Chapter 7 Trustee). (Singh, Sonia)

Docket 27

***** VACATED *** REASON: DISMISSED 5-28-19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Golden Diamond International Inc.	Represented By Maria W Tam
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Defendant(s):

Complete Business Solutions Group,	Pro Se
ML Factors Funding LLC	Pro Se
Last Chance Funding, Inc.	Pro Se
TVT Capital LLC	Pro Se
Finishline Capital, Inc.	Pro Se
Karish Kapital LLC	Pro Se
Yellowstone Capital West	Pro Se

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CONT... Golden Diamond International Inc. Chapter 7

Rapid Capital Funding II, LLC Pro Se

Corporation Service Company, as Pro Se

CT Corporation System as Pro Se

Plaintiff(s):

Brad D. Krasnoff, Chapter 7 Trustee Represented By
Sonia Singh
Eric P Israel

Trustee(s):

Brad D Krasnoff (TR) Represented By
Sonia Singh

**United States Bankruptcy Court
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Hearing Room 1568

9:00 AM

2:18-10616 Manuel Macias

Chapter 7

Adv#: 2:19-01128 Krasnoff, Chapter 7 Trustee v. Estrada et al

#3.00 Trial Date Set

RE: [1] Adversary case 2:19-ap-01128. Complaint by Brad D. Krasnoff, Chapter 7 Trustee against Janet Estrada, Steven Molina. (Charge To Estate). -Complaint to Avoid Voidable Transactions and for Turnover Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)),(11 (Recovery of money/property - 542 turnover of property)) (D'Alba, Michael)

Docket 1

***** VACATED *** REASON: PER HEARING HELD ON 7-16-19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Manuel Macias

Represented By
Jennifer Ann Aragon - SUSPENDED -

Defendant(s):

Janet Estrada

Pro Se

Steven Molina

Pro Se

Plaintiff(s):

Brad D. Krasnoff, Chapter 7 Trustee

Represented By
Michael G D'Alba

Trustee(s):

Brad D Krasnoff (TR)

Represented By
Eric P Israel

**United States Bankruptcy Court
Central District of California
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Monday, February 24, 2020

Hearing Room 1568

9:00 AM

2:18-21250 Thomas Ernesto Merino

Chapter 7

Adv#: 2:18-01460 Foreman v. Merino

#4.00 Trial Date Set

RE: [1] Adversary case 2:18-ap-01460. Complaint by Star Rae Foreman against Thomas Ernesto Merino . 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)) ,(65 (Dischargeability - other)) (Del Mundo, Wilfredo) Additional attachment(s) added on 12/27/2018 (Del Mundo, Wilfredo). Additional attachment(s) added on 12/27/2018 (Del Mundo, Wilfredo).

FR. 6-19-19

Docket 1

***** VACATED *** REASON: PER ORDER ENTERED 2-12-20**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Thomas Ernesto Merino

Represented By

Kourosh M Pourmorady

Defendant(s):

Thomas Ernesto Merino

Pro Se

Plaintiff(s):

Star Rae Foreman

Pro Se

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
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9:00 AM

2:18-22399 Dorothy Victoria Long

Chapter 7

Adv#: 2:19-01086 United States Trustee for the Central District of v. Long

#5.00 Trial Date Set

RE: [1] Adversary case 2:19-ap-01086. Complaint by United States Trustee (LA) against Dorothy Victoria Long. (Fee Not Required). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Summons and Notice of Status Conference)
Nature of Suit: (41 (Objection / revocation of discharge - 727(c),(d),(e)))
(Morrison, Kelly)

Docket 1

***** VACATED *** REASON: Cont'd to 3-23-2020 at 9:00 a.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dorothy Victoria Long	Pro Se
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Defendant(s):

Dorothy Victoria Long	Pro Se
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Plaintiff(s):

United States Trustee for the Central	Represented By Kelly L Morrison
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Trustee(s):

Brad D Krasnoff (TR)	Pro Se
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**United States Bankruptcy Court
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9:00 AM

2:18-24769 Paul A. Carrasco

Chapter 7

Adv#: 2:19-01085 MERCHANTS ACQUISITION GROUP LLC v. Carrasco

#6.00 Trial Date Set
RE: [1] Adversary case 2:19-ap-01085. Complaint by MERCHANTS ACQUISITION GROUP LLC against Paul Carrasco. false pretenses, false representation, actual fraud)) (Snyder, Richard)

Docket 1

***** VACATED *** REASON: CONT'D TO 5-25-20 at 9:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Paul A. Carrasco

Represented By
Raymond H. Aver

Defendant(s):

Paul Carrasco

Pro Se

Plaintiff(s):

MERCHANTS ACQUISITION

Represented By
Richard W Snyder

Trustee(s):

David M Goodrich (TR)

Pro Se

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9:00 AM

2:19-12915 John F Gallardo

Chapter 7

Adv#: 2:19-01120 Dye, solely in her capacity as Chapter 7 Trustee f v. Gallardo et al

#7.00 Trial Date Set

RE: [1] Adversary case 2:19-ap-01120. Complaint by Carolyn Dye against Mario Gallardo, Mary Gallardo. (Charge To Estate). Nature of Suit: (91 (Declaratory judgment)),(14 (Recovery of money/property - other)) (Iskander, Brandon)

Docket 1

***** VACATED *** REASON: CONTINUED 5-25-20 AT 9:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

John F Gallardo

Represented By
Christopher J Langley

Defendant(s):

Mario Gallardo

Pro Se

Mary Gallardo

Pro Se

Joint Debtor(s):

Irene S Gallardo

Represented By
Christopher J Langley

Plaintiff(s):

Carolyn Dye, solely in her capacity

Represented By
Brandon J Iskander

Trustee(s):

Carolyn A Dye (TR)

Represented By
Lynda T Bui
Brandon J Iskander

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9:00 AM

2:13-20738 Sergio Miranda

Chapter 11

Adv#: 2:19-01079 Miranda et al v. BANK OF AMERICA NATIONAL ASSOCIATION et al

#8.00 Trial Date Set

RE: [1] Adversary case 2:19-ap-01079. Complaint by Sergio Lopez Miranda against BANK OF AMERICA NATIONAL ASSOCIATION. (Charge To Estate). (Attachments: # 1 Supplement Summons) Nature of Suit: (91 (Declaratory judgment)),(72 (Injunctive relief - other)),(21 (Validity, priority or extent of lien or other interest in property)) (Akintimoye, David)

Docket 1

***** VACATED *** REASON: JUDGMENT IN FAVOR OF SHELLPOINT MORTGAGE ENTERED 9-6-19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sergio Miranda

Represented By
David A Akintimoye

Defendant(s):

BANK OF AMERICA NATIONAL

Pro Se

Shellpoint Mortgage Servicing LLC

Pro Se

DOES 1-10, Inclusive

Pro Se

Joint Debtor(s):

Esmeralda Miranda

Represented By
David A Akintimoye

Plaintiff(s):

Esmeralda Miranda

Represented By
David A Akintimoye

Sergio Lopez Miranda

Represented By
David A Akintimoye

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CONT... Sergio Miranda

Chapter 11

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Hearing Room 1568

9:00 AM

2:16-13575 Liberty Asset Management Corporation

Chapter 11

Adv#: 2:19-01077 Sharp v. Wright et al

#9.00 Trial Date Set

RE: [1] Adversary case 2:19-ap-01077. Complaint by Bradley Sharp against Merle D. Wright, Patricia S. Wright & Bradford W. Wright. priority or extent of lien or other interest in property)) (Greenwood, Gail)

Docket 1

***** VACATED *** REASON: DEFAULT JUDGMENT 6-5-19**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Liberty Asset Management

Represented By
David B Golubchik
Jeffrey S Kwong
John-Patrick M Fritz
Eve H Karasik
Sandford L. Frey
Raphael Cung

Defendant(s):

Merle D Wright

Pro Se

Patricia S Wright

Pro Se

Bradford W Wright

Pro Se

Plaintiff(s):

Bradley Sharp

Represented By
Gail S Greenwood

**United States Bankruptcy Court
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Hearing Room 1568

9:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

Adv#: 2:19-01042 VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a Califo v.

#10.00 Trial Date Set

RE: [13] Amended Complaint /First Amended Complaint for Breach of Written Contracts, Turnover, Unjust Enrichment, Damages for Violation of the Automatic Stay and Injunctive Relief by Steven J Kahn on behalf of ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (RE: related document(s)1 Adversary case 2:19-ap-01042. Complaint by VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation, ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation against HERITAGE PROVIDER NETWORK, INC., a California corporation. (Charge To Estate). (Attachments: # 1 Adversary Proceeding Cover Sheet # 2 Notice of Required Compliance with Local Bankruptcy Rule 7026-1) Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(71 (Injunctive relief - reinstatement of stay)) filed by Plaintiff ST. FRANCIS MEDICAL CENTER, a California nonprofit public benefit corporation, Plaintiff VERITY HEALTH SYSTEM OF CALIFORNIA, INC., a California nonprofit public benefit corporation, Plaintiff ST. VINCENT MEDICAL CENTER, a California nonprofit public benefit corporation). (Kahn, Steven)

FR. 1-27-20

Docket 13

***** VACATED *** REASON: CONTINUED 4-27-20 AT 9:00 A.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Verity Health System of California,

Represented By
Samuel R Maizel

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CONT... Verity Health System of California, Inc.

Chapter 11

John A Moe II
Tania M Moyron
Claude D Montgomery
Sam J Alberts
Shirley Cho
Patrick Maxcy

Defendant(s):

HERITAGE PROVIDER

Pro Se

Plaintiff(s):

VERITY HEALTH SYSTEM OF

Represented By
Steven J Kahn

ST. VINCENT MEDICAL

Represented By
Steven J Kahn

ST. FRANCIS MEDICAL

Represented By
Steven J Kahn

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Hearing Room 1568

10:00 AM

2:19-23184 Arturo Vargas Neri

Chapter 7

#100.00 HearingRE: [9] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 Subaru Ascent VIN# 4S4WMAFD3K3484645 with proof of service. (Yabes, Gilbert)

Docket 9

Tentative Ruling:

2/20/2020

Tentative Ruling:

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case. In addition, the Court takes notice of Debtor's stated intention to surrender the vehicle. *See* Doc. No. 1.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

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10:00 AM

CONT... Arturo Vargas Neri

Chapter 7

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

Party Information

Debtor(s):

Arturo Vargas Neri

Represented By
Francis Guilardi

Trustee(s):

Elissa Miller (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Monday, February 24, 2020

Hearing Room 1568

10:00 AM

2:19-24936 Martin Anguiano

Chapter 7

#101.00 HearingRE: [12] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 HONDA CIVIC, VIN: 2HGF C1F9 XHH6 50329 .

Docket 12

Tentative Ruling:

2/20/2020

Tentative Ruling:

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(2) to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court finds that there is no equity in the subject vehicle and that the vehicle is not necessary for an effective reorganization since this is a chapter 7 case.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

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10:00 AM

CONT... Martin Anguiano

Chapter 7

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

Party Information

Debtor(s):

Martin Anguiano

Represented By
Henry Glowa

Trustee(s):

David M Goodrich (TR)

Pro Se

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Hearing Room 1568

10:00 AM

2:19-25164 Christopher Robles

Chapter 7

#102.00 HearingRE: [10] Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2018 Nissan Kicks, VIN: 3N1CP5CU7JL527125 . (Wang, Jennifer)

Docket 10

Tentative Ruling:

2/20/2020

Tentative Ruling:

This Motion for relief from the automatic stay has been set for hearing on the notice required by LBR 4001(c)(1) and LBR 9013-1(d)(2). The failure of the Debtor, the trustee, and all other parties in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9013-1(f) is considered as consent to the granting of the Motion. LBR 9013-1(h). *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Motion is GRANTED pursuant to 11 U.S.C. § 362(d)(1) for cause to permit Movant, its successors, transferees and assigns, to enforce its remedies to repossess or otherwise obtain possession and dispose of its collateral pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. Movant may not pursue any deficiency claim against the Debtor or property of the estate except by filing a proof of claim pursuant to 11 U.S.C. § 501. The Court takes judicial notice of the Chapter 7 Individual Debtor's Statement of Intention in which the Debtor stated an intention to surrender the vehicle to Movant. *See* Doc. No. 1.

This order shall be binding and effective despite any conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The 14-day stay prescribed by FRBP 4001(a)(3) is waived. All other relief is denied.

Movant shall upload an appropriate order via the Court's Lodged Order Upload system within 7 days of the hearing.

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CONT... Christopher Robles

Chapter 7

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez, the Judge's law clerks at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, ext. 188 no later than one hour before the hearing.

Party Information

Debtor(s):

Christopher Robles

Represented By
D Justin Harelik

Trustee(s):

Heide Kurtz (TR)

Pro Se

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10:00 AM

2:18-20151 Verity Health System of California, Inc.

Chapter 11

#103.00 HearingRE: [3972] Notice of motion and motion for relief from automatic stay with supporting declarations ACTION IN NON-BANKRUPTCY FORUM RE: State Court litigation . (Baum, Richard)

Docket 3972

Tentative Ruling:

2/20/2020

For the reasons set forth below, the Motion is GRANTED; however, the order granting the Motion shall not take effect until after **April 30, 2020**.

Pleadings Filed and Reviewed:

- 1) Notice of Motion and Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 [Doc. No. 3972] (the "Motion")
- 2) Debtors' Response and Opposition to Motion for Relief from the Automatic Stay Filed on Behalf of Mesha Sanford AKA Samesha Sanford [Doc. No. 4067]
- 3) Official Committee of Unsecured Creditors' Joinder to Debtors' Response and Opposition to Motion for Relief from the Automatic Stay Filed on Behalf of Mesha Sanford AKA Samesha Sanford [Doc. No. 4068]
- 4) Creditor Mesha Sanford's Reply to Debtor's Opposition to Motion for Relief from Stay to Proceed with State Court Claims for Unlawful Employment Practices [Doc. No. 4089]

I. Facts and Summary of Pleadings

On August 31, 2018 (the "Petition Date"), Verity Health System of California ("VHS") and certain of its subsidiaries filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors' cases are being jointly administered.

Mesha Sanford (the "Movant") seeks stay relief, pursuant to § 362(d)(1), for the purposing of litigating a wrongful termination action against VHS in the Los Angeles Superior Court (the "State Court Action"). Movant seeks recovery only from applicable insurance.

Debtors oppose the Motion. Debtors argue that Movant can no longer assert a

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CONT... Verity Health System of California, Inc.

Chapter 11

claim because she failed to timely file either a proof of claim or a proof of administrative claim. In the event the Court is inclined to grant the Motion, Debtors request that stay relief not take effect until after April 30, 2020, so they can retain their focus on the sale of their remaining assets. The Official Committee of Unsecured Creditors joins the Debtors' opposition.

Movant makes the following arguments in reply to the opposition of the Debtors and the Committee:

- 1) Movant did not file a proof of claim, or an administrative proof of claim, because she never received notice of the claims bar date or the administrative claims bar date. The claims bar date notices were mailed to Movant's old address, not her current address. On October 15, 2018, while still employed at VHS, Movant submitted an *Employee Change Form* which notified VHS of her current address. VHS' awareness of Movant's current address is established by the fact that in February 2019, VHS sent a WARN Act notice to Movant's current address.
- 2) Lifting the stay will not interfere with the Debtors' efforts to liquidate their remaining assets, since Movant seeks recovery only from applicable insurance and the Debtors' insurance carrier will be obligated to defend the Debtors.

II. Findings and Conclusions

A. Movant's Failure to File Proofs of Claim Does Not Require Denial of the Motion

A creditor who is not given formal notice of the claims bar date is not barred from subsequently asserting a claim against the estate. *Levin v. Maya Const. Co. (In re Maya Const. Co.)*, 78 F.3d 1395, 1399 (9th Cir. 1996). "The fact that a creditor has actual knowledge that a Chapter 11 bankruptcy proceeding is going forward involving a debtor does not obviate the need for notice." *Id.*

Here, the Debtors mailed notice of the claims bar date and the administrative claims bar date to Movant's old address in Pasadena, California. Movant did not receive notice of either of the bar dates at her current address in Valencia, California. This was despite the fact that while still employed at VHS, Movant had formally notified the Debtors of her current Valencia address. *See* Sanford Decl. at ¶ 5 and Ex. A [Doc. No. 4089] (copy of *Employee Change Form* submitted by Movant to VHS providing notice of her Valencia address). Debtors were aware of Movant's Valencia address, having sent WARN Act notices to the Valencia address in February 2019 and

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CONT... Verity Health System of California, Inc.

Chapter 11

March 2019. *See* Sanford Decl. at ¶¶ 6–7 and Exs. B and C.

Because Movant did not receive formal notice of either the claims bar date or the administrative claims bar date, she is not barred from asserting a claim against the estates.

In her reply brief, Movant requests additional relief that was not sought in the Motion—specifically, that the Court treat the Motion as an informal claim or allow Movant the opportunity to file a proof of claim. Local Bankruptcy Rule ("LBR") 9013-1(g)(4) prohibits the introduction of new evidence or arguments in reply papers. LBR 9013-1(g)(4) is a codification of the Ninth Circuit's well-established "general rule that [litigants] cannot raise a new issue for the first time in their reply briefs." *Martinez-Serrano v. I.N.S.*, 94 F.3d 1256, 1259 (9th Cir. 1996). The Court declines to consider the additional relief requested in the reply, as doing so would deprive the Debtors of an opportunity to respond. Movant may seek such relief by way of a separately filed motion.

B. The Motion is Granted, But Stay Relief Shall Not Take Effect Until After April 30, 2020

As explained by the Ninth Circuit Bankruptcy Appellate Panel in *Kronemyer v. American Contractors Indemnity Co. (In re Kronemyer)* (internal citations omitted): "What constitutes 'cause' for granting relief from the automatic stay is decided on a case-by-case basis. Among factors appropriate to consider in determining whether relief from the automatic stay should be granted to allow state court proceedings to continue are considerations of judicial economy and the expertise of the state court, ... as well as prejudice to the parties and whether exclusively bankruptcy issues are involved." 405 B.R. 915, 921. The factors articulated in *In re Curtis*, 40 B.R. 795, 799-800 (Bankr. D. Utah 1984) and adopted by the bankruptcy court in *Truebro, Inc. v. Plumberex Specialty Prods., Inc. (In re Plumberex Specialty Prods., Inc.)*, 311 B.R. 551, 559-60 (Bankr. C.D. Cal. 2004) are also "appropriate, nonexclusive factors to consider in deciding whether to grant relief from the automatic stay to allow pending litigation to continue in another forum." *Kronemyer*, 405 B.R. at 921. The *Curtis* factors are as follows:

- 1) Whether the relief will result in a partial or complete resolution of the issues;
- 2) The lack of any connection with or interference with the bankruptcy case;
- 3) Whether the foreign proceeding involves the debtor as a fiduciary;
- 4) Whether a specialized tribunal has been established to hear the particular cause

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- of action and whether that tribunal has the expertise to hear such cases;
- 5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation;
 - 6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question;
 - 7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties;
 - 8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c);
 - 9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f);
 - 10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties;
 - 11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial, and
 - 12) The impact of the stay on the parties and the "balance of hurt."

Plumberex, 311 B.R. at 599.

The most important of the twelve factors is the effect of the non-bankruptcy litigation on the administration of the estate. *Curtis*, 40 B.R. at 806. The *Curtis* court held that "[e]ven slight interference with the administration may be enough to preclude relief in the absence of a commensurate benefit." *Id.*

Movant and Debtors dispute the extent to which granting immediate stay relief would interfere with Debtors' liquidation of their remaining assets. Movant asserts that immediate stay relief would have very little impact on the ability of the Debtors' professionals to attend to pressing matters pertaining to asset disposition; the Debtors dispute this contention.

The Court finds that although it certainly would be possible for the Debtors to defend against the State Court Action at this time, requiring them to do so would nonetheless interfere with the case by distracting the Debtors' professionals from urgent matters pertaining to the liquidation of their remaining assets. While it is true that primary responsibility for the Debtors' defense could be assigned to special litigation counsel, the Debtors' general bankruptcy counsel would still be required to monitor the litigation. The case is at a critical juncture. The Debtors' cash on hand is rapidly being depleted, giving the Debtors only a limited window to liquidate assets before funds are exhausted. The Debtors' most recent cash collateral budget projects

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that the Debtors' total cash balance will decrease from approximately \$66 million at the end of January 2020 to approximately \$29 million at the end of February 2020. See Doc. No. 4019 at Ex. A.

To enable the Debtors to focus upon disposing of their remaining assets, the Court will grant stay relief, but such relief shall not take effect until after April 30, 2020. This result gives the Debtors some breathing space to achieve their objectives, while at the same time delaying Movant's ability to proceed with the State Court Action by only approximately one month.

C. The Stay is Retroactively Annulled to the Petition Date

"[T]he proper standard for determining 'cause' to annul the automatic stay retroactively is a 'balancing of the equities' test." *Fjeldsted v. Lien (In re Fjeldsted)*, 293 B.R. 12, 24 (B.A.P. 9th Cir. 2003). In weighing the equities, the general trend has been to focus on two factors: "(1) whether the creditor was aware of the bankruptcy petition; and (2) whether the debtor engaged in unreasonable or inequitable conduct, or prejudice would result to the creditor." *Id.*

Movant states that she was not aware of the bankruptcy petition at the time of the filing of the State Court Action. Nothing in the record indicates that prejudice would result to the Debtors from retroactive annulment of the stay. The Court finds it appropriate to retroactively annul the stay to the Petition Date.

III. Conclusion

Based upon the foregoing, the Motion is GRANTED, except that stay relief shall not take effect until after **April 30, 2020**. The stay is annulled retroactively to the Petition Date. Within seven days of the hearing, Movant shall submit an order incorporating this tentative ruling by reference. **[Note 1]**

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Carlos Nevarez or Daniel Koontz at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

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Note 1

To ensure that the Debtors have the opportunity to review Movant's proposed order as to form, Movants shall either (a) submit a *Notice of Lodgment* of the proposed order in accordance with the procedure set forth in Local Bankruptcy Rule 9021-1(b)(3)(A) or, in the alternative, shall (b) obtain Debtors' endorsement as to the form of the proposed order pursuant to the procedure set forth in Local Bankruptcy Rule 9021-1(b)(3)(C).

Party Information

Debtor(s):

Verity Health System of California,

Represented By

Samuel R Maizel

John A Moe II

Tania M Moyron

Claude D Montgomery

Sam J Alberts

Shirley Cho

Patrick Maxcy

Steven J Kahn

Nicholas A Koffroth

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#104.00 HearingRE: [8] Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 12933 Walsh Avenue, Los Angeles, CA 90066 .

Docket 8

Tentative Ruling:

2/20/2020

For the reasons set forth below, the Motion is GRANTED on the terms stated below.

Pleadings Filed and Reviewed

1. Notice of Motion and Motion for Relief from the Automatic Stay or for Order Confirming that the Automatic Stay Does not Apply Under 11 U.S.C. § 362(i) (Unlawful Detainer) [Doc. No. 8] (the "Motion")
2. Updated Proof of Service on Notice of the Motion [Doc. No. 10]
3. Debtor's Opposition to Motion for Relief of Automatic Stay Filed [Doc. No. 11] (the "Opposition")
4. As of the date of this tentative ruling, no reply is on file

I. Facts and Summary of Pleadings

On February 1, 2020, Gaura Taneja (the "Debtor") filed a voluntary chapter 7 petition (the "Petition Date"). Scott Ehrlich (the "Movant") seeks relief from the automatic stay pursuant to §§ 362(d)(1) and (d)(2) to continue with an unlawful detainer action against the Debtor with respect to the Debtor's possession of residential premises located at 12933 Walsh Avenue, Los Angeles, California 90066 (the "Property"). [Note 1] The Movant asserts that there is cause to lift the stay because he acquired title to the Property before the Petition Date through a foreclosure sale and because this bankruptcy petition was filed in bad faith. Additionally, the Movant alleges that Debtor has no equity in the Property, and the Property is unnecessary to an effective organization.

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In support of his Motion, the Movant attached a copy of a post-foreclosure Trustee's Deed Upon Sale dated December 9, 2019 (the "Trustee's Deed"). *See* Motion, Ex. 1. A cover sheet issued by the Los Angeles County's Recorder's Office indicates that the Trustee's Deed was recorded on December 18, 2019. *See id.* The Trustee's Deed identifies Superior Loan Servicing ("Superior") as the trustee and grantor, and Scott Ehrlich as the grantee. The Trustee's Deed provides for the purchase of the Property, and its conveyance to Movant, based on Movant's successful bid of \$999,901.63 at a non-judicial foreclosure sale. *See id.* The Trustee's Deed further states that the foreclosure sale was compliant with the terms provided in a deed of trust executed by the Debtor with respect to the Property, which the Debtor defaulted upon on or about December 28, 2017. *See id.*

The Movant additionally attached the following documents in support of the Motion: 1) a Notice to Quit, dated December 19, 2019 (the "Notice"), and 2) a copy of the verified unlawful detainer complaint (the "UD Complaint"). *See generally* Motion, Exs. 2, 3. Both the Notice and the UD Complaint affirmatively identify the Debtor and another individual by the name of "Gaurasundara Prabhu."

The Movant also requests that the Court waive the 14-day stay prescribed by FRBP 4001(a)(3) and for certain extraordinary relief with respect to the Property.

Debtor's Opposition

On February 14, 2020, the Debtor filed a timely opposition to the Motion (the "Opposition"), acknowledging receipt of the Motion. The Debtor, through his counsel, contends that the Motion should be denied because (i) "[t]here are title mistakes made by the creditor on the [Property];" and (ii) the Debtor intends to file an adversary proceeding to litigate the issue. *See* Opposition at 2. The one-page Opposition, which is virtually limited to the description of arguments provided above, fails to offer any discussion on the Property's alleged title defects. Further, the Debtor requests that the automatic stay not be lifted pending resolution of the adversary proceeding.

As of the date this tentative ruling was prepared, there is no reply on file, and no adversary proceeding has been filed. On February 20, 2020, the instant case was dismissed due to the Debtor's failure to timely file mandatory case commencement

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documents [Doc. No. 12].

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II. Findings of Fact and Conclusions of Law

A. Cause Exists to Grant Relief From Stay Pursuant to § 362(d)(1)

As a preliminary matter, a motion for relief from the automatic stay is a summary proceeding that does not involve an adjudication of the merits of the underlying claims. As recognized by the Ninth Circuit Bankruptcy Appellate Panel in *In re Luz Int'l, Ltd.*:

Given the limited grounds for obtaining a motion for relief from stay, read in conjunction with the expedited schedule for a hearing on the motion, most courts hold that motion for relief from stay hearings should not involve an adjudication of the merits of claims, defenses, or counterclaims, but simply determine whether the creditor has a colorable claim to the property of the estate. *See In re Johnson*, 756 F.2d 738, 740 (9th Cir.), *cert. denied*, 474 U.S. 828, 106 S.Ct. 88, 88 L.Ed.2d 72 (1985) ("Hearings on relief from the automatic stay are thus handled in a summary fashion. The validity of the claim or contract underlying the claim is not litigated during the hearing.").

219 B.R. 837, 842 (B.A.P. 9th Cir. 1998) (citation omitted). In a summary proceeding, the court's discretion is broad. *In re Santa Clara Cty. Fair Ass'n, Inc.*, 180 B.R. 564, 566 (B.A.P. 9th Cir. 1995).

Section 362(d)(1) provides that "[o]n request of a party in interest and after notice and a hearing, the court *shall* grant relief from the stay . . . (1) for cause . . ." 11 U.S.C. § 362(d)(1) (emphasis added). "What constitutes 'cause' for granting relief from the automatic stay is decided on a case-by-case basis." *Kronemyer v. Am. Contractors Indem. Co. (In re Kronemyer)*, 405 B.R. 915, 921 (B.A.P. 9th Cir. 2009); *Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.)*, 912 F.2d 1162, 1166 (9th Cir. 1990). "To obtain relief from the automatic stay, the party seeking relief must first establish a prima facie case that 'cause' exists for relief under § 362(d)(1)." *Truebro, Inc. v. Plumberex Specialty Prods., Inc. (In re Plumberex Specialty Prods., Inc.)*, 311 B.R. 551, 557 (Bankr. C.D. Cal. 2004). "Once a prima facie case has been established, the burden shifts to the debtor to show that relief from the stay is

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unwarranted." *Id.*

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The Movant has made a *prima facie* showing that "cause" exists to lift the stay under § 362(d)(1) based upon the completion of a prepetition foreclosure sale, the prepetition recording of the Trustee's Deed, and the commencement of the unlawful detainer action prior to the Petition Date. *See In re Bebensee-Wong*, 248 B.R. 820, 823 (B.A.P. 9th Cir. 2000) (affirming an order of stay-relief under § 362(d)(1) premised on the prepetition perfection of a trustee's deed upon sale); *see also* Kathleen P. March and Hon. Alan M. Ahart, *California Practice Guide: Bankruptcy*, ¶ 8:1196 (2010) ("[W]here a real property nonjudicial foreclosure was completed *and the deed recorded prepetition*, the debtor has neither equitable nor legal title to the property at the time the bankruptcy petition is filed.") (emphasis in original). Accordingly, at the time the Movant filed the UD Complaint, the Debtor did not possess title to the Property, and therefore, relief from stay is appropriate. *See California Practice Guide: Bankruptcy*, ¶ 8:1195 ("[T]here is no reason not to allow the creditor to repossess because filing a bankruptcy petition after loss of ownership cannot reinstate the debtor's title.") (internal citations omitted); *see also id.* at ¶ 8:1196 ("[T]he debtor is essentially a 'squatter,' and thus cause for relief from stay is established.").

The Debtor has not carried the burden to show that relief from stay is unwarranted. The Debtor's argument that the Motion should be denied, given the filing of an adversary proceeding at an unspecified later date is unpersuasive. The unlawful detainer proceeding may go forward because the Debtor's right to possess the Property must be determined. This does not change simply because a bankruptcy petition was filed. *See In re Butler*, 271 B.R. 867, 876 (Bankr. C.D. Cal. 2002); *see also In re Ho*, No. BAP CC-10-1363-MKPAD, 2011 WL 4485895, at *6 (B.A.P. 9th Cir. Aug. 9, 2011) (bankruptcy court did not abuse its discretion in granting creditor relief from stay to continue unlawful detainer litigation despite a pending adversary proceeding); *In re Robbins*, 310 B.R. 626, 630 (B.A.P. 9th Cir. 2004) (granting or denying relief from stay while adversary proceeding is pending is within the sound discretion of the bankruptcy court). In sum, the Movant has established cause for relief from stay under § 362(d)(1).

Separately, the Movant claims that this petition was filed in bad faith on the single fact that Movant is listed as one of few creditors in Debtor's commencement

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documents. Here, on the facts presented, the Court cannot conclude that Debtor's bankruptcy petition was filed in bad faith. *See Matter of Little Creek Dev. Co.*, 779 F.2d 1068, 1074 (5th Cir. 1986) (a finding of bad faith requires "an examination of all the particular facts and circumstances in each case.") (internal citations omitted).

B. Cause Exists to Grant Relief From Stay Pursuant to § 362(d)(2)

The Movant also argues that cause exists to lift the stay pursuant to § 362(d)(2). For relief to be granted under § 362(d)(2), the debtor must both (i) lack equity in the property, and (ii) the property must not be necessary for an effective reorganization. *See* 11 U.S.C. § 362(d)(2). Here, the Movant has established that the Debtor no longer possesses title to the Property, and this being a chapter 7 case, the Property is not necessary to an effective reorganization. Further, the Debtor did not adequately explain why the Movant's title is defective; and for the reasons set forth above, the Debtor has not sustained his burden of proof with respect to § 362(d)(2) either. Therefore, relief from the automatic stay is also appropriate under § 362(d)(2).

III. Conclusion

For the reasons set forth above, the Motion is GRANTED pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to permit the Movant to continue with prosecution of an unlawful detainer proceeding and proceed under applicable state law to final judgment. This order shall be binding and effective despite conversion of the bankruptcy case to a case under any other chapter of Title 11 of the United States Code. The Court also finds it appropriate to waive the 14-day stay prescribed by Federal Rule 4001(a)(3). All other relief is denied.

Finally, the Court notes that Debtor's case was dismissed on February 20, 2020 [Doc. No. 12]. The Court vacates the dismissal for the limited purpose of entering an order on this Motion. The Movant is directed to lodge a conforming proposed order, incorporating this tentative ruling by reference, within seven days of the hearing.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Daniel Koontz or Carlos Nevarez at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should

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an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Note 1: On December 26, 2019, the Movant filed an unlawful detainer proceeding against Debtor in a case pending at the Santa Monica Superior Court, captioned Case No. 19SMUD02591. The trial for this matter has been continued to an unspecified date in March 2020. See Motion at 8, ¶ 7(c)(3).

Party Information

Debtor(s):

Gaura Taneja

Represented By
Anthony P Cara

Trustee(s):

John J Menchaca (TR)

Pro Se