

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Geraldine Mund, Presiding
Courtroom 302 Calendar**

Tuesday, April 9, 2024

Hearing Room 302

9:00 AM
1:00-00000

Chapter

#0.00 The 10:00 am calendar will be conducted remotely, 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.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address: <https://cacb.zoomgov.com/j/1603259301>

Meeting ID: 160 325 9301

Password: 465193

Telephone Conference Lines: 1 (669) 254-5252 or 1 (646) 828-7666

Meeting ID: 160 325 9301

Password: 465193

Judge Mund seeks to maintain a courtroom in which all persons are treated with dignity and respect, irrespective of their gender identity, expression or preference. To that end, individuals are invited to identify their preferred pronouns (he, she, they, etc.) and their preferred honorific (Mr., Miss, Ms., Mrs., Mx, M, etc.) in their screen name, or by advising the judge or courtroom deputy.

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Docket 0

Tentative Ruling:

- NONE LISTED -

1:20-11952 Michael A Di Bacco

Chapter 7

Adv#: 1:21-01010 Kline v. Di Bacco

#1.00 Trial Re: Complaint to determine dischargeability of debt pursuant to 11 U.S.C. sections 523(a)(2)(A), (4) and (6), and to deny the discharge pursuant to 11 U.S.C. 727(a),(2),(3),(4) and (5)

fr. 10/3/23; 12/18/23; 1/16/24; 2/20/24; 2/27/24; 3/25/24; 3/26/24;
3/27/24

Docket 1

Tentative Ruling:

As we discussed in court, Mr. DiBacco gave me the contact for his criminat defense attorney. I could not email it to Mr. Kline because we do not have his email address. On Friday, April 5, I had the following email "conversation" with Mr. Gates, [please note that this is in reverse chronological order and his reply of "will do" was sent at 9:25 on Friday morning.]

Will do

Get [Outlook for iOS](#)

From: Geraldine Mund <Geraldine_Mund@cacb.uscourts.gov>

Sent: Friday, April 5, 2024 9:24:04 AM

To: James Gates <JGates2@pubdef.lacounty.gov>

Subject: RE: DiBacco hearing

CAUTION: External Email. Proceed Responsibly.

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CONT... **Michael A Di Bacco**

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*Thank you! Please advise Mr. DiBacco and me when it has been accomplished.
Judge Mund*

From: James Gates <JGates2@pubdef.lacounty.gov>

Sent: Friday, April 5, 2024 9:22 AM

To: Geraldine Mund <Geraldine_Mund@cacb.uscourts.gov>

Subject: Re: DiBacco hearing

CAUTION - EXTERNAL:

Yes that's no problem

Get [Outlook for iOS](#)

From: Geraldine Mund <Geraldine_Mund@cacb.uscourts.gov>

Sent: Friday, April 5, 2024 9:21:13 AM

To: James Gates <JGates2@pubdef.lacounty.gov>

Subject: DiBacco hearing

CAUTION: External Email. Proceed Responsibly.

Hello, Mr. Gates:

I am the bankruptcy judge hearing the dischargeability case of Kline v. DiBacco. I have days 7 and 8 of this trial set for this coming Tuesday and Wednesday in Woodland Hills. Mr. DiBacco has advised me that the criminal trial is set for one of those dates, but is to be a status conference.

I would appreciate it if you would ask the judge to continue that without appearance to a later date.

Please get back to me on this.

Thank you for your assistance.

*Geraldine Mund
United States Bankruptcy Judge*

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CONT... Michael A Di Bacco
818-259-4405

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Prior tentative ruling:

THE FOLLOWING TENTATIVE RULING HAS BEEN ENTERED ON THE DOCKET AS A NOTICE.

February 20 will not be a hearing for the giving of evidence but will be a status conference to determine how the trial will proceed. It will take place on zoom. I know that we suspended it while Mr. Di Bacco was cross-examining Mr. Kline and later on he will have a chance to complete that. Then Mr. Kline will be able to add any testimony and documents that are in areas that were raised in the cross-examination. Later Mr. Di Bacco can testify under oath and then Mr. Kline can cross-examine him with questions. Finally, Mr. Di Bacco will be able to add any testimony and documents that are in areas that were raised in the cross-examination.

As the trial proceeds, I may make rulings that resolve some issues and removes them from the rest of the trial.

The first thing that I want to do is to complete the testimony of any third party witnesses. We had stopped that of Mr. Neumeister on 12/19 while he was still being questioned by Mr. Lally. We need to complete his testimony and allow Mr. Di Bacco to cross-examine him. It will be up to Mr. Kline to contact him and set up the date for him to return. It will be easier to have him testify in person, given the number of exhibits. But he needs to be available

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for the whole day. I will give a list of dates below.

Once Mr. Neumeister has completed his testimony, there are no other witnesses on Mr. Kline's witness list who have not testified [dkt. 108].

Mr. Di Bacco listed the following witnesses [dkt. 107]:

Pam Jennings
Joe Foster
John Azma
Daniel Jensen
Maria Abreu
Heidi Lohmiller
Sarah Emmer
Kristen Bolton
Kerry Goodwin
Tabitha Recek
Micaela T. Brown
Tony Di Bacco

I have reviewed the statement of the reason that each is being called by Mr. Di Bacco to testify and only Pam Jennings needs to come into the courtroom to do so. All of the others will be by video [zoom]. It is up to Mr. Di Bacco to arrange for any witnesses that he calls to be available and to appear [Ms. Jennings in person and all others by zoom]. Unless he serves them with a subpoena and witness fee, if a witness does not appear to testify s/he will not be compelled to do so and we will just move on.

Please review the description of the flow of a trial and the payment of witness fees. I have laid these out in the tentative ruling and Recap of Some

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Issues Discussed at the Pretrial Conference [dkt. 160]. If you intend to call Ms. Jennings as an expert witness, you will need to reach an agreement with her as to her fee. The other witnesses are "percipient" witnesses and need only be paid \$40 each and no mileage because they will be testifying by zoom.

If either of you wish to listen to prior testimony, you can order the tape from the clerk's office. See the Court Manual on the court website, section 1.14. If you wish to have the audio transcribed, it is up to you to order an official transcript or you can arrange to have someone type up an unofficial one. An unofficial transcript cannot be used as evidence. But you may find that listening to the testimony is sufficient. You may wish to listen to Mr. Neumeister again unless you took detailed notes. He testified on the morning of December 19, 2023. You can fill out the order form for the audio recording, which is on the court website under "Forms" and then "Other Forms" and then "Audio Recording of Court Proceedings Order Form (REVISED)."

The court's available dates for the testimony of Mr. Neumeister are as follows:

- March 18
- March 19
- March 20
- March 25
- March 26
- March 27

At the hearing on February 20, Mr. Kline and Mr. Di Bacco are to agree

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on which of these dates both of them are available to be in court. Then Mr. Kline is to advise Mr. Neumeister of the possible agreed-upon dates and allow him to select one. There will be a continued zoom hearing on Tuesday, February 27 at 10:00 a.m. to finalize the date for Mr. Neumeister's testimony and to set available dates for the testimony of Mr. Di Bacco's witnesses. At the February 27 hearing, Mr. Di Bacco will advise us as to which witnesses he intends to call.

prior tentative ruling (1/16/24)

On January 11, each party filed his response to the questions that the Court propounded. However, Mr. DiBacco's had no declaration under penalty of perjury attached nor did he serve it on Mr. Kline. He also needs access to exhibit 69 to complete a portion of it.

Mr. Kline attached a whole set of exhibits, which was not requested by the Court and may or may not be exhibits already marked. At this time the Court is ignoring those.

On Jan. 16 we will look at those responses and Mr. DiBacco will be asked to state that they are under penalty of perjury, although he has few factual statements in his response.

I intend to continue this trial. Mr. DiBacco is to have access to exhibit 69 and to amend his response as to the questions concerning that exhibit. The Court will use the responses by both parties to create an order of the partial adjudication of facts and of facts still in dispute. From that, the Court may create a process whereby exhibits can be admitted and the Court can then adjudicate more facts. Then the Court will determine which, if any, facts need to be determined by expert witness or percipient witness testimony or examination or cross-examination of the parties.

I want to make it clear that this somewhat unusual process is because using

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the normal in-court procedures of examination, cross-examination, and rebuttal must be curtailed or eliminated because of the lack of control of the parties. The courtroom is not a place for a schoolyard fight. Mr. Lally was correct that the lack of control shown by both parties in the cross-examination of Mr. Kline was at the maturity level of two six year olds. I am the judge and not the teacher who must send students fora time-out. But I intend to gather the necessary evidence, apply the law, and make a ruling.

EVERYONE IS TO APPEAR BY ZOOM. MR. KLINE AND/OR MR. LALLY ARE TO NOTIFY MR. NEUMEISTER THAT HE WILL NOT BE APPEARING ON JAN. 16. HE WILL BE NOTIFIED IN THE FUTURE OF A MUTUALLY CONVENIENT DATE TO COMPLETE HIS TESTIMONY.

Party Information

Debtor(s):

Michael A Di Bacco

Represented By
Leon Nazaretian

Defendant(s):

Michael A Di Bacco

Pro Se

Plaintiff(s):

Michael Kline

Represented By
David B Lally

Trustee(s):

Amy L Goldman (TR)

Pro Se