

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Martin R. Barash, Presiding
Courtroom 303 Calendar**

Friday, July 12, 2024

Hearing Room 303

10:00 AM

1: -

Chapter

#0.00 All hearings on this calendar will be conducted in Courtroom 303 at 21041 Burbank Boulevard, Woodland Hills, California, 91367. All parties in interest, members of the public and the press may attend the hearings on this calendar in person.

Additionally, (except with respect to evidentiary hearings, or as otherwise ordered by the Court) parties in interest (and their counsel) may connect by ZoomGov audio and video free of charge, using the connection information provided below. Members of the public and the press may only connect to the zoom audio feed, and only by telephone. Access to the video feed by these individuals is prohibited.

Parties in interest 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). Members of the public, the press and parties in interest may participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate remotely and there are no fees for doing so. No pre-registration or prior approval is required.

The audio portion of each hearing will be recorded electronically by the Court and that recording will constitute its official record. Recording, retransmitting, photographing or imaging Court proceedings by any means is strictly prohibited.

Video/audio web address: <https://cacb.zoomgov.com/j/1615036662>

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Password: 011312

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Chapter

Judge Barash 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.

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
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Martin R. Barash, Presiding
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10:00 AM

1:17-11625 Linda Akerele Alele

Chapter 13

#1.00 Amended motion for relief from stay

GSR MORTGAGE LOAN TRUST 2006-6F

fr. 6/28/24

Docket 149

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Linda Akerele Alele

Represented By
Matthew D. Resnik

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Martin R. Barash, Presiding
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10:00 AM

1:19-11159 Craig Huxley

Chapter 13

#2.00 Motion for relief from stay

U.S. BANK NATIONAL ASSOCIATION AS TRUSTEE,
SUCCESSOR IN INTEREST TO BANK OF AMERICA

fr. 6/27/23, 7/11/23, 9/6/23, 10/17/23; 12/12/23; 2/6/24; 4/9/24;
6/4/24

Docket 87

***** VACATED *** REASON: Continued by stipulation to 8/27/24 at 10:00
am**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Craig Huxley

Represented By
Shai S Oved

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

1:22-10203 Calina Guadalupe Salgado

Chapter 13

#3.00 Motion for relief from stay

US. BANK, NA

Docket 44

Tentative Ruling:

Tentative Ruling for July 12, 2024

Appearances required. Movant lodged an adequate protection order (the "APO") which, upon entry of the APO, would lift the co-debtor stay regardless of whether there has been a default under the APO. This relief is not agreed to in parties' stipulation filed at docket 47. The parties need to clarify what, if anything, they have agreed to regarding the co-debtor stay.

Party Information

Debtor(s):

Calina Guadalupe Salgado

Represented By
Joel M Feinstein

Movant(s):

U.S. Bank, National Association as

Represented By
Merdaud Jafarnia
Diane Weifenbach

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

1:23-11780 Julien Antonio Adams

Chapter 13

#4.00 Motion for relief from stay

U.S. BANK NATIONAL ASSOCIATION

fr. 6/4/24

Docket 28

Tentative Ruling:

Ruling for June 4, 2024

Continued to July 12, 2024 at 10:00 a.m.

Party Information

Debtor(s):

Julien Antonio Adams

Pro Se

Movant(s):

U.S. BANK NATIONAL

Represented By
Fanny Zhang Wan
Sean C Ferry

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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10:00 AM

1:24-10231 Allen Michael Abraham

Chapter 7

#5.00 Motion for Relief from Stay

YOSI YAHOUDAI

Docket 46

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allen Michael Abraham

Represented By
Jeffrey J Hagen
Jilbert Tahmazian

Movant(s):

Yosi Yahoudai

Represented By
Alexander Boris

Trustee(s):

Amy L Goldman (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

1:24-10481 Raphael Aharonoff

Chapter 13

#6.00 Motion for relief from stay

JACK SHUT

Docket 38

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Raphael Aharonoff

Represented By
Leonard Pena

Movant(s):

Jack Shut as to an undivided

Represented By
Alla Tenina

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
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1:24-10532 Giovanni Hernandez

Chapter 7

#7.00 Motion for relief from stay

JUAN CARLOS HERNANDEZ

fr. 6/4/24

Docket 14

Tentative Ruling:

Ruling for June 4, 2024

Movant is directed to file a notice of continued hearing, ensuring that both the notice and the motion are reserved. Continued to July 12, 2024 at 10:00 a.m. Service will be made by the end of the week.

Party Information

Debtor(s):

Giovanni Hernandez

Represented By
Sevan Gorginian

Movant(s):

Juan Carlos Hernandez

Represented By
James F Drake IV

Trustee(s):

Nancy J Zamora (TR)

Pro Se

**United States Bankruptcy Court
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1:24-10702 **Thanh Tho Thi Bui and Joseph Anthony Insalaco**

Chapter 7

#8.00 Motion for relief from stay

21ST MORTGAGE CORPORATION

Docket 17

*** VACATED *** REASON: Motion withdrawn 6/25/24

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Thanh Tho Thi Bui

Represented By
Nathan A Berneman

Joint Debtor(s):

Joseph Anthony Insalaco

Represented By
Nathan A Berneman

Movant(s):

21ST MORTGAGE

Represented By
Diane Weifenbach
Amy Dukes

Trustee(s):

David Keith Gottlieb (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

1:24-10719 Carmen Moreno

Chapter 7

#8.01 Motion for Relief from Stay

PEGGY ANGELICA PINEDA PINTO

Docket 20

***** VACATED *** REASON: Insufficient notice provided. Hearing
continued to 7/30/24 at 10:00 am**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carmen Moreno

Represented By
Joel M Feinstein

Trustee(s):

Nancy J Zamora (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

1:24-10274 Pedro Louis Sanon

Chapter 7

#8.02 Motion for relief from stay

NISSAN MOTOR ACCEPTANCE COMPANY LLC

fr. 5/28/24; 6/28/24

Docket 18

Tentative Ruling:

Ruling for June 28, 2024

Continued to July 12, 2024 @ 10:00 a.m. Any opposition is due by July 5, 2024. If there is no timely opposition, Movant is permitted to lodge an order.

Ruling on May 28, 2024

Continued to June 28, 2024 @ 10:00 a.m.
Papers should be re-served on relevant parties by June 14.

Party Information

Debtor(s):

Pedro Louis Sanon

Represented By
Jasmine Firooz

Movant(s):

Nissan Motor Acceptance Company

Represented By
Kirsten Martinez

Trustee(s):

David Seror (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

1:24-10567 Brittany Woods

Chapter 13

#8.03 Motion for relief from stay

SABA GAFFAR

fr. 6/28/24

Docket 26

Tentative Ruling:

Final Ruling for July 12, 2024

This Motion came on for an initial hearing on June 28, 2024. As the Court explained to counsel for the Movant at that hearing, (i) the ZoomGov connection information in the Movant's *Supplemental Notice re: Availability of ZoomGov Audio and Video for Remote Appearance* (the "Supplemental Notice") filed on June 5, 2024 (case dkt. 27), was incorrect and did not pertain to the June 28, 2024, hearing, and (ii) the Movant was notified of this problem by the Court's June 5, 2024 "Notice to Filer of Error" (case dkt. 28) and had not corrected the error prior to the June 28, 2024, hearing. The Court also stated that supplemental briefing would be required to support Movant's requests for prospective relief. The Court continued the hearing on the Motion to July 12, 2024, directed Movant to file and serve notice of the continued hearing, including a new Supplemental Notice, and set July 5, 2024, as the deadline for any supplemental briefing in support of the requested prospective relief. Movant declined to file a supplemental brief, and the Court deems those requests waived.

On July 2, 2024, Movant electronically filed and served a *Notice of Continued Hearing*, which is unsigned. Case dkt. 39. Local Bankruptcy Rule 5005-4(a) requires all documents filed electronically to be signed. On July 2, 2024, Movant also filed and served a Supplemental Notice regarding the July 12, 2024 hearing. Case dkt. 40. The July 2, 2024 Supplemental Notice, like the June 5, 2024 Supplemental Notice, provides incorrect ZoomGov connection information for the July 12, 2024 hearing.

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CONT... Brittany Woods

Chapter 13

Because Movant has failed to correct the defective notice in the Supplemental Notice, and because the Debtor has moved for a continuance of the July 12, 2024, hearing due to a conflict with a medical appointment, the hearing on this Motion is continued to **July 30, 2024 at 10:00 a.m. No appearances are required on July 12, 2024.** No later than July 16, 2024, Movant shall file and serve on all parties entitled to notice, a Supplemental Notice with the correct ZoomGov connection information for hearings on July 30, 2024.

Ruling for June 28, 2024

Continued to July 12, 2024 @ 10:00 a.m. Supplemental briefing is due by July 5, 2024.

Party Information

Debtor(s):

Brittany Woods

Pro Se

Movant(s):

SABA GAFFAR

Represented By
Barry L O'Connor

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

1:24-10653 Ira Keith Solomon

Chapter 13

#8.04 Motion for relief from stay

AVALONBAY COMMUNITIES, INC.

fr. 6/28/24

Docket 14

Tentative Ruling:

Ruling for June 28, 2024

Continued to July 12, 2024 @ 10:00 a.m. provided service of a notice of continued hearing as a separate notice.

Party Information

Debtor(s):

Ira Keith Solomon

Pro Se

Movant(s):

Avalonbay Communities, Inc.

Represented By
Agop Gary Arakelian

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

10:00 AM

1:23-10469 Stanley Leem and Jean Leem

Chapter 13

#8.05 Motion for relief from stay

THE BANK OF NEW YORK MELLON

Docket 46

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stanley Leem

Represented By
R Grace Rodriguez

Joint Debtor(s):

Jean Leem

Represented By
R Grace Rodriguez

Movant(s):

THE BANK OF NEW YORK

Represented By
Jason T Seals
Mukta Suri
Joseph C Delmotte

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

11:00 AM

1:17-12093 Haim Malka

Chapter 7

#9.00 Trustee's Motion for Order: 1) Dismissing Bankruptcy Case with Two-Year Bar to Re-filing; 2) Authorizing Trustee to Pay, to the Extent Possible, Costs of Administration From Cash in the Estate; and 3) Retaining Bankruptcy Court Authority to Award Fees

fr. 5/28/24

Docket 234

***** VACATED *** REASON: Continued by stipulation to 7/30/24 at 11:00 am**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Haim Malka

Represented By
Mark E Goodfriend

Trustee(s):

Diane C Weil (TR)

Represented By
Jessica Wellington
David Seror

**United States Bankruptcy Court
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11:00 AM

1:17-12093 Haim Malka

Chapter 7

#10.00 Chapter 7 status conference

fr. 6/15/21 (11:00 am), 6/15/21; 10/20/21; 4/20/22; 5/25/22;
11/30/22(court's own mtn); 6/27/23; 12/12/23; 6/28/24

Docket 125

*** VACATED *** REASON: Order ent. continuing hearing to 7/30/24 at
11:00 am

Tentative Ruling:

Ruling for December 12, 2023

Continued to 6/28/24 at 1:30 p.m. The Trustee to file an updated status report by 6/21/24, if the case has not been dismissed. **Appearances on 12/12/23 waived.**

Final Ruling for June 27, 2023

Continued to 12/12/23 at 11:00 a.m. Trustee to file an updated status report by 12/5/23. **Appearances waived.**

Final Ruling for May 25, 2022

Continued to 11/30/22 at 11:00 a.m. Trustee to file an updated status report by 11/23/22. Appearances waived.

Ruling for April 20, 2022

Continued to May 25, 2022 at 11:00 a.m. The Court will issue an order requiring counsel for the trustee to appear. Trustee to file a status report by May 18, 2022.

Tentative Ruling for October 20, 2021

Status conference continued to April 20, 2022 at 11:00 a.m. Trustee to file a status report by April 13, 2022. Appearances waived on October 20, 2021.

Ruling for June 15, 2021

Continued to October 20, 2021 at 11:00 a.m. Trustee to file a status report by October 13, 2021 if the case has not been dismissed by then.

Party Information

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CONT... Haim Malka

Chapter 7

Debtor(s):

Haim Malka

Represented By
Mark E Goodfriend

Trustee(s):

Diane C Weil (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

1:23-10604 Quantum Realm, LLC

Chapter 7

#11.00 Chapter 7 Trustees Motion for Order: (1) Authorizing Sale of Estates Right, Title and Interest and Interest of Co-Owner in Real Property Free and Clear of All Liens (2) Approving Overbid Procedure; (3) Approving Payment of Commissions and Advanced Expenses; (4) Finding Purchaser are Good Faith Purchaser; and (5) Waiving Stay under Rule 6004(h)

Docket 61

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Quantum Realm, LLC

Represented By
Neil R Hedtke

Trustee(s):

Diane C Weil (TR)

Represented By
Anthony A. Friedman

**United States Bankruptcy Court
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1:23-11674 Mark Robert Moskowitz

Chapter 7

#11.01 Motion By Nancy Zamora, Chapter 7 Trustee, for Entry of an Order Authorizing (A) the Sale of the Estate's Right, Title and Interest in Personal Property of the Estate Pursuant to 11 U.S.C. § 363(b) and (f); (B) Employment of John Moran Auctioneers and Threesixty Asset Advisors, LLC as Auctioneers Pursuant to 11 U.S.C. § 327, Bankruptcy Rule 2014, and Local Bankruptcy Rule 2014-1(b)(1); and (C) Auctioneers' Proposed Costs

fr. 6/17/24; 6/28/24

Docket 238

Tentative Ruling:

Ruling for June 17, 2024

Employment of auctioneers approved on a final basis, including the compensation and reimbursement procedures described in the Motion.

Trustee to file F6004-2.Notice.Sale.

A continued hearing on the sale portion of the Motion will be held on 6/28/24 @ 11:00 a.m.

Trustee to file and serve written notice of the cont'd hearing date. Written opposition may be filed by noon on 6/21/24. Trustee's reply to be filed by noon on 6/26/24.

Party Information

Debtor(s):

Mark Robert Moskowitz

Represented By
Michael F Chekian

Trustee(s):

Nancy J Zamora (TR)

Represented By
David Seror
Jessica Wellington

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1:23-11674 Mark Robert Moskowitz

Chapter 7

#11.02 Objection to Debtor's Claim of Exemptions

fr. 6/28/24

Docket 187

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mark Robert Moskowitz

Represented By
Michael F Chekian

Trustee(s):

Nancy J Zamora (TR)

Represented By
David Seror
Jessica Wellington

**United States Bankruptcy Court
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1:30 PM

1:15-13134 **Mohammad Sadegh Namazikhah**

Chapter 7

#12.00 RULING
re: final application for fees and expenses
for Law Offices of Raymond H. Aver

fr. 11/28/23; 1/31/24; 3/13/24; 6/4/24

Docket 611

*** VACATED *** REASON: Continued to 7/30/24 at 11:00 am on the
Court's own motion

Tentative Ruling:

Ruling for March 13, 2024

Continued to June 4, 2024 at 1:30 p.m.

Ruling for January 31, 2024

Continued to March 13, 2024 at 10:00 a.m. Applicant's supplemental declaration shall be filed and served by February 28, 2024. The Court will prepare a scheduling order.

Tentative Ruling for January 31, 2024

The Court held its initial hearing and heard oral argument on the final application for compensation of the Law Offices of Raymond H. Aver ("Application" and "Applicant") on November 28, 2023. Since then, the Court has had the opportunity to study the Application, the objections and the extensive record in this case, and to consider the arguments of the parties, in greater detail. Based on that review, the Court concludes that it requires a more fulsome evidentiary record to adjudicate the Application.

In the papers and at oral argument, one of the principal arguments of the objecting parties was that Applicant prolonged the proceedings in such a way as to benefit only

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CONT... **Mohammad Sadegh Namazikhah**

Chapter 7

the Debtor and not the estate. The objecting parties contend that although Applicant appears to have performed various services, those services did not result in a beneficial outcome for the estate. Instead, they argue, those services prolonged the case in such a way as to benefit only the Debtor—who lived in the Lachman Lane residence without paying the costs of doing so, thereby eroding the equity in the property by as much as \$700,000, at the expense of unsecured creditors.

Applicant responds arguing that counsel for a debtor in possession is not the guarantor of the outcome of a case. Applicant argues they provided substantial services in pursuit of a chapter 11 reorganization, although that effort was not successful. Applicant argues that services must be assessed, at the time they are provided, to determine whether they were "reasonably likely to benefit the debtor's estate." 11 U.S.C. § 330(a)(4)(A)(ii).

Applicant is correct to the extent that the Bankruptcy Code bars recovery for services that were not reasonably likely to benefit the Debtor's estate. But to the extent Applicant suggests that *any* services nominally provided in pursuit of a chapter 11 reorganization are entitled to compensation, Applicant would be incorrect. Services may not be reasonably likely to benefit the estate where they are not timely and diligently performed, are not performed with adequate skill and diligence, or are ill conceived (e.g., not reasonably likely to achieve their purported objective).

Looking at the case through this analytical lense, the Court has concerns about the compensation sought here. For instance, it appears that for the first year of the case, Applicant provided services pertaining to the filing of the case, disclosure and compliance issues. But it does not appear that any substantial steps were taken towards developing a plan of reorganization or other resolution of the case. Why not? During that year alone, equity in the property was substantially reduced. In the second year of the case, it appears that efforts were made to seek a loan modification on behalf of the Debtor, but it appears that little or nothing happened towards the development of a plan until that loan modification was denied by the lender. Why not? Was a loan modification even realistic? Would it have made a difference here in terms of developing a plan given the extent of the unsecured claims?

In not so many words, the objecting parties suggest that Applicant was assisting the Debtor in slow playing the case and going through the motions of a chapter 11 case

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CONT... Mohammad Sadegh Namazikhah

Chapter 7

without any real prospect of success. The first plan of reorganization was denied confirmation after the last of a series of continuances was denied and Debtor got to the confirmation hearing with no evidence to support confirmation of the plan. The Court later declined to confirm an amended plan that contemplated a sale of the Lachman Lane residence by an unachievable date, coupled with an open-ended process that would not bring a timely and definitive resolution to the case. That amended plan was effectively dead-on-arrival. Under the circumstances presented, how were these efforts—although nominally aimed at plan confirmation—reasonably likely to benefit the estate?

Another very significant issue is Debtor and Applicant's failure to provide notice of the bankruptcy to the Ghorbanian parties. The Debtor and Applicant did not even *attempt* to do so until nearly two years into the case. That belated attempt failed because Applicant served a former lawyer for the Ghorbanian parties who had long since substituted out of the state court action in which those claims were first asserted. Moreover, the Debtor and Applicant do not appear to have served the Ghorbanian parties themselves. Many more months went by before the Ghorbanian parties got notice of the bankruptcy case and began to participate. By failing to timely serve them, the debtor and Applicant deprived them of the knowledge of the case and the ability to participate. Had they received timely notice, it stands to reason they might have advocated greater diligence by the Debtor and Applicant in prosecuting the case. Despite this issue being raised and discussed throughout the case, Applicant has never offered an explanation for his failure to notice the Ghorbanian parties earlier, his failure to properly notice them when he eventually sought to do so, or the steps he undertook to conduct diligence in these matters. These factual matters are relevant to the Application and the objecting parties' opposition to the Application. The Court believes that development of a better factual record in this regard is necessary to adjudicate the Application.

Accordingly, before the Court rules conclusively on the Application, the Court wants to give Applicant an opportunity to supplement the record and give the objecting parties an opportunity to examine Mr. Aver.

Accordingly, the Court intends to order the following:

1. Applicant may file and serve on the objecting parties a supplemental

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Mohammad Sadegh Namazikhah

Chapter 7

declaration or declarations in support of the Application no later than February 16, 2024. The declaration or declarations may address any matter relevant to the Application.

2. The declarant in each such supplemental declaration or declarations shall appear for examination at a continued, in-person hearing on the Application on February 28, 2024, at 10:00 a.m.

3. Regardless of whether Applicant files a supplemental declaration or declarations, attorney Raymond Aver shall appear for examination in this matter on February 28, 2024, at 10:00 a.m. To be clear, examination of Mr. Aver will not be limited to cross-examination. Counsel for the objecting parties may examine Mr. Aver on any matter relevant to the Application.

4. At the conclusion of the presentation of evidence, the Court will hear further argument on the Application. The Court does not intend to order additional legal briefing in advance of the evidentiary hearing. At the conclusion of oral argument, the parties and the Court can discuss whether additional legal briefing is warranted.

At the hearing on January 31, 2024, the Court intends to discuss scheduling, i.e., the dates proposed above for the filing of any supplemental declarations and the evidentiary hearing. The Court does not intend to hear argument on the merits of the Application on January 31, 2024.

Ruling for November 28, 2023

Granted as to the fee apps of the Trustee, Menchaca & Co and Zamora & Hoffmeier. Trustee has permission to, in his discretion, make distributions to priority and general

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CONT... Mohammad Sadegh Namazikhah

Chapter 7

unsecured creditors provided funds are reserved for Aver's fees.

Continued to January 31, 2024 at 1:00 p.m. on the fee application of Raymond Aver only.

Party Information

Debtor(s):

Mohammad Sadegh Namazikhah

Represented By
Raymond H. Aver
Simon J Dunstan

Trustee(s):

David Seror (TR)

Represented By
Nancy H Zamora

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Martin R. Barash, Presiding
Courtroom 303 Calendar**

Friday, July 12, 2024

Hearing Room 303

1:30 PM

1:15-13134 **Mohammad Sadegh Namazikhah**

Chapter 7

#13.00 Second Supplement to First and Final Fee Application of Zamora & Hoffmeier, Trustee's Counsel, for Approval of Compensation and Reimbursement of Expenses

fr. 6/4/24

Docket 661

*** VACATED *** REASON: Continued to 7/30/24 at 11:00 am on the Court's own motion

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mohammad Sadegh Namazikhah

Represented By
Raymond H. Aver
Simon J Dunstan

Movant(s):

Zamora & Hoffmeier

Represented By
Nancy H Zamora

Trustee(s):

David Seror (TR)

Represented By
Nancy H Zamora

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Martin R. Barash, Presiding
Courtroom 303 Calendar**

Friday, July 12, 2024

Hearing Room 303

1:30 PM

1:17-11175 Wesley DeVaughn Randall

Chapter 11

#14.00 Post-confirmation status conference

fr. 4/20/22; 10/26/22; 11/30/22(court's own mtg); 12/6/22;
5/9/23; 6/6/23; 7/11/23; 8/22/23; 8/25/23; 9/26/23; 11/28/23;
12/12/23; 4/30/24; 5/28/24

Docket 1

*** VACATED *** REASON: Order entered closing case on an interim basis 6/24/24

Tentative Ruling:

Ruling on May 28, 2024

Continued to 7/12/24 @ 1:30 p.m. Hearing will come off calendar if the Dtr's pending motion to close the case is granted.

Ruling on April 30, 2024

Continued to 5/28/24 @ 1:30 p.m.

Ruling for December 12, 2023

Continued to 4/30/24 at 1:30 p.m. with an updated status report supported by Debtor's declaration no later than 4/23/24

Ruling for November 28, 2023

Continued to 12/12/23 @ 1:30 p.m.

Holding of September 26, 2023

Status conference continued to November 28, 2023. Status report to be filed two weeks prior to the conference supported by a declaration.

Ruling for July 11, 2023

Continued to August 22, 2023 at 1:30 p.m. Court to issue Order to Show Cause why this case should not be dismissed for failure to file post-confirmation status reports.

Ruling for June 6, 2023

Continued to July 11, 2023 at 1:30 p.m. Debtor must file a status report and all other

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Hearing Room 303

1:30 PM

CONT... Wesley DeVaughn Randall
required documents by July 5, 2023.

Chapter 11

Ruling on 5/9/23

Continued to June 6, 2023 at 1:30 p.m. Debtor must timely file a status report and submit all required reports to the U.S. Trustee.

Ruling on 12/6/22

Continued to May 9, 2023 at 1:30 p.m. Updated status report due May 2.

Ruling for April 20, 2022

Continued to October 26, 2022 at 1:30 p.m. By October 19, 2022 the Debtor shall file an updated post-confirmation status report supported by admissible evidence.

Party Information

Debtor(s):

Wesley DeVaughn Randall

Represented By
Onyinye N Anyama

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Martin R. Barash, Presiding
Courtroom 303 Calendar**

Friday, July 12, 2024

Hearing Room 303

1:30 PM

1:21-10757 PS On Tap, LLC

Chapter 11

#15.00 Reorganized Debtor Grill Concepts Services, Inc.'s
Motion re: Objection to Proof of Claim No. 2-7 Filed
By The Internal Revenue Service

fr. 4/30/24; 5/28/24

Docket 602

*** VACATED *** REASON: Continued to 7/16/24 at 1:30 pm on the
Court's own motion

Tentative Ruling:

Ruling for May 28, 2024

Continued to 7/12/24 @ 1:30 p.m. Supp'l briefing from the IRS due on 6/14/24.
Supp'l briefing from the Dtr due on 6/28/24.

Party Information

Debtor(s):

PS On Tap, LLC

Represented By
Carol Chow

Movant(s):

PS On Tap, LLC

Represented By
Carol Chow
Carol Chow

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Martin R. Barash, Presiding
Courtroom 303 Calendar**

Friday, July 12, 2024

Hearing Room 303

1:30 PM

1:21-10757 PS On Tap, LLC

Chapter 11

#16.00 Reorganized Debtor Grill Concepts Services, Inc.'s
Motion To Enforce Chapter 11 Plan And Confirmation
Order Against The Internal Revenue Service

fr. 4/30/24; 5/28/24

Docket 601

*** VACATED *** REASON: Continued to 7/16/24 at 1:30 pm on the
Court's own motion

Tentative Ruling:

Ruling for May 28, 2024

Continued to 7/12/24 @ 1:30 p.m. Supp'l briefing from the IRS due on 6/14/24.
Supp'l briefing from the Dtr due on 6/28/24.

Party Information

Debtor(s):

PS On Tap, LLC

Represented By
Carol Chow

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Martin R. Barash, Presiding
Courtroom 303 Calendar**

Friday, July 12, 2024

Hearing Room 303

1:30 PM

1:21-10757 PS On Tap, LLC

Chapter 11

#16.01 Post -confirmation status conference

fr. 2/16/22; 6/15/22; 9/28/22; 10/4/22; 1/24/23; 7/11/23; 12/12/23;
6/28/24

Docket 211

*** VACATED *** REASON: Continued to 7/16/24 at 1:30 pm on the
Court's own motion

Tentative Ruling:

Ruling for December 12, 2023

Continued to 6/28/24 at 1:30 p.m. The Reorganized Debtors to file an updated status report by 6/21/24, if the case has not been closed. **Appearances on 12/12/23 waived.**

Ruling for July 11, 2023

Continued to 12/12/23 @ 1:30 p.m. Dtrs to file and serve an updated status report by 11/28/23. Dtrs to file and serve notice to creditors of the continued status conference. **Appearances on July 11, 2023 are waived.**

Ruling for January 24, 2023

Continued to 7/11/23 @ 1:30 p.m. Dtrs to file an updated status report supported by admissible evidence addressing the topics required by LBR 3020-1 by 6/30/23. Dtrs to file and serve notice to creditors of the continued status conference. The hearing on the Dtrs' Motion to Compel Arbitration is continued to 3/21/23 @ 1:30 p.m. and Ms. Gonzalez' clients deadline to oppose that Motion is 2-weeks prior to that hearing. Dtrs to lodge an order.

Ruling for October 4, 2022: This status conference is continued to January 24, 2023 at 1:30 p.m. The requirement for an updated status report is waived.

Ruling for September 28, 2022: This status conference is continued to October 4, 2022 at 1:30 p.m. A court order will be entered to ensure the parties to show up at the 10/4/22 status conference.

Ruling for June 15, 2022: The status conference is continued to September 28, 2022

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Friday, July 12, 2024

Hearing Room 303

1:30 PM

CONT... PS On Tap, LLC

Chapter 11

at 1:30 p.m. Debtor should file a notice of continued hearing. Written status report requirement is waived.

Ruling for February 16, 2022: Submit a brief status report providing updates by 6/8/22. Status conference is continued to 6/15/22.

Ruling for Confirmation Hearing on September 24, 2021: Confirmed as consensual plan under section 1191(a) with Graton lease to be removed from the plan pending the motion to assume. The confirmation order should be circulated to the sub-chapter V trustee and counsel for Graton. They must sign off on the form of the order prior to lodging with the Court. If any party has an issue with the form of the order, they may contact chambers. The post-confirmation status conference is set for February 16, 2022 at 1:30 p.m. A post-confirmation status report is due two weeks prior to the hearing.

Party Information

Debtor(s):

PS On Tap, LLC

Represented By
Carol Chow

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Martin R. Barash, Presiding
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Friday, July 12, 2024

Hearing Room 303

1:30 PM

1:22-10141 Vanessa Stoller

Chapter 11

#17.00 Application for Payment of Final Compensation and Reimbursement of Expenses for Counsel to the Debtor for Michael S Kogan, Debtor's Attorney

Period: 11/1/2022 to 6/1/2024
Fees: \$93720 Expenses: \$714.67

Docket 298

Tentative Ruling:

Tentative Ruling for July 12, 2024

Approve requested fees and expenses on a final basis. No objections filed. The applicant shall lodge a conforming order no later than July 19, 2024. **Appearances waived.**

Party Information

Debtor(s):

Vanessa Stoller

Represented By
Michael S Kogan

**United States Bankruptcy Court
Central District of California
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Friday, July 12, 2024

Hearing Room 303

1:30 PM

1:22-11181 National Association of Television Program Executi

Chapter 11

#18.00 Application for Compensation for
Peter Law Group, Special Counsel

Fees: \$28,305.00 Expenses: \$0.00

fr. 5/28/24; 6/4/24

Docket 208

Tentative Ruling:

Tentative Ruling for June 4, 2024

Continued to July 12, 2024, at 1:30 p.m. In Exhibit A to the application, the description of services for each particular service only displays the first couple of words of the entry. Counsel is instructed to supplement the record by June 28, 2024 with time sheets that fully display the entry in the "External Narrative" column and to sort the services in chronological, not reverse chronological, order.

Party Information

Debtor(s):

National Association of Television

Represented By
Leslie A Cohen

Trustee(s):

Andrew W. Levin (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Friday, July 12, 2024

Hearing Room 303

1:30 PM

1:22-11181 National Association of Television Program Executi

Chapter 11

#19.00 Application for Compensation for
Leslie A Cohen, Debtor's Attorney

Fees: \$23,030.50 Expenses: \$584.00

fr. 5/28/24; 6/4/24

Docket 207

Tentative Ruling:

Tentative Ruling for June 4, 2024

Continued to July 12, 2024, at 1:30 p.m. The declaration filed purports to be that of JP Bommel on page 16, lines 1 & 24 but of Jeffrey Tinsley on page 16, line 3. Counsel is instructed to supplement the record with a declaration from principal of the debtor that is internally consistent by June 28, 2024.

Party Information

Debtor(s):

National Association of Television

Represented By
Leslie A Cohen

Trustee(s):

Andrew W. Levin (TR)

Pro Se

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Friday, July 12, 2024

Hearing Room 303

1:30 PM

1:22-11181 National Association of Television Program Executi

Chapter 11

#20.00 Status conference re:
Hearing on plan confirmation

fr. 3/7/23(court's own motion); 3/10/23; 4/4/23;
5/3/23(stip); 5/23/23; 6/6/23; 7/11/23; 8/22/23; 8/25/23;
11/7/23(stip); 2/6/24; 4/9/24; 6/4/24

Docket 61

Tentative Ruling:

Tentative Ruling for June 4, 2024

Continued to July 12, 2024, at 1:30 p.m. as parties continue finalizing terms of a settlement. Debtor shall file a status report by 6/5/24.

Ruling for April 9, 2024

Continued to 6/4/24 @ 1:30 p.m. as a status conference. Debtor to file and serve a notice of continuance.

Ruling for August 25, 2024

The parties are to go to mediation. Continued to 11/7/23 @ 1:30 p.m. as a status conference only. No further briefing unless expressly ordered by the Court.

Ruling for July 11, 2023

Hearing on plan confirmation set for August 22, 2023 at 1:30 p.m. Any supplemental objection by creditor Fontainebleu Florida Hotel, LLC to be filed by August 11, 2023. Any response to a supplemental objection by the debtor to be filed by August 18, 2023.

Ruling for June 6, 2023

Continued to July 11, 2023 at 1:30 p.m. No updated status report required.

Ruling for May 23, 2023

Continued to June 6, 2023 at 1:30 p.m. The debtor must file and serve notice of the

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1:30 PM

CONT... **National Association of Television Program Executi** **Chapter 11**
continued hearing on the U.S. Trustee, secured creditors, and the 20 largest unsecured creditors.

Ruling for April 4, 2023

Discovery deadline extended to April 28, 2023. Status Conference and confirmation continued to May 3 at 10:00 a.m.

Ruling for March 10, 2023

Continue to April 4, 2023 at 1:30 p.m. for a status conference only. Court will set additional briefing deadlines on April 4. Discovery in this contested matter to be completed by April 21, 2023. Court orders that no later than March 17, 2023, Ms. Cohen and Mr. Lubic to have a meet and confer. The chapter 11 status conference is continued to April 4, 2023.

Ruling for January 24, 2023

Continued to 3/7/23 @ 1:30 p.m. Confirmation hearing set for 3/7/23 @ 1:30 p.m.. Dtr to file and serve the confirmation notice, confirmation brief and evidence and solicitation packages by 1/31/23. Objections to confirmation and ballots due by 2/24/23. Dtr's reply and ballot summary to be filed by 2/28/23.

Party Information

Debtor(s):

National Association of Television

Represented By
Leslie A Cohen

Trustee(s):

Andrew W. Levin (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Friday, July 12, 2024

Hearing Room 303

1:30 PM

1:22-11181 National Association of Television Program Executi

Chapter 11

#21.00 Status Conference re:
Motion RE: Objection to Claim Number 1
by Claimant Fontainebleau Florida Hotel, LLC

fr. 6/27/23; 8/22/23; 8/25/23; 11/7/23(stip); 2/6/24; 4/9/24; 6/4/24

Docket 113

Tentative Ruling:

Tentative Ruling for June 4, 2024

Continued to July 12, 2024, at 1:30 p.m. as parties continue finalizing terms of a settlement.
Debtor shall file a status report by 6/5/24.

Ruling for April 9, 2024

Continued to 6/4/24 @ 1:30 p.m. as a status conference. Debtor to file and serve a
notice of continuance.

Ruling for August 25, 2024

The parties are to go to mediation. Continued to 11/7/23 @ 1:30 p.m. as a status
conference only. No further briefing unless expressly ordered by the Court.

Party Information

Debtor(s):

National Association of Television

Represented By
Leslie A Cohen

Trustee(s):

Andrew W. Levin (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
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Friday, July 12, 2024

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1:30 PM

1:22-11181 National Association of Television Program Executi

Chapter 11

#22.00 Chapter 11 status conference

fr. 1/24/23; 3/7/23(court's own mtn); 3/10/23; 4/4/23;
5/3/23(stip); 5/23/23; 6/6/23; 7/11/23; 8/22/23; 8/25/23;
11/7/23; 2/6/24; 4/9/24; 6/4/24

Docket 1

Tentative Ruling:

Tentative Ruling for June 4, 2024

Continued to July 12, 2024, at 1:30 p.m. as parties continue finalizing terms of a settlement.
Debtor shall file a status report by 6/5/24.

Ruling for April 9, 2024

Continued to 6/4/24 @ 1:30 p.m. Debtor to file a brief status report by 5/28/24.
Debtor to file and serve a notice of continuance.

Ruling for February 6, 2024

Continued to April 9, 2024 ar 1:30 p.m.

Ruling for November 7, 2023

Continued to 2/6/24 @ 1:30 p.m.

Ruling for August 25, 2024

Continued to 11/7/23 @ 1:30 p.m.

Ruling for July 11, 2023

Continued to August 22, 2023 at 1:30 p.m. No updated status report required.

Ruling for June 6, 2023

Continued to July 11, 2023 at 1:30 p.m. No updated status report required.

Ruling for May 23, 2023

Continued to June 6, 2023 at 1:30 p.m. The debtor must file and serve notice of the
continued hearing on the U.S. Trustee, secured creditors, and the 20 largest unsecured

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CONT... National Association of Television Program Executi
creditors.

Chapter 11

Ruling for April 4, 2023

Status Conference continued to May 3 at 10:00 a.m.

Ruling for January 24, 2023

Continued to 3/7/23 @ 1:30 p.m. Confirmation hearing set for 3/7/23 @ 1:30 p.m..
Dtr to file and serve the confirmation notice, confirmation brief and evidence and
solicitation packages by 1/31/23. Objections to confirmation and ballots due by
2/24/23. Dtr's reply and ballot summary to be filed by 2/28/23.

Party Information

Debtor(s):

National Association of Television

Represented By
Leslie A Cohen

Trustee(s):

Andrew W. Levin (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
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Friday, July 12, 2024

Hearing Room 303

1:30 PM

1:22-11456 AfterShock Comics, LLC

Chapter 11

#23.00 Chapter 11 status conference

fr. 5/9/23; 6/7/23; 6/21/23; 6/29/23; 7/18/23; 7/28/23; 8/1/23,
8/24/23; 9/13/23; 9/26/23; 10/4/23; 12/12/23; 1/23/24; 3/26/24;
4/16/24; 5/7/24; 6/4/24

Docket 1

*** VACATED *** REASON: Continued to 7/18/24 at 1:30 pm (continued
by Court at 7/3/24 hearing)

Tentative Ruling:

Ruling for June 4, 2024

Continued to 7/12/24 @ 1:30 p.m. A status report to be filed and served by 7/10/24.

Ruling for May 7, 2024

Continued to 6/4/24 @ 2:30 p.m. Dtrs to file a brief status report re: the mediation.
Dtrs to file and serve notice of the continued status conference.

Ruling for April 16, 2024

Status Conference continued to May 7, 2024 at 1:30 p.m. Status Report due
May 3, 2024.

Ruling for March 26, 2024

Continued to April 16, 2024 @ 1:30 p.m. By April 12 a status report concerning
administrative expenses will be filed.

Ruling for January 23, 2024

Continued to March 26, 2024 at 1:30 p.m. Updated status report by March 19, 2024.

Ruling for December 12, 2023

Continued to January 23, 2024 at 10:00 a.m. Status report shall be filed by January 19,
2024.

Ruling for October 4, 2023

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1:30 PM

CONT... AfterShock Comics, LLC

Chapter 11

No further status conference set.

Ruling for September 26, 2023

Continued to October 4, 2023 at 10:00 a.m. The stipulation is granted.

Ruling for August 24, 2023

Continued to September 13, 2023 at 1:30 p.m.

Ruling for August 1, 2023

Continued to August 24, 2023 at 9:00 a.m.

Ruling for July 28, 2023

Continued to August 1, 2023 at 2:00 p.m.

Ruling for July 18, 2023

Continued to 7/28/23 at 10:00 a.m.

Ruling for June 29, 2023

Continued to July 18, 2023 at 2:00 p.m.

Ruling for June 21, 2023

Continued to 6/29/23 @ noon

Ruling for June 7, 2023

Continued to June 21, 2023 at 9:00 a.m. The Court will not require an updated status report.

Ruling for May 9, 2023

Continued to June 7, 2023 at 10:00 a.m. The Court will not require a status report before the continued status conference.

Party Information

Debtor(s):

AfterShock Comics, LLC

Represented By
David L. Neale
Jeffrey S Kwong

**United States Bankruptcy Court
Central District of California
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Friday, July 12, 2024

Hearing Room 303

1:30 PM

1:23-10809 Megna Real Estate Investments, Inc.

Chapter 11

#24.00 Status Conference re: Form of Order on
Motion RE: Objection to Claim Number 5 by
Claimant Center Street Lending Corporation

fr. 3/5/24,4/30/24; 5/28/24; 6/12/24

Docket 143

*** VACATED *** REASON: Order resolving claim entered 6/24/24

Tentative Ruling:

Ruling for June 12, 2024

Tentative adopted but the hearing is continued as a status conference on the form of the order to 7/12/24 @ 1:30 p.m.

Tentative Ruling for June 12, 2024

For the reasons stated below, the Court grants in part and denies in part the objection to proof of claim no. 5 in the amount of \$1,786,792.60 filed by Center Street Lending VIII ("Center Street"). Proof of claim no. 5 shall be reduced by the following amounts:

Pre-maturity default interest - \$143,760.42

Default interest accrued on funds held in suspense - \$6,882.00

Late fees - \$23,763.81

Mystery fees - \$49,876.69

Total reduction amount - \$224,282.92.

As an oversecured claim, proof of claim no. 5 accrued interest postpetition until the close of the sale of the Yarmouth property securing the claim. The amount of Center Street's payoff demand submitted to escrow at the closing of the sale of the Yarmouth real property does not appear to be in the record. The foregoing amounts (and any post-petition interest accruing on such amounts), shall be deducted from the payoff demand, as well as the \$1,450,000 already paid to Center Street from the Yarmouth escrow. The parties shall meet and confer to determine the remaining balance owed to Center Street and lodge an order allowing proof of claim no. 5 in that amount and also directing and authorizing Megna Real Estate Investments Inc. (the "Debtor") to satisfy

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CONT... **Megna Real Estate Investments, Inc.**

Chapter 11

proof of claim no. 5 from the net proceeds held by the Debtor from the Yarmouth sale.

Discussion

Section 506(b) of the Bankruptcy Code allows an over-secured creditor "interest on such claim, and any reasonable fees, costs, or charges provided for under the agreement . . . under which such claim arose." 11 U.S.C. § 506(b). In the Ninth Circuit, bankruptcy courts must "apply a presumption of allowability" for the default rate of interest specified in a contract between the over-secured creditor and the debtor "provided that the rate is not unenforceable under applicable non-bankruptcy law." *General Elec. Cap. Corp. v. Future Media Prods., Inc.*, 547 F.3d 956, 961–62 (9th Cir. 2008) quoting 4 Collier on Bankruptcy, ¶ 506.04[2][b][ii] (15th ed. 1996).

Center Street filed proof of claim no. 5 asserting a secured claim for \$1,786,792.60 based upon a promissory note (the "Note") executed by the Debtor. It is undisputed that (i) Center Street is an over-secured creditor, (ii) the Note matured on 4/8/23, (iii) the Note bore interest at a non-default rate of interest of 8.0% and a default rate of 18.0%. The Debtor objects to Center Street's proof of claim arguing that three components of the claimed amount are subject to disallowance under section 506(b) of the Bankruptcy Code and section 1671 of the California Civil Code as penalties:

- \$230,566 which is the amount of default interest accrued at 18.0%;
- \$48,826 in "late fees" calculated on amounts that were calculated at the 18.0% default interest rate; and
- \$49,876 in mystery fees.

Under *General Electric*, the Court presumes the 18.0% default rate agreed to in the Note is valid unless it is unenforceable under state law. The parties agree that California law is the applicable state law. Whether the 18.0% default rate is enforceable involves two different issues: (i) whether the 18.0% rate of interest is enforceable under California law and (ii) whether Center Street is permitted to charge default interest prior to the 4/8/23 maturity date.

Default Interest Assessed Prior to the 4/8/23 Maturity Date

In California, if a default rate of interest is assessed against the entire unpaid principal balance any time a single payment is missed, the default interest charge is an unlawful penalty. *Honchariw v. FJM Priv. Mortg. Fund, LLC*, 83 Cal. App. 5th 893, 900, 903-05 (2022), *reh'g denied* (Oct. 26, 2022), *review denied* (Dec. 21, 2022) *citing*

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CONT... **Megna Real Estate Investments, Inc.**

Chapter 11

Garrett v. Coast & Southern Fed. Sav. & Loan Assn., 9 Cal.3d 731, 739 (1973). Center Street concedes that its proof of claim includes \$143,760.42 of default interest charged from 4/22 to the 4/8/23 maturity date and agrees to reduce its claim by this amount. Case Dkt. 175 at 3. The Debtor agrees with this reduction. Case Dkt. 184 at 2.

Default Interest Assessed After the 4/8/23 Maturity Date

The Debtor asserts that the 18.0% rate of default interest constitutes a penalty under section 1671 of the California Civil Code which provides, in pertinent part:

(b) Except as provided in subdivision (c), a provision in a contract liquidating the damages for the breach of the contract is valid unless the party seeking to invalidate the provision establishes that the provision was unreasonable under the circumstances existing at the time the contract was made.

Cal. Civ. Code § 1671(b).

The Debtor's reliance on section 1671(b) is misplaced as to the default interest charged by Center Street after the Note matured. "A prospective increase in interest rate of a fully matured loan upon default is not subject to a § 1671(b) analysis . . . This case is similar to *Thompson* in all material respects. In each case, at issue was a loan where the borrower had paid the interest due monthly, but when the loan matured and the principal was due, the borrower did not satisfy the full obligation under the note. In both cases, pursuant to the loan agreement, the interest rate increased upon the failure to pay the principal amount when due. These are the materials [sic] facts upon which the California Supreme Court found no unenforceable penalty and instead found that the agreement provided for an alternative performance that was not subject to the § 1671(b) analysis." *East West Bank v. Altadena Lincoln Crossing, LLC*, 598 B.R. 633, 639–40 (C.D. Cal. 2019) citing *Thompson v. Gorner*, 104 Cal. 168, 37 P. 900 (1894) and *Garrett v. Coast & Southern Fed. Sav. & Loan Assn.*, 9 Cal.3d 731, 739 (1973). See also, *In re 3MB, LLC*, 609 B.R. 841, 848–49 (Bankr. E.D. Cal. 2019) (default interest on fully matured note was not subject to section 1671(b) liquidated damages analysis). The 18.0% default rate of interest accruing after the 4/8/23 maturity date is enforceable under California law.

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CONT... **Megna Real Estate Investments, Inc.**

Chapter 11

That the post-maturity default rate of interest is enforceable under state law does not end the Court's analysis, however. In the 9th Circuit, bankruptcy courts have discretion to decline to apply an otherwise enforceable default rate of interest on equitable grounds. *General. Elec. Capital Corp. v. Future Media Prods. Inc.*, 547 F.3d 956, 960 (9th Cir.2008) (noting that a party's default interest is "subject ... to reduction based upon any equities involved."); *In re Beltway One Dev. Grp., LLC*, 547 B.R. 819, 830 (B.A.P. 9th Cir. 2016) ("However, the presumptive rule for default interest is also subject to rebuttal based on equitable considerations"); *3MB, LLC*, 609 B.R. at 849 quoting *In re 785 Partners, LLC*, 470 B.R. 126, 134 (Bankr. S.D.N.Y. 2012) ("The power to modify the contract rate [of interest] on notions of equity should be exercised sparingly and limited to situations where the secured creditor is guilty of misconduct, the application of the contractual interest rate would harm the unsecured creditors or impair the debtor's fresh start or the contractual interest rate constitutes a penalty"); *Sec. & Exch. Comm'n v. Cap. Cove Bancorp LLC*, 2015 WL 9701154, at * 11 (C.D. Cal. Oct. 13, 2015) (a receivership case) ("In the bankruptcy context, courts have found that a secured creditor's entitlement to default interest under 11 U.S.C. § 506(b) is subject to equitable considerations, including whether the application of default interest will harm junior or unsecured creditors"); *In re DWS Invs., Inc.*, 121 B.R. 845, 849–50 (Bankr.C.D.Cal.1990) (refusing to apply a post-petition default interest rate in part because "[t]he estate is insolvent and the unsecured creditors are unlikely to receive a distribution" if the rate is applied). The Debtor has not presented any evidence to enable the Court to make any such equitable findings. The Debtor has not demonstrated that any junior lienholders or unsecured creditors will be harmed if Center Street is allowed post-maturity default interest, nor has the Debtor alleged any misconduct by Center Street. Because the Debtor is a corporation, enforcement of the default interest rate post-maturity will not impair the Debtor's fresh start. Therefore, no cause exists to disallow the post-maturity default interest.

Based on the foregoing, Center Street's claim properly includes interest accruing from the 4/8/23 maturity date at the 18.0% default rate of interest.

Post-Maturity Default Interest Assessed on Funds Held in Suspense

The Debtor objects to \$6,882 in default interest accrued on post-maturity payments totaling \$38,233.36 which Center Street held in suspense and did not apply to the loan for approximately one year. The Debtor presents evidence that holding the payments

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in suspense increased the amount of interest accruing at the default rate. Case Dkt. 148 at 10-11, ¶5. Center Street has not offered any evidence to the contrary or argument in support of the default interest accrued on this amount. The \$6,882 is disallowed.

Late Fees

Center Street concedes to a reduction of \$23,763.81 representing a 10% late fee assessed on an overdue amount calculated based on default interest. Case Dkt. 175 at 3. The Debtor agrees with this reduction. Case Dkt. 184 at 2.

"Mystery Fees"

The Debtor objects to \$49,876.69 in "fees due" listed in Center Street's payoff notice filed in *Secured Creditor Center Street Lending VIII, SPE LLC's Opposition to Debtor's Notice of Motion and Motion to Sell Real Property Located at 705 Yarmouth Road, etc.* which the Debtor labels "mystery fees." Case Dkt. 114 at 16. These fees are separately itemized from late charges and accrued interest. *Id.* Center Street has not offered any evidence or explanation in defense of the mystery fees. As such, the \$49,876.69 in mystery fees are disallowed.

Ruling for May 28, 2024

Continued to 6/12/24 @ 1:30 p.m. Briefing is closed.

Ruling for March 5, 2024

Continued to 4/30/24 @ 1:30 p.m.

Center Street's supplemental evidence re: whether it began charging default rate of interest on or about 4/17/22, prior to maturity of the Note, to be filed by 3/29/24.

Dtr's supplemental reply to Center Street's supplement evidence to be filed by 4/12/24.

Party Information

Debtor(s):

Megna Real Estate Investments, Inc.

Represented By
Mark T Young

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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1:23-11676 Megna Pacific Dreams at Woodland Hills, Inc.

Chapter 11

#25.00 Chapter 11 status conference

fr. 1/9/24; 4/9/24; 7/9/24

Docket 0

Tentative Ruling:

Ruling for April 9, 2024

6/28/24 is the deadline for Dtr to file its disclosure statement and plan
Status conference continued to 7/9/24 @ 1:30 p.m. No updated status report is
required provided a plan and disclosure statement have been filed. Otherwise, the
deadline to file an updated status report is 7/2/24.
Dtr to lodge an order.

Ruling for January 9, 2024

February 29, 2024 bar date for filing claims
Bar date notice by January 19, 2024
Continued to April 9, 2024 at 1:30 p.m. with a status report update by April 2, 2024

Party Information

Debtor(s):

Megna Pacific Dreams at Woodland

Represented By
Mark T Young

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1:24-10647 **Megna Pacific Dreams at Oxnard Shores, Inc.**

Chapter 11

#26.00 Motion to Sell Property of the Estate Free
and Clear of Liens under Section 363(f)

Docket 21

*** VACATED *** REASON: Continued to 7/30/24 at 1:30 pm

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Megna Pacific Dreams at Oxnard

Represented By
Mark T Young

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1:24-10647 Megna Pacific Dreams at Oxnard Shores, Inc.

Chapter 11

#27.00 Chapter 11 Status Conference

fr. 5/28/24

Docket 1

Tentative Ruling:

Ruling for May 28, 2024

Bar date is set as 7/8/24 and require the bar date notice to be filed and served by 6/3/24. Debtor to lodge an order. Continued to 7/12/24 @ 1:30 p.m. No later than 6/4/24, Debtor shall disclose any and all marketing activities for a sale of the Property.

The UST is directed to look into whether the Debtor's insider is providing services as a real estate broker to the Debtor and to the other related Megna debtors.

Party Information

Debtor(s):

Megna Pacific Dreams at Oxnard

Represented By
Mark T Young

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1:23-11446 Primex Clinical Laboratories, Inc.

Chapter 11

#28.00 Chapter 11 Status Conference

fr. 11/28/23; 3/26/24; 7/9/24

Docket 1

Tentative Ruling:

Ruling for March 26, 2024

Continued to July 9, 2024 @ 1:30 p.m. If Debtor has filed a plan and disclosure statement then no status report is required. Otherwise file a status report by July 2.

Ruling for November 28, 2023

Bar date is set for 1/19/24 and the deadline to serve the bar date notice is 12/8/23. Continued to 3/26/24 @ 1:30 p.m. Updated status report due 3/19/24.

Party Information

Debtor(s):

Primex Clinical Laboratories, Inc.

Represented By
Garrick A Hollander

**United States Bankruptcy Court
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1:24-10503 Laxmi Capital, LLC

Chapter 11

#29.00 Chapter 11 status conference
fr. 5/7/24

Docket 1

Tentative Ruling:

Ruling for May 7, 2024

Continued to 7/12/24 @ 1:30 p.m. No new status report is required provided a sub-V plan is timely filed.

Party Information

Debtor(s):

Laxmi Capital, LLC

Represented By
Sandford L. Frey

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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1:24-10527 June Me, LLC

Chapter 11

#30.00 Chapter 11 Status Conference

fr. 5/7/24

Docket 1

Tentative Ruling:

Ruling for May 7, 2024

Bar date is set for 6/28/24 and the bar date notice must be filed and served by 6/17/24.
Status conference continued to 7/12/24 @ 1:30 p.m. with status report to be filed and served by 7/5/24.

Party Information

Debtor(s):

June Me, LLC

Represented By
Matthew Abbasi

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1:24-10860 Western Regional Properties, LLC

Chapter 11

#31.00 Chapter 11 Status Conference

fr. 7/24/24

Docket 0

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Western Regional Properties, LLC

Represented By
Richard T Baum

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1:30 PM

1:24-10860 Western Regional Properties, LLC

Chapter 11

#31.01 Application to Employ Richard T Baum as Attorney for Debtor)

Docket 10

Tentative Ruling:

Tentative Ruling for July 12, 2024

The debtor and debtor in possession, Western Regional Properties LLC (the "Debtor") seeks to employ Richard T. Baum as its general bankruptcy counsel. The application to employ (the "Application") asserts that Baum is a "disinterested person" within the meaning of sections 101(14) and 327 of the Bankruptcy Code. The retainer agreement attached to the Application grants "attorney a lien for services rendered in the amount of any unpaid portion of fees and costs upon any money or property of" the Debtor. Case Dkt. 10 at 18, ¶ VIII. In the 9th Circuit, attorneys holding a lien on property of the estate are not automatically disqualified from employment as special counsel under § 327(e) because special counsel are not required to be "disinterested" like counsel employed under § 327(a). *In re Film Ventures Int'l, Inc.*, 75 B.R. 250, 252 (B.A.P. 9th Cir. 1987). Here, however, Debtor seeks to employ Baum under § 327(a), and the Application does not address whether the lien creates an adverse interest and renders Baum not disinterested. Further disclosure and analysis is required to determine whether the attorneys' lien in favor of Baum renders him not disinterested.

The retainer agreement also requires the Debtor to "immediately" pay all of Baum's unpaid fees and costs in the event Baum withdraws as counsel to the Debtor. The allowance and timing of payment of Baum's fees as counsel to the Debtor are governed by the Bankruptcy Code and federal law. See *In re Home Exp., Inc.*, 226 B.R. 657, 659 (Bankr. N.D. Cal. 1998) ("Under the Bankruptcy Act of 1898, the Supreme Court held that the jurisdiction of the bankruptcy court over fees is 'paramount and exclusive,' Congress having asked for "the informed judgment of the bankruptcy court, not another court or agency . . . bankruptcy policy must hold sway over the policies of the Federal Arbitration Act as to disputes involving § 327 through 330") *citing Brown v. Gerdes*, 321 U.S. 178, 183–184 (1944); *In re Shalan Enter.*,

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CONT... Western Regional Properties, LLC Chapter 11

LLC, 2012 WL 1345328, * 1 (Bankr. C.D. Cal., Apr. 17, 2012). The Court cannot approve employment subject to this term.

Finally, the retainer agreement provides that any claims the Debtor may have against Baum "shall be brought pursuant to binding arbitration in Los Angeles County . . .

" During the pendency of this bankruptcy case, any dispute between the estate and Baum will be resolved in this Court and cannot be subject to binding arbitration. The Court cannot approve employment subject to this term.

Party Information

Debtor(s):

Western Regional Properties, LLC

Represented By
Richard T Baum

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1:24-10433 Marjalinat, Inc

Chapter 11

#32.00 Ex Parte Application for an Order Modifying Order (1) Approving Debtors Budget and Authorizing Interim Use of Cash Collateral for the Period June 12, 2024, Through July 12, 2024; (2) Scheduling a Continued Case Management Conference and (3) Setting the Deadline to File Debtors Supplemental Budget and (4) Continuing Hearings until July 12, 2024, at 2:30 pm (June 11, 2024 Order)

Docket 59

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marjalinat, Inc

Represented By
William H Brownstein

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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2:30 PM

1:24-10433 Marjalinat, Inc

Chapter 11

#33.00 Motion in Chapter 11 Case for Order Approving Budget and Authorizing Use of Cash Collateral [11 U.S.C. section 363]

fr. 4/30/24; 5/2/24; 5/7/24; 6/11/24

Docket 18

Tentative Ruling:

Ruling for June 11, 2024

Continued to 7/12/24 @ 2:30 p.m. Counsel for the Dtr may appear by zoom.gov and the principal of the Dtr is not required to appear. Dtr shall file and serve notice of the continued hearing no later than 6/14/24 [amended after the hearing to 6/28/24].

Continued interim use of cash collateral pursuant to the budget on pp. 19-20 of dkt. 46 is approved through 7/12/24, with a 15% variance per line item, and an aggregate 10% variance. By 7/9/24 Dtr shall file and serve:

(1) a report on the value of inventory + A/R + cash as of the (a) Petition Date, (b) 4/30/24, (c) 5/31/24, (d) 6/30/24; and

(2) a report of actual performance to projections, on a monthly basis, for April, May and June.

Dtr shall re-lodge an order memorializing the ruling on 5/7/24 and attaching a budget.

Dtr shall lodge an order memorializing the 6/11/24 ruling and attaching the budget at pp. 19-20 of dkt. 46.

Approval of the stip with the SBA is denied for the reasons stated on the record.

Ruling for May 7, 2024

Continued to 6/11/24 @ 10:00 a.m. Dtr's principal required to appear in person.

Interim use of cash collateral up to \$31,000 approved through 6/11/24. Dtr to file a report of actual to projected performance through the 5/24/24, served on all creditors by 5/31/24. A cash projection on a weekly basis for 90 days must be attached to the interim order. The BOE and SBA are granted replacement liens as adequate protection.

Party Information

Debtor(s):

Marjalinat, Inc

Represented By

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CONT... Marjalinat, Inc

William H Brownstein

Chapter 11

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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2:30 PM

1:24-10433 Marjalinat, Inc

Chapter 11

#34.00 Chapter 11 subchapter V status conference

fr. 4/30/24; 5/2/24; 5/7/24; 6/11/24

Docket 1

Tentative Ruling:

Ruling for June 11, 2024

Continued to 7/12/24 @ 2:30 p.m. The deadline to file the initial plan is extended to 10/22/24 for the reasons stated on the record. Dtr to lodge a scheduling order.

Ruling for May 7, 2024

Continued to 6/11/24 @ 10:00 a.m. to trail the cash collateral hearing. The Court is inclined to extend the deadline for the plan to be filed to the earlier of 10/22/24 or 30 days after the BOE files a POC. The Court will fix a deadline at the 6/11/24 status conference. Dtr to lodge a scheduling order.

Party Information

Debtor(s):

Marjalinat, Inc

Represented By
William H Brownstein

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se