

**United States Bankruptcy Court  
Central District of California  
Riverside  
Mark Houle, Presiding  
Courtroom 301 Calendar**

**Wednesday, February 5, 2025**

**Hearing Room 301**

10:00 AM

**6:24-16901 Albert Ivan Napitupulu**

**Chapter 7**

**#1.00** Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation re: 2020 Toyota Camry, in the amount of \$ 10,085.76

EH\_\_\_\_

Docket 11

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO FEBRUARY 12, 2025 AT  
10:00 AM**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Albert Ivan Napitupulu

Represented By  
Caroline S Kim

**Trustee(s):**

Todd A. Frealy (TR)

Pro Se

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10:00 AM

**6:24-15697 Camden Paul Arrieta and Cortnee Jane Arrieta**

**Chapter 7**

**#2.00** Reaffirmation Agreement Between Debtor and Santander Consumer USA Inc.  
re: 2022 Toyota Prius Prime in the amount of \$35,211.04

EH \_\_\_\_

Docket 16

**\*\*\* VACATED \*\*\* REASON: AMENDED REAFFIRMATION FILED  
1/14/25**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Camden Paul Arrieta

Represented By  
Daniela P Romero

**Joint Debtor(s):**

Cortnee Jane Arrieta

Represented By  
Daniela P Romero

**Trustee(s):**

Robert Whitmore (TR)

Pro Se

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11:00 AM

**6:13-27611 Douglas Jay Roger**

**Chapter 7**

**#3.00** Motion for Order Authorizing Distribution of Funds Received by the Estate on  
Account of Certain Royalty Payments

(Motion filed 12/9/24)

EH\_\_

**[Tele. appr. Catherine M. Castaldi, rep. Chapter 7 Trustee]**

Docket 1171

**Tentative Ruling:**

2/5/2025

**BACKGROUND**

On October 25, 2013, Douglas Roger ("Debtor") filed a Chapter 7 voluntary petition.

Prepetition, on January 28, 2011, Debtor transferred certain patents to Greatbatch, Ltd. in return for royalty payments. Since January 26, 2016, the Chapter 7 Trustee has been receiving the royalty payments, now totaling \$670,029.29.

On December 9, 2024, the Chapter 7 Trustee filed a "Motion for Order Authorizing Distribution of Funds Received by the Estate on Account of Certain Royalty Payments." The impetus for the filing of the instant motion appears to be a clause in a fee agreement which states: "Client [Debtor] assigns all his right title and interest owned now, or hereafter, in a patent for surgical implements, valued at not less than two hundred thousand dollars (\$200,000)." Additionally, a declaration filed by the assignee --- Don C. Burns ("Mr. Burns") --- references an assignment of royalty payments related to a surgical patent.

The Court notes that on July 16, 2024, the Chapter 7 Trustee appears to have begun the process of concluding the case by filing a notice to professionals to file application for compensation. In response to the filing of professional fee applications, Mr. Burns filed an objection to the use of the royalty payments to pay claims against the estate.

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**CONT... Douglas Jay Roger**

**Chapter 7**

**DISCUSSION**

As a preliminary matter, the Court notes that this motion appears to be procedurally improper --- a proceeding to determine the validity, priority, or extent of a lien or interest in property is required to be brought by adversary proceeding pursuant to FED. R. BANKR. P. Rule 7001(b). Here, the subject motion is clearly trying to determine the validity or extent of the estate's and Mr. Burns' interest in the royalties and --- absent waiver --- appears to require an adversary proceeding.

Briefly reviewing the merits, however, the Court notes that the position of the Chapter 7 Trustee is unclear at best --- and patently defective at worst. The motion states: "On or about January 28, 2011, the Debtor transferred certain patents to Greatbatch in exchange for royalty payments." [Dkt. No. 1171, pg. 4, lines 18-19]. Then the motion continues on to state: "The Debtor transferred the Great Batch patents in January 2011. . . . The Debtor held no ownership interests in the Great Batch patents to consummate any purported transfer to Burns. Thus, Burns could not have received any interest in the Great Batch patents or the Royalty Payment." [Dkt. No. 1171, pg. 11, lines 7-8, 14-16].

This does not appear to make sense. If the Debtor transferred his interest in a patent in return for royalty payments, it is not clear how it would not be possible to transfer an interest in the royalty payments to Burns prepetition.

Next, the factual background section of the motion states: "the assignment of royalties referenced in the Burns Declaration reflects that the assignment was for a device that was still in development." [Dkt. No. 1171, pg. 8-9]. It is unclear, however, how an assignment of royalties would be invalidated if the underlying device was still in some stage of development, either factually or legally.

The Trustee's reply does not help advance Trustee's argument. Assuming the Debtor transferred his patent rights prepetition, he apparently retained the rights to royalty payments in exchange and could presumably have assigned those rights to Burns prepetition.

**TENTATIVE RULING**

Pursuant to the foregoing, the Court is inclined to DENY the motion or perhaps

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**CONT...**     **Douglas Jay Roger**  
CONTINUE for an evidentiary hearing.

**Chapter 7**

APPEARANCES REQUIRED.

<b>Party Information</b>
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**Debtor(s):**

Douglas Jay Roger

Represented By  
Summer M Shaw  
Marc C Forsythe

**Trustee(s):**

Helen R. Frazer (TR)

Represented By  
Arjun Sivakumar  
Carmela Pagay  
Franklin R Fraley Jr  
Cathrine M Castaldi

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11:00 AM

**6:23-13234 Marcus Edward Garvey Aponte and Shellene Octavia**

**Chapter 7**

**#4.00 Notice of Trustee's Final Report and Applications for Compensation**

EH\_\_

Docket 24

**Tentative Ruling:**

**2/5/2025**

**Service: Proper**

**Opposition: None**

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, and there being no opposition, which the Court deems consent to the relief requested pursuant to Local Rule 9013-1(h), the Court is inclined to APPROVE the proposed distribution and the following administrative expenses:

Trustee Fees: \$ 991.53

Trustee Expenses: \$ 158.99

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

**Party Information**

**Debtor(s):**

Marcus Edward Garvey Aponte

Represented By  
Marc Weinberg

**Joint Debtor(s):**

Shellene Octavia Oliver

Represented By  
Marc Weinberg

**Trustee(s):**

Larry D Simons (TR)

Pro Se

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**CONT...**

**Marcus Edward Garvey Aponte and Shellene Octavia**

**Chapter 7**

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Hearing Room 301

11:00 AM

**6:23-15583 Matthew Charles Michael and Theresa Pauline Michael**

**Chapter 7**

**#5.00 Notice of Trustee's Final Report and Applications for Compensation**

EH\_\_

Docket 24

**Tentative Ruling:**

**2/5/2024**

**Service: Proper**

**Opposition: None**

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, and there being no opposition, which the Court deems consent to the relief requested pursuant to Local Rule 9013-1(h), the Court is inclined to APPROVE the proposed distribution and the following administrative expenses:

Trustee Fees: \$ 1,164.37

Trustee Expenses: \$ 109.28

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Trustee to lodge order within 7 days.

**Party Information**

**Debtor(s):**

Matthew Charles Michael

Represented By  
Norma Duenas

**Joint Debtor(s):**

Theresa Pauline Michael

Represented By  
Norma Duenas

**Trustee(s):**

Larry D Simons (TR)

Pro Se

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**CONT...**

**Matthew Charles Michael and Theresa Pauline Michael**

**Chapter 7**

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11:00 AM

6:24-14338 Cherry Purificacion Conde

Chapter 7

#6.00 Motion Of United States Trustee To Dismiss Bankruptcy Case Pursuant To 11 U.S.C. Section 707(b)(1),(b)(2) & (b)(3) & Contingent Motion To Extend The Discharge Deadline Pursuant To Federal Rule Of Bankruptcy Procedure 4004 & 1017

EH\_\_

Docket 27

**Tentative Ruling:**

2/5/2024

**BACKGROUND**

On July 30, 2024, Cherry Conde ("Debtor") filed a Chapter 7 voluntary petition. Schedules I identified monthly net income of \$8,123.98. Schedule J identified monthly expenses of \$8,030, leaving monthly disposable income of \$93.98. Debtor also filed the Chapter 7 Statement of Your Current Monthly Income, which identified \$11,186.63 in gross wages, and asserted that that amount represented an above-average monthly income for Debtor's family size and state of residence.<sup>1</sup> Debtor then filled out the means test and generated \$11,696.69 in deductions.

On October 14, 2024, Debtor filed amended Schedules I and J and an amended Statement of Your Current Monthly Income. The amended schedules added Debtor's boyfriend to the household, increased monthly income to \$12,623.95 and increased monthly expenses to \$12,613.95. On the amended means test, Debtor acknowledged that this case was subject to a presumption of abuse, identifying monthly disposable income of \$1,984.75.

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**CONT... Cherry Purificacion Conde**

**Chapter 7**

Debtors and UST stipulated to extend the dismissal and discharge deadlines until January 3, 2025.

On January 3, 2025, UST filed a motion to dismiss case for abuse pursuant to 11 U.S.C. § 707(b)(1)-(3). UST argues that: (a) a presumption of abuse arises in this case and has not been rebutted; and (b) the totality of circumstances demonstrate abuse because Debtor has certain signature expenditures that are unnecessary or inflated.

**DISCUSSION**

11 U.S.C. § 707(b)(1) states, in pertinent part, that:

After notice and a hearing, the court, on its own motion or on a motion by the United States trustee, trustee (or bankruptcy administrator, if any), or any party in interest, may dismiss a case filed by an individual debtor under this chapter whose debts are primarily consumer debts, or, with the debtor's consent, convert such a case to a case under chapter 11 or 13 of this title, if it finds that the granting of relief would be an abuse of the provisions of this chapter.

11 U.S.C. § 707(b)(2) provides, in pertinent part:

(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of . . .

(1) 25 percent of the debtor's nonpriority unsecured claims in the case, or \$6,000, whichever is greater; or

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**CONT... Cherry Purificacion Conde**  
(II) \$10,000.

**Chapter 7**

Here, it appears uncontested that this case is subject to a presumption of abuse. The means test filed by Debtor identifies a monthly income that far exceeds the amount that would generate a presumption of abuse under § 707(b)(2)(A)(i). 11 U.S.C. § 707(b)(2)(B) provides for the procedure by which a debtor can rebut the presumption of abuse --- here, that has not occurred. Therefore, the case is an "abuse of the provisions" of this chapter.

The Court need not reach UST's alternative argument that the case be dismissed under § 707(b)(3) given that that section applies "in a case in which the presumption in paragraph (2)(A)(i) does not arise or is rebutted."

Additionally, the Court notes that Debtor has filed a non-opposition to the motion.

**TENTATIVE RULING**

The Court is inclined to GRANT the motion to the extent of DISMISSING the case under § 707(b)(1) and (2).

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

<b>Party Information</b>
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**Debtor(s):**

Cherry Purificacion Conde

Represented By  
Paul R Hornak

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**CONT... Cherry Purificacion Conde**

**Chapter 7**

**Trustee(s):**

Robert Whitmore (TR)

Pro Se

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2:00 PM

**6:22-14723 Better Nutritionals, LLC**

**Chapter 7**

Adv#: 6:24-01015      Simons, Chapter 7 Trustee v. Hoffman et al

**#7.00**      CONT. Status Conference re Complaint by Larry D. Simons, Chapter 7 Trustee against Sharon Hoffman, Odelya Hoffman. (2) Breach of Fiduciary Duty - Duty of Care; (3) Breach of Duty of Good Faith and Fair Dealing; (4) Breach of Fiduciary Duty to Creditors - Trust Fund Doctrine; (5) Aiding and Abetting - Breach of Fiduciary Duty; and (6) Equitable Subordination Nature of Suit: (14 (Recovery of money/property - other))

[Amended Complaint filed 8/9/24]

From: 5/1/24, 5/15/24, 7/10/24, 10/16/24, 11/13/24

EH\_\_

**[Tele. appr. Jack Praetzellis, rep. Plaintiff, Larry D. Simons]**

**[Tele. appr. Kathryn M.S. Catherwood, rep. Defendants Odelya Hoffman and RGL Holdings, LLC]**

Docket      1

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Better Nutritionals, LLC

Represented By  
John N Tedford IV  
Aaron E. De Leest  
Danielle R Gabai

**Defendant(s):**

Sharon Hoffman

Pro Se

Odelya Hoffman

Pro Se

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**CONT... Better Nutritionals, LLC**  
RGL Holdings, LLC, a Delaware

Pro Se

**Chapter 7**

**Plaintiff(s):**

Larry D. Simons, Chapter 7 Trustee

Represented By  
Michael A Sweet  
Tinho Mang  
Keith C Owens  
Jack Praetzellis

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays  
David Wood  
Tinho Mang  
Michael A Sweet  
Daniel A Lev

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**6:23-13418 John Golden**

**Chapter 7**

Adv#: 6:24-01073 Chacon v. Golden

**#8.00** CONT. Defendant's Motion to Dismiss Adversary Proceeding  
(Motion filed 10/14/24)

From: 11/13/24, 12/18/24

EH\_\_

**[Tele. appr. Brett H. Ramsaur, rep. Creditor, Ingrid Chacon]**

Docket 4

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

John Golden

Represented By  
Todd L Turoci

**Defendant(s):**

John Golden

Represented By  
Todd L Turoci

**Movant(s):**

John Golden

Represented By  
Todd L Turoci

**Plaintiff(s):**

Ingrid Chacon

Represented By  
Brett Ramsaur

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**CONT... John Golden**

**Chapter 7**

**Trustee(s):**

Robert Whitmore (TR)

Pro Se

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**6:23-13418 John Golden**

**Chapter 7**

Adv#: 6:24-01073 Chacon v. Golden

**#9.00** CONT. Status Conference re: Complaint by Ingrid Chacon against John Golden.  
Willful and malicious injury

From: 11/13/24, 12/18/24

EH\_\_

**[Tele. appr. Brett H. Ramsaur, rep. Creditor, Ingrid Chacon]**

Docket 1

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

John Golden

Represented By  
Todd L Turoci

**Defendant(s):**

John Golden

Represented By  
Todd L Turoci

**Plaintiff(s):**

Ingrid Chacon

Represented By  
Brett Ramsaur

**Trustee(s):**

Robert Whitmore (TR)

Pro Se

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**6:24-15167 Georgia Dare Vincent**

**Chapter 7**

Adv#: 6:24-01093 Stratus Financial, LLC v. Vincent

**#10.00** Status Conference re: Complaint by Stratus Financial, LLC against Georgia Dare Vincent. student loan

EH\_\_

**[Tele. appr. Muhammad Altun, rep. Plaintiff Stratus Financial LLC]**

Docket 1

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 4/16/25 - ALIAS  
SUMMONS ISSUED**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Georgia Dare Vincent

Represented By  
Sundee M Teeple

**Defendant(s):**

Georgia Dare Vincent

Pro Se

**Plaintiff(s):**

Stratus Financial, LLC

Represented By  
Stephan M Brown

**Trustee(s):**

Robert Whitmore (TR)

Pro Se