

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

11:00 AM

**6:24-10372 Bertha Alicia Campos Lopez**

**Chapter 7**

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

EH\_\_

Docket 38

**Tentative Ruling:**

**2/19/2025**

**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: \$ 1,476.90

Trustee Expenses: \$ 151.48

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

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

Bertha Alicia Campos Lopez

Pro Se

**Trustee(s):**

Robert Whitmore (TR)

Pro Se

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

11:00 AM

**6:24-14258 Precious Tiffany Dykstra and Richard Arreola Dykstra**

**Chapter 7**

**#2.00 Motion of Chapter 7 Trustee for Turnover on Nonexempt Bank Account Funds**

EH\_\_

**[Tele. appr. Douglas Plazak, rep. Debtor]**

**[Tele. appr. Brandon J. Iskander, rep. Chapter 7 Trustee]**

Docket 77

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Precious Tiffany Dykstra

Represented By  
Douglas A Plazak

**Joint Debtor(s):**

Richard Arreola Dykstra

Represented By  
Douglas A Plazak

**Trustee(s):**

Charles W Daff (TR)

Represented By  
Brandon J. Iskander  
Robert P Goe

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**6:13-16964 Narinder Sangha**

**Chapter 7**

Adv#: 6:13-01171 Schrader v. Sangha

**#3.00** Motion and Notice of Motion to Compel Response to Interrogatory

EH\_\_

**[Tele. appr. Charles Schrader, rep. Plaintiff]**

Docket 606

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Narinder Sangha

Represented By  
Deepalie M Joshi

**Defendant(s):**

Narinder Sangha

Represented By  
Donald W Reid

**Plaintiff(s):**

Charles Edward Schrader

Pro Se

**Trustee(s):**

Karl T Anderson (TR)

Pro Se

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**6:23-13579 Starkeisha Sharnay Jester**

**Chapter 7**

Adv#: 6:24-01014 University Of Southern California v. Jester

**#4.00** CONT. Status Conference re Complaint by University Of Southern California against Starkeisha Sharnay Jester. fraud as fiduciary, embezzlement, larceny)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)),(65 (Dischargeability - other))

From: 4/17/24, 8/21/24, 12/4/24

EH\_\_

**[Tele. appr. Michael Jay Berger rep. Defendant]**

**[Tele. appr. Alexandria Lattner, rep. Plaintiff]**

Docket 1

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Starkeisha Sharnay Jester

Represented By  
Steven A Alpert

**Defendant(s):**

Starkeisha Sharnay Jester

Represented By  
Michael Jay Berger

**Plaintiff(s):**

University Of Southern California

Represented By  
Jennifer L Nassiri  
Alexandria Lattner

**Trustee(s):**

Larry D Simons (TR)

Pro Se

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**CONT... Starkeisha Sharnay Jester**

**Chapter 7**

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**6:24-12742 Lydia Lucille Romo**

**Chapter 7**

Adv#: 6:24-01063 He v. Romo

**#5.00** CONT. Status Conference re: Complaint by Weifeng He against Lydia Romo false pretenses, false representation, actual fraud) ,(68 (Dischargeability - 523(a)(6), willful and malicious injury))

\*Alias Summons issued 8/6/24

\*Alias Summons issued 10/18/24

\*Alias Summons issued 12/20/24

From: 10/16/24, 12/11/24, 12/18/24

EH\_\_

Docket 1

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Lydia Lucille Romo

Represented By  
Neil R Hedtke

**Defendant(s):**

Lydia Romo

Pro Se

**Plaintiff(s):**

Weifeng He

Pro Se

**Trustee(s):**

Lynda T. Bui (TR)

Pro Se

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

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

**Chapter 7**

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

**#6.00** Motion to Set Aside Default Entered on November 13, 2024 [Adv. Dkt. No. 64] and Vacate Hearing on Plaintiff's Motion for Default Judgment [Adv. Dkt. No. 67-69]

EH\_\_

Docket 82

**Tentative Ruling:**

2/19/2024

**BACKGROUND**

On December 20, 2022, Better Nutritionals, LLC ("Debtor") filed a Chapter 11 voluntary petition. On March 30, 2023, Debtor's case was converted to Chapter 7.

On February 15, 2024, Trustee filed a complaint against Sharon & Odelya Hoffman (the "Hoffmans") as well as RGL Holdings, LLC ("RGL") (together with Hoffmans, "Defendants"). The complaint contained six causes of action: five causes of action related to breach of fiduciary duty as well as a cause of action for equitable subordination.

On April 23, 2024, the Hoffmans' counsel --- Max Folkenflik & Folkenflik & McGerity --- was disqualified.

On July 22, 2024, the Court granted in part and denied in part the Hoffmans' motion

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

to dismiss. On August 9, 2024, an amended complaint was filed.

On September 30, 2024, the Hoffmans' new counsel --- Shulman Bastian Friedman & Bui LLP --- withdrew from representation. On November 13, 2024, the default of Defendants was entered. Trustee subsequently filed a motion for default judgment that is currently set for hearing on March 13, 2025.

On January 7, 2025, the Hoffmans retained representation. On January 14, 2025, the Hoffmans filed a motion to set aside default. On January 17, 2025, RGL retained counsel and filed a joinder to the motion. On February 5, 2025, Trustee filed an opposition. On February 11, 2025, Defendants filed a reply.

**ANALYSIS**

FED. R. CIV. P. Rule 55(c), made applicable to bankruptcy proceedings by FED. R. BANKR. P. Rule 7055, states: "[t]he court may set aside an entry of default for good cause, and it may set aside a final default judgment under Rule 60(b)." As noted by Defendants, a determination regarding relief under Rule 60(b)(1) "is at bottom an equitable one" and the Court should consider all relevant circumstances. *See, e.g., Pioneer Inv. Servs. Co. v. Brunswick Assocs.*, 507 U.S. 380, 395 (1993).

When a party seeks relief from a default judgment pursuant to Rule 60(b)(1), the Court must apply the *Falk* factors.<sup>1</sup> *See, e.g., Brandt v. Am. Bankers Ins. Co. of Fla.*, 653 F.3d 1108, 1111 (9th Cir. 2011). Specifically, the Ninth Circuit has stated that: "To determine 'good cause,' [under FED. R. CIV. P. Rule 55(c)] a court must consider three factors: (1) whether the party seeking to set aside the default engaged in culpable conduct that led to the default; (2) whether it had no meritorious defense; or (3) whether reopening the default judgment would prejudice the other party." *United States v. Signed Pers. Check No. 730 of Yubran S. Mesle*, 615 F.3d 1085, 1091 (9<sup>th</sup> Cir. 2010) (quotation omitted).

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

CONT... Better Nutritionals, LLC

Chapter 7

Regarding the first factor, the culpability of the party seeking to set aside default, the Ninth Circuit has imposed a rather high threshold for the culpability which would justify this Court's refusal to set aside default. To wit:

A defendant's conduct is culpable if he has received actual or constructive notice of the filing of the action and *intentionally* failed to answer. As we have previously explained, in this context the term "intentionally" means that a movant cannot be treated as culpable simply for having made a conscious choice not to answer; rather, to treat a failure to answer as culpable, the movant must have acted with bad faith, such as an intention to take advantage of the opposing party, interfere with judicial decisionmaking, or otherwise manipulate the legal process. We have typically held that a defendant's conduct was culpable for purposes of the good cause factors where there is no explanation of the default inconsistent with a devious, deliberate, willful, or bad faith failure to respond. As we explained in *TCI Group*, our approach is consistent with *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd.*, 507 U.S. 380, 388, 393-95 (1993), in light of which it is clear that simple carelessness is not sufficient to treat a negligent failure to reply as inexcusable, at least without a demonstration that other equitable factors, such as prejudice, weight heavily in favor of denial of the motion to set aside a default.

*Id.* at 1092-93 (quotations and citations omitted); *see also TCI Group Life Ins. Plan v. Knoebber*, 244 F.3d 691, 697 (9th Cir. 2001) ("Neglectful failure to answer as to which the defendant offers a credible, good faith explanation negating any intention to take advantage of the opposing party, interfere with judicial decision making, or otherwise manipulate the legal process is not 'intentional' under our default cases.").

Trustee argues that the standard is higher here because Defendants are "legally sophisticated parties": "When considering a legally sophisticated party's culpability in a default, an understanding of the consequences of its actions may be assumed, and with it, intentionality." *Mesle*, 615 F.3d at 1093.

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

CONT... Better Nutritionals, LLC

Chapter 7

The Court notes that the effort to impose a higher standard on the Defendants here seems to omit critical context --- both legally and factually. The very next sentence of the *Mesle* opinion states: "Here, we need not determine, however, whether the *Franchise Holding II* standard applies to more than sophisticated parties represented by counsel who may be presumed to be aware of the consequences of their actions." *Id.* Defendants were not represented by counsel at the time of the default. And while Trustee quotes the second sentence of footnote 6 in *TCI Group* to make it appear that the test for legal sophistication is rather low, the other two sentences in the footnote suggest otherwise:

As this summary of our cases shows, we have tended to consider the defaulting party's general familiarity with legal processes or consultation with lawyers at the time of the default as pertinent to the determination whether the party's conduct in failing to respond to legal process was deliberate, willful or in bad faith. . . . We have not held, however, nor do we hold here, that legal sophistication or lack thereof is determinative of whether the culpability standard is met.

244 F.3d at 699, n.6.

Here, the Court notes the following:

- (1) Defendants were not represented by counsel at the time of the default.
- (2) Defendants attempted to respond to the complaint --- an effort that was deemed ineffective --- and continued to attend the hearings in the proceeding, without representation.
- (3) Especially when considering (2), based on prior attempts to participate in the proceeding, the Court finds it difficult to clearly characterize Defendants as "legally sophisticated parties."

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

CONT... Better Nutritionals, LLC

Chapter 7

- (4) Even if Defendants were legally sophisticated parties, as noted in *TCI Group*, that is not determinative of whether the culpability standard is met. Here, when Defendants were attempting to respond and participate in the proceeding without the assistance of counsel, the Court considers it inappropriate to find the Defendants culpable for the default.

Ultimately, Ninth Circuit caselaw expresses a significant preference for judicial decisions being rendered on the merits, and the standard for vacating a default is rather low. Given the low legal standard, and noting that: (a) Defendants were not represented by counsel at the time of the default; and (b) were continually making some effort to participate in the proceedings, the Court declines to find Defendants culpable for the default.

Regarding the second factor, whether the defendant has a meritorious defense, the Ninth Circuit has stated that:

A defendant seeking to vacate a default judgment must present specific facts that would constitute a defense. But the burden on a party seeking to vacate a default judgment is not extraordinarily heavy. All that is necessary to satisfy the meritorious defense requirement is to allege sufficient facts that, if true, would constitute a defense: the question whether the factual allegation is true is not to be determined by the court when it decides the motion to set aside the default. Rather, that question would be the subject of the later litigation.

*Mesle*, 615 F.3d at 1094.

Here, Trustee contends that the motion does not adequately allege *specific* facts necessary to constitute a meritorious defense. This appears to overstate the burden on Defendants. As outlined in the reply, the proposed answer submitted by Defendants would appear to raise numerous factual disputes. Additionally, the *Franchise Holding* case relied upon by Trustee for the "specific facts" test is distinguishable from the

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

CONT... **Better Nutritionals, LLC**

**Chapter 7**

situation here. In *Franchise Holding*, the defendants conceded liability but disputed damages, only providing a "conclusory" statement that a dispute existed. 375 F.3d 922, 926 (9th Cir. 2004). In such a situation, it is reasonable to require the defaulting defendants to at least explain the nature of the dispute.

Here, caselaw does not require the Defendants to provide a comprehensive, detailed defense. Instead, Defendants are simply required to raise sufficient facts that --- *if true* --- would constitute a meritorious defense. The proposed answer attached to the Catherwood declaration appears to clearly include sufficiently detailed allegations and assertions that --- if true --- could constitute a defense to the action.

Regarding the third factor, whether Creditor would suffer legal prejudice, the Court notes that caselaw establishes a rather high standard for legal prejudice. "To be prejudicial, the setting aside of a judgment must result in greater harm than simply delaying resolution of the case." *TCI Group Life Ins. Plan v. Knoebber*, 244 F.3d 691, 701 (9th Cir. 2001). "The standard is whether his ability to pursue his claim will be hindered." *Falk v. Allen*, 739 F.2d 461, 463 (9th Cir. 1984); *see also Thompson v. Am. Home Assurance Co.*, 95 F.3d 429, 433-34 (6th Cir. 1996) ("Second, for the setting aside of a default judgment to be considered prejudicial, it must result in more than delay. Rather, the delay must result in tangible harm such as loss of evidence, increased difficulties of discovery, or greater opportunity for fraud or collusion.").

Trustee's argument regarding the existence of prejudice is not exactly clear. Trustee asserts that: "In the bankruptcy context, prejudice (for default judgment purposes) exists where a trustee-plaintiff will likely be without other recourse for recovery." [Dkt. No. 93, pg. 21, lines 11-12]. This citation is inapplicable and completely distorts the context --- Trustee is citing caselaw regarding the standard for whether the court should enter a default judgment at all. Second, Trustee insinuates that if Mr. Hoffman is allowed to participate in the proceeding, he may commit fraud. The Debtor's bankruptcy proceeding was commenced more than two years ago and, during that time, no party has brought to the Court's attention any credible allegations of bankruptcy fraud by Mr. Hoffman.

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

**TENTATIVE RULING**

The Court is inclined to GRANT the motion and VACATE the default. Parties to address the appropriateness of any of the conditions requested by Trustee.

APPEARANCES REQUIRED.

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

Better Nutritionals, LLC

Represented By  
John N Tedford IV  
Aaron E. De Leest

**Defendant(s):**

Sharon Hoffman

Represented By  
Kathryn M.S. Catherwood

Odelya Hoffman

Represented By  
Kathryn M.S. Catherwood

RGL Holdings, LLC, a Delaware

Pro Se

**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

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

---

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

Tinho Mang  
Michael A Sweet  
Daniel A Lev  
Christopher O Rivas

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

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

**Chapter 7**

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

**#6.10** 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, 2/5/25

EH\_\_

Docket 1

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**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

RGL Holdings, LLC, a Delaware

Pro Se

**Plaintiff(s):**

Larry D. Simons, Chapter 7 Trustee

Represented By  
Michael A Sweet

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

---

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

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

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01103 Simons (TR) v. Stratum HR, LLC, a California limited liability co

**#7.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Stratum HR, LLC, a California limited liability company. For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

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):**

Stratum HR, LLC, a California

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays  
David Wood

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

Tinho Mang  
Michael A Sweet  
Daniel A Lev

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01104 Simons (TR) v. RGL Management, LLC, a California limited liability

**#8.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against RGL Management, LLC, a California limited liability company. For (1) Avoidance And Recovery Of Fraudulent Transfers, (2) Avoidance And Recovery Of Preferential Transfers, (3) Preservation Of Fraudulent And Preferential Transfers, And (4) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

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):**

RGL Management, LLC, a

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

---

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

David Wood  
Tinho Mang  
Michael A Sweet  
Daniel A Lev

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01105 Simons (TR) v. Suitable Staffing Solutions, a California corporat

**#9.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Suitable Staffing Solutions, a California corporation. For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

**[Tele. appr. Gerrick Warrington, rep. Defendant]**

Docket 1

**Tentative Ruling:**

- NONE LISTED -

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

Better Nutritionals, LLC

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

**Defendant(s):**

Suitable Staffing Solutions, a

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

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

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01106 Simons (TR) v. Paradigm Packaging West, LLC, a California limited

**#10.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Paradigm Packaging West, LLC, a California limited liability company. For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

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):**

Paradigm Packaging West, LLC, a

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays  
David Wood

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

Tinho Mang  
Michael A Sweet  
Daniel A Lev

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01107 Simons (TR) v. Silliker, Inc., a Delaware corporation

**#11.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Silliker, Inc., a Delaware corporation. Complaint For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

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):**

Silliker, Inc., a Delaware corporation

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays  
David Wood

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

---

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

Tinho Mang  
Michael A Sweet  
Daniel A Lev

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01108 Simons (TR) v. Total Quality Logistics, LLC, an Ohio limited liab

**#12.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Total Quality Logistics, LLC, an Ohio limited liability company. For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

**[Tele. appr. Summer Shaw, rep. Defendant]**

Docket 1

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Better Nutritionals, LLC

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

**Defendant(s):**

Total Quality Logistics, LLC, an

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

---

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

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

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01109 Simons (TR) v. Edgewood Partners Insurance Center, a California c

**#13.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Edgewood Partners Insurance Center, a California corporation. For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

**[Tele. appr. Michael Medved, rep. Defendant]**

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):**

Edgewood Partners Insurance

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

---

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

David Wood  
Tinho Mang  
Michael A Sweet  
Daniel A Lev

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01110 Simons (TR) v. Reliable Premium Management, Inc., a Minnesota cor

**#14.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Reliable Premium Management, Inc., a Minnesota corporation. For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

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):**

Reliable Premium Management,

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays  
David Wood

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

Tinho Mang  
Michael A Sweet  
Daniel A Lev

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01111 Simons (TR) v. Organico Naturale, Inc., a California corporation

**#15.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Organico Naturale, Inc., a California corporation. For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

**[Tele. appr. Scott A. Schiff, rep. Defendant]**

Docket 1

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Better Nutritionals, LLC

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

**Defendant(s):**

Organico Naturale, Inc., a California

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

---

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

David Wood  
Tinho Mang  
Michael A Sweet  
Daniel A Lev

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01112 Simons (TR) v. Lycored Corporation, a Delaware corporation

**#16.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Lycored Corporation, a Delaware corporation. For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

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):**

Lycored Corporation, a Delaware

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays  
David Wood

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

Tinho Mang  
Michael A Sweet  
Daniel A Lev

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01113 Simons (TR) v. Herbstreith & Fox, Inc., a Delaware corporation

**#17.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Herbstreith & Fox, Inc., a Delaware corporation. For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

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):**

Herbstreith & Fox, Inc., a Delaware

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays  
David Wood

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

Tinho Mang  
Michael A Sweet  
Daniel A Lev

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01114 Simons (TR) v. Precision Label, LLC, a Delaware limited liability

**#18.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Precision Label, LLC, a Delaware limited liability company. For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

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):**

Precision Label, LLC, a Delaware

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays  
David Wood

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

---

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

Tinho Mang  
Michael A Sweet  
Daniel A Lev

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01115 Simons (TR) v. Green Wave Ingredients, Inc., a California corpora

**#19.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Green Wave Ingredients, Inc., a California corporation. For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

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):**

Green Wave Ingredients, Inc., a

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays  
David Wood

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

---

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

Tinho Mang  
Michael A Sweet  
Daniel A Lev

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

6:22-14723 Better Nutritionals, LLC

Chapter 7

Adv#: 6:24-01116 Simons (TR) v. Eurofins Botanical Testing US, Inc., a Delaware co

**#20.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Eurofins Botanical Testing US, Inc., a Delaware corporation. For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

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):**

Eurofins Botanical Testing US, Inc.,

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays  
David Wood

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

Tinho Mang  
Michael A Sweet  
Daniel A Lev

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01117 Simons (TR) v. Sunbelt Rentals, Inc., a North Carolina corporatio

**#21.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Sunbelt Rentals, Inc., a North Carolina corporation. For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

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):**

Sunbelt Rentals, Inc., a North

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays  
David Wood

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

Tinho Mang  
Michael A Sweet  
Daniel A Lev

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01118 Simons (TR) v. Glanbia Nutritionals, Inc., a Delaware corporation

**#22.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Glanbia Nutritionals, Inc., a Delaware corporation. For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

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):**

Glanbia Nutritionals, Inc., a

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays  
David Wood

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

Tinho Mang  
Michael A Sweet  
Daniel A Lev

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01119 Simons (TR) v. B&D Nutritional Ingredients, Inc., a California co

**#23.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against B&D Nutritional Ingredients, Inc., a California corporation. For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

**[Tele. appr. Aaron Lozano, rep. Defendant]**

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):**

B&D Nutritional Ingredients, Inc., a

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

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

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01120 Simons (TR) v. Coastal Pallet Solutions, Inc., a California corpo

**#24.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Coastal Pallet Solutions, Inc., a California corporation. For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

**[Tele. appr. Daniel A. Lev, rep. Plaintiff]**

**[Tele. appr. Lazaro Fernandez, rep. Defendant]**

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):**

Coastal Pallet Solutions, Inc., a

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

---

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

David Wood  
Tinho Mang  
Michael A Sweet  
Daniel A Lev

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01121 Simons (TR) v. Keyence Corporation of America, a California corpo

**#25.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Keyence Corporation of America, a California corporation. For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

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):**

Keyence Corporation of America, a

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

Represented By  
D Edward Hays  
David Wood

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

Tinho Mang  
Michael A Sweet  
Daniel A Lev

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01122 Simons (TR) v. Sharon Hoffman, an individual et al

**#26.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Sharon Hoffman, an individual, Odelya Hoffman, an individual. For (1) Avoidance And Recovery Of Fraudulent Transfers, (2) Avoidance And Recovery Of Preferential Transfers, (3) Preservation Of Fraudulent And Preferential Transfers, And (4) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer))

EH\_\_

**[Tele. appr. Daniel A. Lev rep. Plaintiff]**

Docket 1

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Better Nutritionals, LLC

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

**Defendant(s):**

Sharon Hoffman, an individual

Pro Se

Odelya Hoffman, an individual

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

---

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

**Trustee(s):**

Larry D Simons (TR)

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

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01123 Simons (TR) v. Aramark Services, Inc., a Delaware corporation

**#27.00** Status Conference re Complaint by Larry D. Simons, solely in his capacity as Chapter 7 Trustee against Aramark Services, Inc., a Delaware corporation. For (1) Avoidance Of Preferential Transfers, (2) Preservation Of Preferential Transfers, And (3) Disallowance Of Claim Nature of Suit: (12 (Recovery of money/property - 547 preference))

EH\_\_

Docket 1

**\*\*\* VACATED \*\*\* REASON: ADVERSARY DISMISED ON 1/23/25**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Better Nutritionals, LLC

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

**Defendant(s):**

Aramark Services, Inc., a Delaware

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Represented By  
Daniel A Lev

**Trustee(s):**

Larry D Simons (TR)

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

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**CONT... Better Nutritionals, LLC**

Daniel A Lev

**Chapter 7**

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01033 Harco National Insurance Company v. Simmons et al

**#28.00** CONT. Amended Motion to Dismiss Adversary Proceeding [Defendants' Motion to Dismiss Complaint and/or For More Definite Statement Pursuant to Fed. R. Civ. Proc. 12; Memorandum of Points and Authorities in Support Thereof] (with Hearing Notice) filed by Defendant Sharon Hoffman, Defendant Odelya Hoffman)  
(Motion filed 6/5/24)

(Holding date)

From: 7/10/24, 9/11/24, 11/13/24, 2/12/25

EH\_\_

Docket 11

**Tentative Ruling:**

2/19/2024

**PROCEDURAL BACKGROUND**

On December 20, 2022, Better Nutritionals ("Debtor") filed a Chapter 11 voluntary petition. On March 30, 2023, Debtor's case was converted to Chapter 7.

On April 18, 2024, Harco National Insurance Company ("Plaintiff") filed a complaint against the Chapter 7 Trustee ("Trustee") and Sharon & Odelya Hoffman (the "Hoffmans") (collectively with Trustee, "Defendants"). The complaint contained six causes of action: five counts for declaratory judgment and one count for restitution/recoupment. Specifically, Plaintiff seeks a judgment finding that it does not have a duty to provide defense or indemnity coverage to the Hoffmans in connection with certain litigation brought by Trustee and separate litigation brought by Goli Nutrition, Inc. Additionally, Plaintiff seeks reimbursement for any costs covered during the pendency of this litigation.

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

On June 5, 2024, the Hoffmans filed a motion to dismiss the complaint. On June 26, 2024, Plaintiff filed its opposition. On June 28, 2024, Trustee filed an answer to the complaint.

The hearing on the motion to dismiss was continued twice by stipulation of the parties. In November 2024, the Court continued the matter for the parties to attend mediation, which was unsuccessful.

Currently, the Hoffmans are not represented by counsel; the counsel that filed the motion to dismiss withdrew from the proceeding on September 30, 2024.

**FACTUAL BACKGROUND**

On or about August 4, 2022, Paul Anton ("Anton"), Debtor's CFO, submitted a Management Liability Package New Business Application (the "Insurance Application") to Plaintiff. Plaintiff subsequently issued Debtor a policy covering the period July 30, 2022 through July 30, 2023.

On March 24, 2023, Goli Nutrition Inc. filed a complaint against Mr. Hoffman in federal district court (the "Goli Action"). The Goli Action contained causes of action for: (1) breach of contract; (2) breach of fiduciary duty; (3) breach of the implied covenant of good faith and fair dealing; (4) conversion; (5) fraud; and (6) unjust enrichment.

On February 15, 2024, the Chapter 7 Trustee commenced an adversary proceeding against the Hoffmans (the "Trustee Action"). The Trustee Action contained causes of action for: (1) breach of fiduciary duty --- duty of loyalty; (2) breach of fiduciary

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

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; (6) equitable subordination. The first four causes of action are directed to Mr. Hoffman and the fifth cause of action is directed to Mrs. Hoffman.

Presently, it appears that Plaintiff is funding a defense to the Goli Action and Trustee Action subject to a complete reservation of rights.

**DISCUSSION**

As a preliminary matter, the Court notes that the opposition is unsigned and unserved. As a result, the Court will strike the opposition.

*I. CORE/NON-CORE DESIGNATION*

The first argument of the Hoffmans is that the complaint improperly characterizes itself as a non-core proceeding. Specifically, paragraph 1 of the complaint states that the proceeding is non-core and that Plaintiff does not consent to the entry of final order and judgments by this Court. This statement is required by FED. R. BANKR. P. Rule 7008, which states: "In an adversary proceeding before a bankruptcy court, a complaint, counterclaim, crossclaim, or third-party complaint must state whether the pleader does or does not consent to the entry of final orders or judgment by the bankruptcy court."

The Hoffmans style this request as a request for a more definite statement providing more detail regarding Plaintiff's position with regard to whether the proceeding is core/non-core. The policy of the Court, however, being regularly faced with a party contending that the proceeding is non-core, is to simply require briefing on the issue. Functionally, this is a separate issue than the adequacy of the complaint, and the complaint itself need not contain this detailed legal argument.

Therefore, the Court is inclined to DENY the Hoffman's request for a more definite statement --- or to dismiss the complaint on that basis.

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

*II. Motion to Dismiss*

The Hoffmans argue that the first, second, and fifth claims fail to state a claim under FED. R. CIV. P. Rule 12(b)(6), incorporated into bankruptcy proceedings by FED. R. BANKR. P. Rule 7012. The first two of these claims relate to specific reasons why Plaintiff contends it is not liable for insurance coverage. The first claim asserts that the Insurance Application contains misrepresentations or omissions. The second claim asserts that the liability for the Hoffmans in the Goli Action and Trustee Action is beyond the scope of the insurance coverage. The fifth "claim" contains four different reservations of rights.

As to the merits of the motion to dismiss, the district court has recently written as follows regarding the Rule 12(b)(6) standard:

A motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) ("Rule 12(b)(6)") tests the legal sufficiency of the claims asserted in a complaint. "Dismissal under Rule 12(b)(6) is appropriate only where the complaint lacks a cognizable legal theory or sufficient facts to support a cognizable legal theory." *Mendiondo v. Centinela Hosp. Med. Ctr.*, 521 F.3d 1097, 1104 (9th Cir. 2008). Factual allegations must be enough to "raise a right to relief above a speculative level." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

Rule 12(b)(6) must be read in conjunction with Federal Rule of Civil Procedure 8(a) ("Rule 8(a)"), which requires a "short and plain statement of the claim showing that a pleader is entitled to relief," in order to give the defendant "fair notice of what the claim is and the grounds upon which it rests." *Id.*; see *Horosny v. Burlington Coat Factory, Inc.*, 2015 WL 12532178, at \*3 (C.D. Cal. Oct. 26, 2015). In considering a Rule 12(b)(6) motion to dismiss, a court must accept all material allegations in the complaint—as well as any reasonable inferences to be drawn from them—as true and construe them in the light most favorable to the non-moving party. See *Doe v. United States*, 419 F.3d 1058, 1062 (9th Cir. 2005); *ARC Ecology v. U.S. Dep't of Air Force*, 411 F.3d 1092, 1096 (9th Cir. 2005); *Moyo v. Gomez*, 32 F.3d 1382, 1384 (9th Cir. 1994). Determining whether a complaint states a plausible claim for relief is "a context-specific task that requires the reviewing court to draw on its judicial experience and common

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

CONT...

**Better Nutritionals, LLC**

Chapter 7

sense." *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009).

"While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff's obligation to provide the 'grounds' of his 'entitlement to relief' requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Twombly*, 550 U.S. at 555 (citations omitted). Rather, the allegations in the complaint "must be enough to raise a right to relief above the speculative level." *Id.*

Federal Rule of Civil Procedure 15 ("Rule 15") provides that leave to amend "shall be freely given when justice so requires." Fed. R. Civ. P. 15(a). The Ninth Circuit has held that "[t]his policy is to be applied with extreme liberality." *Eminence Capital, L.L.C. v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003) (quoting *Owens v. Kaiser Found. Health Plan, Inc.*, 244 F.3d 708, 712 (9th Cir. 2001)). Generally, a "district court should grant leave to amend even if no request to amend the pleading was made, unless it determines that the pleading could not possibly be cured by allegation of other facts." *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc) (internal quotation marks and citation omitted).

*Mitchell Rubber Prod., LLC v. Verlan Fire Ins. Co.*, 2022 WL 17222233, at \*1–2 (C.D. Cal. Aug. 12, 2022).

Regarding the first claim, Plaintiff focuses on three questions contained within the "Insurance Application":

- (1) Has the Applicant in the last 24 months transacted or does the Applicant anticipate in the next 12 months . . . [a]ny actual, negotiated or attempted merger, acquisition, consolidation or divestment?
- (2) Has the Applicant in the last 24 months transacted or does the Applicant anticipate in the next 12 months . . . [a]ny restructuring or legal or financial reorganization or filing for bankruptcy?
- (3) Do any shareholders or group of affiliated shareholders (including an employee stock ownership plan) own five percent (5%) or more of the voting shares directly or beneficially?

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

CONT... **Better Nutritionals, LLC**

Chapter 7

Debtor answered "no" to all three of these questions. Plaintiff contends that the Hoffmans knew "the true facts that were not truthfully and accurately disclosed." [Dkt. No. 1, ¶ 84]. The complaint includes allegations that Debtor "discussed the possible filing of a bankruptcy" and also "was discussing a potential merger, acquisition, consolidation or divestment" at the time the Insurance Application was completed. [Dkt. No. 1, ¶¶ 33 & 36]. The complaint also contains various details regarding Debtor's business strategy during the relevant time frame.

The Hoffmans' argument regarding the first claim is not particularly clear. Clearly, the first claim in the complaint adequately provides the Hoffmans "fair notice of what the claim is and the grounds upon which it rests." Furthermore, assuming, *arguendo*, that the heightened pleading standard of FED. R. CIV. P. Rule 9 applies here, the complaint clearly includes the "who, what, when, and how" regarding the alleged misrepresentations. The specific mindset of the Hoffmans/Anton/Debtor can be alleged generally. *See* FED. R. CIV. P. Rule 9(b) ("Malice, intent, knowledge, and other conditions of a person's mind may be alleged generally."). Here, Anton's knowledge and belief at the time the Insurance Application may be submitted may be alleged generally --- and the complaint more than adequately establishes that the first claim is plausible.

Regarding the second cause of action, the complaint alleges that Mr. Hoffman was acting in his capacity as a "member/owner" not as a manager with respect to the allegations in the underlying litigation. The Hoffmans argue that: (1) the underlying litigation includes both allegations against Hoffman in his capacity as a manager and in his capacity as a member; and (2) the complaint does not articulate why coverage is not owed to Mrs. Hoffman.

Regarding the first argument, the complaint has adequately *pled* --- i.e. provided allegations --- that the nature of the acts falls outside the insurance coverage. To the extent that Mr. Hoffman *disagrees* with the characterization as outlined in the complaint or the attendant legal conclusion, resolution of such is not appropriate at the pleading stage.

Regarding the second argument, however, the Court notes that the complaint does not appear to mention Mrs. Hoffman in any place after the "parties" section. The Hoffman's argument that the complaint fails to state a claim as to Mrs. Hoffman is

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

Wednesday, February 19, 2025

Hearing Room 301

2:00 PM

CONT... **Better Nutritionals, LLC**

Chapter 7

well taken. While Plaintiff's opposition attempts to articulate a basis for the claims as to Mrs. Hoffman, the complaint itself is essentially silent as to Mrs. Hoffman altogether.

Regarding the fifth cause of action --- which is called "declaratory judgment (reservation of rights)" --- as a preliminary matter, the Court can find no caselaw supporting the existence of this "reservation of rights" as an independent cause of action. To the extent Plaintiff can and has reserved its rights to deny coverage (or recoup costs) under additional theories, those rights are preserved. To the extent, however, Plaintiff needs to seek declaratory judgment to preserve those rights, then those additional theories need to be independent causes of action.

**TENTATIVE RULING**

The Court is inclined to GRANT the Motion to the extent of dismissing Count V and Mrs. Hoffman as a defendant, without prejudice.

APPEARANCES REQUIRED.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Better Nutritionals, LLC

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

**Defendant(s):**

Larry D Simmons

Represented By  
Tinho Mang

Sharon Hoffman

Pro Se

Odelya Hoffman

Pro Se

**Movant(s):**

Sharon Hoffman

Pro Se

Odelya Hoffman

Pro Se

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

---

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

**Plaintiff(s):**

Harco National Insurance Company

Represented By  
Robert A Hyatt

**Trustee(s):**

Larry D Simons (TR)

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

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

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

**Chapter 7**

Adv#: 6:24-01033 Harco National Insurance Company v. Simmons et al

**#29.00** CONT. Status Conference re Adversary case 6:24-ap-01033. Complaint by Harco National Insurance Company against Larry D Simmons, Sharon Hoffman, Odelya Hoffman. 2023 letter from Trustee's counsel # 9 Exhibit Exhibit I - March 28, 2024 Letter to Casal # 10 Exhibit Exhibit J - March 5, 2024 Letter to Casal) Nature of Suit: (91 (Declaratory judgment))

From: 7/10/24, 10/9/24, 11/13/24, 2/12/25

EH\_\_

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):**

Larry D Simmons

Represented By  
Tinho Mang

Sharon Hoffman

Pro Se

Odelya Hoffman

Pro Se

**Plaintiff(s):**

Harco National Insurance Company

Represented By  
Robert A Hyatt

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

---

2:00 PM

**CONT... Better Nutritionals, LLC**

**Chapter 7**

**Trustee(s):**

Larry D Simons (TR)

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

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**6:23-14868 Trinity Dedicated Line T.D.L INC**

**Chapter 7**

Adv#: 6:24-01098 Simons (TR) v. Essex Mortgage Company

**#30.00** CONT. Status Conference re: Complaint by Larry D Simons (TR) against Essex Mortgage Company. (\$350.00 Fee Charge To Estate). Nature of Suit: (14 (Recovery of money/property - other))

EH\_\_

From: 2/12/25

**[Tele. appr. Merduad Jafarnia, rep. Defendant Essex Mortgage]**

**[Tele. appr. Kyra Andrassy, rep. Plaintiff]**

Docket 1

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Trinity Dedicated Line T.D.L INC

Represented By  
Jaime A Cuevas Jr.

**Defendant(s):**

Essex Mortgage Company

Pro Se

**Plaintiff(s):**

Larry D Simons (TR)

Pro Se

**Trustee(s):**

Larry D Simons (TR)

Pro Se

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**6:23-15109 Juana Erika Velasquez**

**Chapter 7**

Adv#: 6:24-01009 Velasquez v. UNITED STATES DEPARTMENT OF EDUCATION et al

**#31.00** CONT. Status Conference re: Complaint by Juana Erika Velasquez against United States Department of Education

From: 7/17/24, 11/13/24, 2/12/25

(Alias Summons issued 4/12/24)

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**[Tele. appr. Elan S. Levey, rep. Defendant]**

Docket 1

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Juana Erika Velasquez

Represented By  
Lauren M Foley

**Defendant(s):**

UNITED STATES DEPARTMENT

Pro Se

U.S. Department of Education

Represented By  
Elan S Levey

**Plaintiff(s):**

Juana Erika Velasquez

Represented By  
Lauren M Foley

**Trustee(s):**

Arturo Cisneros (TR)

Pro Se

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

2:00 PM

**6:24-12509 German A Velasco**

**Chapter 7**

Adv#: 6:24-01066 Golden Kendrew, LLC v. Velasco et al

**#32.00** CONT. Status Conference re: Complaint by Golden Kendrew, LLC against German A Velasco, Melissa Velasco. false pretenses, false representation, actual fraud)),(68 (Dischargeability - 523(a)(6), willful and malicious injury))

From: 10/16/24, 2/12/25

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**[Tele. appr. Kathleen A. Cashman-Kramer, rep. Plaintiff]**

**[Tele. appr. Todd Turoci, rep. Defendants]**

Docket 1

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

German A Velasco

Represented By  
Todd L Turoci

**Defendant(s):**

German A Velasco

Represented By  
Todd L Turoci

Melissa Velasco

Represented By  
Todd L Turoci

**Joint Debtor(s):**

Melissa Velasco

Represented By  
Todd L Turoci

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

**Wednesday, February 19, 2025**

**Hearing Room 301**

---

2:00 PM

**CONT... German A Velasco**

**Chapter 7**

**Plaintiff(s):**

Golden Kendrew, LLC

Represented By

Kathleen A Cashman-Kramer

**Trustee(s):**

Arturo Cisneros (TR)

Pro Se