

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:23-12313 Elizabeth Enriquez**

**Chapter 13**

**#1.00 CONT. Confirmation of Chapter 13 Plan**

From: 1/4/24, 2/29/24

EH\_\_

**[Tele. appr. Douglas A. Crowder, rep. Debtor]**

Docket 30

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Elizabeth Enriquez

Represented By  
Douglas A Crowder

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room 6C**

10:30 AM

**8:23-12494 Thomas W. Burton**

**Chapter 13**

**#2.00 CONT. Confirmation of Chapter 13 Plan**

From: 2/8/24, 2/29/24

EH\_\_

**[Tele. appr. Fritz Firman, rep. Debtors]**

Docket 14

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Thomas W. Burton

Represented By  
Joseph A Weber  
Fritz J Firman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:23-12617 Christopher J. Donabedian**

**Chapter 13**

**#3.00** Motion to Disallow Claim #15 of creditor, FirstKey Master Funding 2021-A  
(Motion filed 2/23/24)

Also #4

EH\_\_

Docket 26

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 5/2/24 BY ORDER  
ENTERED 3/12/24**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Christopher J. Donabedian

Represented By  
Jenny L Doling

**Movant(s):**

Christopher J. Donabedian

Represented By  
Jenny L Doling  
Jenny L Doling

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:23-12617 Christopher J. Donabedian**

**Chapter 13**

**#4.00 CONT. Confirmation of Chapter 13 Plan**

From: 2/15/24

EH\_\_

**[Tele. appr. Jenny Doling, rep. Debtor]**

**[Tele. appr. Darlene M. Morris rep. creditor, First Key Master Funding]**

Docket 14

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Christopher J. Donabedian

Represented By  
Jenny L Doling

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:23-12693 Michael Pierce**

**Chapter 13**

**#5.00 CONT. Confirmation of Chapter 13 Plan**

From: 2/15/24

EH\_\_

**[Tele. appr. Jenelle C. Arnold, rep, creditor, Wilmington Savings Fund Society]**

**[Tele. appr. Robert Chen, rep. Debtor]**

Docket 2

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Pierce

Represented By  
Julie J Villalobos

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:23-12724 Paul Jorge Motonaga**

**Chapter 13**

**#6.00 CONT. Confirmation of Chapter 13 Plan**

From: 2/15/24

EH\_\_

Docket 15

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Paul Jorge Motonaga

Represented By  
Michael Smith

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room 6C**

10:30 AM

**8:23-12749 Mohammad Rad**

**Chapter 13**

**#7.00 CONT. Confirmation of Chapter 13 Plan**

From: 2/29/24

EH\_\_

**[Tele. appr. Jacqueline D. Serrao, rep. Debtor]**

Docket 15

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Mohammad Rad

Represented By  
Jacqueline D Serrao

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:23-12751 Lora Lynne Lee**

**Chapter 13**

**#8.00 CONT Confirmation of Chapter 13 Plan**

From: 2/29/24

EH\_\_

**[Tele. appr. Jacqueline D. Serrao, rep. Debtor]**

Docket 3

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Lora Lynne Lee

Represented By  
Jacqueline D Serrao

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:23-12756 Anthony Minh Nguyen**

**Chapter 13**

**#9.00 CONT. Confirmation of Chapter 13 Plan**

From: 2/29/24

EH\_\_

Docket 2

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Anthony Minh Nguyen

Represented By  
Anthony B Vigil

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:23-12761 Ricky Guillermo Prieto**

**Chapter 13**

**#10.00 CONT. Confirmation of Chapter 13 Plan**

From: 2/29/24

EH\_\_

**[Tele. appr. Kelli Brown, rep. creditor, LoanDepot.com, LLC]**

**[Tele. appr. Nancy B. Clark, rep. Debtor]**

Docket 24

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Ricky Guillermo Prieto

Represented By  
Barry E Borowitz

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room      6C**

10:30 AM

**8:23-12762    Douglas Warren Packer**

**Chapter 13**

**#11.00    CONT. Confirmation of Chapter 13 Plan**

From: 2/29/24

EH\_\_

**[Tele. appr. Jonathan Doan, rep. Debtor]**

Docket      2

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Douglas Warren Packer

Represented By  
Jonathan D Doan

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:23-12775 Aram Asatrian**

**Chapter 13**

**#12.00** CONT. Confirmation of Chapter 13 Plan

From: 2/29/24

EH\_\_

Docket 3

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Aram Asatrian

Represented By  
Anerio V Altman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10022 Hans Nearhoof**

**Chapter 13**

**#13.00 CONT. Confirmation of Chapter 13 Plan**

From: 2/29/24

EH\_\_

**[Tele. appr. Christina Khil, rep. Creditor Bank of New York Mellon]**

Docket 12

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Hans Nearhoof

Represented By  
William H Brownstein

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10041 Anthony Toan Cao**

**Chapter 13**

**#14.00** CONT. Confirmation of Chapter 13 Plan

From: 2/29/24

EH\_\_

Docket 25

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Anthony Toan Cao

Represented By  
Michael Smith  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10049 Edgar Sebastian Vazquez**

**Chapter 13**

**#15.00** CONT. Confirmation of Chapter 13 Plan

From: 3/14/24

EH\_\_

Docket 24

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Edgar Sebastian Vazquez

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10082 Francisco Araiza**

**Chapter 13**

**#16.00 CONT. Confirmation of Chapter 13 Plan**

From: 3/14/24

EH\_\_

**[Tele. appr. Anthony Mikhail, rep. Debtor]**

Docket 2

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Francisco Araiza

Represented By  
Steven A Alpert

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10148 Ramaiah Pichika**

**Chapter 13**

**#17.00 Confirmation of Chapter 13 Plan**

EH\_\_

Docket 0

**\*\*\* VACATED \*\*\* REASON: CASE DISMISSED 2/21/24**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Ramaiah Pichika

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10152 Patrick Ryan Armstrong**

**Chapter 13**

**#18.00 Confirmation of Chapter 13 Plan**

EH\_\_

Docket 0

**\*\*\* VACATED \*\*\* REASON: CASE DISMISSED 2/8/24**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Patrick Ryan Armstrong

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10154 Joshua J. Pratt**

**Chapter 13**

**#19.00 Confirmation of Chapter 13 Plan**

EH\_\_

Docket 2

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Joshua J. Pratt

Represented By  
Amanda G. Billyard

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room 6C**

10:30 AM

**8:24-10162 Winnie T Nguyen**

**Chapter 13**

**#20.00 Confirmation of Chapter 13 Plan**

EH\_\_

Docket 0

**\*\*\* VACATED \*\*\* REASON: CASE DISMISSED 2/8/24**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Winnie T Nguyen

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10210 Bruce An Nguyen**

**Chapter 13**

**#21.00 Confirmation of Chapter 13 Plan**

EH\_\_

Docket 18

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bruce An Nguyen

Represented By  
Kevin J Kunde

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10213 Suzanne Elizabeth Sheppard**

**Chapter 13**

**#22.00 Confirmation of Chapter 13 Plan**

EH\_\_

Docket 5

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Suzanne Elizabeth Sheppard

Represented By  
Misty A Perry Isaacson

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10220 Sean Joseph Victorino**

**Chapter 13**

**#23.00 Confirmation of Chapter 13 Plan**

EH\_\_

**[Tele. appr. Chad Butler, rep. Movant, Carrington Mortgage Services LLC.]**

Docket 13

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Sean Joseph Victorino

Represented By  
Misty A Perry Isaacson

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10224 Randolph Pattau Rosales**

**Chapter 13**

**#24.00 Confirmation of Chapter 13 Plan**

EH\_\_

Docket 2

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Randolph Pattau Rosales

Represented By  
Ethan Kiwhan Chin

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10232 Anthony Lee Montoya and Theresa Maria Montoya**

**Chapter 13**

**#25.00 Confirmation of Chapter 13 Plan**

EH\_\_

Docket 16

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Anthony Lee Montoya

Represented By  
Jonathan D Doan

**Joint Debtor(s):**

Theresa Maria Montoya

Represented By  
Jonathan D Doan

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10234 Ricardo Alonzo Tercero and Elza Demetria Tercero**

**Chapter 13**

**#26.00 Confirmation of Chapter 13 Plan**

EH\_\_

Docket 2

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Ricardo Alonzo Tercero

Represented By  
Rabin Pournazarian

**Joint Debtor(s):**

Elza Demetria Tercero

Represented By  
Rabin Pournazarian

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10250 Daniel Robert Gauthier**

**Chapter 13**

**#27.00 Confirmation of Chapter 13 Plan**

EH\_\_

**[Tele. appr. Anthony Mikhail, rep. Debtor]**

Docket 2

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Daniel Robert Gauthier

Represented By  
Steven A Alpert

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10259 Rocio Ferguson**

**Chapter 13**

**#28.00 Confirmation of Chapter 13 Plan**

EH\_\_

**[Tele. appr. Kevin Tang, rep. Debtor]**

Docket 2

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Rocio Ferguson

Represented By  
Kevin Tang

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10260 Florencio G Orduno, IV**

**Chapter 13**

**#29.00 Confirmation of Chapter 13 Plan**

EH\_\_

Docket 2

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Florencio G Orduno IV

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10263 Malcolm Louis Felix, Sr**

**Chapter 13**

**#30.00 Confirmation of Chapter 13 Plan**

EH\_\_

Docket 0

**\*\*\* VACATED \*\*\* REASON: CASE DISMISSED 2/5/24**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Malcolm Louis Felix Sr

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10266 Bret Dean Morris**

**Chapter 13**

**#31.00** Confirmation of Chapter 13 Plan

EH\_\_

Docket 11

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Bret Dean Morris

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10275 Rocio Zita Gonzalez**

**Chapter 13**

**#32.00 Confirmation of Chapter 13 Plan**

EH\_\_

**[Tele. appr. Kevin Tang, rep. Debtor]**

Docket 2

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Rocio Zita Gonzalez

Represented By  
Kevin Tang

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10279 Joseph Patrick McCabe**

**Chapter 13**

**#33.00 Confirmation of Chapter 13 Plan**

EH\_\_

Docket 0

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Joseph Patrick McCabe

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room      6C**

10:30 AM

**8:24-10285    Philip H Inman**

**Chapter 13**

**#34.00    Confirmation of Chapter 13 Plan**

EH\_\_

**[Tele. appr. Jeffrey Poindexter, rep. creditor, SJO Investments, LLC]**

**[Tele. appr. Christopher R. Nelson, rep. Interested Party Elizabeth Van Zee]**

**[Tele. appr. Scott A. Schiff, rep. creditor, National Loan Acquisitions Co.]**

**[Tele. appr. Sunita Sood, rep. Debtor]**

Docket      26

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Philip H Inman

Represented By  
Sunita N Sood

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room      6C**

10:30 AM

**8:17-14010    Alvin Bradley, Jr. and Nikki Michelle Bradley**

**Chapter 13**

**#35.00    Hrg. on creditor, Brea Vista Community Association's Objection to Debtors' Discharge; Application for Discharge**

EH\_\_

**[Tele. appr. Alyssa B. Klausner, rep. creditor, Brea Vista Community Association]**

**[Tele. appr. Thomas B. Ure, rep. Debtors]**

Docket      172

**Tentative Ruling:**

**3/28/2024**

On October 9, 2017, Alvin Bradley Jr. & Nikki Bradley (collectively, "Debtors") filed a Chapter 13 voluntary petition. On March 20, 2018, Debtors' Chapter 13 plan was confirmed. The plan was subsequently modified twice.

On February 9, 2024, Debtors filed their applications for discharge. On February 23, 2024, Brea Vista Community Association (the "HOA") filed an objection to discharge. The HOA asserts that Debtors have missed many of their postpetition HOA payments and requests that the HOA claim be exempted from discharge unless Debtors cure the delinquency.

On March 21, 2024, Debtors filed a reply. Debtors assert that the HOA failed to comply with Rule 3002.1 and that the attorney fees asserted are unreasonable.

The Court notes that Rule 3002.1 provides that the rule applies "to claims (1) that are

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**CONT... Alvin Bradley, Jr. and Nikki Michelle Bradley**

**Chapter 13**

secured by a security interest in the debtor's principal residence, and (2) for which the plan provides that either the trustee or the debtor will make contractual installment payments."

Debtors have asserted --- without analysis --- that Rule 3002.1 applies, but the Court is not convinced that the conclusion is self evident. Specifically, it is not clear that HOA assessments are a "contractual installment payment" nor is it clear that the HOA has a "security interest" as that term is defined in the Code. *See* 11 U.S.C. § 101(51) ("security interest" means lien created by an agreement"). Rather than a contractual arrangement, an HOA claim appears to primarily arise statutorily through the operation of the California Civil Code; the assessments would appear valid and in existence regardless of any agreement by the homeowner. As a restrictive land covenant that is statutorily authorized, it is not clear that it is proper to characterize the HOA assessments as a "contractual installment payment" or the related lien as "created by an agreement."

Additionally, the Court notes that --- even if it determines that Rule 3002.1 applies --- the consequences for violation of the rule, set forth in Rule 3002.1(i), are discretionary, and Debtors have not provided any legal analysis or authority to guide the Court's discretion.

Furthermore, because Rule 3002.1(i) requires "notice and a hearing," a request made under that rule requires a separate motion and is not appropriately raised in a reply document.

The Court also notes that: (1) any dispute regarding the reasonableness of the HOA's attorney fees --- or the appropriateness of the Court engaging in such review --- would require further legal argument and a more developed evidentiary record; and (2) the HOA has, intentionally, provided a partial version of the CC&Rs --- although if the Court is to resolve the Rule 3002.1 issue, a complete copy may be necessary.

**APPEARANCES REQUIRED.**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**CONT... Alvin Bradley, Jr. and Nikki Michelle Bradley**

**Chapter 13**

**Party Information**

**Debtor(s):**

Alvin Bradley Jr.

Represented By  
Thomas B Ure

**Joint Debtor(s):**

Nikki Michelle Bradley

Represented By  
Thomas B Ure

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:19-14899 Amelia Aragon and Ricky Aragon**

**Chapter 13**

**#36.00 Debtors' Motion to Modify Plan  
(Motion filed 1/8/24)**

EH\_\_

Docket 61

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Amelia Aragon

Represented By  
Scott Dicus

**Joint Debtor(s):**

Ricky Aragon

Represented By  
Scott Dicus

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:23-11129 Kevin Paul Sablan and Nicolina Vanee Santos**

**Chapter 13**

**#37.00** Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments with Proof of Service (Motion filed 2/27/24)

EH\_\_

Docket 41

**\*\*\* VACATED \*\*\* REASON: PER ORDER ENTERED 3/27/24**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Kevin Paul Sablan

Represented By  
Ethan Kiwhan Chin

**Joint Debtor(s):**

Nicolina Vanee Santos

Represented By  
Ethan Kiwhan Chin

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:23-11462 Richard Garcia**

**Chapter 13**

**#37.10** Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or  
suspend plan payments  
(Motion 2/27/24)

EH\_\_

**[Tele. appr. Andrew Bisom, rep. Debtor]**

**[Tele. appr. Miles L. Prince, rep. Interested Party Stephen Edwards]**

Docket 124

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Richard Garcia

Represented By  
Andrew S Bisom

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:19-14308 Karla Golbert**

**Chapter 13**

**#38.00 CONT. Trustee's Motion to Dismiss Case**

From: 2/29/24

EH \_\_\_\_

Docket 101

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Karla Golbert

Represented By  
Anerio V Altman  
Corrine B Katz

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:20-10629 Maria I Barriga**

**Chapter 13**

**#39.00** Trustee's Motion to Dismiss Case failure to make plan payments

EH \_\_\_\_

Docket 90

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Maria I Barriga

Represented By  
Gary Polston

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:20-12985 Geoff Owen Delabar**

**Chapter 13**

**#40.00** Trustee's Motion to Dismiss Case failure to make plan payments

EH \_\_\_\_

Docket 105

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Geoff Owen Delabar

Represented By

Christopher J Langley

Michael Smith

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room      6C**

10:30 AM

**8:22-10273    Lisa Nguyen**

**Chapter 13**

**#41.00    CONT. Trustee's Motion to Dismiss Case failure to make plan payments**

From: 2/15/24

EH\_\_

**[Tele. appr. Caroline S. Kim, rep. Debtor]**

Docket      117

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Lisa Nguyen

Represented By  
Caroline S Kim

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar

Thursday, March 28, 2024

Hearing Room

6C

10:30 AM

8:22-11495 Diane Beals

Chapter 13

#42.00 Trustee's Motion to Dismiss Case failure to make plan payments

EH \_\_\_\_

Docket 53

\*\*\* VACATED \*\*\* REASON: WITHDRAWAL OF MOTION FILED  
3/13/24

**Tentative Ruling:**

- NONE LISTED -

Party Information
-------------------

**Debtor(s):**

Diane Beals

Represented By  
Gerald S Kim

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:23-11376 Michael Goode and Narda Goode**

**Chapter 13**

**#43.00** Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or  
suspend plan payments  
(Motion filed 2/15/24)

Also #44

EH\_\_

Docket 34

**\*\*\* VACATED \*\*\* REASON: CONVERTED TO CHAPTER 7 ON 3/18/24**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Goode

Represented By  
Anerio V Altman

**Joint Debtor(s):**

Narda Goode

Represented By  
Anerio V Altman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room      6C**

10:30 AM

**8:23-11376    Michael Goode and Narda Goode**

**Chapter 13**

**#44.00    CONT. Trustee's Motion to Dismiss Case failure to make plan payments**

From: 2/29/24

EH \_\_\_\_

Docket      30

**\*\*\* VACATED \*\*\*    REASON: CONVERTED TO CHAPTER 7 ON 3/18/24**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Michael Goode

Represented By  
Anerio V Altman

**Joint Debtor(s):**

Narda Goode

Represented By  
Anerio V Altman

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**8:24-10279 Joseph Patrick McCabe**

**Chapter 13**

**#45.00** Notice Of Motion And Motion By United States Trustee To Dismiss Case Pursuant To 11 U.S.C. §§ 1307(c), 105(a), 109(g), And 349 With A 180-Day Bar To Refiling; Points And Authorities; And Declaration Of Michael Hauser And Exhibits  
(Motion filed 2/22/24)

EH\_\_

Docket 8

**Tentative Ruling:**

3/28/2024

**BACKGROUND**

On February 5, 2024, Joseph McCabe ("Debtor") filed a *pro se* Chapter 13 voluntary petition. This was Debtor's third *pro se*, skeletal filing in two months; the prior two cases were summarily dismissed. After filing the petition documents, Debtor appears to have not taken any action to further prosecute the case.

On February 22, 2024, UST filed a motion to dismiss the case with a 180-day refiling bar.

**DISCUSSION**

The Court notes that dismissal of the case is clearly appropriate. In fact, absent the case being flagged for a potential request for a refiling-bar, the case would have



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room      6C**

10:30 AM

**CONT...      Joseph Patrick McCabe**

**Chapter 13**

already been dismissed for failure to file case commencement documents.

The court notes that it empowered to impose a refiling bar under 11 U.S.C. § 349(a). As COLLIER notes, courts' analysis of this section is somewhat confused due to confounding "dismissal with prejudice" with "dismissal with injunction against future filings." COLLIER ON BANKRUPTCY ¶ 349.02[3]. At a minimum, however, the Court is empowered to impose a refiling bar under § 349(a) for the reasons set forth in § 109(g) --- including "failure to appear before the court in proper prosecution of the case" and "failure of the debtor to abide by orders of the court."

Here, failure to attend the meeting of creditors, failure to file any of the documents required by the Code and Rules, and failure to appear for the confirmation hearing, satisfies the § 349(a) and § 109(g) standard for dismissal with a re-filing bar. *See, e.g., In re Wen Hua Xu*, 386 B.R. 451, 456-57 (Bankr. S.D.N.Y. 2008) (failure to attend meeting of creditors is both failure to abide by orders of the court and failure to appear before the court in proper prosecution of the case); *see also In re Montgomery*, 37 F.3d 413 (8th Cir. 1994) ("Failure to attend a creditors meeting is a failure to obey a court order within the meaning of section 109(g)(1).").

Moreover, Debtor's failure to oppose is deemed consent to the relief requested pursuant to Local Rule 9013-1(h).

**TENTATIVE RULING**

The Court is inclined to GRANT the motion and dismiss the case with a 180-day re-filing bar.

APPEARANCES REQUIRED.

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

**Debtor(s):**

Joseph Patrick McCabe

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

10:30 AM

**CONT... Joseph Patrick McCabe**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

11:30 AM

**8:19-12141 Stephen Tague La Fountain and Rosemary Ann La**

**Chapter 13**

**#46.00** Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 GMC Acadia VIN# 1GKKNMLS0HZ224220 (Motion filed 2/29/24)

MOVANT: CONSUMER PORTFOLIO SERVICES, INC.

EH\_\_

**[Tele. appr. Kelli Brown, rep. Movant Consumer Portfolio Services]**

Docket 87

**Tentative Ruling:**

**3/28/2024**

**Service: Proper**

**Opposition: None**

Having reviewed the motion, service being proper, no opposition having been filed, which the Court deems consent to the relief requested pursuant to Local Rule 9013-1(h) and § 362(g)(2), and good cause appearing, the Court is inclined to:

- GRANT confirmation that there is no automatic stay in effect as to the vehicle, because the vehicle is not property of the estate under § 541(a)(1);
- GRANT waiver of Rule 4001(a)(3) stay;
- GRANT request under ¶ 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>
--------------------------

**Debtor(s):**

Stephen Tague La Fountain

Represented By  
Kevin Tang

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

11:30 AM

**CONT... Stephen Tague La Fountain and Rosemary Ann La**

**Chapter 13**

**Joint Debtor(s):**

Rosemary Ann La Fountain

Represented By  
Kevin Tang

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room      6C**

11:30 AM

**8:20-10855    Scott Bryan Sornbutnark**

**Chapter 13**

**#47.00**    Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 10726 Knott Avenue, Stanton, CA 90680-1969 (Motion filed 2/28/24)

MOVANT: US BANK NATIONAL ASSOCIATION

EH\_\_

**[Tele. appr. Nichole Glowin, rep. Movant US Bank National Association]**

Docket      61

**Tentative Ruling:**

**3/28/2024**

**Service: Proper**

**Opposition: None**

Having reviewed the motion, service being proper, no opposition having been filed, which the Court deems consent to the relief requested pursuant to Local Rule 9013-1(h) and § 362(g)(2), and good cause appearing, the Court is inclined to:

- GRANT relief from stay pursuant to § 362(d)(1);
- GRANT waiver of Rule 4001(a)(3) stay;
- GRANT requests under ¶ 2 and 3;
- DENY alternative request under ¶ 13 as MOOT.

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>
--------------------------

**Debtor(s):**

Scott Bryan Sornbutnark

Represented By  
John D Sarai

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

11:30 AM

**CONT... Scott Bryan Sornbutnark**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

11:30 AM

**8:23-10187 Frances Carmen Donoghue**

**Chapter 13**

**#48.00** CONT. Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 5346 Barrett Circle, Buena Park, CA 90621  
(Motion filed 2/5/24)

From: 2/29/24

MOVANT: MIDFIRST BANK

EH\_\_

**[Tele. appr. Darlene C. Vigil, rep. Movant MidFirst Bank]**

**[Tele. appr. Anthony Mikhail, rep. Debtor]**

Docket 48

**Tentative Ruling:**

**2/29/2024**

**Service: Proper**

**Opposition: None**

Having reviewed the motion, service being proper, no opposition having been filed, which the Court deems consent to the relief requested pursuant to Local Rule 9013-1(h) and § 362(g)(2), and good cause appearing, the Court is inclined to:

- GRANT relief from stay pursuant to § 362(d)(1);
- GRANT waiver of Rule 4001(a)(3) stay;
- GRANT requests under ¶¶ 2, 3, and 12;
- DENY alternative request under ¶ 13 as moot.

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

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room 6C**

11:30 AM

**CONT... Frances Carmen Donoghue**

**Chapter 13**

Party Information
-------------------

**Debtor(s):**

Frances Carmen Donoghue

Represented By  
Michael T Reid

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

11:30 AM

**8:23-10635    Krista Ann Armogida**

**Chapter 13**

**#49.00**    Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2020 VOLKSWAGEN TIGUAN 3VV3B7AX9LM147898 (Motion filed 2/29/24)

MOVANT: VW CREDIT, LTD.

EH\_\_

Docket        35

**\*\*\* VACATED \*\*\*    REASON: WITHDRAWAL OF MOTION FILED 3/22/24**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Krista Ann Armogida

Represented By  
Jacqueline D Serrao

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

11:30 AM

**8:24-10470 John Frank Grajeda**

**Chapter 13**

**#50.00** Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 365 S. Heatherstone St. Orange CA 92869 .  
(Motion filed 3/14/24)

MOVANT: JOHN FRANK GRAJEDA

EH\_\_

Docket 13

**Tentative Ruling:**

**3/28/2024**

**Service: Improper  
Opposition: None**

Judge Houle's miscellaneous instructions require that motions to continue the automatic stay be served on secured creditors pursuant to FED. R. BANKR. P. Rule 7004.

Here, it appears that the two secured creditors that are the subject of the instant motion were both served at PO boxes. In addition, it appears from Debtor's declaration in support that he does not have "regular income" so as to qualify as a Chapter 13 debtor.

Based on the foregoing, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

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

**Debtor(s):**

John Frank Grajeda

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

11:30 AM

**CONT...**

**John Frank Grajeda**

**Chapter 13**

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room 6C**

11:30 AM

**8:24-10577 Erica Duarte Bruce**

**Chapter 13**

**#51.00** Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 11931 Buckingham Circle Garden Grove, CA 92840 with Declaration of Debtor in Support, Exhibits A-G, and Certificate of Service.  
(Motion filed 3/12/24)

MOVANT: ERICA DUARTE BRUCE

EH\_\_

**[Tele. appr. Alyssa B. Klausner, rep. creditor, Garden Valley Homeowners' Assn]**

**[Tele. appr. Andrew A. Moher, rep. Debtor]**

Docket 11

**Tentative Ruling:**

**3/28/2024**

**Service: Adequate**

**Opposition: None**

11 U.S.C. § 362(c)(3)(A) provides that the automatic stay expires on the 30th day of this case because Debtor had a previous case dismissed in the preceding 1-year period. Section 362(c)(3)(B) provides that the Court can extend the automatic stay if Debtor "demonstrates that the filing of the later case is in good faith as to the creditors to be stayed." Section 362(c)(3)(C)(i)(II)(CC) provides for a presumption of bad faith if the previous case was dismissed due to failure to "perform the terms of a plan confirmed." And section 362(c)(3)(C)(ii) provides that there is a presumption as to bad faith as to any creditor that obtained relief from the automatic stay. Section § 362(c)(3)(C) requires that a debtor rebut the presumption of bad faith "by clear and convincing evidence."

The Court has reviewed the motion, and, as to the merits, finds that Debtor has

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

11:30 AM

**CONT...**

**Erica Duarte Bruce**

**Chapter 13**

provided sufficient evidence to rebut the presumption of bad faith arising under § 362(c)(3)(C)(i)(II)(CC) because Debtor has provided meaningful evidence of recent efforts to obtain increased income, and the Court also notes that the prior case was maintained for nearly three years.

On that basis, the Court is inclined to GRANT the motion.

APPEARANCES REQUIRED.

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

**Debtor(s):**

Erica Duarte Bruce

Represented By  
Andrew Moher

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

12:00 PM

**8:15-11398 Rosa M Harding**

**Chapter 13**

**#52.00** CONT. STATUS CONFERENCE Regarding Procedure for the Presentation of Evidence in Support of Damages

**[EVIDENTIARY HEARING]**

[Holding Date]

From: 9-15-22, 10-6-22, 10/27/22, 1/26/23, 4/13/23, 8/17/23

[Cont. from Judge Smith's calendar]

EH\_\_

Docket 158

**Tentative Ruling:**

**July 28, 2022**

Find Bank of New York Mellon and NewRez dba Shellpoint Mortgage Servicing (Respondents) in contempt of Debtor's Section 524(a) Discharge Order and award compensatory damages in the amount of \$2,548. Deny Debtor's request for an award of emotional distress and punitive damages as well as attorneys due to Debtor's failure to quantify any amount for such damages despite having two months to do so.

Basis for Tentative Ruling:

Preliminary Statement: The incorporates herein, the following finding from its June 14, 2022 Order to Show Cause Re Contempt for Violation of Discharge Injunction [Dkt. 163]:

*The Court has reviewed the Declaration of Rosa Harding in support of the*

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

12:00 PM

**CONT...**

**Rosa M Harding**

**Chapter 13**

*Contempt Motion filed on May 17, 2022 ("Declaration") [dkt. 155]. Exhibit B to the Declaration is the "Response to Notice of Final Cure Payment" filed by Lender on May 20, 2020 ("Response"). The Response was executed on May 20, 2020 and indicates that as of such date, Debtor had cured all prepetition arrearages and was current on all postpetition payments. See Response, Part 2 and Part 3. Notwithstanding this representation, Lender apparently sent Debtor a mortgage account statement with a payment due date of May 1, 2020 showing a "Past Unpaid Amount" of \$963.35. See Exhibit D to the Declaration. The stated unpaid \$963.35 payment (presumably incurred in April 2020 or earlier) is inconsistent with the Response, appears on subsequent mortgage account statements, and appears to form the basis for the possible institution of foreclosure proceedings. See Exhibits D and E to the Declaration.*

Respondents' Request that the OSC be Consolidated with the  
Adversary Proceeding is Denied:

The Ninth Circuit has made clear that the proceedings for violations of the discharge injunction must be initiated by motion and not by adversary proceeding. See, *In re Barrientos v. Wells Fargo Bank, N.A.*, 633 F.3d 1186, 1191 (9th Cir. 2011).

Debtor filed a motion for an Order to Show Cause ("OSC") ("Motion") [dkt. 154] along with a supporting declaration [dkt. 155]. The Court issued the OSC on June 14, 2022 [dkt. 158]. NewRez and BNYM (together, "Creditors" or "Respondents") filed an opposition ("Opposition") [dkt. 163] and Debtor filed a reply ("Reply") [dkt. 164] to the Opposition.

**A. The Motion Should Be Granted Under § 105**

Under 11 U.S.C. § 105(a), a bankruptcy court has the authority to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." Contempt proceedings are governed by Rule 9020, which states that Rule 9014 governs a motion for an order of contempt. The bankruptcy court has the authority to impose civil contempt sanctions under § 105(a). *Knupfer v. Lindblade (In re Dyer)*, 322 F.3d 1178,

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

12:00 PM

**CONT... Rosa M Harding**

**Chapter 13**

1189–90 (9th Cir.2003); *Walls v. Wells Fargo Bank*, 276 F.3d 502, 507 (9th Cir.2002).

To find a party in civil contempt, the court must find that the offending party knowingly violated a definite and specific court order, and the moving party has the burden of showing the violation by clear and convincing evidence. *In re Dyer*, 322 F.3d at 1190–91; *In re Wallace*, 490 B.R. 898, 905 (B.A.P. 9th Cir. 2013). But "civil contempt should not be resorted to where there is a fair ground of doubt as to the wrongfulness of the defendant's conduct." *Taggart v. Lorenzen*, 139 S.Ct. 1795, 1801-02 (2019)(citation omitted)(establishing the objective fair ground of doubt standard in the context of a discharge order).

The burden then shifts to the contemnors to demonstrate why they were unable to comply. *FTC v. Affordable Media*, 179 F.3d 1228, 1239 (9th Cir.1999). A person fails to act as ordered by the court when he fails to take all the reasonable steps within his power to insure compliance with the court's order. *Shuffler v. Heritage Bank*, 720 F.2d 1141, 1146–47 (9th Cir.1983).

1. The Discharge Injunction Was Definite and Specific

On July 9, 2020, the Court entered a discharge order for Debtor. The discharge injunction was definite. As acknowledged by both parties, a discharge operates as a permanent injunction that bars creditors from collecting or attempting to recover debts post-issuance. The violation of a permanent discharge injunction allows a debtor to move the court for issuance of an order to show cause.

2. Creditors Had Notice of the Discharge Injunction

Creditors had notice of the order which granted the discharge. Harding Decl., ¶4. On April 29, 2020, the Chapter 13 Trustee filed a Notice of Final Cure concerning Creditors' claim. Creditors filed their Response to Notice of final cure almost a month later and the Order of Discharged was entered on July 9, 2020. Creditors received notice of the discharge and do not deny having notice of the discharge



**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

12:00 PM

**CONT...**

**Rosa M Harding**

**Chapter 13**

3. Creditors Violated the Discharge Injunction

When determining whether an alleged contemnor has violated a court order, "the focus is not on the subjective beliefs or intent of the contemnors in complying with the order, but whether in fact their conduct complied with the order at issue." *Dyer*, 322 F.3d at 1191 (internal quotes omitted). This general objective standard was reaffirmed by the Supreme Court in *Taggart v. Lorenzen*, 139 S. Ct. 1795, 1804 (2019)(analyzing civil contempt in the context of a discharge violation) in which the Court explained that "a party's subjective belief that she was complying with an order ordinarily will not insulate her from civil contempt if that belief was objectively unreasonable." *In re Freeman*, 608 B.R. 228, 234 (B.A.P. 9th Cir. 2019)(quoting *Taggart*, 139 S.Ct. at 1802). Thus, a party may be held in civil contempt if there is not a "fair ground of doubt" as to whether the alleged conduct might be lawful. See, *Taggart*, *supra*, at 1804.

Subjective good faith belief is not always irrelevant, however, because "a party's good faith, even if it does not prevent a finding of civil contempt, might help determine the appropriate sanction." *Freeman*, 608 B.R. at 234 (citing *Taggart*, 139 S.Ct. at 1802). As such, "advice of counsel and good faith conduct do not relieve from liability for a civil contempt, although they may affect the extent of the penalty." *TWM Mfg. Co. v. Dura Corp.*, 722 F.2d 1261, 1273 (6th Cir. 1983).

A person fails to act as ordered by the court when he fails to take all the reasonable steps within his power to ensure compliance with the court's order. *Shuffler v. Heritage Bank*, 720 F.2d 1141, 1146–47 (9th Cir.1983). The burden is on the contemnors to demonstrate why they were unable to comply. *FTC v. Affordable Media*, 179 F.3d 1228, 1239 (9th Cir.1999). However, "the party asserting the impossibility defense must show "categorically and in detail" why he is unable to comply." *Id.* at 1241.

"We begin our analysis with the premise that the automatic stay does not prevent all communications between a creditor and the debtor. Whether a communication is a permissible or prohibited one is a fact-driven inquiry which makes any bright line test unworkable." *In re Zotow*, 432 B.R. 252, 258 (B.A.P. 9th Cir. 2010) (citations omitted). "Prohibited communications

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

12:00 PM

**CONT...**

**Rosa M Harding**

**Chapter 13**

include those where direct or circumstantial evidence shows the creditor's actions were geared toward collection of a prepetition debt, were accompanied by coercion or harassment, or otherwise put pressure on the debtor to pay." *Id.* "But mere requests for payment and statements simply providing information to a debtor are permissible communications that do not run afoul of the stay." *Id.*

"In the end, one distinguishing factor between permissible and prohibited communications is evidence indicating harassment or coercion. When such evidence is present, a disclaimer on the communication that it was being sent for "informational purposes only" is ineffective." *Id.*

The Ninth Circuit BAP has previously held that telephone calls and written correspondence from a loan servicer constituted knowing and willful violations, despite including a disclaimer. *In re Marino*, 577 B.R. 772 (B.A.P. 9th Cir. 2017). In that case, the court specifically states as part of its reasoning for finding that disclaimer language did not protect creditor from liability that (1) creditor did not have the disclaimer language in 7 of the 22 letters sent, (2) thirteen of the fifteen letters with disclaimers spoke of bankruptcy as a hypothetical possibility (e.g., "if you filed for bankruptcy and your case is still active, or if you have received an order of discharge, please be advised that this is not an attempt to collect a prepetition or discharged debt"), and (3) the body of the letters were contradictory in that the letter asserts that the debtor must pay the debt, but the disclaimer at the end states that debtor need not pay the debt. *Id.* at 785.

In this case, Creditors do not dispute that it continued to send monthly "informational statements" to Debtor. Instead, Creditors argue that the disclaimers included on the documents preclude them from liability from attempting to collect and merely inform Debtor on how to voluntarily pay the balance in order to retain the Property. The language of the disclaimer specifically provides: "Our records show that you are a debtor in bankruptcy. We are sending this statement to you for information and compliance purposes only. It is not an attempt to collect a debt against you."

However, Creditors' arguments are unpersuasive. First, the disclaimer Creditors rely on only appears on 5 of the 25 mortgage statements included in

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

12:00 PM

**CONT...**

**Rosa M Harding**

**Chapter 13**

Debtor's Declaration, substantially less than in *In re Marino*. Harding Decl., Ex. D. Second, the other 20 mortgage statements include the "if" you are in bankruptcy or have received a discharge language even though Creditors knew that Debtor did indeed receive a discharge. *Id.* Third, 20 of the mortgage statements have conflicting information. *Id.* On the second page of each statement, it says that NewRez is a debt collector and this is an attempt to collect a debt while also stating that this is neither a demand for payment nor a notice of personal liability "if" you are a customer who received a bankruptcy discharge of this debt. *Id.* Again, this language can be viewed as contradictory and confusing, especially since there is a presence of a due date along with the lack of description of the debt other than "Overdue Payment." *Id.*

Fourth, Despite Debtor's attempts to communicate the discharge to Creditors, she continued to receive the account statements. Harding Decl., ¶ 24. Eventually, the balance of the "overdue payments" even increased from \$963.35 to \$1,298.66. Harding Decl., ¶15. Fifth, Debtor received six letters threatening foreclosure. Harding Decl., ¶23; Ex. E. While those letters also have a disclaimer, they use uncertain language such as "to the extent your obligation has been discharged... this notice is for informational purposes only and does not constitute a demand for payment." Creditors' consistent correspondence should establish a knowing and willful violation. Mot., Ex. E; Harding Decl., ¶10, 13.

Finally, the Creditors' Opposition did not demonstrate why they were unable to comply with the discharge order. They do not address Debtor's claims that Creditors sent certified letters threatening foreclosure, nor do they explain why they refused to respond to Debtor's communications and attempts to stop Creditors from sending the monthly statements. Creditors did not sufficiently demonstrate why they continued to send the documents to Debtor and, thus, did not meet their burden after the Court issued the OSC.

**B. Civil Sanctions Are Warranted**

Civil sanctions must either be compensatory or designed to coerce compliance." *Id.* at 1059 (quoting *Knupfer v. Lindblade (In re Dyer*, 322 F.3d

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

12:00 PM

**CONT...**

**Rosa M Harding**

**Chapter 13**

1178, 1192 (9th Cir. 2003)); *Brace v. Speier* (*In re Brace*), 2019 Bankr. LEXIS 80 at \*21 (B.A.P. 9th Cir. 2019). Civil contempt sanctions may include compensatory damages which include reimbursement of reasonable attorneys' fees, the imposition of a daily coercive (but not punitive) fine, and in extreme cases, incarceration, See, e.g., *Gharib v. Casey* (*In re Kenny G. Enterprises, LLC*), 692 Fed.Appx. 950, 953 (9th Cir. 2017).

"If the bankruptcy court finds that the creditor here willfully violated the injunction, it shall, at the very least, impose sanctions to the extent necessary to make Espinosa whole. See 2 Collier Bankruptcy Manual (3d rev. ed.) ¶ 524.02[2][c] ("In cases in which the discharge injunction was violated willfully, courts have awarded debtors actual damages, punitive damages and attorney's fees.") (footnote omitted)." *Espinosa v. United Student Aid Funds*, 553 F.3d 1193, 1205 N7 (9th Cir. 2008). "[W]hen a bankruptcy court exercises the contempt authority of § 105(a), it may not impose serious punitive sanctions." *Knupfer v. Lindblade* (*In re Dyer*), 322 F.3d 1178, 1195 (9th Cir. 2003).

"[N]ot every willful violation of the automatic stay 'merits compensation for emotional distress.' *Id.* The Ninth Circuit placed the burden of proof on the claimant to establish 'the individual suffered significant emotional harm' and the 'nexus between the claimed damages and the violation of the stay.' *Id.* at 1149–50. In other words, '[t]he individual must be 'injured by' the violation to be eligible to claim actual damages.' *Id.* at 1150. See, e.g., *Bishop v. U.S. Bank/Firststar Bank, N.A.* (*In re Bishop*), 296 B .R. 890, 895–97 (Bankr.S.D.Ga.2003) (the causal connection between the stay violator's acts and the claimant's emotional distress must be clearly established or readily apparent)." *In re Bauer*, No. BAP.EC-09-1281-DMKH, 2010 WL 6452899, at \*9 (B.A.P. 9th Cir. Apr. 8, 2010) (quoting *Dawson v. Washington Mut. Bank, F.A.* (*In re Dawson*), 390 F.3d 1139, 1149 (9th Cir.2004)).

A claimant can establish emotional distress damages by corroborating medical evidence and "non-experts, such as family members, friends, or coworkers, may testify to manifestations of mental anguish and clearly establish that significant emotional harm occurred." *In re Bauer*, No. BAP.EC-09-1281-DMKH, 2010 WL 6452899, at \*9 (B.A.P. 9th Cir. Apr. 8,

**United States Bankruptcy Court  
Central District of California**

Santa Ana

Mark Houle, Presiding  
Courtroom 6C Calendar

Thursday, March 28, 2024

Hearing Room

6C

12:00 PM

CONT...

**Rosa M Harding**

**Chapter 13**

2010) (quoting *Dawson v. Washington Mut. Bank, F.A. (In re Dawson)*, 390 F.3d 1139, 1149 (9th Cir.2004)). "In some cases significant emotional distress may be readily apparent even without corroborative evidence. For example, the violator may have engaged in egregious conduct... See, e.g., *United States v. Flynn (In re Flynn)*, 185 B.R. 89, 93 (S.D.Ga.1995) (affirming \$5,000 award of emotional distress damages, with no mention of corroborating testimony, because "it is clear that appellee suffered emotional harm" when she was forced to cancel her son's birthday party because her checking account had been frozen, even though the stay violation was brief and not egregious). *In re Bauer*, No. BAP.EC-09-1281-DMKH, 2010 WL 6452899, at \* 9 (B.A.P. 9th Cir. Apr. 8, 2010) (quoting *Dawson v. Washington Mut. Bank, F.A. (In re Dawson)*, 390 F.3d 1139, 1149 (9th Cir.2004)).

Here, Debtor requests the awards in the form of compensatory damages, attorney's fees, emotional distress damages, and punitive damages. Debtor provides evidence of her emotional distress via her declaration, in which she states she suffers from sleep deprivation, anger, worrying, anxiety, frustration, anger, she easily becomes upset, and "other physical manifestations of emotional injury." Harding Decl., ¶27. However, Debtor does not make a specific dollar request for any of the damages. In her motion requesting the issuance of the OSC filed on May 17, 2022, Debtor requested that damages for emotional distress, punitive damages and for attorneys be awarded "according to proof." Debtor's reply, filed on July 14, 2022 provides no "proof."

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

Rosa M Harding

Represented By

Thomas E Brownfield

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room 6C**

12:00 PM

**8:15-11398 Rosa M Harding**

**Chapter 13**

Adv#: 8:22-01048 Harding v. THE BANK OF NEW YORK MELLON et al

**#53.00** CONT. STATUS CONFERENCE RE: Complaint for: (1) Willful Violation Of The Automatic Stay 11 USC Section 362; (2) Violation Of Discharge Injunction 11 USC Section 524(i); (3) Violation Of Fed R Bankr P Rule 3002.1(c); (4) Objection to Claim Fed R Bankr P 3007; (5) Declaratory Relief

From: 4/6/22, 8/18/22, 4/13/23, 8/17/23

Second Cause of Action for violation of discharge injunctions is dismissed with prejudice as to Defendant.on 3/27/23

Plaintiffs Fourth Cause of action for objection to claim is dismissed without prejudice as to Defendant on 3/27/23

Plaintiff's Fifth Cause of Action for declaratory relief is dismissed with prejudice as to Defendant on 3/27/23

EH\_\_

Docket 1

**Tentative Ruling:**

**August 18, 2022**

The parties need to appear and advise the court of the remaining issues to be determined with respect to the adversary proceeding in light of the court's recent ruling finding Defendants NewRez and BNYM in violation of the discharge injunction in the main bankruptcy case.

**Basis for Tentative Ruling:**

The allegations in the Complaint appear to largely mirror the allegations relevant to the Order to Show re Contempt that was addressed by the court in

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Mark Houle, Presiding  
Courtroom 6C Calendar**

**Thursday, March 28, 2024**

**Hearing Room**

**6C**

12:00 PM

**CONT...**

**Rosa M Harding**

**Chapter 13**

the main bankruptcy case. To the extent that issues remain to be adjudicated (exclusive of the bifurcated hearing on damages in the main case), the following schedule will apply.

Discovery Cut-off Date:	1/31/23
Pretrial Conference Date:	4/6/23 at 9:30 a.m.
Deadline to file Joint Pretrial Stipulation:	3/23/23

*Special Note: This case/adversary proceeding will be reassigned to Judge Scott Clarkson (Ctrm 5C) on September 1, 2022 due to Judge Smith's upcoming retirement.*

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

Rosa M Harding

Represented By  
Thomas E Brownfield

**Defendant(s):**

THE BANK OF NEW YORK

Pro Se

NewRez LLC

Pro Se

COMMUNITY LOAN

Pro Se

**Plaintiff(s):**

Rosa M Harding

Represented By  
Thomas E Brownfield

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se