

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

Thursday, April 11, 2024

Hearing Room 6C

10:30 AM

8:23-12137 Andrei Leontieff

Chapter 13

#1.00 CONT. Confirmation of Chapter 13 Plan

From: 12/14/23, 1/25/24, 2/29/24

EH__

[Tele. appr. Allan Sarver, rep, secured creditor, MC LLC]

Docket 36

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Andrei Leontieff

Represented By
Parisa Fishback

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:23-12724 Paul Jorge Motonaga

Chapter 13

#2.00 CONT. Confirmation of Chapter 13 Plan

From: 2/15/24, 3/28/24

EH__

Docket 27

Tentative Ruling:

- NONE LISTED -

Party Information

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:23-12749 Mohammad Rad

Chapter 13

#3.00 CONT. Confirmation of Chapter 13 Plan

From: 2/29/24, 3/28/24

EH__

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:24-10015 Johnny Phan

Chapter 13

#4.00 CONT. Confirmation of Chapter 13 Plan

From: 2/29/24

EH__

[Tele. appr. Kristin Schuler-Hintz, rep. creditor, Wells Fargo Bank]

Docket 21

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Johnny Phan

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:24-10039 Santos Lagunas

Chapter 13

#5.00 CONT. Confirmation of Chapter 13 Plan

From: 2/29/24

EH__

Docket 29

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Santos Lagunas

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:24-10050 Dan Michael Gailey

Chapter 13

#6.00 CONT. Confirmation of Chapter 13 Plan

From: 3/14/24

EH__

[Tele. appr. Raymond Perez, rep. Debtor]

Docket 20

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Dan Michael Gailey

Represented By
Raymond Perez

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:24-10154 Joshua J. Pratt

Chapter 13

#7.00 Cont. Confirmation of Chapter 13 Plan

From: 3/28/24

EH__

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:24-10326 Michael Benjamin Bracci

Chapter 13

#8.00 Confirmation of Chapter 13 Plan

EH__

Docket 1

*** VACATED *** REASON: CASE DISMISSED 2/26/24

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Benjamin Bracci

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:24-10333 Malcolm Louis Felix, Sr

Chapter 13

#9.00 Confirmation of Chapter 13 Plan

EH__

Docket 1

***** VACATED *** REASON: CASE DSIMISSED 2/26/24**

Tentative Ruling:

- NONE LISTED -

Party Information

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:24-10343 Rosa Maria Dominguez

Chapter 13

#10.00 Confirmation of Chapter 13 Plan

EH__

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rosa Maria Dominguez

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:24-10348 Sylvia Prata

Chapter 13

#11.00 Confirmation of Chapter 13 Plan

EH__

Docket 10

***** VACATED *** REASON: CONVERTED TO CHAPTER 7 ON 4/8/24**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sylvia Prata

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:24-10352 Winnie T Nguyen

Chapter 13

#12.00 Confirmation of Chapter 13 Plan

EH__

Docket 14

***** VACATED *** REASON: CASE DISMISSED 3/12/24**

Tentative Ruling:

- NONE LISTED -

Party Information

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:24-10367 Bryan Esteban Giraldo and Carolina Evett Giraldo

Chapter 13

#13.00 Confirmation of Chapter 13 Plan

EH__

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bryan Esteban Giraldo

Represented By
Michael Smith

Joint Debtor(s):

Carolina Evett Giraldo

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:24-10371 Sean Edward Frankhouse

Chapter 13

#14.00 Confirmation of Chapter 13 Plan

EH__

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

[Tele. appr. Lawrence Hilton, rep. creditor, Joseph Liu]

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sean Edward Frankhouse

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:24-10391 Pouran Asgari

Chapter 13

#15.00 Confirmation of Chapter 13 Plan

EH__

**[Tele. appr. Kristin Schuler-Hintz, rep. creditor, JPMorgan Chase Bank,
National Association]**

[Tele. appr. Fritz Firman, rep. Debtor]

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pouran Asgari

Represented By
Joseph A Weber

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:24-10396 Damion Nicholas Mahr

Chapter 13

#16.00 Confirmation of Chapter 13 Plan

EH__

[Tele. appr. Gordon May, rep. creditor BS Investors, LP]

[Tele. appr. Jenell Arnold, rep. creditor, Rocket Mortgage]

[Tele. appr. Makoto Shuttleworth, rep. Debtor]

Docket 21

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Damion Nicholas Mahr

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:24-10397 Cristobal Acosta

Chapter 13

#17.00 Confirmation of Chapter 13 Plan

EH__

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cristobal Acosta

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:24-10399 Ryan Thomas Isbell and Deborah A. Isbell

Chapter 13

#18.00 Confirmation of Chapter 13 Plan

EH__

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ryan Thomas Isbell

Represented By
Halli B Heston

Joint Debtor(s):

Deborah A. Isbell

Represented By
Halli B Heston

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:24-10401 Tionna Marie Alvarez

Chapter 13

#19.00 Confirmation of Chapter 13 Plan

EH__

Docket 1

***** VACATED *** REASON: CASE DISMISSED 3/6/24**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tionna Marie Alvarez

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:24-10405 Matthew Alexander Karam

Chapter 13

#20.00 Confirmation of Chapter 13 Plan

EH__

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Matthew Alexander Karam

Represented By
Halli B Heston

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:24-10409 Michelle J. Thomas

Chapter 13

#21.00 Confirmation of Chapter 13 Plan

EH__

[Tele. appr. Fritz Firman, rep. Debtor]

[Tele. appr. Jenelle Arnold, rep. creditor, U.S. Bank National Association]

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michelle J. Thomas

Represented By
Joseph A Weber

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:23-12137 Andrei Leontieff

Chapter 13

#22.00 CONT. Motion RE: Objection to Claim Number 7 by Claimant Investment MC, LLC.
(Motion filed 1/19/24)

From: 2/29/24

EH__

[Tele. appr. Allan Sarver, rep, secured creditor, MC LLC]

Docket 38

Tentative Ruling:

2/29/2024

BACKGROUND:

On October 17, 2023, Andrei Leontieff ("Debtor") filed a Chapter 13 voluntary petition.

On November 29, 2023, Investment Management Company LLC ("Creditor") filed an objection to Debtor's Chapter 13 plan. On December 6 and 7, respectively, Debtor filed an amended plan and a reply to Creditor. On December 11, 2023, Creditor objected to Debtor's amended plan.

On December 19, 2023, Creditor filed a proof of claim for a secured claim in the amount of \$268,577.65 ("Claim 7").

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

Thursday, April 11, 2024

Hearing Room 6C

10:30 AM

CONT... **Andrei Leontieff**

Chapter 13

On January 18, 2024, Debtor filed an objection, contending that the claim should be reduced to \$234,150. Debtor asserts that the proof of claim does not substantiate the higher amount.

On February 12, 2024, Creditor filed an opposition to Debtor's claim objection.

Debtor has not filed a reply.

APPLICABLE LAW:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under FED. R. BANKR. PRO. Rule 3001(f). *See Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *In re Medina*, 205 B.R. 216, 222 (9th Cir. B.A.P. 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d

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

Thursday, April 11, 2024

Hearing Room 6C

10:30 AM

CONT... Andrei Leontieff

Chapter 13

at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *See In re Consol. Pioneer Mort*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *See Lundell*, 223 F.3d at 1039; *see also Holm*, 931 F.2d at 623.

As is required by LBR 3007-1, "an objection to claim must be supported by admissible evidence sufficient to overcome the evidentiary effect of a properly documented proof of claim executed and filed in accordance with FRBP 3001. The evidence must demonstrate that the proof of claim should be disallowed, reduced, subordinated, re-classified, or otherwise modified."

ANALYSIS:

Debtor appears to take issue with several of items listed in Claim 7's supporting evidence. Specifically, Debtor's declaration appears to contest the validity of the following:

- (1) \$150 charge on November 1, 2022;
- (2) Late charges that exceed \$315 per payment;
- (3) Default payments in excess of \$21,000;
- (4) Advances in the amount of \$4,845.56.

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

Thursday, April 11, 2024

Hearing Room 6C

10:30 AM

CONT... Andrei Leontieff

Chapter 13

Regarding #1, Creditor concedes that the \$150 charge issued on November 1, 2022 was in error.

Regarding #4, Creditor asserts that the advances are for pre-petition costs related to foreclosure proceedings and postpetition attorney fees.

Regarding #2 and #3 --- which appear to overlap and constitute the primary dispute --- it appears that the discrepancy between the parties' positions can be attributed to the increased contractual default payment amount reflected on the Mortgage Proof of Claim Attachment. Specifically, Debtor calculates each default interest payment as \$2,100, while Creditor shows the default payment as \$4,248 (with further increases) beginning on January 1, 2023.

While Debtor appears to concede the appropriateness of a 15% late charge, Debtor seems to ignore the application of the late change to the default interest rate. Creditor, however, has not provided any clear accounting that explains the effect of the default interest rate on the monthly plan payments --- instead the opposition is focused on the appropriateness of the default interest rate in general, while also addressing secondary issues.

Given that Creditor has not meaningfully explained the calculations of default interest, the issue remains unclear.

TENTATIVE RULING

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

Thursday, April 11, 2024

Hearing Room 6C

10:30 AM

CONT... Andrei Leontieff

Chapter 13

Creditor to explain the calculation of the default interest rate in the amended ledger.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Andrei Leontieff

Represented By
Parisa Fishback

Movant(s):

Andrei Leontieff

Represented By
Parisa Fishback

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:19-10364 Zachary Nevada Wakefield and Nicole James Wakefield

Chapter 13

#23.00 Trustee's Motion to Dismiss Case

EH__

Docket 99

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/1/24**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Zachary Nevada Wakefield

Represented By
Anthony B Vigil

Joint Debtor(s):

Nicole James Wakefield

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:20-10018 Elizabeth Ann Beech

Chapter 13

#24.00 CONT. Trustee's Motion to Dismiss Case

From: 2/29/24

EH__

Docket 137

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/2/24**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Elizabeth Ann Beech

Represented By
Seema 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, April 11, 2024

Hearing Room 6C

10:30 AM

8:22-10127 Jason M Lee and Janice Chen

Chapter 13

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

From: 2/15/24, 2/29/24

EH__

Docket 188

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jason M Lee

Represented By
Christopher J Langley
Michael Smith

Joint Debtor(s):

Janice Chen

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:22-11138 Anh T. Nguyen and Lynn T. Nguyen

Chapter 13

#26.00 CONT. Trustee's Motion to Dismiss Case

Also #26.1

From: 2/29/24

EH__

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

Docket 66

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anh T. Nguyen

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Lynn T. Nguyen

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:22-11138 Anh T. Nguyen and Lynn T. Nguyen

Chapter 13

#26.10 Motion under Local Bankruptcy Rule 3015-1 (n) and (w) to modify plan or suspend plan payments
(Motion filed 2/28/24)

EH__

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

Docket 70

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Anh T. Nguyen

Represented By
Joseph A Weber
Fritz J Firman

Joint Debtor(s):

Lynn T. Nguyen

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:23-11023 Rody Helsa Nakamura

Chapter 13

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

From: 2/29/24

EH ____

Docket 32

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
4/2/24**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rody Helsa Nakamura

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, April 11, 2024

Hearing Room 6C

10:30 AM

8:23-11967 Khanh P. Uy

Chapter 13

#28.00 Trustee's Motion to Dismiss Case failure to make plan payments.
(Motion filed 3/21/24)

EH__

Docket 30

***** VACATED *** REASON: CASE CONVERTED TO CHAPTER 7 ON
4/9/24**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Khanh P. Uy

Represented By
Tina H Trinh

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, April 11, 2024

Hearing Room 6C

11:30 AM

8:20-10018 Elizabeth Ann Beech

Chapter 13

#29.00 CONT. Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 227 South Poplar Avenue, Brea, CA 92821

MOVANT: PENNYMAC LOAN SERVICES, LLC

From: 2/29/24

EH___

Docket 133

***** VACATED *** REASON: WITHDRAWAL OF MOTION FILED
3/19/24**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Elizabeth Ann Beech

Represented By
Seema 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, April 11, 2024

Hearing Room 6C

11:30 AM

8:22-10569 Manuel Ureno

Chapter 13

#30.00 CONT. Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 317 North Starfire Street, Anaheim, CA 92807 (Motion filed 11/22/23)

From: 12/14/23, 1/25/24, 2/29/24

MOVANT: THE BANK OF NEW YORK MELLON

EH__

[Tele. appr. Hadi Seyed, rep. moving party]

Docket 45

Tentative Ruling:

12/14/2023

Service: Proper

Opposition: Debtor and Trustee (limited)

Movant to apprise Court of the status of arrears.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Manuel Ureno

Represented By
Christopher J Langley

Movant(s):

THE BANK OF NEW YORK

Represented By
Sean C Ferry

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

Thursday, April 11, 2024

Hearing Room 6C

11:30 AM

CONT... Manuel Ureno

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, April 11, 2024

Hearing Room 6C

11:30 AM

8:23-11438 Burt Randy Weissman and Mary Candice Weissman

Chapter 13

#31.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6081 Lemon Ave., Long Beach, CA 90805 With Proof of Service.
(Motion filed 3/11/24)

MOVANT: UNITED WHOLESALE MORTGAGE LLC

EH__

[Tele. appr. Darlene Vigil, rep. moving party United Wholesale Mortgage LLC]

[Tele. appr. Brian J Soo-Hoo, rep. Debtors]

Docket 50

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Burt Randy Weissman

Represented By
Brian J Soo-Hoo

Joint Debtor(s):

Mary Candice Weissman

Represented By
Brian J Soo-Hoo

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, April 11, 2024

Hearing Room 6C

11:30 AM

8:23-12189 Neena Ram Singh Mehta

Chapter 13

#32.00 CONT. Motion to Bar Debtor from Filing Another Bankruptcy Case For At Least One Year

From: 2/15/24

*Specially set

EH ____

[Tele. appr. Todd Curry, rep. secured creditor, WVJP 2021-4, LP]

[Tele. appr. Russ Stong, rep. Debtor]

Docket 39

Tentative Ruling:

**MOTION TO BAR DEBTOR FROM FILING ANOTHER BANKRUPTCY CASE FOR AT LEAST
ONE YEAR**

2/15/2024

BACKGROUND

On October 24, 2023, Neena Mehta ("Debtor") filed a Chapter 13 voluntary petition. On the voluntary petition, Debtor stated that she lived at 5540 Stratford Cir., Buena Park, CA 90621 (the "Buena Park Property"); Debtor listed her mailing address as 12227 Iron Stone Dr., Rancho Cucamonga, CA 91739 (the "Rancho Cucamonga Property"). On Schedule C, Debtor exempted the Rancho Cucamonga Property in the

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

Thursday, April 11, 2024

Hearing Room 6C

11:30 AM

CONT... Neena Ram Singh Mehta

Chapter 13

amount of \$678,391. On Schedule E/F, Debtor listed a judgment entered on October 8, 2019, in favor of WVJP 2021-4 ("Creditor"), as an unsecured creditor, for 383,232.62.

On the same day, Debtor filed a Chapter 13 Plan ("Plan").

On November 24, 2023, creditor WVJP 2021-4 ("Creditor") filed an objection to the Plan ("Objection to Plan").

On December 13, 2023, the Trustee ("Trustee") objected to the claimed homestead exemption ("Trustee's Homestead Exemption Objection"). Trustee notes that the petition indicated that Debtor did not live at the Rancho Cucamonga Property. Trustee further noted that the amount of the exemption claim exceeded the statutory limit.

On the same day, Creditor filed a proof of claim for an amount as secured of \$587,559.66.

On December 14, 2023, the hearing on the Plan was continued for Debtor to file an amended plan and to wait for the bar date to pass.

On December 21, 2023, Creditor filed a joinder to Trustee's Homestead Exemption Objection. On January 11, 2024, the Court granted the Trustee's Homestead Exemption Objection on the record.

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

Thursday, April 11, 2024

Hearing Room 6C

11:30 AM

CONT... Neena Ram Singh Mehta

Chapter 13

On January 16, 2024, Debtor filed a motion for voluntary dismissal, and indicated that they had made no arrangements or agreements with any creditor or any other person in connection with this request for dismissal. On the same day, the case was dismissed.

On January 17, 2024, the order sustaining Trustee's Homestead Exemption Objection and disallowing Debtor's claim of homestead exemption was filed.

On January 22, 2024, Creditor filed the instant motion ("Motion") to bar Debtor from filing another bankruptcy case for at least one year and filed a memorandum of points and authorities to support the Motion. On the same day, general partner of Creditor Anthony O'Neill ("O'Neill") filed a declaration in support of the Motion (O'Neill Declaration). Also on the same day, counsel for Creditor K. Todd Curry ("Curry") filed a declaration in support of the Motion ("Curry Declaration").

On February 1, 2024, Debtor filed an opposition ("Opposition") to the Motion. On the same day, Debtor filed an addendum to her Chapter 13 petition, where Debtor listed the Rancho Cucamonga Property as her residential property. On the same day, Debtor also filed an amended Schedule C, where Debtor exempted the Rancho Cucamonga Property in the amount of \$473,875.

On February 8, 2024, Creditor filed a reply in support of the Motion ("Reply").

DISCUSSION

11 U.S.C. § 349 provides, in relevant part:

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

Thursday, April 11, 2024

Hearing Room 6C

11:30 AM

CONT... Neena Ram Singh Mehta

Chapter 13

(a) *Unless the court, for cause, orders otherwise*, the dismissal of a case under this title does not bar the discharge, in a later case under this title, of debts that were dischargeable in the case dismissed; nor does the dismissal of a case under this title prejudice the debtor with regard to the filing of a subsequent petition under this title, except as provided in section 109(g) of this title.

U.S.C. § 349(a) (emphasis added).

Creditor argues the instant case should be dismissed with prejudice under § 349(a) because Debtor filed the case in bad faith. *See In re Leavitt*, 171 F.3d 1219 (9th Cir. 1999) (bankruptcy case dismissed with prejudice because debtor's conduct amounted to bad faith and could fairly be described as egregious).

The following factors the Court should consider determining whether Debtor's case was filed in bad faith, as cause for dismissal with prejudice, are as follows:

- (1) whether the debtor misrepresented facts in her petition or plan, unfairly manipulated the Bankruptcy Code, or otherwise filed her Chapter 13 petition in an inequitable manner,
- (2) the number of filings by the debtor,
- (3) whether the debtor only intended to defeat state court litigation, and
- (4) whether egregious behavior is present.

See In re Leavitt, 171 F.3d at 1224.

Here, it does not appear the case was filed on grounds that would justify barring Debtor from filing a subsequent case. *See* 3 COLLIER ON BANKRUPTCY ¶ 349.02[2]

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

Thursday, April 11, 2024

Hearing Room 6C

11:30 AM

CONT... Neena Ram Singh Mehta

Chapter 13

(Richard Levin & Henry J. Sommer eds., 16th ed.) ("When a dismissal is predicated on grounds that would justify barring the debtor from discharge in the dismissed case or in the subsequent case, the court has the power to dismiss a case *with* prejudice."). The Court does have concerns regarding the issues raised in the Motion, including non-disclosure of the India property in the schedules, where Debtor resides, and the glaring lack of feasibility. However, the Debtor has presented evidence that, in the totality, takes these facts below those of *Leavitt*, and does not rise to the level of actionable bad faith in connection with the bankruptcy filing.

TENTATIVE RULING

Based on the foregoing, the Court is inclined to DENY the motion to bar Debtor from refile a case for at least one year.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Neena Ram Singh Mehta

Represented By
Matthew D. Resnik

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, April 11, 2024

Hearing Room 6C

11:30 AM

8:24-10469 Susan Jo Joseph

Chapter 13

#33.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2020 Mercedes-Benz SL Roadster, VIN: W1KJK6GA1LF061106 .
(Motion filed 3/14/24)

MOVANT: MERCEDES-BENZ TRUST SUCCESSOR IN INTEREST TO
DAIMLER TRUST

EH__

[Tele. appr. Randall Mroczynski, rep. moving party]

Docket 13

Tentative Ruling:

4/11/2024

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 request under ¶¶ 2, 5; and
- DENY alternative request under ¶ 11 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.

Party Information

Debtor(s):

Susan Jo Joseph

Represented By

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

Thursday, April 11, 2024

Hearing Room 6C

11:30 AM

CONT... Susan Jo Joseph

Andy C Warshaw

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, April 11, 2024

Hearing Room 6C

11:30 AM

8:24-10712 Robert E. Munck

Chapter 13

#34.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate at 54 Via Bacchus, Aliso Viejo, CA 92656 , Declaration of Debtor, with attached proof of service.
(Motion filed 3/28/24)
(Amended Notice of Motion filed 4/1/24)

MOVANT: ROBERT E. MUNCK

EH__

Docket 10

Tentative Ruling:

4/11/2024

**Service: Improper
Opposition: None**

Debtor had a previous case dismissed on March 15, 2024, less than one year prior to the instant petition date. The previous case was dismissed because Debtor failed to make plan payments. Therefore, the instant case was presumptively filed in bad faith pursuant to 11 U.S.C. § 362(c)(3)(C)(i)(II)(cc). The presumption of bad faith also arises under 11 U.S.C. § 362(c)(3)(C)(i)(III) because there is no evidence of a substantial change in Debtor's financial or personal affairs since the dismissal of her last bankruptcy case. Section 362(c)(3)(C) requires that the presumption of bad faith be rebutted by "clear and convincing" evidence.

Here, Debtor has not supported his motion to continue the automatic stay with any evidence to rebut the presumption of bad faith. The motion states that the Debtor's failure to make plan payments was due to a miscommunication as to the due date of the plan payment but does not substantiate this claim with any detail, nor does Debtor provide any detail as to his health condition so as to establish by clear and convincing evidence that he can confirm and consummate a plan.

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

Thursday, April 11, 2024

Hearing Room 6C

11:30 AM

CONT... Robert E. Munck

Chapter 13

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

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Robert E. Munck

Represented By
W. Derek May

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se