

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

Wednesday, December 4, 2024

Hearing Room 301

10:00 AM

6:24-14542 Jason Lutonsky

Chapter 7

#1.00 Pro se Reaffirmation Agreement Between Debtor and Capital One Auto Finance, a division of Capital One, in the amount of \$16,244.80, re: 2022 Kia Rio

EH__

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jason Lutonsky

Represented By
Nathan A Berneman

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

6:24-15055 Andrew Del Toro

Chapter 7

#2.00 Pro se Reaffirmation Agreement Between Debtor and Altura Credit Union in the amount of \$11,954.17, re: 2017 Volkswagen Jetta

EH__

Docket 14

Tentative Ruling:

- NONE LISTED -

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| Party Information |
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Debtor(s):

Andrew Del Toro

Pro Se

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

6:24-15417 Judith Manzano

Chapter 7

#3.00 Reaffirmation Agreement with Fort Liberty Federal Credit Union, in the amount of \$16,531.86, re: 2016 Ford F-150

EH__

Docket 8

Tentative Ruling:

- NONE LISTED -

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| Party Information |
|--------------------------|

Debtor(s):

Judith Manzano

Represented By
A. Rita Kostopoulos

Trustee(s):

Arturo Cisneros (TR)

Pro Se

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6:24-15957 Angelina Raquel Quezada

Chapter 7

#4.00 Pro se Reaffirmation Agreement Between Debtor and Arrowhead Credit Union re 2018 Toyota Camry in the amount of \$12,361.86

EH ____

Docket 9

Tentative Ruling:

- NONE LISTED -

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| Party Information |
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Debtor(s):

Angelina Raquel Quezada

Pro Se

Trustee(s):

Charles W Daff (TR)

Pro Se

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11:00 AM

6:24-10758 Angel Cabanyog and Angelica Cabanyog

Chapter 7

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

EH ____

Docket 24

Tentative Ruling:

12/04/2024

Service: Proper
Opposition: None

The application for compensation of the Trustee has been set for hearing on the notice required by LBR 2016-1. Pursuant to the Trustee's Final Report, the Court is inclined to APPROVE the following administrative expenses:

| | |
|---------------------|-------------------|
| Trustee's Fees: | <u>\$1,750.00</u> |
| Trustee's Expenses: | <u>\$126.36</u> |

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

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| Party Information |
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Debtor(s):

Angel Cabanyog

Represented By
Christopher Hewitt

Joint Debtor(s):

Angelica Cabanyog

Represented By
Christopher Hewitt

Trustee(s):

Robert Whitmore (TR)

Pro Se

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CONT... Angel Cabanyog and Angelica Cabanyog

Chapter 7

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11:00 AM

6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

#5.10 Application to Employ Marshack Hays Wood LLP as General Counsel
(Application filed 10/31/24)

[Placed on calendar by order entered 11/21/24]

EH__

[Tele. appr. Chad Haes, rep. chapter 7 trustee]

Docket 800

Tentative Ruling:

12/04/2024

Service: Proper
Opposition: None

BACKGROUND

On October 20, 2013, Debtor filed a voluntary Chapter 7 petition. On December 2, 2013, Trustee filed an application to employ Marschack Hays Wood LLP fka Marshack Hays LLP (the "Firm") as general counsel. On January 8, 2014, the Court entered an Order approving Trustee's application. On March 29, 2024, following seven adversary proceedings, several appeals, and a granted motion to close, the court closed this case.

Before the case closed, on September 23, 2021, a representative of the Trust scheduled a call with the trustees of Debtor's Principal, Douglas J. Roger's, personal Chapter 7 estate, to discuss a claim the estates held against the county of Riverside for defamation. This was an undisclosed prepetition defamation claim pursued in Riverside Superior Court in 2021 worth potentially millions of dollars. Over the next three years, negotiations ensued over the allocation between the estates.

On September 25, 2024, the United States Trustee filed a motion to reopen the chapter

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CONT... Douglas J Roger, MD, Inc., A Professional Corporat Chapter 7

7 bankruptcy case pursuant to 11 U.S.C. § 350(b), so a Trustee could be appointed to enforce the estate's rights in an asset left unadministered and/or unabandoned when the bankruptcy case initially closed. On September 26, 2024, the Court granted the motion to reopen.

On October 2, 2024, the Court filed a notice of appointment and acceptance of Arturo M. Cisneros as the Chapter 7 Trustee. Trustee asks that the Firm, previously approved by this Court earlier in the case, remain Trustee's counsel in the reopened case.

On November 21, 2024, the Court reviewed Trustee's application. The court noted several discrepancies in the application.

On November 25, 2024, Trustee filed a supplement in support of this motion. In the supplement, Trustee corrected the effective date for employment of the firm from December 2, 2013, to "effective as of the original effective date of the Firm's employment in 2013," not listing a specific date, and not addressing why the effective date should be set in 2013.

DISCUSSION

11 U.S.C. § 327(a) provides:

Except as otherwise provided in this section, the trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title.

The two threshold requirements an attorney must satisfy to serve as a debtor's attorney are therefore: (1) that the attorney is a disinterested person; and (2) that the attorney does not hold or represent an interest adverse to the estate. *See, e.g., In re Lincon Hosp. Med. Ctr., Inc.*, 234 Fed. Appx. 426, 428 (9th Cir. 2007).

FED. R. BANKR. P. Rule 2014 provides, in part:

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CONT...

Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

The application shall state the facts showing the necessity for the employment, the name of the person to be employed, the reasons for the selection, the professional services to be rendered, any proposed arrangement for compensation, and, to the best of the applicant's knowledge, all of the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

Under 11 U.S.C. § 101(14)(C), a "disinterested person" is defined as a person that

- (1) is not a creditor, an equity security holder or an insider;
- (2) is not and was not, within two years before the petition date, a director, officer or employee of the debtor;
- (3) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason.

An "adverse interest" is

- (1) possession or assertion of an economic interest that would tend to lessen the value of the bankruptcy estate; or [2] possession or assertion of an economic interest that would create either an actual or potential dispute in which the estate is a rival claimant; or (3) possession of a predisposition under circumstances that create a bias against the estate.

In re Log & Conventional Homes, Inc., 2011 WL 7145883 at *5 (B.A.P. 9th Cir. 2011). "Whether an interest is 'materially adverse' necessarily requires an objective and fact-driven inquiry." *In re AFI Holding, Inc.*, 530 F.3d 832, 848 (9th Cir. 2008). The representation of a corporate debtor and a shareholder may present a conflict that precludes disinterestedness. *See, e.g., In re Lee*, 94 B.R. 172, 177 (Bankr. C.D. Cal. 1988) ("Several reported opinions have disqualified a law firm that has represented both a corporate debtor and a shareholder."); *In re Hathaway Ranch P'ship*, 116 B.R. 208, 216 (Bankr. C.D. Cal 1990) (when retainer was a potentially avoidable transfer, attorney that received retainer was not disinterested).

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CONT... Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

11 U.S.C. § 328(a) provides:

The trustee, or a committee appointed under section 1102 of this title, with the court’s approval, may employ or authorize the employment of a professional person under section 327 or 1103 of this title, as the case may be, on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis. Notwithstanding such terms and conditions, the court may allow compensation different from the compensation provided under such terms and conditions after the conclusion of such employment, if such terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions.

The Court notes the correction in the supplement. Trustee, however, has not addressed why the Firm would need to be employed with an effective date during 2013 when the Firm has already submitted fee applications covering this period. The Court noted this issue in its November 21, 2024 order, and Trustee did not address it in its application or supplement.

There being no opposition, service being proper, Debtor having addressed the discrepancies in the previous filing, and for good cause appearing in Debtor’s motion, the Court is inclined to GRANT the motion approving the continued employment of the Firm but is inclined to set the effective date as September 2024 unless Trustee can explain why the effective date must be sometime during 2013.

APPEARANCES REQUIRED.

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| Party Information |
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Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer M Shaw
Michael S Kogan
George Hanover

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CONT... Douglas J Roger, MD, Inc., A Professional Corporat

Chapter 7

Trustee(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes
D Edward Hays
Franklin R Fraley Jr

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Hearing Room 301

2:00 PM

6:21-13994 Victoria Marie Coopman

Chapter 7

Adv#: 6:21-01118 CAPFLOW FUNDING GROUP MANAGERS LLC v. Coopman

#6.00 Motion To Stay Pending Appeal
(Motion filed 4/25/24)

[Placed on calendar by order entered 7/30/24]

EH__

Docket 68

*** VACATED *** REASON: ORDER DENYING MOTION ENTERED
8/28/24

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Victoria Marie Coopman

Represented By
W. Derek May

Defendant(s):

Victoria Marie Coopman

Represented By
W. Derek May

Movant(s):

Victoria Marie Coopman

Represented By
W. Derek May

Plaintiff(s):

CAPFLOW FUNDING GROUP

Represented By
Marshall F Goldberg

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

6:21-16162 Muna Badran

Chapter 7

Adv#: 6:22-01045 Whitmore v. Mahdawi

#7.00 CONT. Status Conference RE Complaint by Robert S. Whitmore against Mahmoud Mahdawi. Nature of Suit: (14 (Recovery of money/property - other))

From: 7/27/22, 9/28/22, 2/1/23, 3/29/23, 4/12/23, 5/17/23, 11/29/23, 5/29/24

EH__

[Tele. appr. Caroline Djang, rep. Plaintiff]

[Tele. appr. Derek May, rep. Defendant]

Docket 1

Tentative Ruling:

- NONE LISTED -

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| Party Information |
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Debtor(s):

Muna Badran

Represented By
John J Lebron

Defendant(s):

Mahmoud Mahdawi

Represented By
W. Derek May

Plaintiff(s):

Robert S. Whitmore

Represented By
Caroline Djang

Trustee(s):

Robert Whitmore (TR)

Represented By
Stephen B Mashney
Caroline Djang

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2:00 PM

6:23-11535 Okaysou Corporation

Chapter 7

Adv#: 6:23-01122 Okaysou Corporation v. Cao et al

#8.00 CONT. Status Conference re Complaint by Okaysou Corporation against Fudong Cao, Souxing Information Technology Company (Chongqing) Co., Ltd., Atomee Corp., Amazon.com Services, LLC, Amazon Capital Services, Inc.. (\$350.00 Fee Charge To Estate). (Attachments: # 1 Adversary Cover Sheet # 2 Summons) Nature of Suit: (14 (Recovery of money/property - other)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)))

From: 2/14/24, 8/21/24

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 3/12/25 BY ORDER
ENTERED 11/15/24**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Okaysou Corporation

Represented By
Vahe Khojayan

Defendant(s):

Fudong Cao

Pro Se

Souxing Information Technology

Pro Se

Atomee Corp.

Pro Se

Amazon.com Services, LLC

Represented By
Brandy A Sargent

Amazon Capital Services, Inc.

Represented By
Brandy A Sargent

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CONT... Okaysou Corporation

Chapter 7

Plaintiff(s):

Okaysou Corporation

Represented By
Vahe Khojayan

Trustee(s):

Robert Whitmore (TR)

Represented By
D Edward Hays
Tinho Mang

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2:00 PM

6:23-13579 Starkeisha Sharnay Jester

Chapter 7

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

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

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

EH__

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

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

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Starkeisha Sharnay Jester

Represented By
Steven A Alpert

Defendant(s):

Starkeisha Sharnay Jester

Pro Se

Plaintiff(s):

University Of Southern California

Represented By
Jennifer L Nassiri

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
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2:00 PM

6:24-13757 Tracy Mont Sloan

Chapter 7

Adv#: 6:24-01077 Sedrak v. Sloan

#10.00 Status Conference re Complaint by Fayez Sedrak against Tracy Mont Sloan .
false pretenses, false representation, actual fraud) ,(67 (Dischargeability -
523(a)(4), fraud as fiduciary, embezzlement, larceny)) ,(68 (Dischargeability -
523(a)(6), willful and malicious injury))

EH__

[Tele. appr. Mark Madison, rep. Plaintiff]

[Tele. appr. J. Luke Hendrix, rep. Defendant]

Docket 1

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tracy Mont Sloan

Represented By
J. Luke Hendrix

Defendant(s):

Tracy Mont Sloan

Pro Se

Joint Debtor(s):

Lori Kay Sloan

Represented By
J. Luke Hendrix

Plaintiff(s):

Fayez Sedrak

Represented By
Mark E Madison

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CONT... Tracy Mont Sloan

Chapter 7

Trustee(s):

Lynda T. Bui (TR)

Pro Se