

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

9:30 AM

1:00-00000

Chapter

**#0.00 This calendar will be conducted remotely, using ZoomGov video and audio.**

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Video/audio web address: <https://cacb.zoomgov.com/j/1618919629>

Meeting ID: 161 891 9629

Password: 312741

Dial by your location: 1 -669-254-5252 OR 1-646-828-7666

Meeting ID: 161 891 9629

Password: 312741

Docket 0

**Tentative Ruling:**

- NONE LISTED -

**United States Bankruptcy Court  
Central District of California  
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Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

9:30 AM

**1:17-13285 Angela Jean Garcia**

**Chapter 13**

**#1.00** Motion for relief from stay

NEWREZ LLC DBA DBA SHELLPOINT  
MORTGAGE SERVICING

fr. 8/11/21, 9/8/21; 10/20/21

Docket 54

**Tentative Ruling:**

Nothing has been filed since this matter was continued. What is the status of this case?

Appearance Required.

Previous Tentative:

Petition Date: 12/8/2017

Ch. 13 plan confirmed: 11/26/2018

Service: Proper. No opposition filed.

Property: 1934 Lucas St. #3, San Fernando, CA 91340

Property Value: \$322,521 (per debtor's schedules)

Amount Owed: \$246,650

Equity Cushion: 16%

Equity: \$50,069

Post-Petition Delinquency: \$18,896.41 (12 payments of \$1,708.10, less suspense balance of \$1,600.79)

Movant alleges the last payment received was on or about May 17, 2021

Disposition: GRANT under 11 U.S.C. 362(d)(1). GRANT relief requested in paragraphs 2 (proceed under non-bankruptcy law); 3 (Movant permitted to engage in loss mitigation activities); and 7 (waiver of the 4001(a)(3) stay).

**NO APPEARANCE REQUIRED—RULING MAY BE MODIFIED AT**

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CONT... Angela Jean Garcia

Chapter 13

HEARING.

MOVANT TO LODGE ORDER WITHIN 7 DAYS THAT SHALL INCLUDE  
THE FOLLOWING LANGUAGE:

"Moratoriums not affected. This order does not terminate any moratorium on evictions, foreclosures or similar relief. Nothing in this order should be construed as making any findings of fact or conclusions of law regarding the existence of, or merits of any dispute regarding, any such moratorium."

**Party Information**

**Debtor(s):**

Angela Jean Garcia

Represented By  
David H Chung

**Movant(s):**

NewRez LLC d/b/a Shellpoint

Represented By  
Nancy L Lee  
Jennifer C Wong

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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9:30 AM

**1:19-10565 Pamela M. Sorenson**

**Chapter 13**

**#2.00** Motion for relief from stay

WILMINGTON TRUST NATIONAL ASSO.

fr. 11/18/20, 12/16/20, 2/24/21, 4/28/21; 5/5/21,  
6/30/21; 9/1/21; 10/20/21

Docket 51

**Tentative Ruling:**

Nothing has been filed since this matter was continued. What is the status of this case?

Appearance Required.

PREVIOUS TENTATIVE BELOW

Petition Date: 03/11/2019

Chapter 13 plan confirmed: 7/22/19

Service: Proper. Opposition filed.

Property: 11052 Reseda Blvd., Northridge, CA 91326

Property Value: 582,000.00 (per debtor's schedules) (Property is owned in

Tenancy in Common... Debtor's portion is \$145,000.00).

Amount Owed: \$358,890.82 (per Movant's papers)

Equity Cushion: 38.33%

Equity: \$223,109.18

Post-Petition Delinquency: \$ 6,419.86 ( 3 payments of \$2,323.05 less  
suspense \$549.29)

Movant requests relief under 11 U.S.C. 362(d)(1), with the specific relief requested in paragraphs 2 (proceed under non-bankruptcy law); 3 (Movant permitted to engage in loss mitigation activities); 3 (option to enter into forbearance agreement, loan modification, refinance agreement); 6 (relief from co-debtor stay); and 7 (waiver of the 4001(a)(3) stay). Movant asserts there are grounds for relief from the stay because the Debtor has failed to make postpetition payments. Movant alleges that the Debtor has only made

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**CONT... Pamela M. Sorenson**

**Chapter 13**

partial payments for the months of August, September and October 2020.

The Debtor opposes this motion because the Debtor believes that the property was wrongfully reassessed by the LA County Assessor's Office. Debtor claims that there is \$390,000.00 in equity in the property.

Whether the Court applies the numbers provided by the Debtor's schedules and movant's papers or the Debtor's adjusted figures, there appears to be a substantial amount of equity in the property. Have the parties discussed entering into an APO?

Appearance Required.

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

Pamela M. Sorenson

Represented By  
Michael D Luppi

**Movant(s):**

Wilmington Trust, National

Represented By  
Darlene C Vigil

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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**1:21-10202 Debbie Ann Ko**

**Chapter 13**

**#3.00** Motioin for relief from stay

DEUTSCHE BANK NATIONAL TRUST CO, TRUSTEE  
RESIDENTIAL ASSET SECURITIZATION

fr. 10/20/21

Docket 30

**Tentative Ruling:**

Nothing has been filed since this matter was continued. What is the status of this case?

Appearance Required.

Previous Tentative:

Petition Date: 2/8/2021

Ch: 13

Service: Proper. Limited opposition filed.

Property: 12422 Sylvan St., North Hollywood, CA 91606

Property Value: \$696,000 (per debtor's schedules)

Amount Owed: \$743,241.58

Equity Cushion: 0.0%

Equity: \$0.00.

Post-Petition Delinquency: \$21,775 (7 payments of \$3,110.85)

Movant requests relief under 11 U.S.C. 362(d)(1), with the specific relief requested in paragraphs 2 (proceed under non-bankruptcy law); 3 (Movant permitted to engage in loss mitigation activities); 6 (relief from co-debtor stay); 6 (relief from the co-debtor stay); and 7 (waiver of the 4001(a)(3) stay). Movant believes cause exists for lifting the stay because the Debtor has missed several postpetition payments.

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**Debbie Ann Ko**

**Chapter 13**

Debtor filed a limited opposition, requesting that no foreclosure or lock out occur within the next 90 days. Debtor explains that she is currently marketing the property to sell, and requests that relief be postponed until 1/18/2022.

Is Movant amenable to Debtor's request to delay foreclosure?

Appearance Required

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

Debbie Ann Ko

Represented By  
Kevin T Simon

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:11-23287 Martha A Ibanez

Chapter 13

#4.00 Motion for relief from stay

wv 23 JUMPSTART, LLC

Docket 62

**Tentative Ruling:**

WV 23 Jumpstart, LLC, a California Limited Liability Company ("Creditor") is the Assignee of the \$110,530.21 state court judgment ("Judgment") entered on October 4, 2013 in the case of Forster v. Ybanez, filed in the Los Angeles Superior Court, Case No. LC097619 ("State Court Lawsuit"). The Judgment was entered in favor of the original judgment creditors Daniel Forster and Robin Forster ("Forsters"), and against Debtor (the State Court Lawsuit named both Debtor and her ex-husband as Defendants, but Judgment was only entered as to Debtor). The Judgment was entered after the Debtor filed an answer and cross-complaint but then failed to take any further action in the State Court Lawsuit. The Forsters went on to record the abstract of judgment with the Los Angeles County Recorder.

The Debtor has filed ten (10) bankruptcy cases filed by the Debtor within approximately ten (10) years.<sup>1</sup> On September 7, 2012, the instant bankruptcy was dismissed before a plan was confirmed. The underlying state court complaint was filed during the pendency of Debtor's case 11-23287 and the default judgment was entered during the pendency of Debtor's case 13-15790. Creditor moved to reopen several of the Debtor's previous bankruptcy cases (11-23287, 13-15790, and 16-12315) seeking to annul the automatic stays so that the Judgment and lien would become valid. Debtor opposes.

**STANDARD**

11 U.S.C. §362(d) provides that after notice and a hearing, a party in interest may obtain relief from the automatic stay provided in 11 U.S.C.A. §362(a). Relief may consist of terminating, annulling, modifying or conditioning the stay. The court shall grant relief from the stay "for cause, including the lack of adequate protection of an interest in property of such party in interest." 11 U.S.C. §362(d)(1). In addition,



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**Martha A Ibanez**

**Chapter 13**

relief may be granted "with respect to a stay of an act against property under subsection (a) of this section, if the debtor does not have equity in such property; and such property is not necessary to an effective reorganization." 11 U.S.C. § 362(d)(2)-(2)(B).

The Supreme Court's ruling in Roman Catholic Archdiocese of San Juan, Puerto Rico v. Yali Acevedo Feliciano, 140 S.Ct. 696 (2020) ("Acevedo") does not preclude retroactive relief from stay. As explained by the Ninth Circuit Bankruptcy Appellate Panel in In re Merriman, § 362(d) "explicitly grants the court the power to modify the stay to permit another court or entity to exercise control over an asset or claim." In examining the statutory scheme related to the automatic stay under 11 U.S.C. § 362,

To the extent that jurisdiction describes a statutory grant of authority to adjudicate a matter or exercise a power, it is absolutely clear that Congress expressly gave such power, including the power retroactively to grant relief, to bankruptcy courts. "On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay ...." 11 U.S.C. § 362(d) (emphasis added). Congress' decision to deploy four verbs to describe the various ways in which a bankruptcy court might grant relief from stay indicates an express decision to grant bankruptcy courts the broadest possible range of options in respect of the stay, including annulling it, which has the effect of treating it as if it had never existed.

In re Merriman, 616 B.R. 381, 393 (B.A.P. 9th Cir. 2020), appeal dismissed, No. 20-60036, 2021 WL 3610895 (9th Cir. Feb. 26, 2021)

In appropriate circumstances, the court may annul the automatic stay retroactively to validate an act that was committed in violation of the stay and would otherwise be void. See Schwartz v. United States (In re Schartz), 954 F.2d 569, 573 (9th Cir. 1992); see also In re Siciliano, 13 F.3d 748, 751 (3rd Cir. 1994). Although no one factor is dispositive, courts typically focus on two factors, including: (1) whether the creditor was aware of the bankruptcy petition; and (2) whether the debtor

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engaged in unreasonable or inequitable conduct, or prejudice would result to the creditor. Other factors courts consider include:

- (1) the number of filings;
  - (2) whether, in a repeat filing case, the circumstances indicate an intention to delay and hinder creditors;
  - (3) a weighing of the extent of prejudice to creditors or third parties if the stay relief is not made retroactive, including whether harm exists to a bona fide purchaser;
  - (4) the debtor's overall good faith (based upon the totality of the circumstances);
  - (5) whether creditors knew of the stay, but nonetheless took action, thus compounding the problem;
  - (6) whether the debtor has complied, and is otherwise complying, with the Bankruptcy Code and Rules;
  - (7) the relative ease of restoring parties to the *status quo ante*;
  - (8) the costs of annulment to debtors and creditors;
  - (9) how quickly creditors moved for annulment, or how quickly debtors moved to set aside the sale or violative conduct;
  - (10) whether, after learning of the bankruptcy, creditors proceeded to take steps in continued violation of the stay, or whether they moved expeditiously to gain relief;
  - (11) whether annulment of the stay will cause irreparable injury to the debtor;
- and
- (12) whether stay relief will promote judicial economy or other efficiencies.

Id. at 25. The Fjeldsted court, mindful that such lists are capable of being misconstrued as inviting arithmetic reasoning, emphasized that these factors are merely a framework for analysis and not a scorecard. In any given case, one factor may so outweigh the others as to be dispositive. Id. Additionally, the Ninth Circuit has held that the bankruptcy court has "wide latitude in crafting relief from the

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**Chapter 13**

automatic stay, including the power to grant retroactive relief from the stay." Schwartz, 954 F.2s at 572; Nat'l Envtl. Waste Corp., 129 F.3d at 1054–55.

While there are many factors for the Court to consider here, the crux of the issue presented by Movant is whether Debtor engaged in unreasonable or inequitable conduct. Movant points to Debtor's filing history and history of alleged misrepresentations related to her financial circumstances to support its argument that Debtor's lack of disclosure demonstrates an overall lack of good faith.

As to the First Factor, "Number of filings," according to Debtor's Statement of Related Cases filed in the instant bankruptcy, Debtor has filed a total of ten (10) bankruptcy cases - at least two (2) bankruptcy cases were filed prior to the instant bankruptcy, and seven (7) additional bankruptcy cases were filed after the instant bankruptcy was dismissed. This multitude of bankruptcy cases resulted in Movant having to reopen at least three (3) of those cases, and move for annulment of the automatic stay – all due to Debtor's failure to disclose.

As to the Second Factor, it is unclear whether the Debtor was acting to delay or hinder the Judgment by filing bankruptcy cases. A review of Debtor's filing history shows a total of ten cases filed over a ten-year period between 2010 and 2020. Four cases were filed on behalf of Debtor between November 2010 and October 2012, all under the name "Martha A. Ibanez." Six other cases were filed under the name "Martha A. Ybanez" between September 2013 and January 2020. Debtor explains her numerous bankruptcy filings by stating that she was attempting to preserve assets during the aftermath of the 2008 financial crisis and believes that her confirming a 100% plan in her 2016 chapter 11 case on or about July 24, 2017 demonstrate that she did not file her cases with an intent to hinder or delay creditors. However, given the number of cases that have been filed and how quickly these cases were dismissed, there is support to find that she was delaying creditors – it does not appear that she was delaying this Creditor. In the end this it delayed this creditor in actuality and debtor showed no real or sustained effort to pay the judgment despite the 100% plan. A 100% plan only negates such a filing history where there is some ability to comply with it. This factor favors granting the motion.

The Third Factor, "weighing of the extent of prejudice to creditors or third

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parties if the stay relief is not made retroactive, including whether harm exists to a bona fide purchaser" is neutral. Creditor will be prejudiced if the annulment of the automatic stay is not granted. Denying the annulment request may void the Judgment and will either result in Creditor receiving a Judgment that is worthless and/or require Forsters to relitigate and re-try their approximately ten (10)-year old claims. Debtor argues that the unsecured creditors might be harmed by granting the motion because the 2016 bankruptcy case is a 100% percent plan. Unsecured creditors would likely miss out on payments if Creditor is allowed relief from stay. Overall, this factor cuts against debtor since litigating a 10 year old case is difficult ins such a situation just because debtor did not deal with the situation earlier. Unsecured creditors losing out on payments is not a good reason to penalize this creditor who was not properly noticed.

As for the Fourth Factor, "the Debtor's overall good faith (totality of circumstances test)," Debtor failed to engage in good faith as it pertains to Creditor. Creditor contends that Debtor's misrepresentation in her bankruptcy documents filed with the Court continued with Debtor's bankruptcy cases following the 2011 Bankruptcy case. For example, Debtor also failed to list the property at 5505 Foothill Drive, Agoura Hills, CA 91301, which she was renting to Movant' s predecessors, and the Mammoth Lakes and Van Nuys properties in the 2013 Bankruptcy, just like the 2011 Bankruptcy. The issue of whether the Debtor knew of this State Law Case will not be a necessary for purposes of this factor. Between not listing assets, the number of cases and using multiple spellings of her name there is enough support to find that the Debtor has not acted on good faith.

As to the fifth factor, it is unclear when the Creditor knew of the filings, but it does not appear that there was any undue delay seeking in an annulment. Even though the Creditor does not provide detail on when it discovered the Debtor's bankruptcy cases, it does not appear the Creditor knew the extent of the Debtor's previous filings until recently. This is supported by the fact that after Debtor raised issues concerning the 2011 bankruptcy case nullifying the State Court Lawsuit in her opposition to the motion to annual the 2013 bankruptcy case, the Creditor moved to reopen the 2011 case. Further, the Forsters' declarations state that they were never notified of any of the bankruptcy cases. It does not appear that the Creditor waited any length of time after discovering the Debtor's bankruptcy cases before seeking to annual the stay. There is no need to conduct an evidentiary hearing detail exactly what the Forsters'

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**Chapter 13**

previous counsel did or did not do with regards to notice to Debtor. The Forster's declaration is sufficient. Debtor proports no evidence or testimony that the Forsters or Creditor knew of the bankruptcy cases well before filing these motions. Further, Debtor did not list the Forsters as potential creditors in any of her cases. That is sufficient and there is no factual dispute by Debtor's assertion. There are so many reasons militating in favor of annulment that an evidentiary hearing pinpointing exactly when a creditor who never received notice might have heard about the bankruptcy would be useless in light of all the other reasons to nullify the stay. This factor favors annulling the stay.

The Sixth Factor questions "whether the debtor has complied, and is otherwise complying, with the Bankruptcy Code and Rules." Debtor did not comply with the bankruptcy rules and/or was not eligible for a Chapter 13; hence, why the bankruptcy case was dismissed. Further, by failing to list her executory contract with the Forsters and all of her assets (including the property she was renting to the Forsters) she failed to comply with Bankruptcy Rules. This favors granting the motion.

As to the Seventh Factor, which considers "the relative ease of restoring parties to the status quo ante," this factor also weighs heavily in favor of granting the motion. Denying the motion would invalidate the Judgment and deprive the Creditor from rights that it properly obtained. The Forsters properly obtained a default judgment and granting relief from the stay would restore the Creditor's rights.

As to the Eighth Factor, which takes into consideration "the costs of annulment to debtors and creditors," this factor is neutral. The Fosters and the Creditor have incurred costs pursuing a valid judgment and securing the Judgment. Similarly, the Debtor has a confirmed plan from 2016 that is approaching the end. If the motion is granted it may end up preventing the Debtor from completing her plan.

The Ninth Factor inquires as to "how quickly creditors moved for annulment, or how quickly debtors moved to set aside the sale or violative conduct." It is unclear when preciously the Creditor discovered that the Debtor had filed for bankruptcy; however, based on what occurred at the previous hearing, it appears Creditors did not know the full extent of the Debtor's bankruptcy filing history until more recently. Debtor argues that there is no evidence to support what the Creditor and Fosters knew about the bankruptcy cases and when they knew it. The Fosters declaration states that they were never notified of any of the Debtor's bankruptcy cases. Further, the Fosters

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**Martha A Ibanez**

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were never listed as a creditor in any of the bankruptcy cases. Any delay by the Creditors filing this motion is relatively minor in the grand scheme of things. This factor favors granting the motion.

The Tenth Factor questions whether, after learning of the bankruptcy, creditors proceeded to take steps in continued violation of the stay, or whether they moved expeditiously to gain relief." Here, Movant ceased to take any further action toward enforcement of the Judgment once it learned of the instant bankruptcy and the automatic stay.

As to the Eleventh Factor, "whether annulment of the stay will cause irreparable injury to the debtor", Creditor asserts that annulment of the automatic stay will not cause irreparable injury to the Debtor, as the instant bankruptcy was already dismissed and granting annulment would not change anything in Debtor's unsuccessful bankruptcy. The Debtor argues that if the motion is granted, then it may prevent her from completing her plan in her 2016 bankruptcy case. This factor is neutral. Yes, the Debtor could face harm by having to address this new debt towards the end of her 2016 bankruptcy case; however, had she had been more upfront and listed the Forsters as creditors and provided them notice, this issue could have been resolved in a timelier manner. But rewarding a Debtor for failing to notify potential creditors nullifies any harm that they may incur in the future.

The twelfth factor seems to be neutral as well. Debtor claims that if the motion is granted then she will move in the state court to vacate the Judgment. Creditor claims that it will prevent a re-litigation of the claims in the State Court Lawsuit. If debtor wants to go back to state court, it is better for state court to decide any further issues.

The factors either favor granting the motions to annul the stay or are neutral. Based on what was submitted, there is no need for an evidentiary hearing.

The motions are GRANTED.

Appearance Required.

**Party Information**

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**CONT... Martha A Ibanez**

**Chapter 13**

**Debtor(s):**

Martha A Ibanez

Represented By  
Matthew D. Resnik

**Movant(s):**

WV 23 Jumpstart, LLC,

Represented By  
Lior Katz

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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**1:13-15790 Martha Alicia Ybanez**

**Chapter 13**

**#4.01 Motion for relief from stay**

WV 23 JUMPSTART, LLC

fr. 11/3/21, 11/10/21

Docket 39

**Tentative Ruling:**

See Tentative for # 4.0

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

Martha Alicia Ybanez

Represented By  
James D Zhou

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se



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**1:16-12315 Martha Alicia Ybanez**

**Chapter 11**

**#4.02** Motion for relief from stay

WV 23 JUMPSTART, LLC

fr. 11/3/21, 11/10/21

Docket 182

**Tentative Ruling:**

See Tentative for # 4.0

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

Martha Alicia Ybanez

Represented By  
Matthew D. Resnik  
Roksana D. Moradi-Brovia

**Movant(s):**

WV 23 Jumpstart, LLC,

Represented By  
Lior Katz

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**1:15-11162 Steven Sandler**

**Chapter 13**

**#5.00** Motion for relief from stay

U.S. BANK NATIONAL ASSOCIATION

Docket 149

**Tentative Ruling:**

Petition Date: 04/03/2015  
Ch. 13 Plan Confirmed 3/09/2016  
Service: Proper. Opposition filed.  
Property: 20971 Avenue San Luis, Woodland Hills, California 91364  
Property Value: \$575,000 (per debtor's schedules)  
Amount Owed: \$447,292.98  
Equity Cushion: 22.2%  
Equity: \$127,707.02  
Post-Petition Delinquency: \$11,289.95 (3 missed payments of \$13,045.76, attorney's fees and costs of \$1,238.00, less suspense account \$2,993.81)

Movant seeks relief under 11 U.S.C. 362(d)(1) specific relief requested in paragraphs 2 (proceed under non-bankruptcy law); 6 (Codebtor stay), 7 (waiver of the 4001(a)(3) stay). Movant alleges that its interest in the Property are not being adequately protected since Debtor has been missing payments.

Debtor opposes this motion on the grounds that the Debtor is in the process of selling the Property. Escrow will open by November 24, 2021 and the sale should close by December 31, 2021. From the sale, Movant should receive full payment on its claim.

The Court will continue this hearing to January 5, 2022 at 9:30am. There is sufficient equity in the home to protect Movant until then.

Appearance Required.

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**CONT... Steven Sandler**

**Chapter 13**

**Debtor(s):**

Steven Sandler

Represented By  
Stella A Havkin

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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**1:18-11768 Octaviano Aguilar**

**Chapter 13**

**#6.00** Motion for relief from stay

JPMORGAN CHASE BANK

Docket 73

**\*\*\* VACATED \*\*\* REASON: Vacated per APO,**

**Tentative Ruling:**

Vacated. No Appearance Required.

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

Octaviano Aguilar

Represented By  
Rebecca Tomilowitz

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:19-12996 Scott Michael Graffius

Chapter 13

#7.00 Motion for relief from stay

CENLAR, FSB AS SERVICER FOR  
CITIMORTGAGE, INC.

Docket 50

\*\*\* VACATED \*\*\* REASON: Vacatted per APO.

**Tentative Ruling:**

Vaccated. No Appearance Required.

**Party Information**

**Debtor(s):**

Scott Michael Graffius

Represented By  
Jeffrey J Hagen

**Movant(s):**

Cenlar, FSB as servicer for

Represented By  
Chad L Butler

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

10:00 AM

**1:21-11542 Joanne Gallon**

**Chapter 7**

**#8.00** Motion for relief from stay

NATIONSTART MORTGAGE LLC

Docket 29

**Tentative Ruling:**

Petition Date: 09/19/2021  
Ch. 7 (Converted from Chapter 13 10/20/21)  
Service: Proper. Opposition filed.  
Property: 13713 Bracken Street, Arleta, CA 91331  
Property Value: \$621,800 (per debtor's schedules)  
Amount Owed: \$586,533.44  
Equity Cushion: 5.67%  
Equity: \$35,266.56  
Post-Petition Delinquency: \$4,398.78 (33 missed pre and post petition payments \$146,934.74)

Movant seeks relief under 11 U.S.C. 362(d)(1) specific relief requested in paragraphs 2 (proceed under non-bankruptcy law); and 7 (waiver of the 4001(a)(3) stay). Movant alleges that its interest in the Property are not being adequately protected since Debtor has been missing payments and there is insufficient equity in the Property.

Debtor opposes the motion on grounds the equity cushion is greater. Debtor attached a declaration of Broker suggesting the value of the Property is \$685,000 and the equity cushion is \$98,466.56.

The Chapter 7 Trustee filed a report of no distribution, suggesting the case is on the verge of being closed and when that occurs the automatic stay is terminated all together. At that point the Movant can freely proceed with nonbankruptcy law - it would not need the Court's permission to do so either. Without proposing some meaningful way to cure the delinquency and make ongoing payments, it does not matter whether there is an equity cushion or not. Parties should come prepared to discuss whether there is any feasible

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**CONT... Joanne Gallon**

**Chapter 7**

way to modify the loan in order to cure the delinquency. If there is not then the Court is inclined to grant the motion based on the fact that the delinquency is far greater than even the updated equity cushion by the Debtor. This is not a reorganization case where the Property is necessary for an effective reorganization.

APPEARANCE REQUIRED

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

Joanne Gallon

Represented By  
Anerio V Altman

**Trustee(s):**

Amy L Goldman (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:00 AM

1:21-11683 Victor Llanos

Chapter 7

#9.00 Motion for relief from stay

U.S. BANK TRUST, N.A.

Docket 10

\*\*\* VACATED \*\*\* REASON: Duplicate matter to 12.01.

**Tentative Ruling:**

Moved to 12.01 on Calendar.

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

**Debtor(s):**

Victor Llanos

Pro Se

**Trustee(s):**

David Seror (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:00 AM

1:21-11692 Eytan Rosenberg

Chapter 7

#10.00 Motion for relief from stay

WILMINGTON SAVINGS FUNDS SOCIETY

Docket 12

**Tentative Ruling:**

Petition Date: 10/15/2021

Ch. 7

Service: Proper. No opposition filed.

Property: 13017 Erwin Street, Van Nuys, CA 91401

Property Value: \$939,900.00

Amount Owed: \$842,549.70

Equity Cushion: 10.36%

Equity: \$97,350.30

Post-Petition Delinquency: \$5,369.23 ( \$68,457.81 in prepetition and postpetition delinquency)

Movant asserts that that its interest are not adequately protection.

Grant relief under 11 U.S.C. 362(d)(1)) under specific paragraphs 2 (proceed under non-bankruptcy law); 3 (option to enter into a forbearance agreement); and 7 (Waive 14 day stay).

No Appearance Required. Movant to lodge an order within 7 days.

**Party Information**

**Debtor(s):**

Eytan Rosenberg

Represented By

Anthony Almaz

**Trustee(s):**

Nancy J Zamora (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:00 AM

1:21-11781 Andrea Lynn Murray

Chapter 7

#11.00 Motion for relief from stay

LAW OFFICES OF PHILIP KAUFLE, APC

Docket 16

**Tentative Ruling:**

Proceed in a Non-Bankruptcy Forum

Petition Date: 10/27/2021

Chapter: 7

Service: Proper. No opposition filed.

Movant:

Relief Sought to: Pursue Pending Litigation  Commence Litigation

Pursue Insurance  Other

Litigation Information

Case Name: Law Offices of Phillip Kaufler APC et. Al. v. Andrea Murray

Court/Agency: LASC Case No. 19 STC00182

Date Filed: 1/11/2019

Judgment Entered: NA

Trial Start Date: 1/17/2022

Action Description: Breach of two written fee agreements. The matter is being resolved in an expediated process of binding arbitration and following relief from the automatic stay, the matter will be set for trial.

Grounds

Bad Faith  Claim is Insured  Claim Against 3rd Parties

Nondischargeable

Mandatory Abstention  Non-BK Claims Best Resolved in Non-BK Forum

X

Other:

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
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**Wednesday, December 8, 2021**

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10:00 AM

**CONT... Andrea Lynn Murray Chapter 7**

Disposition: GRANT under 11 U.S.C. 362(d)(1). GRANT relief requested in paragraphs 2 (proceed under non-bankruptcy law to judgment, with stay against enforcement against property of the estate); 5 (waiver of the 4001(a) (3) stay); and 6 ( order binding in any bankruptcy case commenced by or against Debtor for a period of 180 days).

NO APPEARANCE REQUIRED--RULING MAY BE MODIFIED AT HEARING.  
MOVANT TO LODGE ORDER WITHIN 7 DAYS.

**Party Information**

**Debtor(s):**

Andrea Lynn Murray

Represented By  
Nicholas W Gebelt

**Trustee(s):**

Nancy J Zamora (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:00 AM

1:21-11807 Victor Llanos

Chapter 7

#12.00 Motion for relief from stay

U.S. BANK TRUST

Docket 16

**Tentative Ruling:**

Petition Date: 11/02/2021

Ch. 7

Service: Proper. No Opposition.

Property: 23741 Burton Street, West Hills, CA 91304

Property Value: 1,258,600 (\$629,300 is owned by Debtor)

Amount Owed: \$455,382.03

Equity Cushion: 63%

Equity: \$791,517.97

Post-Petition Delinquency: \$2,750.42 ( \$49,507.56 in prepetition and postpetition delinquency)

Movant seeks relief under 11 U.S.C. 362(d)(1) and (d)(4) under specific paragraphs 2 (proceed under non-bankruptcy law); 7 (Waive 14 day stay); 9 (If recorded properly effective against property for 2 years); and 9 (Binding on any case purporting to affect the Property for 2 years if properly recorded). Movant asserts that that this bankruptcy case was filed in bad faith, as multiple bankruptcies have been filed relating to the Property and this is a part of a scheme to hinder or delay foreclosure. (Salmon Lianos Case# 20-10371; Victor Lianos Case #19-12847; Salmon Lianos Case # 18-12557; Victor Lianos Case # 21-11807).

The Court is inclined to Grant this motion.

Appearance Required due to this being set on shortened time.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
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**Wednesday, December 8, 2021**

**Hearing Room 302**

10:00 AM

**CONT... Victor Llanos**

**Chapter 7**

**Debtor(s):**

Victor Llanos

Represented By

James D. Hornbuckle

**Trustee(s):**

Amy L Goldman (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:00 AM

1:21-11683 Victor Llanos

Chapter 7

#12.01 Motion for relief from stay

U.S. BANK TRUST, N.A.

Docket 10

**Tentative Ruling:**

Petition Date: 10/13/2021

Ch. 7. Dismissed on 11/01/2021

Service: Proper. No opposition filed.

Property: 23741 Burton Street, West Hills, CA 91304

Property Value: 1,258,600 (\$629,300 is owned by Debtor)

Amount Owed: \$455,382.03

Equity Cushion: 63%

Equity: \$791,517.97

Post-Petition Delinquency: \$2,750.42 ( \$49,507.56) in prepetition and postpetition delinquency)

Movant asserts that that this bankruptcy case was filed in bad faith, as multiple bankruptcies have been filed relating to the Property and this is a part of a scheme to hinder or delay foreclosure. (Salmon Lianos Case# 20-10371; Victor Lianos Case #19-12847; Salmon Lianos Case # 18-12557; Victor Lianos Case # 21-11807).

Deny relief under 11 U.S.C. 362(d)(1)) under specific paragraphs 2 (proceed under non-bankruptcy law) as Moot.

GRANT Relief under 11 U.S.C. 362(d)(1)) paragraph 4 (waive 14 day stay) and 11 U.S.C. 362(d)(4) paragraph 9 (Binding on any case purporting to affect the Property for 2 years if properly recorded).

No Appearance Required.

Movant to Lodge an Order within 7 days.

**Party Information**

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
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**Wednesday, December 8, 2021**

**Hearing Room 302**

10:00 AM

**CONT... Victor Llanos**

**Chapter 7**

**Debtor(s):**

Victor Llanos

Pro Se

**Trustee(s):**

David Seror (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:00 AM

1:21-11851 Esther Edith Gonzalez

Chapter 7

#13.00 Motion in Individual Case for Order Imposing a Stay or  
Continuing the Automatic Stay as the Court Deems Appropriate .

Docket 9

**Tentative Ruling:**

On 11-11-21, Debtor filed this chapter 7 case. Debtor had one previous bankruptcy case that was dismissed within the previous year. The First Filing, 21-11235 was a chapter 7 case, filed on 7/21/2021, that was dismissed on 8/11/2021 for failure to file initial case documentation.

Debtor now moves for an order continuing the automatic stay as to all creditors. Debtor argues that the present case was filed in good faith notwithstanding the dismissal of the previous case. Debtor claims that she has the required documents needed to properly file a full petition this time. Debtor claims that there has been a substantial change in his financial affairs. It appears that the Debtor has filed all the required initial case paper work.

Service proper. No opposition filed.

MOTION GRANTED. DEBTOR TO LODGE ORDER WITHIN 7 DAYS.  
NO APPEARANCE REQUIRED.

**Party Information**

**Debtor(s):**

Esther Edith Gonzalez

Represented By  
Aris Artounians

**Trustee(s):**

Diane C Weil (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
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Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:00 AM

1:21-11905 Omar Andrade

Chapter 13

#13.01 Motion for relief from stay

U.S. BANK NATIONAL ASSOCIATION

Docket 6

**Tentative Ruling:**

Petition Date: 11/23/2021  
Ch. 13 plan not confirmed  
Service: Proper. No opposition filed.  
Property: 15039 Vose Street, Van Nuys, CA 91405  
Property Value: N/A  
Amount Owed: \$809,063.96  
Equity Cushion: N/A  
Equity: N/A  
Post-Petition Delinquency: N/A

Movant seeks relief under 11 U.S.C. 362(d)(1) and (d)(4) under specific paragraphs 2 (proceed under non-bankruptcy law); 6 (Codebtor stay); 7 (Waive 14 day stay); 9 (If recorded properly effective against property for 2 years); 10 (binding on any debtor who claims interest in Property for 180 days); and 11 (binding and effective in any future bankruptcy case no matter who the debtor maybe upon recording of a copy of this order in compliance with applicable nonbankruptcy law).

Movant asserts cause exists because the bankruptcy case was filed in bad faith. The Property was transferred to Debt just before the bankruptcy filing, other bankruptcy cases have been filed in which the Property was asserted, Debtor filed only a few case commencement documents, and the Property was transferred to the Debtor 8 days prior to Movant's foreclosure sale. Movant argues this bankruptcy case was filed as a part of a scheme to delay or hinder a foreclosure sale. Cause exists for lifting the stay.

Disposition: GRANT relief under 11 U.S.C. 362(d)(1) and (d)(4) under specific paragraphs 2 (proceed under non-bankruptcy law); 6 (Codebtor stay);

**United States Bankruptcy Court  
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10:00 AM

**CONT... Omar Andrade Chapter 13**

7 (Waive 14 day stay); 9 (If recorded properly effective against property for 2 years); 10 (binding on any debtor who claims interest in Property for 180 days); and 11 (binding and effective in any future bankruptcy case no matter who the debtor maybe upon recording of a copy of this order in compliance with applicable nonbankruptcy law).

NO APPEARANCE REQUIRED—RULING MAY BE MODIFIED AT HEARING.  
MOVANT TO LODGE ORDER WITHIN 7 DAYS

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

Omar Andrade

Represented By  
Onyinye N Anyama

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:30 AM

**1:12-10231 Owner Management Service, LLC**

**Chapter 7**

**#14.00** Motion by Chapter 7 Trustee to: 1) Approve Sale of Real Property Free and Clear of All Liens, Interests, Claims and Encumbrances with Such Liens, Interests, Claims and Encumbrances to Attach to Proceeds Pursuant to 11 U.S.C. §§ 363(b) and (f); 2) Approve Overbid Procedures; and 3) Determine That Buyer is Entitled to Protection Pursuant to 11 U.S.C. § 363

Docket 2641

**Tentative Ruling:**

Notice was proper. No opposition has been filed. Having considered the Trustee's motion laying out the terms of the sale and the overbid procedures, the Court will grant the motion. The Court also finds the Buyer is a good faith purchaser.

Appearance Required.

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

Owner Management Service, LLC                      Pro Se

**Trustee(s):**

David Seror (TR)	Represented By Richard Burstein Michael W Davis David Seror David Seror (TR) Steven T Gubner Reagan E Boyce Jessica L Bagdanov Reed Bernet Talin Keshishian Jorge A Gaitan Robyn B Sokol
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**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
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**Wednesday, December 8, 2021**

**Hearing Room 302**

10:30 AM

**CONT... Owner Management Service, LLC**

**Chapter 7**

Jessica Wellington  
Jeffrey L Sumpter

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:30 AM

**1:12-10231 Owner Management Service, LLC**

**Chapter 7**

**#15.00** Motion by Chapter 7 Trustee to: 1) Approve Sale of Real Property Free and Clear of All Liens, Interests, Claims and Encumbrances with Such Liens, Interests, Claims and Encumbrances to Attach to Proceeds Pursuant to 11 U.S.C. §§ 363(b) and (f); 2) Approve Overbid Procedures; 3) Determine that Buyer is Entitled to Protection Pursuant to 11 U.S.C. § 363(m)

Docket 2645

**Tentative Ruling:**

Notice was proper. No opposition has been filed. Having considered the Trustee's motion laying out the terms of the sale and the overbid procedures, the Court will grant the motion. The Court also finds the Buyer is a good faith purchaser.

Appearance Required.

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

Owner Management Service, LLC                      Pro Se

**Trustee(s):**

David Seror (TR)	Represented By Richard Burstein Michael W Davis David Seror David Seror (TR) Steven T Gubner Reagan E Boyce Jessica L Bagdanov Reed Bernet Talin Keshishian Jorge A Gaitan
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**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

10:30 AM

**CONT... Owner Management Service, LLC**

**Chapter 7**

Robyn B Sokol  
Jessica Wellington  
Jeffrey L Sumpter

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

10:30 AM

**1:16-12791 Menco Pacific, Inc.**

**Chapter 11**

**#16.00** Movant requests the entry of a final decree because the chapter 11 plan has been substantially consummated and the bankruptcy case has been fully administered pursuant to 11 U.S.C. §§ 350(a), 1101(2), FRBP 3022, and applicable case law. The Court finds notice was proper and no opposition has been raised. The Court GRANTS the Motion for final decree.

No Appearance Required.

Docket 544

**Tentative Ruling:**

The motion for final decree will be granted. No Appearance Required. Movant to lodge order within 7 days.

**Party Information**

**Debtor(s):**

Menco Pacific, Inc.

Represented By  
Jeffrey S Shinbrot

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

10:30 AM

**1:16-12791 Menco Pacific, Inc.**

**Chapter 11**

**#17.00 Post-Confirmation Status Conference**

fr. 10/25/17, 12/13/17, 3/21/18; 3/28/18, 6/6/18; 11/7/18;  
12/18/18, 2/20/19; 6/6/19/ 7/16/19; 8/8/19, 10/2/19; 12/11/19,  
3/11/20, 8/27/20, 12/2/20; 3/17/21, 5/19/21; 10/20/21

Docket 0

**Tentative Ruling:**

The motion for final decree will be granted. No Appearance Required.

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

Menco Pacific, Inc.

Represented By  
Jeffrey S Shinbrot



**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
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Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:30 AM

1:17-10999 Hovanes Antoine Osmanian and Violet Khachikyan

Chapter 7

#18.00 Motion to Dismiss Debtors' Chapter 7 Case

fr. 6/16/21; 8/18/21, 10/20/21

Docket 170

**Tentative Ruling:**

The Court continued this motion to dismiss from August 18, 2021, per a stipulation entered into by the parties. The stipulation asserts that the Parties have entered into a settlement agreement which would resolve this motion. The Court will approve a motion to approve equity buy back and sale of potential legal malpractice claims. That motion is silent on what happens with the motion to dismiss. Is this motion going forward?

Appearance Required.

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

Hovanes Antoine Osmanian

Represented By  
Richard Mark Garber

**Joint Debtor(s):**

Violet Khachikyan Osmanian

Represented By  
Richard Mark Garber

**Trustee(s):**

David Keith Gottlieb (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:30 AM

**1:17-10999 Hovanes Antoine Osmanian and Violet Khachikyan**

**Chapter 7**

**#19.00** Motion to Approve Equity Buy Back and Sale of Potential  
Legal Malpractice Claims

Docket 204

**Tentative Ruling:**

The Trustee has agreed to sell the Estate's interest in the equity in Debtors' residence and certain legal malpractice claims against former bankruptcy counsel to Debtors in exchange for \$65,000. More specifically, the Agreement: (1) provides for Debtors' purchase of the equity in their home; (2) provides for a benefit to creditors of the Estate in the form an influx of substantial unencumbered funds; (3) avoids payment of brokerage commissions and costs of sale; (4) avoids increased administrative costs; and (5) allows Debtors to remain in their home in the midst of this ongoing, worldwide pandemic.

A trustee is empowered to sell assets of the estate "after notice and a hearing." See 11 U.S.C. § 363. The standards for approval of a sale pursuant to § 363(b)(1) require that the proponent of the sale establish that: (1) a "sound business purpose justifies the sale;" (2) "accurate and reasonable notice" of the sale was provided; (3) the "price to be paid is adequate, i.e., fair and reasonable"; and (4) "good faith, i.e., the absence of any lucrative deals with insiders, is present." See *In re Industrial Valley Refrig. & Air Cond. Supplies, Inc.*, 77 B.R. 15, 21 (Bankr. E.D.Pa. 1987). The Trustee's proposed sale of the equity in the Property conforms with each of these requirements.

The motion is Granted. The Court will waive the 14 day stay.

Appearance Required.

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

Hovanes Antoine Osmanian

Represented By  
Harout G Bouldoukian

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

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10:30 AM

**CONT... Hovanes Antoine Osmanian and Violet Khachikyan**

**Chapter 7**

**Joint Debtor(s):**

Violet Khachikyan Osmanian

Represented By  
Harout G Bouldoukian

**Trustee(s):**

David Keith Gottlieb (TR)

Represented By  
Chad V Haes  
Laila Masud  
Marshack Hays LLP

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:30 AM

1:19-12102 Hawkeye Entertainment, LLC

Chapter 11

**#20.00** Application of Leech Tishman Fuscaldo & Lampl, Inc.,  
Reorganization Counsel to the Debtor, for Compensation and  
Reimbursement of Expenses for the period from August 21, 2019  
through August 6, 2021, Period: 8/21/2019 to 8/6/2021,  
Fee: \$84,509.91, Expenses: \$1,222,522.50.

Docket 426

**Tentative Ruling:**

Having considered Leech Tishman Fuscaldo & Lampl Inc.'s application for final compensation and the stipulation between Leech Tishman Fuscaldo & Lampl Inc. and the US Trustee, the Court finds the fees sought minus the reduction that Leech Tishman Fuscaldo & Lampl Inc. and the US Trustee stipulated to are reasonable and necessary. No opposition has been filed. Fees and costs are GRANTED to the extent reflected in the stipulation.

No Appearance Required.

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

Hawkeye Entertainment, LLC

Represented By  
Sandford L. Frey

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 303 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 303**

10:30 AM

**1:19-12102 Hawkeye Entertainment, LLC**

**Chapter 11**

**#21.00** Post Confirmation status conference

fr. 3/11/20; 5/13/20, 7/17/20, 7/23/20; 10/13/20;  
4/8/21(moved to 4/7/21), 4/7/21; 6/16/21

Docket 0

**Tentative Ruling:**

The Debtor anticipates filing a motion for final decree once the pending appeals are resolved. Having reviewed the Debtor's status report, the Court finds cause to continue this status conference to April 27, 2022 at 10:30am.

No Appearance Required.

**Party Information**

**Debtor(s):**

Hawkeye Entertainment, LLC

Represented By  
Sandford L. Frey

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:30 AM

1:21-10293 PB 6 LLC

Chapter 11

#22.00 Motion for Authority to Obtain Credit Under Section 364(b), Rule 4001(c) or (d) Notice of Motion for: Debtor's Motion to Approve Post-Petition Secured Financing With Urban Bay Housing Fund (11 U.S.C. Section 364; LBR Form 4001-2 Filed Concurrently Herewith)

Docket 60

\*\*\* VACATED \*\*\* REASON: Moved to 11:30 a.m.

**Tentative Ruling:**

- NONE LISTED -

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

PB 6 LLC

Represented By  
Jeffrey S Shinbrot

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:30 AM

1:21-10293 PB 6 LLC

Chapter 11

#23.00 Chapter 11 Case Mgmt Conference

fr. 4/7/21, 9/8/21; 10/20/21

Docket 0

\*\*\* VACATED \*\*\* REASON: Moved to 11:30 a.m.

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

PB 6 LLC

Represented By  
Jeffrey S Shinbrot

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:30 AM

1:21-10962 Craig A. Lapiner

Chapter 11

#24.00 Motion For Order Determining Value of Collateral  
[11 U.S.C. § 506(a), FRBP 3012)

Docket 43

**Tentative Ruling:**

Service: Proper

Property Address: 14415 Dunbar Place, Sherman Oaks, 91423

First trust deed (to be bifurcated): \$1,745,436 (\$1,500,000 secured claim;  
\$245,436 unsecured claim)

Second trust deed (to be avoided & treated as unsecured): \$270,860

Third trust deed (to be avoided & treated as unsecured): \$314,600

Fair market value per Debtor's declaration: \$1,500,000

Creditor U.S. Bank, N.A. ("US Bank") (as holder of 1st TD) opposed the Motion. Creditor alleges Debtor undervalued the property in his declaration and its BPO puts the value of the Property at approx. \$1,715,000. US Bank states that it is in the process of obtaining its own appraisal to supplement its Opposition.

Creditor Real Time Solutions ("Real Time") (as holder of 2nd TD) opposed the Motion. Creditor alleges Debtor undervalued the property in his declaration and requests a continuance so that it can obtain its own appraisal.

Creditor Adam Libman ("Libman") (as holder of 3rd TD) opposed the Motion. Creditor alleges that Debtor is improperly valued the Property as of May 27, 2021, rather than at time of confirmation, as required under § 1129, and that he undervalued the Property, as his informal research shows that the value listed on various websites for the Property is between \$1,760,000 and \$2,150,000. Libman requests that this Motion be denied.

APPEARANCE REQUIRED on 12/8/2021 so that the parties may discuss deadlines for filing appraisals and further briefs, if necessary.

**Party Information**



**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

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10:30 AM

**CONT... Craig A. Lapiner**

**Chapter 11**

**Debtor(s):**

Craig A. Lapiner

Represented By  
Thomas B Ure

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:30 AM

**1:20-10535 Hixme Insurance Solutions, Inc.**

**Chapter 7**

**#25.00** Motion of chapter 7 Trustee for an order approving the sale of certain assets of the debtors estate free and clear of liens, claims, interests, and encumbrances pursuant to 11 U.S.C. §§ 105 and 363 and related relief

Docket 52

**Tentative Ruling:**

Chapter 7 Trustee David Seror ("Trustee") was appointed as trustee for this estate on or about March 5, 2020. Trustee has determined that there might exist property of the Debtor's Estate, consisting of known or unknown assets or claims, which have not been previously sold, assigned, or transferred (collectively, "Remnant Assets"). Potential unknown assets might include unscheduled refunds, overpayments, deposits, judgments, claims, or other payment rights that would accrue in the future.

Trustee asserts that he has conducted due diligence and remains unaware of the existence of any Remnant Assets, and certainly none that could return value to the Estate greater than the Purchase Price. Accordingly, Trustee has determined that the cost of pursuing the Remnant Assets will likely exceed the benefit that the Estate would possibly receive on account of the Remnant Assets.

Trustee and Oak Point Partners, LLC have negotiated an agreement ("Purchase Agreement") for the sale of the Remnant Assets for \$5,000. Motion, Ex. A. The Remnant Assets specifically exclude (a) cash held at the time of the Purchase Agreement in the Trustee's fiduciary bank account for the Debtor's case; provided, however, that any cash that exists in such bank account one year from the date of the closing of the Debtor's case shall be Remnant Assets; (b) any returned or undeliverable creditor claim distribution checks pursuant to 11 U.S.C. § 347; (c) any and all Goods (e.g., office furniture) of the Debtor; and (d) the Purchase Price for the Remnant Assets.

While Trustee does not expect that a party other than Oak Point will appear to purchase the Remnant Assets, he does propose a bidding procedure, in the event a party does wish to bid. See Motion, 7:23-8:7.

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

10:30 AM

**CONT... Hixme Insurance Solutions, Inc.**

**Chapter 7**

Service proper. No response filed.

Having reviewed the Motion to Sell and finding that it is within the sound business judgment of Trustee, the Motion to Sell is GRANTED.

APPEARANCE REQUIRED in case an auction is required.

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

**Debtor(s):**

Hixme Insurance Solutions, Inc.

Represented By  
Keith S Dobbins

**Trustee(s):**

David Seror (TR)

Represented By  
Robyn B Sokol  
Steven T Gubner

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:30 AM

1:21-11467 Louie Esquivel Salazar

Chapter 7

#25.01 Motion to Avoid Lien Judicial Lien with  
Neil M. Sunkin

Docket 11

**Tentative Ruling:**

Debtor moves to avoid judgment liens against his real property at 1134 Cayuga Ave., Pacoima, CA 91331 under 11 U.S.C. 522(f), as follows:

Lien #1 (Select Portfolio Svcs.)	\$ 370,889.71
Lien #2 (Neil M. Sunkin)	\$ 39,909.00
Lien #3 (Marciano & Guadalupe Salazar)	\$ 75,000.00
Lien#4 (Neil M. Sunkin)	\$ 78,451.23
Exemption Claimed	\$ 600,000.00
Total of liens plus claimed exemption	\$ 1,164,249.94
FMV of property	\$ 693,250.00

**Total amount of judicial liens that may be avoided \$ 470,999.94**

Creditor Neil M. Sunkin opposes the Motion, arguing that Debtor double-counted his lien amount, thereby inflating the amount of the liens against the Property. Sunkin explains that he was issued a judgment on January 24, 2012, recorded in the original amount of \$39,909. Decl. of Sunkin ISO Opp., ¶ 2. The same judgment was renewed November 25, 2020, this time in the amount of \$78,451.23. According to Sunkin, the calculation should only have one lien for his benefit:

Lien #1 (Select Portfolio Svcs.)	\$ 370,889.71
Lien #2 (Marciano & Guadalupe Salazar)	\$ 75,000.00
Lien#4 (Neil M. Sunkin)	\$ 78,451.23
Exemption Claimed	\$ 600,000.00
Total of liens plus claimed exemption	\$1,124,340.94
FMV of property	\$ 693,250.00

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:30 AM

CONT... Louie Esquivel Salazar

Chapter 7

**Total amount of judicial liens that may be avoided: \$ 431,090.94**

Sunkin also argues the amount of the Marciano & Guadalupe Salazar lien is also inflated, as Debtor's Ex. G shows the Salazar lien recorded on or about Sept. 27, 2012, in the amount of \$45,000. Sunkin notes that there is no evidence to support that the Salazar lien balance is now \$75,000, arguing that Debtor's Ex. H, a payoff demand letter for the Salazar Lien, is inadmissible as hearsay because it has not been authenticated. Sunkin also casts doubt on Debtor's valuation of the real property, as Debtor opined at the petition date that the real property was worth \$610,350 but now in this Motion (and in Amended Schedule A/B), Debtor now asserts a value of \$693,250, without any documentation supporting his opinion of value. Lastly, Sunkin argues that Debtor has not provided evidence that the real property is his principal residence.

Debtor, as a homeowner, is permitted to rely on his knowledge of his home and neighborhood to estimate the value of his real property, and any questions raised of how Debtor obtained his estimate goes to the weight the Court may give the evidence, when presented with competing evidence, *e.g.*, a Broker's Price Opinion or a formal appraisal. Here, where even if the exemption is calculated with the single Sunkin lien of \$78,451 and the Salazar lien at \$45,000, Debtor's exemption would still be impaired by the Sunkin lien and the Salazar lien and thus will be avoided under 11 U.S.C. § 522(f), unless Creditor Sunkin requests a continuance to obtain his own appraisal.

APPEARANCE REQUIRED

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

Louie Esquivel Salazar

Represented By

Sanaz Sarah Bereliani

**Trustee(s):**

David Seror (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

10:30 AM

**1:21-11467 Louie Esquivel Salazar**

**Chapter 7**

**#25.02** Motion to Avoid Lien Judicial Lien with  
Neil M. Sunkin

Docket 13

**Tentative Ruling:**

See Tentative Ruling for cal. no. 25.01

**Party Information**

**Debtor(s):**

Louie Esquivel Salazar

Represented By  
Sanaz Sarah Bereliani

**Trustee(s):**

David Seror (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:30 AM

**1:19-12812 Morsheda Jhumur Hosain**

**Chapter 7**

**#26.00** Motion For Order Determining that Homestead Exemption Proceeds Are Exempt Or, In The Alternative, To Equitably Toll The Deadline For Syed Hosain To Reinvest Homestead Exemption Proceeds.

**[note: Debtor will need interpreter translation approve by judge]**

fr. 6/30/21; 9/29/21, 11/3/21

Docket 118

**\*\*\* VACATED \*\*\* REASON: Continued to December 15, 2021 at 10:30am.**

**Tentative Ruling:**

VACATED Continued to December 15, 2021 at 10:30am.

No Appearance Required.

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

**Debtor(s):**

Morsheda Jhumur Hosain

Pro Se

**Trustee(s):**

Nancy J Zamora (TR)

Represented By  
Anthony A Friedman

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

10:30 AM

1:19-12812 Morsheda Jhumur Hosain

Chapter 7

#27.00 Motion of Chapter 7 Trustee for Order:  
(1) Denying Debtors Claim of Homestead  
Exemption; and  
(2) Requiring Turnover of the Exemption  
Proceeds

fr. 6/30/21; 7/28/21; 9/29/21, 11/3/21

**[note: Debtor will need interpreter translation in Bengali - approve by  
judge]**

Docket 116

**\*\*\* VACATED \*\*\* REASON: VACATED Continued to December 15, 2021  
at 10:30am.**

**No Appearance Required.**

**Tentative Ruling:**

VACATED Continued to December 15, 2021 at 10:30am.

No Appearance Required.

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

**Debtor(s):**

Morsheda Jhumur Hosain

Pro Se

**Trustee(s):**

Nancy J Zamora (TR)

Represented By  
Anthony A Friedman



**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

11:00 AM

**1:16-11671 Yoram Talasazan**

**Chapter 7**

Adv#: 1:16-01119 Moussighi et al v. Talasazan

**#28.00** Post-Trial Status Conference

fr. 6/2/21, 7/7/21; 9/8/21; 10/20/21

Docket 1

**\*\*\* VACATED \*\*\* REASON: Judgment entered 12/1/2021 (ECF doc. 182)**

**- hm**

**Tentative Ruling:**

Judgment having been entered on Dec. 1, 2021 (ad. ECF doc. 181; 182), this post-trial status conference is hereby VACATED.

NO APPEARANCES ON 12/8/2021

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

**Debtor(s):**

Yoram Talasazan

Represented By  
Raymond H. Aver

**Defendant(s):**

Yoram Talasazan

Represented By  
Raymond H. Aver

**Plaintiff(s):**

Moeir Moussighi

Represented By  
Ashkan Ashour

Hanrit Moussighi

Represented By  
Ashkan Ashour

Moeir and Hanrit Moussighi dba

Represented By  
Ashkan Ashour  
Raymond H. Aver

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

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11:00 AM

**CONT... Yoram Talasazan**

**Chapter 7**

**Trustee(s):**

Nancy J Zamora (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

11:00 AM

**1:18-11538 Momentum Development LLC**

**Chapter 7**

Adv#: 1:19-01129 Weil v. The Pyramid Center, Inc.

**#29.00** Pretrial Conference re: Amended Complaint to Avoid Fraudulent Transfers

fr. 1/15/20, 2/5/20, 3/4/20; 6/10/20, 12/2/20, 2/3/20 ,2/10/21  
4/14/2, 6/16/21; 8/4/21; 11/3/21

Docket 9

**Tentative Ruling:**

Exchange of exhibit lists: \_\_\_\_\_

Plaintiff to file and serve witness declaration(s): \_\_\_\_\_

Defendant to file and serve witness declaration(s): \_\_\_\_\_

Parties to file and serve objections to witness declarations and exhibits:  
\_\_\_\_\_

Parties to file and serve Notice of Cross-Examination of Witness:  
\_\_\_\_\_

Hard copies of exhibit books exchanged (if not already done): \_\_\_\_\_

Parties to file and serve trial briefs: \_\_\_\_\_

TRIAL TO BE HELD ON: \_\_\_\_\_

PLAINTIFF TO LODGE SCHEDULING ORDER WITHIN 7 DAYS.

**Party Information**

**Debtor(s):**

Momentum Development LLC

Represented By  
Michael H Raichelson

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

**Hearing Room 302**

11:00 AM

CONT... **Momentum Development LLC**

**Chapter 7**

**Defendant(s):**

The Pyramid Center, Inc.

Represented By  
Michael H Raichelson

**Plaintiff(s):**

Diane Weil

Represented By  
David Seror  
Jorge A Gaitan

**Trustee(s):**

Diane C Weil (TR)

Represented By  
David Seror  
Jorge A Gaitan

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

11:00 AM

**1:19-11935 Maria Estela San Vicente**

**Chapter 11**

Adv#: 1:19-01123 Saucedo v. San Vicente et al

**#30.00** Status Conference re: Complaint to determine dischargeability to debt pursuant to 11 U.S.C. sections 523 (a)(4) and (a)(6), and objection to discharge pursuant to sections 723 (a)(2)(A) and 727(a)(3)

fr. 12/18/19; 5/13/20; 10/7/20, 3/31/21

Docket 1

**Tentative Ruling:**

Having reviewed the Joint Status Report and finding that the parties anticipate completing state court litigation before this adversary can proceed, the Court finds cause to continue this adversary status conference to **February 23, 2022 at 11:00 a.m.**, to provide time for the state court litigation to be completed.

APPEARANCES WAIVED ON 12/8/2021

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

**Debtor(s):**

Maria Estela San Vicente

Represented By  
Michael R Totaro

**Defendant(s):**

Maria Estela San Vicente

Pro Se

Sergio San Vicente

Pro Se

**Plaintiff(s):**

Maria Saucedo

Represented By  
Jesse J Thaler

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

11:00 AM

**1:19-11935 Maria Estela San Vicente**

**Chapter 11**

Adv#: 1:19-01130 Saucedo v. San Vicente et al

**#31.00** Status Conference re: Complaint to determine  
dischargeability of debt

fr. 1/8/20; 10/7/20, 3/31/21

Docket 1

**Tentative Ruling:**

Having reviewed the Joint Status Report and finding that the parties anticipate completing state court litigation before this adversary can proceed, the Court finds cause to continue this adversary status conference to **February 23, 2022 at 11:00 a.m.**, to provide time for the state court litigation to be completed.

APPEARANCES WAIVED ON 12/8/2021

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

**Debtor(s):**

Maria Estela San Vicente

Represented By  
Michael R Totaro

**Defendant(s):**

Maria Estela San Vicente

Pro Se

Sergio San Vicente

Pro Se

**Plaintiff(s):**

Rosa Saucedo

Represented By  
Jesse J Thaler

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

11:00 AM

**1:20-11099 Arthur Martiryan**

**Chapter 7**

Adv#: 1:20-01121 JPMORGAN CHASE BANK, N.A. v. Martiryan

**#32.00** Status Conference Re: Complaint for  
Determination of Dischargeability of Debt  
Under 11 U.S.C. Sec. 523

fr. 2/17/21, 3/31/21, 5/19/21, 6/30/21; 8/4/21,  
9/8/21; 10/20/21

Docket 1

**Tentative Ruling:**

APPEARANCE REQUIRED ON 12/8/2021

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

**Debtor(s):**

Arthur Martiryan Pro Se

**Defendant(s):**

Arthur Martiryan Pro Se

**Plaintiff(s):**

JPMORGAN CHASE BANK, N.A. Represented By  
Jillian A Benbow

**Trustee(s):**

Diane C Weil (TR) Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

11:00 AM

**1:20-11983 Vahid Naziri**

**Chapter 7**

Adv#: 1:21-01011 Talaie v. Naziri

**#33.00** Status Conference re: Complaint seeking  
to determine dischargeability of debt pursuant  
to 11 u.s.c. section 523(a)(6)

fr. 4/7/21, 5/19/21; 10/20/21

Docket 1

**Tentative Ruling:**

No settlement or status report was filed in advance of this status conference.

**APPEARANCE REQUIRED**

**Party Information**

**Debtor(s):**

Vahid Naziri

Represented By  
Levi Reuben Uku

**Defendant(s):**

Vahid Naziri

Pro Se

**Plaintiff(s):**

Mohammad Talaie

Represented By  
Nicholas S Nassif

**Trustee(s):**

Amy L Goldman (TR)

Pro Se



**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

11:00 AM

**1:21-10263 Svetlana Buzina**

**Chapter 7**

Adv#: 1:21-01012 Buzina v. Cardenas Three LLC, a California Limited Liability

**#34.00** Order to Show Cause why this adversary proceeding should not be dismissed under local rule 7016-1(g)

Docket 0

**Tentative Ruling:**

No response to this OSC was filed by the Court-ordered deadline of December 1, 2021. Case to be dismissed.

APPERANCE REQUIRED

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

**Debtor(s):**

Svetlana Buzina

Represented By  
Nancy Korompis

**Defendant(s):**

Cardenas Three LLC, a California

Represented By  
Timothy J Silverman

Franklin Advantage, Inc.

Pro Se

Charles Street Investments, Inc.

Represented By  
Stella A Havkin

Charles Street Investment, LLC.

Pro Se

Inaam Rasheed Naeem, an

Represented By  
Stella A Havkin

**Plaintiff(s):**

Svetlana Buzina

Represented By  
Michael D Kwasigroch

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

---

11:00 AM

**CONT... Svetlana Buzina**

**Chapter 7**

**Trustee(s):**

Amy L Goldman (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

11:00 AM

**1:21-10263 Svetlana Buzina**

**Chapter 13**

Adv#: 1:21-01012      Buzina v. Cardenas Three LLC, a California Limited Liability

**#35.00**      Status Conference Re: Complaint for  
Quiet Title  
1 - To Determine the Extent and Validity of  
Liens on Real Property;  
2 - Quiet Title - Fraud  
3 - Fraud  
4 - Violation of Home Equity Sales Contract  
Act California Civil Code, Sec. 1695  
5 - Breach of Contract  
6 - Negligence  
7 - Declaratory Relief

[Re Property located at:  
19237 Charles St.  
Tarzana, CA 91356]

fr. 4/28/21; 5/5/21; 8/18/21; 10/20/21

Docket      5

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Svetlana Buzina

Represented By  
Nancy Korompis

**Defendant(s):**

Cardenas Three LLC, a California

Pro Se

Franklin Advantage, Inc.

Pro Se

Charles Street Investments, Inc.

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

11:00 AM

**CONT... Svetlana Buzina Chapter 13**

Charles Street Investment, LLC. Pro Se

Inaam Rasheed Naeem, an Pro Se

**Plaintiff(s):**

Svetlana Buzina

Represented By  
Nancy Korompis

**Trustee(s):**

Elizabeth (SV) F Rojas (TR) Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

11:00 AM

**1:21-10554 Elsa V. Ramirez**

**Chapter 7**

Adv#: 1:21-01040 Upstream Capital Investments LLC v. Ramirez

**#36.00** Status Conference re Amended Complaint Seeking  
Non-Dischargeability of debt in core adversary proceedings.

Docket 16

**\*\*\* VACATED \*\*\* REASON: Moved to 1 p.m., to be heard with Motion to  
Dismiss - hm**

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Elsa V. Ramirez

Represented By  
Ahren A Tiller

**Defendant(s):**

Elsa V. Ramirez

Represented By  
Ahren A Tiller

**Plaintiff(s):**

Upstream Capital Investments LLC

Represented By  
Lynda E Jacobs

**Trustee(s):**

Diane C Weil (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

**Wednesday, December 8, 2021**

**Hearing Room 302**

11:30 AM

**1:18-12698 Green Nation Direct, Corporation**

**Chapter 7**

Adv#: 1:20-01096 Zamora, Chapter 7 Trustee v. Barahona

**#37.00** Status Conference Re: Complaint for:  
(1) Avoidance and Recovery of Preferential  
Transfers [11 U.S.C. Sections 547(b), 550(a),  
and 551]

fr. 1/6/21, 4/7/21, 6/9/21; 10/20/21

Docket 1

**Tentative Ruling:**

Having considered the Joint Status Report, filed on Nov. 24, 2021, the Court sets the following litigation deadlines:

Discovery cut-off (all discovery to be completed\*): March 18, 2022

Case dispositive motion filing deadline (MSJ; 12(c)): March 31, 2022

Pretrial conference: April 27, 2022 at 11:00 a.m.

Deadline for filing pretrial stipulation under LBR 7016-1(b)(1)(A) (14 days before pretrial conference): April 13, 2022

\*Completed means that all discovery under Fed. R. Civ. P. 30-36, and discovery subpoenas under Rule 45, must be initiated a sufficient period of time in advance of the cutoff date, so that it will be completed by the cut-off date, taking into account time for service, notice and response as set forth in the Federal Rules of Civil Procedure.

Meet and Confer

Counsel must promptly and in good faith meet and confer with regard to all discovery disputes in compliance with Local Rule 26

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

11:30 AM

CONT... **Green Nation Direct, Corporation**  
Discovery Motion Practice:

Chapter 7

All discovery motions must be filed within 30 days of the service of an objection, answer, or response which becomes the subject of dispute or the passing of a discovery due date without response or production, and only after counsel have met and conferred and have reached an impasse with regard to the particular issue.

**A failure to comply in this regard will result in a waiver of a party's discovery issue. Absent an order of the Court, no stipulation continuing or altering this requirement will be recognized by the Court.**

PLAINTIFF TO LODGE SCHEDULING ORDER CONTAINING THESE PROVISIONS WITHIN 7 DAYS.

**APPEARANCE REQUIRED ON 12/8/2021**

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

Green Nation Direct, Corporation	Pro Se
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**Defendant(s):**

Miguel Barahona	Pro Se
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**Plaintiff(s):**

Nancy J Zamora, Chapter 7 Trustee	Represented By Richard P Steelman Jr Jeffrey S Kwong Edward M Wolkowitz
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**Trustee(s):**

Nancy J Zamora (TR)	Represented By Jeffrey S Kwong Edward M Wolkowitz Richard P Steelman Jr
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**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Chief Judge Maureen Tighe, Presiding  
Courtroom 302 Calendar**

Wednesday, December 8, 2021

Hearing Room 302

11:30 AM

1:21-10293 PB 6 LLC

Chapter 11

#38.00 Amended Disclosure Statement Describing  
Amended Chapter 11 Plan

fr. 8/18/21; 10/20/21

Docket 51

**Tentative Ruling:**

The Debtor is a California limited liability company and is the owner and developer of a real estate project commonly known as 5137-5149 ½ Colfax Avenue, Los Angeles, California ("Colfax Villas"). Colfax Villas consists of approximately 18,800 square feet of land that has been subdivided into 12 single-family residential lots for development. Currently, there are no housing units on the lot. The units shall be prefabricated in 96 pieces in Perris, California by Silver Creek Industries. The Debtor expects to use the prefabricated model for future projects as a means to produce projects that include both high-end and affordable housing. In April, 2018, the Debtor entered into a construction loan agreement with Fundrise Lending, LLC ("Fundrise"), as a \$8,200,000.00 facility secured by a first deed of trust. Creditor alleges that at least \$4,100,000.00 is due and owing under the loans. Several disputes have arisen in connection with the Loan. Unable to resolve their differences, Fundrise sought to foreclose on the Project which led to the Debtor filing the instant chapter 11 case.

On February 23, 2021, the Debtor commenced this voluntary case under chapter 11 of the Bankruptcy Code. The petition and schedules indicate that this is a single asset real estate case and that Debtor's only significant asset is the Project. The Debtor lists the current value of the Project at \$3.9 million. Schedule D lists Fundrise Lending and the Los Angeles County Tax Collector as secured creditors. Fundrise Lending's claim is listed in the amount of \$4,381,628.24 and as disputed. Schedule E/F lists no priority unsecured claims and \$835,426.26 in general unsecured claims relating to trade debt and legal services.

The principals of the Debtor are Mr. Adam Goldberg and Mr. Brian Peters who each hold 35.775 percent of the equity interests of the Debtor. Both Mr. Goldberg



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**CONT... PB 6 LLC**

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and Mr. Peters are guarantors of the Debtor's pre-Bankruptcy construction loan ("Guarantors"). Adam Goldberg and Mr. Brian Peters were the pre-Petition Managers of the Debtor and they shall remain the Manager post-confirmation.

On April 2, 2021, after the Debtor filed bankruptcy, Fundrise initiated a lawsuit against Guarantors based on their obligations under the terms of the Guaranty in the United States District Court for the state of Delaware, case number 1:21-cv-00493-CFC ("Guaranty Lawsuit"). Fundrise asserts that "[u]nder the terms of the Guaranty, the Guarantors, among other things, absolutely, irrevocably, and unconditionally guaranteed the full and timely payment by Borrower of the all the Guaranteed Obligations. Guarantors absolutely, irrevocably, and unconditionally guaranteed the full and timely payment by Borrower of all obligations under the Note, the Loan Agreement, and any Loan Documents, including, without limitation, the repayment in full of the Note." The complaint asserts damages in the amount of \$4,434,373.35 plus accrued and accruing default interest and late charges, fees, and attorneys' fees and costs. The Guarantors did not file a responsive pleading to the Complaint. Accordingly, on June 4, 2021, Fundrise filed its request for entry of default as to the Guarantors. *Id.* at 66. On June 22, 2021, the Clerk of the Court entered its default in appearance against them. A motion for default is currently pending before the District Court.

The Debtor seeks to have the Court approve its first amended disclosure statement. The U.S. Trustee and Fundrise oppose.

**Standard**

References: In re A.C. Williams, 25 B.R. 173 (Bankr. N.D. Ohio 1982); See also In re Metrocraft, 39 B.R. 567 (Bankr. N.D.Ga. 1984); § 1125

1. Before a disclosure statement may be approved after notice and a hearing, the court must find that the proposed disclosure statement contains "adequate information" to solicit acceptance or rejection of a proposed plan of reorganization. 11 U.S.C. § 1125(b).

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2. "Adequate information" means information of a kind, and in sufficient detail, so far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, that would enable a hypothetical reasonable investor typical of the holders of claims against the estate to make a decision on the proposed plan of reorganization. 11 U.S.C. § 1125(a).

3. Courts have developed lists of relevant factors for the determination of adequate disclosure. *E.g.*, In re A.C. Williams, *supra*.

4. There is no set list of required elements to provide adequate information *per se*. A case may arise where previously enumerated factors are not sufficient to provide adequate information. Conversely, a case may arise where previously enumerated factors are not required to provide adequate information. In re Metrocraft Pub. Services, Inc., 39 B.R. 567 (Bankr. N.D.Ga. 1984). "Adequate information" is a flexible concept that permits the degree of disclosure to be tailored to the particular situation, but there is an irreducible minimum, particularly as to how the plan will be implemented. In re Michelson, 141 B.R. 715, 718-19 (Bankr. E.D.Cal. 1992).

5. The court should determine what factors are relevant and required in light of the facts and circumstances surrounding each particular case. In re East Redley Corp., 16 B.R. 429 (Bankr. E.D.Pa. 1982).

Relevant factors for evaluating the adequacy of a disclosure may include: (1) the events which led to the filing of a bankruptcy petition; (2) a description of the available assets and their value; (3) the anticipated future of the company; (4) the source of information stated in the disclosure statement; (5) a disclaimer; (6) the present condition of the debtor while in Chapter 11; (7) the scheduled claims; (8) the estimated return to creditors under a Chapter 7 liquidation; (9) the accounting method utilized to produce financial information and the name of the accountants responsible for such information; (10) the future management of the debtor; (11) the Chapter 11 plan or a summary thereof; (12) the estimated administrative expenses, including attorneys' and accountants' fees; (13) the collectibility of accounts receivable; (14) financial information, data, valuations or projections relevant to the creditors' decision

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to accept or reject the Chapter 11 plan; (15) information relevant to the risks posed to creditors under the plan; (16) the actual or projected realizable value from recovery of preferential or otherwise voidable transfers; (17) litigation likely to arise in a nonbankruptcy context; (18) tax attributes of the Debtor; and (19) the relationship of the debtor with affiliates." In re Reilly, 71 B.R. 132, 134 (Bankr. D. Mont. 1987); In re Fierman, 21 B.R. 314, 315 (Bankr. E.D. Pa. 1982).

Disclosure Statement and Proposed Temporary Injunction

While the determination of adequate information is discretionary and factual, a disclosure statement should not be approved if it describes an unconfirmable plan. See, e.g., In re Arnold, 471 B.R. 578, 586 (Bankr. C.D. Cal 2012) ("where a plan is on its face nonconfirmable, as a matter of law, it is appropriate for the court to deny approval of the disclosure statement describing the nonconfirmable plan") citing In re Silberkraus, 253 B.R. 890, 899 (Bankr. C.D. Cal. 2000). Section 1129(a) of the Bankruptcy Code provides that "[t]he court shall confirm a plan only if it complies with all" of the requirements of section 1129(a). 11 U.S.C. § 1129(a). Among other requirements, section 1129(a) mandates that "[t]he Plan complies with the applicable provisions of [the Bankruptcy Code]." 11 U.S.C. § 1129(a)(1). See also Resorts Int'l, Inc. v. Lowenschuss (In re Lowenschuss), 67 F.3d 1394, 1401 (9th Cir. 1995) (It is well established that bankruptcy courts lack "the power to confirm plans of reorganization which do not comply with applicable provisions of the Bankruptcy Code."). The Debtor bears the burden of proving that each requirement in § 1129(a) has been met. Liberty Nat'l Enters. v. Ambanc La Mesa L.P. (In re Ambanc La Mesa, L.P.), 115 F.3d 650, 653 (9th Cir. 1997).

Section V.C. of the Disclosure Statement and Section IV.C of the Plan include a provision that stays any prosecution by Fundrise against the Guarantors relating to the Guaranty until the earlier of the closing of the sale of the project or December 31, 2024 (the "Guarantor Suspension Injunction"). Specifically, the Guarantor Suspension Injunction states:

The Debtor's pre-Petition construction lender is currently prosecuting its breach of guarantee action against the Debtor's principals Adam Goldberg and Brian Peters in the United States District Court, for the state of Delaware, Case Number 21-cv-00493-CFC, in a matter styled Fundrise

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West Coast Opportunistic REIT, LLC, a Delaware limited liability company, together with its successors and assigns v. Adam Goldberg, an individual residing in the State of California; and Brian Peters, an individual residing in the State of California (the "Guarantee Action"). The Order confirming the Debtor's Plan shall constitute a temporary injunction against prosecution and/or collection of the Guarantee Action, or any related proceedings, until the earlier of the closing of the sale of Colfax Villas or December 31, 2024, which coincides with the treatment of Fundrise's claim. This temporary injunction is appropriate because the Debtor is highly likely to succeed in its restructuring efforts, the purpose of the filing of the Chapter 11 is to restructure and under the Plan, Fundrise's claims shall be satisfied, rendering the enforcement of the Guarantee Action unnecessary and contradictory to the efforts of the Debtor to reorganize and using the Court's inherent discretionary powers under 11 U.S.C. § 105(a) to stay actions against the personal guarantors would not only promote judicial expediency and efficiency, but it would also further the interests of the reorganization process.

According to Goldberg's declaration, the reasoning for the temporary injunction is to allow Goldberg and Peters to focus their attention on reorganizing the Debtor so that the project can be completed and the claims may be satisfied in full. Both the U.S. Trustee and Fundrise believe that this provision renders the first amended disclosure statement and plan unapprovable under section 1129(a).

Section 524 of the Bankruptcy Code specifically prohibits the discharge of non-debtors "[a] discharge of a debt of the debtor does not affect the liability of any other entity on, or the property of any other entity for, such debt"—and section 1129(a)(1) prohibits confirmation of a plan that does not comply with "applicable provisions" of the Bankruptcy Code. Similarly, section 1141(d) governs the effect of confirmation and specifies the scope of a debtor's discharge upon confirmation; non-debtor parties are not included. An involuntary "third-party release" is simply a discharge of a non-debtor by another name and is thus prohibited by sections 524(a) and (e). Accordingly, the Fifth, Ninth, and Tenth Circuits have all ruled that section 524 "prohibits the discharge of debts of nondebtors." *In re Zale Corp.*, 62 F.3d 746, 760 (5th Cir. 1995) (citations omitted) ("Section 524 prohibits the discharge of debts of nondebtors. Accordingly, we must overturn a § 105 injunction if it effectively

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discharges a nondebtor."); *In re Lowenschuss*, 67 F.3d at 1401 (citations omitted) ("This court has repeatedly held, without exception, that "§ 524(e) precludes bankruptcy courts from discharging the liabilities of non-debtors");<sup>3</sup> *In re Western Real Estate Fund Inc.*, 922 F.2d 592, 600-02 (10th Cir. 1990), modified sub nom. *Abel v. West*, 932 F.2d 898 (10th Cir. 1991) ("Not only does such a permanent injunction improperly insulate nondebtors in violation of section 524(e), it does so without any countervailing justification of debtor protection . . .").

The Debtor contends that this is only a temporary injunction and not a permanent one; therefore, authority under section 105 permits an injunction. This position is not persuasive. 11 U.S.C. § 105, which grants the court limited discretionary power to issue such orders as are "necessary or appropriate to carry out the provisions of [Title 11]." The Ninth Circuit has held that a bankruptcy court lacks jurisdiction and power to enjoin permanently, beyond confirmation of a reorganization plan, a creditor from enforcing a state court judgment against the debtor's guarantors. *American Hardwoods, Inc. v. Deutsche Credit Corp. (In re American Hardwoods, Inc.)*, 885 F.2d 621 (9th Cir. 1989). The court stated:

Section 105 empowers the court to enjoin preliminarily a creditor from continuing an action or enforcing a state court judgment against a nondebtor prior to confirmation of a plan. *In re A.H. Robins Co.*, 828 F.2d 1023, 1026 (4th Cir. 1987), *cert. denied*, 485 U.S. 969, 108 S. Ct. 1246, 99 L. Ed. 2d 444 (1988); *A.H. Robins Co. v. Piccinin*, 788 F.2d 994, 1002-03 (4th Cir.), *cert. denied*, 479 U.S. 876, 107 S. Ct. 251, 93 L. Ed. 2d 177 (1986). Furthermore, section 105 permits the court to issue both preliminary and permanent injunctions after confirmation of a plan to protect the debtor and the administration of the bankruptcy estate. *See [In re Burstein-Applebee Co.*, 63 Bankr. 1011, 1020-21 (Bankr. W.D. Mo. 1986)] . . . *In re Askew*, 61 Bankr. 87, 89 (Bankr. S.D. Ohio 1986) . . . [Debtor], however, points to no case, and we are aware of none, in which a court permanently enjoined, past confirmation of a plan, a creditor from enforcing a state court judgment against a nondebtor guarantor of a contract liability.

*In re American Hardwoods*, 885 F.2d at 624-625.

In *In re Rohnert Park Auto Parts, Inc.*, 113 B.R. 610, 615 (9th Cir. BAP 1990), the BAP reversed the bankruptcy court's ruling that enjoined creditors from

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proceeding against a co-debtor for five years after the plan was confirmed. The BAP found that although that section of the plan did not release any of the liability of the codebtors, the stay does affect the liability of the co-debtors because the creditor was prohibited from proceeding against the entities other than the debtor; therefore, the plan did not comply with section 524(e).

Here, the plan requests a temporary injunction as to Goldberg and Peters in the Guarantee Action either until the project is complete and sold or December 31, 2024. This is similar to Rohnert Park Auto Parts, where creditors were prohibited from pursuing codebtors until the plan was completed and the BAP found that it did not comply with section 524(e). Debtor argues that the equity interest holders shall make Chapter 11 plan payments to Fundrise until the construction project is completed and sold. Fundrise's prosecution of its claims against the guarantors appears to threaten the ability to make those payments, which could affect the debtor's ability to reorganize. Based on the facts as presented here, there appears to be no basis for allowing a post-confirmation injunction as to the Guarantors.

The feasibility, liquidation value, interest rates and other issues can wait until the confirmation hearing. The evidence will control on those issues.

For these reasons, the motion to approve the disclosure statement is DENIED. The other issues raised by Fundrise will not be addressed at this time.

Appearance Required.

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

PB 6 LLC

Represented By  
Jeffrey S Shinbrot

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1:21-10293 PB 6 LLC

Chapter 11

#38.01 Motion for Authority to Obtain Credit Under Section 364(b), Rule 4001(c) or (d) Notice of Motion for: Debtor's Motion to Approve Post-Petition Secured Financing With Urban Bay Housing Fund (11 U.S.C. Section 364; LBR Form 4001-2 Filed Concurrently Herewith)

Docket 60

**Tentative Ruling:**

The Debtor is a California limited liability company and is the owner and developer of a real estate project commonly known as 5137-5149 ½ Colfax Avenue, Los Angeles, California ("Colfax Villas"). Colfax Villas consists of approximately 18,800 square feet of land that has been subdivided into 12 single-family residential lots for development. Currently, there are no housing units on the lot. The units shall be prefabricated in 96 pieces in Perris, California by Silver Creek Industries. The Debtor expects to use the prefabricated model for future projects as a means to produce projects that include both high-end and affordable housing.

The Debtor needs to obtain financing in order to complete the housing to sell. The Debtor has received a proposed loan offer from Urban Bay ("Lender"). The proposed terms are laid out below:

Loan Amount :\$6,001,218

Interest Rate 11.75%

Application Fee \$25,000 (paid by the Debtor's owners )

Collateral Second Priority Lien/pledge of membership interests

The Debtor filed a motion to approve postpetition financing and the US Trustee and Fundrise West Coast Opportunistic REIT, LLC

Section 364(c) of the Bankruptcy Code provides a mechanism for the debtor in possession to obtain credit on a superpriority or secured basis. Specifically, if the debtor is "unable to obtain unsecured credit allowable . . . as an administrative expense, the court, after notice and hearing, may authorize the

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obtaining or the incurring of debt" with: (1) a priority over any or all administrative expenses; (2) security in the form of a lien on unencumbered assets; or (3) security in the form of a junior lien on assets that are already encumbered. 11 U.S.C. § 364(c) (emphasis added); see also 11 U.S.C. § 102(1) (defining "after notice and a hearing"); Fed. R. Bankr. P. 4001(c) (setting forth the procedures for "obtaining credit"). As the Ninth Circuit has made clear, the debtor in possession must "obtain the bankruptcy court's authorization before incurring secured debt." In re Harbin, 486 F.3d 510, 521 (9th Cir. 2007) (noting that the prior authorization requirement "stems from section 362 of the Bankruptcy Code, which prohibits post-petition encumbrances on the bankruptcy estate"); see also In re Boss Litho, 2018 Bankr. LEXIS 3672, 2018 WL 6072329, at \*2 (9th Cir. BAP Nov. 20, 2018) (holding that "[a]pproval must be obtained before incurring the debt").

A Debtor has the burden of proving that:

(1) They are unable to obtain unsecured credit per 11 U.S.C. § 364(b), i.e., by allowing a lender only an administrative claim per 11 U.S.C. 503(b)(1) (A);

(2) The credit transaction is necessary to preserve the assets of the estate; and

(3) The terms of the transaction are fair, reasonable, and adequate, given the circumstances of the debtor-borrower and the proposed lender.

In re LA Dodges LLC, 457 B.R. 308, 312-13 (Bankr. Del. 2011).

Based on the first amended plan, the Debtor needs capital in order to complete the project - so some form of credit transaction is required. Debtor's motion should contain more information about how beneficial this loan with its terms are though. This is a large loan and a high interest rate. Even if this is the only loan offer the Debtor could obtain, it may not be worth entering into if the cost is so high. Debtor should provide further analysis why this loan is fair and reasonable. Adam Goldberg on behalf of the Debtor submitted a declaration stating that he has been attempting to get financing for almost a year from 25 potential lenders and no one other than the Lender would be willing to enter into a loan because of the senior debt structure. There is also some confusion in the motion as to whether debtor seeks to prime senior lien. This should be clarified.

There is very little detail on what was sought elsewhere and why junior



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**CONT... PB 6 LLC**

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financing is not available. There is no copy of the credit agreement as is required by FRBP 4001(c). The Debtor does attach a proposal, but that does not satisfy this requirement. The terms maybe reasonable but a proposal is just that and can ultimately change - the proposal even mentions that. The Court is inclined to DENY the motion and and allow the Debtor to refile the motion with adequate detail and real financing, including a copy of the official agreement. Parties in interest will be given the opportunity to respond.

Appearance Required.

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

PB 6 LLC

Represented By  
Jeffrey S Shinbrot

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**1:21-10293 PB 6 LLC**

**Chapter 11**

**#38.02 Chapter 11 Case Mgmt Conference**

fr. 4/7/21, 9/8/21; 10/20/21

Docket 0

**Tentative Ruling:**

Appearance Required. Court may update tentative the day before the hearing.

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

PB 6 LLC

Represented By  
Jeffrey S Shinbrot

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**1:19-12102 Hawkeye Entertainment, LLC**

**Chapter 11**

**#39.00** Post Confirmation status conference

fr. 3/11/20; 5/13/20, 7/17/20, 7/23/20; 10/13/20;  
4/8/21(moved to 4/7/21), 4/7/21; 6/16/21

Docket 0

**\*\*\* VACATED \*\*\* REASON: Moved to be heard at 10:30a.m**

**Tentative Ruling:**

- NONE LISTED -

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

Hawkeye Entertainment, LLC

Represented By  
Sandford L. Frey

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**1:21-10253 Sharareh Simhaei**

**Chapter 13**

**#40.00** Motion RE: Objection to Claim Number 8 by Claimant Kamran Kohan.

fr. 7/27/21; 9/22/21

Docket 35

**Tentative Ruling:**

After review of the docket for this adversary proceeding, the Court finds cause to continue this hearing to **March 30, 2022, at 1:00 p.m.**, as it is trailing the resolution of adversary proceeding 1:21-ap-01029.

NO APPEARANCE REQUIRED ON 12/8/2021

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

Sharareh Simhaei

Represented By  
Stella A Havkin

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:21-10253 Sharareh Simhaei

Chapter 13

Adv#: 1:21-01029 Kohan v. Simhaei

#41.00 Motion to Dismiss Amended Complaint

fr. 9/22/21, 12/8/21

Docket 10

\*\*\* VACATED \*\*\* REASON: Cont'd to 3/30/22 at 1:00 p.m. per Ord #25.

If

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Sharareh Simhaei

Represented By  
Stella A Havkin

**Defendant(s):**

Sharareh Simhaei

Represented By  
Stella A Havkin

**Plaintiff(s):**

Kamran Kohan

Represented By  
Alexandre I Cornelius

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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**1:21-10253 Sharareh Simhaei**

**Chapter 13**

Adv#: 1:21-01029 Kohan v. Simhaei

**#42.00** Status Conference Re: First Amended  
Complaint for Determination of  
Dischargeability Pursuant to 11 U.S.C  
Sec. 523

fr. 9/22/21

Docket 7

**\*\*\* VACATED \*\*\* REASON: Cont'd to 3/30/22 at 1:00 p.m. per Ord #25.  
If**

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Sharareh Simhaei

Represented By  
Stella A Havkin

**Defendant(s):**

Sharareh Simhaei

Represented By  
Stella A Havkin

**Plaintiff(s):**

Kamran Kohan

Represented By  
Alexandre I Cornelius

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:17-12980 Mainstream Advertising, a California Corporation

Chapter 7

Adv#: 1:20-01027 Goldman v. Bibi et al

#43.00 Motion For Summary Judgment or in the Alternative  
Summary Adjudication

Docket 26

\*\*\* VACATED \*\*\* REASON: Cont'd to 2/24/22 at 10:00 a.m. per Ord.  
#59. lf

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Mainstream Advertising, a

Represented By  
Kathleen P March

**Defendant(s):**

Danny Bibi

Represented By  
Alan W Forsley

Shahla Mishkanin

Represented By  
Alan W Forsley

Iraj Khoshnood

Represented By  
Alan W Forsley

Monetize.com, inc.

Represented By  
Alan W Forsley

Ad.com Interactive Media Inc.

Represented By  
Alan W Forsley

**Plaintiff(s):**

Amy L. Goldman

Represented By  
John P. Reitman  
Jack A. Reitman

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**CONT... Mainstream Advertising, a California Corporation**

**Chapter 7**

**Trustee(s):**

Amy L Goldman (TR)

Represented By

David B Golubchik

Peter J Mastan

Anthony A Friedman

John P. Reitman

Jack A. Reitman



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**1:21-10554 Elsa V. Ramirez**

**Chapter 7**

Adv#: 1:21-01040 Upstream Capital Investments LLC v. Ramirez

**#44.00** Motion to Dismiss Adversary Proceeding

Docket 21

**Tentative Ruling:**

Plaintiff Upstream Capital Investments, LLC ("Plaintiff") alleges that on March 13, 2006, Elsa Ramirez's ("Defendant") former husband Paul Edmeier ("Edmeier") was hired as Chief Financial Officer for a business owned by Melvyn Bernie, dba 1928 Jewelry ("1928 Jewelry"). In that position for seven years, Edmeier's job responsibilities encompassed 1928 Jewelry's finances, as well as financial oversight over all of its businesses, including overseeing all companies' accounting departments, and all of the companies' respective payables and receivables. During this time, Plaintiff alleges that Defendant was Edmeier's mistress. Defendant was also employed by Edmeier as an accounting clerk for 1928 Jewelry and had access to the monthly accounting reports. Plaintiff alleges that as early as January 2009, Defendant along with Edmeier, devised and engaged in a scheme to defraud and steal from 1928 Jewelry, and acted in furtherance of that scheme. Plaintiff believes that Defendant embezzled or stole in excess of \$260,000.00 from 1928 Jewelry.

On February 14, 2014, 1928 Jewelry filed suit against Defendant in the Superior Court of California. In the Superior Court Complaint, 1928 Jewelry asserted six causes of action: (1) Conversion; (2) Money had and Received; (3) Common Law Fraudulent Conveyance; (4) Violation of UFTA; (5) unjust enrichment; (6) Deceit; and (7) Breach of Duty of Loyalty. On June 9, 2015, default judgment for fraud was entered in the civil case against Defendant in the amount of \$288,191.00, plus prejudgment interest in the amount of \$1,922.70, with interest thereon at the rate of ten percent (10%) per annum from the entry of judgment until all paid.

1928 Jewelry transferred and assigned to Plaintiff all of its rights and interest in Defendant's judgment debt to Plaintiff. On February 22, 2019, Plaintiff filed an abstract of judgment to record a judicial lien against the Defendant's real property at 10900 Marklein Ave., Mission Hills, CA 91345. The amount currently due is approximately \$455,057.12.

On March 31, 2021, Defendant filed a chapter 7 bankruptcy case. Plaintiff commenced an adversary proceeding on July 9, 2021, seeking relief under 11

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CONT... **Elsa V. Ramirez**

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U.S.C. §§ 523(a)(2) & (6). The Court granted Defendant's motion to dismiss the original complaint under FRCP 12(b)(6) and permitting amendment within 30 days. See Notice of Tentative Ruling on Defendant's Motion to Dismiss, ad. ECF doc. 14.

On October 1, 2021, Plaintiff filed its amended complaint. The amended complaint has two causes of action for nondischargeability, 11 USC § 523(a)(2)(A) and 11 USC § 523(a)(6). Defendant filed a motion to dismiss the amended complaint, asserting that it fails to meet the pleading standards of Federal Rule of Civil Procedure 8 and 9, which are incorporated in Federal Rule of Bankruptcy Procedure 7008 and 7009. Plaintiff believes the standards have been satisfied.

**Standard**

A motion to dismiss under Civil Rule 12(b)(6) challenges the sufficiency of the allegations set forth in the complaint. "A Rule 12(b)(6) dismissal may be based on either a 'lack of a cognizable legal theory' or 'the absence of sufficient facts alleged under a cognizable legal theory.'" Johnson v. Riverside Healthcare Sys., 534 F.3d 1116, 1121 (9th Cir. 2008) (*quoting* Balistreri v. Pacifica Police Dept., 901 F.2d 696, 699 (9th Cir. 1990)).

In resolving a Civil Rule 12(b)(6) motion to dismiss, the court must construe the complaint in the light most favorable to the plaintiff and accept all well-pleaded factual allegations as true. Johnson, 534 F.3d at 1122; Knox v. Davis, 260 F.3d 1009, 1012 (9th Cir. 2001). On the other hand, the court is not bound by conclusory statements, statements of law, and unwarranted inferences cast as factual allegations. Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555-57 (2007); Clegg v. Cult Awareness Network, 18 F.3d 752, 754-55 (9th Cir. 1994).

"While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff's obligation to provide the 'grounds' of his 'entitlement to relief' requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." Twombly, 550 U.S. at 555 (citations omitted). "In practice, a complaint . . . must contain either direct or inferential allegations respecting all the material elements necessary to sustain recovery under some viable legal theory." Id. at 562 (emphasis added) (*quoting* Car Carriers, Inc. v. Ford Motor Co., 745 F.2d 1101, 1106 (7th Cir. 1984)).

In Ashcroft v. Iqbal, U.S. , 129 S.Ct. 1937, 194 (2009), the Supreme Court elaborated on the Twombly standard: To survive a motion to dismiss, a complaint

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must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. . . . A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. . . . Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice. Id. (citations and internal quotation marks omitted). In light of that standard, the Supreme Court invited courts considering a motion to dismiss to use a two-pronged approach. First, "begin by identifying pleadings that, because they are no more than conclusions, are not entitled to the assumption of truth. While legal conclusions can provide the framework of a complaint, they must be supported by factual allegations." Iqbal at 1951 After those pleadings are excised, all that is left to consider are the factual allegation in the "complaint to determine if they plausibly suggest an entitlement to relief." Id. Courts should assume the veracity of the well-pled factual allegations. Id.

Determination of Nondischargeability for Fraud § 523(a)(2)

Defendant argues that, apart from memorializing the transfers found in the Judgment in Paragraph 19, subsections A) – UU), Plaintiff's FAC is almost identical to their Original Complaint, which was dismissed pursuant to FRCP 12(b)(6). Defendant argues that Plaintiff's FAC still fails to allege the "who, what, where, when, and how" of Upstream Capital's 11 U.S.C. § 523(a)(2) claims for fraud. Therefore, Plaintiff has once again failed to meet the heightened FRCP Rule 9 pleading standard.

Section 523(a)(2)(A) excepts from discharge any debt "to the extent obtained by false pretenses, a false representation, or actual fraud, other than a statement respecting the debtor's or an insider's financial condition." 11 U.S.C. §523(a)(2)(A). While Defendant is focused on the dearth of allegations related to actual fraud, here the allegations are more akin to "false pretenses" as the allegations are that Defendant was involved in a scheme with Edmeier to conceal funds stolen from 1928 Jewelry while she was employed there by Edmeier. For an omission to be actionable under section 523(a)(2)(A), the defendant must be under a duty to disclose the omitted information. Harmon, 250 F.3d at 1246 n.4. Under California law, there are four circumstances in which a duty to disclose material facts may arise: (1) when the defendant is in a fiduciary relationship with the plaintiff; (2) when the defendant had exclusive knowledge of material facts not known to the plaintiff; (3) when the defendant actively conceals a material fact from the plaintiff; or (4) when the defendant makes partial representations but also suppresses some

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material facts. LiMandri v. Judkins, 52 Cal.App.4th 326, 336, 60 Cal.Rptr.2d 539 (1997). The last three circumstances do not require a fiduciary relationship, so long as there exists some relationship between the defendant and plaintiff, such as one "between seller and buyer, employer and prospective employee, doctor and patient, or parties entering into any kind of contractual agreement." Id. at 336–37, 60 Cal.Rptr.2d 539.

California law also recognizes that a duty to disclose "may arise without any confidential relationship where the defendant alone has knowledge of material facts that are not accessible to the plaintiff." 5 Witkin, Summary of Cal. Law (10th ed. 2005) Torts, § 796, p. 1151 (citing Sime v. Malouf, 95 Cal.App.2d 82, 100, 212 P.2d 946 (1949); De Spirito v. Andrews, 151 Cal.App.2d 126, 130, 311 P.2d 173 (1957); Lingsch v. Savage, 213 Cal.App.2d 729, 735, 29 Cal.Rptr. 201 (1963); Massei v. Lettunich, 248 Cal.App.2d 68, 73, 56 Cal.Rptr. 232 (1967); Magpali v. Farmers Group, 48 Cal.App.4th 471, 482, 47 Cal.App.4th 1024, 55 Cal.Rptr.2d 225 (1996)).

Here, the amended complaint is detailed in its factual allegations relating to the Defendant's actions, specifically that she received cash and other goods for no or little consideration from Edmeier and converted these funds, to which she had no claim, to her personal use. Plaintiff identified the timeframe of the alleged scheme as "commencing as early as January 2009" and identified specific transfers and the dates on which most of those transfers were made. Am. Complaint, ¶¶19A – UU. The allegations in the Amended Complaint are pled sufficiently under Rule 9(b) as they explain how the money was funneled from Edmeier to Defendant at the 1928 Jewelry accounting offices, the specific timeframe when the alleged transfers were made, and that Defendant acted under false pretenses by continuing to work for 1928 Jewelry while knowing that she and Edmeier were allegedly stealing from it. The allegations in the Amended Complaint are sufficient to overcome a challenge under Rule 9(b). See Blake v. Dierdorff, 856 F.2d 1365, 1369 (9th Cir. 1988). The State Court Complaint and Judgment are also attached, providing additional details. Further details must be included in the pretrial stipulation following discovery.

Determination of Nondischargeability for Punitive Damages Awarded Because of Fraud - § 523(a)(6)

Defendant argues in her Motion to Dismiss that Plaintiff's complaint fails to allege any direct intentional injury. Defendant also argues that Plaintiff's 11 U.S.C. § 523(a)(6) claim fails to allege Defendant intended to cause Plaintiff harm.

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Section 523(a)(6) excepts from discharge any debt of the debtor "for willful or malicious injury to another entity or to the property of another entity." 11 U.S.C. § 523(a)(6). Under § 523(a)(6), a debtor's actions would need to equate with "willful and malicious" injury within the meaning of the Code. The first step of this inquiry is whether there is "willful" injury, which is must entail a deliberate or intentional injury. Kawaauhau v. Geiger, 523 U.S. 57, 61-62 (1998). In the Ninth Circuit, the intent required to be considered "willful" is either the subjective intent of the actor to cause harm or the subjective knowledge of the actor that harm is substantially certain to occur. Carrillo v. Su (In re Su), 290 F.3d 1140, 1144-45 (9th Cir. 2002).

The second step of the inquiry is whether Debtor's conduct was "malicious." The relevant test for such "malicious" conduct is: 1) a wrongful act; 2) done intentionally; 3) which necessarily causes injury; and 4) without just cause and excuse. Jett v. Sicroff (In re Sicroff), 401 F.3d 1101, 1105-1106 (9th Cir. 2005). Under § 523(a)(6), Debtor's actions would need to equate with "willful and malicious" injury within the meaning of the Code.

The conversion of another's property without his knowledge or consent, done intentionally, without justification and excuse, to the other's injury is a willful and malicious injury under section 523(a)(6). Petralia v. Jercich (In re Jercich), 238 F.3d 1202, 1208 (9th Cir. 2001). In California, conversion is defined as the "wrongful exercise of dominion over the personal property of another." Zaslow v. Kroenert, 29 Cal. 2d 541, 549 (1946); Farmers Ins. Exch. v. Zerin, 53 Cal. App. 4th 445, 451 (1997). Conversion requires a showing of: 1) plaintiff's ownership or right to possession of the property at the time of conversion; 2) defendant's conversion by a wrongful act or disposition of property rights; and 3) damages. Farmers Ins. Exch., 51 Cal. App. 4th at 451; In re Thiara, 285 B.R. 420, 427 (B.A.P. 9th Cir. 2002). A manual taking of property is not necessary; it is only necessary to "show an assumption of control or ownership over the property, or that the alleged converter has applied the property to his own use." Farmers, 53 Cal. App. 4th at 451-52; (citing Oakdale Village Group v. Fong, 43 Cal. App. 4th 539, 543-44 (1996)).

The factual allegations in the Amended Complaint relating to the Defendant's actions are receiving cash and other goods that Edmeier took from 1928 Jewelry for no or little consideration, and then intentionally converting those funds to her own use. The allegations of conversion, which was specifically pled in the Superior Court Complaint, are sufficient under § 523(a)(6) to survive a challenge under FRCP 12(b) (6).

Motion to Dismiss Amended Complaint is DENIED.

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**Party Information**

**Debtor(s):**

Elsa V. Ramirez

Represented By  
Ahren A Tiller

**Defendant(s):**

Elsa V. Ramirez

Represented By  
Ahren A Tiller

**Plaintiff(s):**

Upstream Capital Investments LLC

Represented By  
Lynda E Jacobs

**Trustee(s):**

Diane C Weil (TR)

Pro Se

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Adv#: 1:21-01040 Upstream Capital Investments LLC v. Ramirez

**#44.01** Status Conference re Amended Complaint Seeking  
Non-Dischargeability of debt in core adversary proceedings.

Docket 16

**Tentative Ruling:**

APPEARANCE REQUIRED

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

Elsa V. Ramirez

Represented By  
Ahren A Tiller

**Defendant(s):**

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**Plaintiff(s):**

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**Trustee(s):**

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