

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

9:00 AM
2:00-000000

Chapter

- #1.00** Hearings in Judge Bason's courtroom (1545) are simultaneously:
- (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices),
 - (2) via ZoomGov video, and
 - (3) via ZoomGov telephone.
- You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. ZoomGov appearances are free.

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: **160 513 6147**

Password: **336083**

Meeting URL: <https://cacb.zoomgov.com/j/1605136147>

Telephone: +1 669-254-5252 or +1 646-828-7666 or 833-568-8864 (Toll Free)

Please connect at least 5 minutes before the start of your hearing, and wait with your microphone muted until your matter is called.

Chapter 13: Persons needing to contact the Chapter 13 Trustee's attorney, either prior to the hearing or during a recess, can call Kaleen Murphy, Esq. at (213) 996-4433.

Members of the public, including the press, are always welcome in person (except in rare instances when the courtroom is sealed) and they may also listen via telephone to non-evidentiary hearings, but must not view any hearings via video (per mandate of the AO).

Any audio or video recording is strictly prohibited. Official recordings are available for a small fee through the Clerk's Office.

Zoomgov hearing etiquette: (a) wait until the judge calls on you, so everyone is not talking at once; (b) when you first speak, state your name and, if you are an attorney, whom you represent (do not make your argument until asked to do so); (c) when you make your argument, please pause from time to time so that, for

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

9:00 AM

CONT...

Chapter

example, the judge can ask a question or anyone else can make an objection;
(d) if the judge does not see that you want to speak, or forgets to call on you,
please say so when other parties have finished speaking (do not send a "chat"
message, which the judge might not see); and (e) please let the judge know if he
mispronounces your name, uses the wrong pronoun, etc.

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

10:00 AM

2:23-18061 Shawn Kjaer- Olsen

Chapter 13

#1.00 Hrg re: Motion for relief from stay [UD]

BEVEN & BROCK PROPERTY MANAGEMENT CO
vs
DEBTOR

Docket 9

Tentative Ruling:

Grant as set forth below.

Proposed order(s): Unless otherwise ordered, Movant is directed to lodge proposed order(s) on the foregoing matter(s) via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)) and attach a copy of this tentative ruling, thereby incorporating it as this Court's actual ruling.

Appearances are not required. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

Key documents reviewed (in addition to motion papers): N/A (no opposition on file as of the preparation of this tentative ruling)

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c). In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: As provided in the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov), the tentative

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

10:00 AM

CONT...

Shawn Kjaer- Olsen

Chapter 13

ruling is that a motion for relief from the automatic stay is not mooted even when the tentative ruling is that the stay no longer exists, for the following reasons:

a. Multiple, alternative grounds for relief should all be reached.

When a motion seeks the same relief on multiple alternative grounds, all of those grounds usually should be ruled on because a tentative or final ruling on any one ground might be reversed or altered later on. For example, movants often seek a ruling that the automatic stay does not prevent them from pursuing their remedies both (i) because the stay does not apply (e.g., after dismissal of the bankruptcy case, per 11 U.S.C. §§ 349(b)(3), 362(c)) and alternatively (ii) because relief from the stay is appropriate (under 11 U.S.C. § 362(d)). If the first ground later turns out to be reversed or altered (e.g., if a dismissal is vacated), the movant would be prejudiced if this Court had refused to reach the movant's alternative argument that the stay should be lifted. *See also, e.g., In re Krueger*, 88 B.R. 238, 241-42 (9th Cir. BAP 1988) (notwithstanding dismissal, stay held to continue due to lack of proper notice re dismissal).

b. Annulment, *in rem* relief, etc. Some matters always remain relevant, notwithstanding dismissal, closing of a case, or other grounds on which the stay might not currently exist. *See In re Aheong*, 276 B.R. 233 (9th Cir. BAP 2002).

For the foregoing reasons, the tentative ruling is that it is appropriate to address the following issues.

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. *See In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

Retroactive relief

Deny the request for retroactive annulment of the stay because Judge Bason is not prepared to issue a blanket annulment with respect to whatever unspecified things might have occurred postpetition.

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

10:00 AM

CONT... Shawn Kjaer- Olsen

Chapter 13

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

Party Information

Debtor(s):

Shawn Kjaer- Olsen

Pro Se

Movant(s):

Beven & Brock Property

Represented By
Lane M Nussbaum

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

10:00 AM

2:23-16269 Lynnelle Jackson

Chapter 7

#2.00 Hrg re: Motion for relief from stay [UD]

NP MUSEUM GARDENS, LLC
vs
DEBTOR

Docket 16

Tentative Ruling:

Grant in part and deny in part as set forth below.

Proposed order(s): Unless otherwise ordered, Movant is directed to lodge proposed order(s) on the foregoing matter(s) via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)) and attach a copy of this tentative ruling, thereby incorporating it as this Court's actual ruling.

Appearances are not required. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

Key documents reviewed (in addition to motion papers): N/A (no opposition on file as of the preparation of this tentative ruling)

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1).

To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

10:00 AM

CONT... Lynnelle Jackson

Chapter 7

The automatic stay applies

Deny the request for an order confirming that no stay is in effect. Movant has not established an exception to the automatic stay under 11 U.S.C. 362(b) because although the Motion references 11 U.S.C. 362(b)(22) and 11 USC 362(l), the elements of those sections have not been established because Movant has not obtained a prepetition judgment for possession against Debtor.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3).

Relief notwithstanding *future* bankruptcy cases

Deny, without prejudice to any other types of relief granted herein (or previously granted).

The motion requests "*in rem*" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request for the following reasons.

The tentative ruling is to deny that request for lack of sufficient cause shown: there is no evidence of the type typically required for such relief, such as multiple bankruptcy filings or unauthorized transfers combined with a scheme to delay, hinder or defraud creditors.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

Party Information

Debtor(s):

Lynnelle Jackson

Pro Se

Movant(s):

NP MUSEUM GARDENS, LLC

Represented By
Allison Kathleen Higley

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

10:00 AM

CONT... Lynnelle Jackson

Chapter 7

Trustee(s):

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

10:00 AM

2:23-17849 Marlene Aybar

Chapter 13

#3.00 Hrg re: Motion in Individual Case for Order
Confirming Termination of Stay under
11 U.S.C. 362(j) or That No Stay is in Effect
under 11 U.S.C. 362(c)(4)(A)(ii)

BRENTWOOD SQUARE CONDOMINIUMS, INC.
vs
DEBTOR

Docket 13

Tentative Ruling:

Grant as set forth below.

Proposed order(s): Unless otherwise ordered, Movant is directed to lodge proposed order(s) on the foregoing matter(s) via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)) and attach a copy of this tentative ruling, thereby incorporating it as this Court's actual ruling.

Appearances are not required. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

The automatic stay does not apply

Grant the motion under 11 U.S.C. 362(c)(3) and (j): there is no automatic stay because (a) Debtor's prior case (#2:23-bk-15572-NB) was dismissed (on 9/21/2023) within one year before this case was filed (on 9/28/2023), (b) that dismissal was not under 11 U.S.C. 707(b), and (c) no finding of good faith was timely sought and obtained. The automatic stay has

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

10:00 AM

CONT... Marlene Aybar

Chapter 13

terminated both as to Debtor *in personam* and as to property of Debtor. See *In re Reswick*, 446 B.R. 362 (9th Cir. BAP 2011); *In re Hernandez*, case no. 2:11-bk-53730-NB, docket #40 (Memorandum Decision).

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

Effective date of relief

The tentative ruling is that the order granting the Motion will take effect immediately upon entry. (The tentative ruling is that the 14-day stay provided by FRBP 4001(a)(3) is inapplicable because said rule applies only to an "order granting a motion for relief from an automatic stay made in accordance with Rule 4001(a)(1)" (emphasis added), whereas the instant Motion seeks an order confirming the inapplicability of the automatic stay.)

Party Information

Debtor(s):

Marlene Aybar

Pro Se

Movant(s):

Brentwood Square Condominiums,

Represented By
Daniel Medioni

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

10:00 AM

2:19-15817 Michael A Mannino

Chapter 13

#4.00 Hrg re: Debtor's motion for voluntary dismissal of chapter 13 case

Docket 75

Tentative Ruling:

Appearances required. There is no tentative ruling, but Debtor is directed to appear to address the matters specified in the "Order Setting Hearing on Debtor's Motion for Voluntary Dismissal of Chapter 13 Case," dkt. 80.

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

Party Information

Debtor(s):

Michael A Mannino

Represented By

Alisa Admiral Garcia

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

11:00 AM

2:23-16542 Joseph Salazar

Chapter 13

Adv#: 2:23-01452 Salazar v. JP Morgan Chase Bank et al

#1.00 Status conference re: Complaint
for jury trial demand

Docket 1

***** VACATED *** REASON: Dismissed. See adv. dkt. 3.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Joseph Salazar	Pro Se
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Defendant(s):

JP Morgan Chase Bank	Pro Se
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First American Title Insurance	Pro Se
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Uruban Bonnie Foote	Pro Se
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John Does 1 - 16	Pro Se
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Plaintiff(s):

Joseph Salazar	Pro Se
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

11:00 AM

2:23-14528 Brian D Witzer

Chapter 7

Adv#: 2:23-01445 Pravati Credit Fund III, LP v. Witzer

#2.00 Status conference re: Complant for determination of nondischargeability of debt pursuant to section 523(a)(2)(A) & (B) and section 523(a)(4)

Docket 1

Tentative Ruling:

Continue, with deadlines, as set forth below. Appearances are not required on 1/2/24. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

(1) Current issues

This Court has reviewed the parties' joint status report (adv. dkt. 7) and the other filed documents and records in this adversary proceeding.

(2) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(a) Venue/jurisdiction/authority

If there are any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding, the parties are directed to contest this tentative ruling and appear at this status conference. Otherwise, any objections will be deemed waived or forfeited. See *generally Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

11:00 AM

CONT...

Brian D Witzer

Chapter 7

litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(b) Mediation

Neither party seeks mediation at this time (adv. dkt. 7, p. 3). The tentative ruling is not to order mediation on this Court's own motion.

(c) Deadlines

This adversary proceeding has been pending since 10/23/23.

Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 8/19/24

Discovery cutoff (for completion of discovery): 9/2/24

Expert(s) - deadline for reports: 9/9/24 if any expert testimony will be presented.

Expert(s) - discovery cutoff (if different from above): 9/16/24 if any expert testimony will be presented.

Dispositive motions to be heard no later than: 11/5/24

Joint Status Report: 4/23/24.

Continued status conference: 5/7/24 at 11:00 a.m.

Lodge Joint Proposed Pretrial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

11:00 AM

CONT... Brian D Witzer

Chapter 7

Debtor(s):

Brian D Witzer

Represented By
David S Hagen
Michael S Kogan

Defendant(s):

Brian D Witzer

Represented By
Michael S Kogan

Plaintiff(s):

Pravati Credit Fund III, LP

Represented By
Jennifer Witherell Crastz

Trustee(s):

Sam S Leslie (TR)

Represented By
Jeremy Faith

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

11:00 AM

2:23-14528 Brian D Witzer

Chapter 7

Adv#: 2:23-01446 Hoeft v. Witzer et al

#3.00 Status conference re: Complaint to object to the discharge of certain debts of Brian D. Witzer, and or the Law Offices of Brian D. Witzer: 1) Breach of contract; 2) Breach of implied covenant of good faith and fair dealing; 3) Professional negligence; 4) Breach of fiduciary duties; 5) Fraud; 6) Conversion; 7) Negligent misrepresentation

Docket 1

***** VACATED *** REASON: Order approving stip to cont'd to 2/20/24 at 11:00 a.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Brian D Witzer

Represented By
David S Hagen
Michael S Kogan

Defendant(s):

Brian D Witzer

Pro Se

Law Offices of Brian D. Witzer

Pro Se

Does 1 through 100, inclusive

Pro Se

Plaintiff(s):

Lori Hoeft

Pro Se

Trustee(s):

Sam S Leslie (TR)

Represented By
Jeremy Faith

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

11:00 AM

2:23-14528 Brian D Witzer

Chapter 7

Adv#: 2:23-01447 HOWARD v. WITZER

#4.00 Status conference re: Complaint to
determine nondischargeability

Docket 1

***** VACATED *** REASON: Another summons issued; Reset to 1/23/24
at 11:00 a.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Brian D Witzer

Represented By
David S Hagen
Michael S Kogan

Defendant(s):

BRIAN D. WITZER

Represented By
Michael S Kogan

Plaintiff(s):

NATHANIEL HOWARD

Represented By
Timothy M Ryan

Trustee(s):

Sam S Leslie (TR)

Represented By
Jeremy Faith

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

11:00 AM

2:22-16217 Felix Imoisili Obamogie

Chapter 7

Adv#: 2:23-01318 Avery v. Obamogie et al

#5.00 Cont'd status conference re: Trustee's complaint for: (1) Avoidance of fraudulent transfer; (2) Recovery of avoided transfer; (3) Imposition of a constructive trust; (4) A declaratory judgment quieting title to real property; (5) Turnover; (6) Injunctive relief; (7) Permission to sell real property in which a non-debtor asserts an interest; (8) Fraud; (9) Substantive consolidation of defendants with the debtor's estate fr. 9/5/23

Docket 1

Tentative Ruling:

Tentative Ruling for 1/2/24:

Continue, with new deadlines, as set forth below. Appearances are not required on 1/2/24. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

(1) Current issues

This Court has reviewed the parties' joint status report (adv. dkt. 19) and the other filed documents and records in this adversary proceeding.

(a) Extension of previously-ordered litigation deadlines

Both parties state (x) that they will not be ready for trial until August 2024, see Status Report at ¶ (B)(1) and (y) that they have agreed to a 45-day extension of the discovery cutoff deadline, see Status Report at ¶ (B)(3) (the discovery cutoff deadline was previously set for 12/5/23, see dkt. 12). The

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

11:00 AM

CONT... Felix Imoisili Obamogie

Chapter 7

tentative ruling is (x) to extend the discovery cutoff deadline as requested by the parties, (y) to extend the expert discovery cutoff deadlines as set forth in part "(2)(c)" of this Tentative Ruling, below, to conform with the extended discovery cutoff deadline, and (z) to extend the motion cutoff deadline as set forth in part "(2)(c)" of this Tentative Ruling, below.

(2) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(a) Venue/jurisdiction/authority

Both parties have consented to this Court's entry of final judgment, see Status Report at ¶ F. The tentative ruling is that both parties have waived and/or forfeited any right to a jury trial by failing to timely make a jury demand. See Complaint (adv. dkt. 1) (no jury demand); Answer (dkt. 8) (no jury demand); and adversary proceeding docket (no jury demand made by Defendants within fourteen days of the filing of the Answer, as required by Rule 38(b) (Fed. R. Civ. P.), made applicable to this proceeding by Rule 9015 (Fed. R. Bankr. P.)).

(b) Mediation

This matter was mediated on 11/28/23, see Status Report at ¶ (E)(1). The tentative ruling is to decline to order any further formal mediation at this time.

(c) Deadlines

This adversary proceeding has been pending since 6/27/23.

Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 11/21/23.

Discovery cutoff (for *completion* of discovery): 1/19/24.

Expert(s) - deadline for reports: 1/26/24 if any expert testimony will be presented.

Expert(s) - discovery cutoff (if different from above): 2/2/24 if any

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

11:00 AM

CONT... Felix Imoisili Obamogie

Chapter 7

expert testimony will be presented.

Dispositive motions to be heard no later than: 4/9/24.

Joint Status Report: No written status report required.

Continued status conference: 2/20/24 at 11:00 a.m.

Lodge Joint Proposed Pretrial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

Tentative Ruling for 9/5/23:

Appearances required.

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

(1) Current issues

This Court has reviewed the Trustee's unilateral status report (adv. dkt. 9) and the other filed documents and records in this adversary proceeding.

(a) Status of settlement negotiations

The parties should be prepared to update this Court on the status of their settlement negotiations.

(2) Standard requirements

The following are Judge Bason's standard requirements for status conferences. (To the extent that the parties have already addressed these issues in their status report, they need not repeat their positions at the status conference.)

(a) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented.

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

11:00 AM

CONT... Felix Imoisili Obamogie

Chapter 7

See generally Stern v. Marshall, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(b) Mediation

Is there is any reason why this Court should not order the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a **deadline of 9/19/23** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will choose among them, or issue his own order).

(c) Deadlines

This adversary proceeding has been pending since 6/27/23.

Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 11/21/23

Discovery cutoff (for *completion* of discovery): 12/5/23.

Expert(s) - deadline for reports: 12/12/23 if any expert testimony will be presented.

Expert(s) - discovery cutoff (if different from above): 12/19/23 if any expert testimony will be presented.

Dispositive motions to be heard no later than: 1/2/24

Joint Status Report: 1/19/23.

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

11:00 AM

CONT...

Felix Imoisili Obamogie

Chapter 7

Continued status conference: 1/2/24 at 11:00 a.m.

Lodge Joint Proposed Pretrial Order: TBD

Pretrial conference: TBD

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: TBD

Trial commencement: TBD

Party Information

Debtor(s):

Felix Imoisili Obamogie

Represented By
Harriet L. Goldfarb

Defendant(s):

Violet E. Obamogie

Represented By
Michael Jay Berger

Felix Imoisili Obamogie

Represented By
Michael Jay Berger

Plaintiff(s):

Wesley H. Avery

Represented By
Reilly D Wilkinson

Trustee(s):

Wesley H Avery (TR)

Represented By
Reilly D Wilkinson

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

1:00 PM

2:23-16484 Charles Weber

Chapter 11

#1.00 [CASE DISMISSED ON 12/6/23]

Hrg re: Application for Payment of
final fees and/or expenses
[Susan K Seflin, SubChapter V Trustee]

Docket 30

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2,
1/2/24 at 1:00 p.m.).

Party Information

Debtor(s):

Charles Weber

Represented By
Paul A Beck

Movant(s):

Susan K Seflin (TR)

Pro Se

Trustee(s):

Susan K Seflin (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

1:00 PM

2:23-16484 Charles Weber

Chapter 11

#2.00 Cont'd status conference re: Chapter 11 case
fr. 10/31/23, 11/14/23, 11/28/23

Docket 1

Tentative Ruling:

Tentative Ruling for 1/2/24:

Approve the Subchapter V Trustee's fee application and continue the status conference as set forth below, to assure that the fees are paid per this Court's order (dkt.. 35, the "Order re Dismissal"), which approved a stipulation resolving a motion to dismiss this case that, among other things, required payment of the Trustee's fees. Appearances are not required on 1/2/24. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

(1) Current issues

(a) Fee application of Subchapter V Trustee (dkt. 30); no opposition on file

Allow \$4,850.00 in fees and \$0.00 in expenses, for a total award of \$4,850.00, and authorize and direct immediate payment.

Note: This case will be dismissed once the Trustee files a notice of payment and lodged a proposed dismissal order, pursuant to paragraph 3 of the Order re Dismissal (dkt. 35, p. 2:3-7). Meanwhile, in case there is no payment or if there are any other problems that need to be addressed, this Court is continuing this status conference.

Proposed orders: Unless otherwise ordered, Applicant is directed to

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Charles Weber

Chapter 11

lodge (1) a proposed order awarding fees, via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)), and (2) a proposed order dismissing this case, within 7 days after she has filed her notice of payment.

(2) Dates/procedures. This case was filed on 10/4/23. Dismissal of this case is anticipated soon. See Order re Dismissal (dkt. 35).

(a) Bar date: N/A (case will be dismissed)

(b) Procedures Order: dkt. 7 (no proof of service filed)

(c) Plan: N/A.

(d) Continued status conference: 2/6/24 at 1:00 p.m. (to go off calendar if the case is dismissed).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Charles Weber

Pro Se

Trustee(s):

Susan K Seflin (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

1:00 PM

2:23-14986 ASE Construction, Inc.

Chapter 11

#3.00 Hrg re: Application for payment of interim
fees and/or expenses
[A.O.E. Law & Associates, APC, Debtor's Attorney]

Docket 105

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 4,
1/2/24 at 1:00 p.m.).

Party Information

Debtor(s):

ASE Construction, Inc.

Represented By
Anthony Obehi Egbase

Movant(s):

A.O.E. Law & Associates, APC

Represented By
Anthony Obehi Egbase

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

1:00 PM

2:23-14986 ASE Construction, Inc.

Chapter 11

#4.00 Cont'd status conference re: Chapter 11 case
fr. 9/12/23, 9/19/23, 10/3/23, 10/17/23, 10/31/23,
12/19/23

Docket 1

Tentative Ruling:

Tentative Ruling for 1/2/24:

Grant the fee application in part and deny in part and continue the status conference, all as set forth below. Appearances are not required on 1/2/24. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

(1) Current issues

(a) Fee application of A.O.E. Law & Associates (the "Firm") (dkt. 105, 106) & Morales declaration (dkt. 112), no opposition on file

This Court has concerns about the Firm's apparent billing practice of charging \$400.00/hr attorney rates for clerical and ministerial tasks. Such tasks are not compensable because they are (or should be) included in lawyers' overhead and not charged at rates applicable to legal services. In addition, some of the Firm's time entries seek excessive compensation for services that reasonably could have been performed in less time based on this Court's experience, both in private practice and in routinely reviewing other counsels' fee applications.

The tentative ruling is to disallow and/or reduce certain time entries, as follows:

<i>Description</i>	<i>Hours</i>	<i>Rate</i>	<i>Bill</i>	<i>Allowed</i>
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**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

1:00 PM

CONT... ASE Construction, Inc.

Chapter 11

08/08/2023 Administration/ Case:
Review Case & Procedures Order,
meeting with JF with instructions for
service of order and declaration of
service [Note: the order is very short,
and instructions for service should
take minimal time.]

0.50 \$400.00 SYS \$200.00 \$80.00

08/09/2023 Administration/ Case:
Prepare Declaration and Proof of
Service re: service of Procedures
Order per SYS instructions

0.50 \$200.00 JF \$100.00 \$60.00

08/09/2023 Administration/ Case:
revise declaration re service of
procedures order and circulate
procedures order to staff and client
[Note: service declaration etc. should
take minimal if any attorney time]

0.50 \$400.00 SYS \$200.00 \$40.00

08/29/2023 Motions: Prepare
Declaration No Party Rqtd Hrg -
Motion Employ AOE and proposed
Order [Note: these are standard
forms that should take minimal time,
and filling them out is generally
ministerial.]

0.50 \$400.00 SYS \$200.00 \$0.00

09/12/2023 Court appearance:
Appear at status conference and
motion to employ hearings [Note:
Appearance at hearing was only
required due to counsel's failure to
conduct proper conflicts check. In
addition, when two attorneys appear
for a hearing, generally only one
should bill. In addition, the hearing
did not take 1.0 hours and counsel
appeared via video, not in person, so
no time was required for travel.]

1.00 \$400.00 SYS \$400.00 \$0.00

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

1:00 PM

CONT... ASE Construction, Inc.

Chapter 11

09/13/2023 Court appearance:
Appear at initial status conference
and motion to employ hearings
[Note: see above - in counsel's
favor, this Court presumes that part
of the 1.0 hour was not for the
hearing itself but for preparation, and
that such preparation involved work
that would have been required even
without counsel's failure to conduct a
proper conflict check.]

1.00 \$450.00 AOE \$450.00 \$450.00

09/19/2023 Motions: Prepared
Notice of Continued Hrg Re: Cash
Collateral per Court instructions
[Note: a notice of continued hearing
should take minimal attorney time.]

0.50 \$400.00 SYS \$200.00 \$20.00

10/18/2023 Administration/
Case: Prepare Notice of
Continued Status Conference
Hearing per Court's
instructions in tentative ruling
[Note: see above]

0.50 \$400.00 SYS \$200.00 \$40.00

10/18/2023 Motions: Prepared
Order ... (.4) and Notice of Lodgment
of Order per tentative ruling on
10-17-2023 (.3) [Note: preparing a
form order should take minimal
attorney time, and a notice of
lodgement is ministerial.]

0.70 \$400.00 SYS \$280.00 \$160.00

10/18/2023 Motions: Prepare Notice
of Continued Cash Collateral hearing
per court's tentative ruling
10-17-2023 [Notice of a continuance
should take minimal if any attorney
time.]

0.30 \$400.00 SYS \$120.00 \$40.00

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

1:00 PM

CONT... ASE Construction, Inc.

Chapter 11

11/01/2023 Motions: Prepare Order authorizing use cash collateral on interim basis per Court's tentative ruling on 10-31-23 [Note: see above re prior cash collateral order.]

0.40 \$400.00 SYS \$160.00 \$40.00

11/01/2023 Motions: Prepare Notice of Lodgment of Order Authorizing Use of CC on an Interim Basis thru 12-19-23 [Note: see above re prior orders re cash collateral.]

0.40 \$400.00 SYS \$160.00 \$0.00

11/06/2023 Motions: Prepare proposed Order Approving Stipulation for Adequate Protection Payments with 1st Citizens bank following Court's tentative ruling [Note: apart from verbatim language that the adopted tentative ruling required, this order is extremely simple: it just approves a stipulation - that should not take 0.5 hours of attorney time (which, this Court notes, appears to be the standard amount of time that counsel charges for most orders).]

0.50 \$400.00 SYS \$200.00 \$80.00

Total Fees Allowed for above time-entries:	\$1,010.00
Total Fees Sought for above time-entries:	<u>(\$2,220.00)</u>
Total Reduction:	\$1,210.00

The tentative ruling is that, even with these reductions, this Court has applied presumptions in counsel's favor. In future this Court's reductions could be much greater if there is a pattern of similar billing.

For example, proofs of service typically take at most 0.1 of an hour of attorney time (to fill out a couple of blank spaces in the mandatory form, and attach a copy of the creditor matrix). Usually a secretary can do that with no attorney time at all. Similarly, stuffing envelopes and attaching stamps is ministerial work that should be included as overhead, not billed at \$400.00 or

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

1:00 PM

CONT... ASE Construction, Inc.

Chapter 11

even \$50.00 per hour.

Nevertheless, conceivably there can be special special situations that might justify 0.1 hour of attorney time or possibly even more (e.g., hypothetically, it is sometimes necessary to analyze whether to serve persons who are not on the creditor matrix, or an attorney might need to provide instructions about how to serve a governmental entity or an officer of a business). Such situations will occur only occasionally during any given bankruptcy case, and once the issue has been addressed it typically does not need more attorney time to address the same issue in future.

But, for purposes of this fee application, this Court has presumed, in counsel's favor, that more than the usual amount of attorney time might be justified for service issues. Again, this Court's reductions could be much greater in future if there is a pattern of similar billing (in this case, or any other case).

Based on the foregoing, the tentative ruling is to allow \$40,425.00 (\$41,635.00 - \$1,210.00 = \$40,425.00) in fees and \$73.70 in expenses, for a total award of \$40,498.70 (\$40,425.00 + \$73.70 = \$40,498.70), and authorize and direct payment of the full amounts allowed.

Proposed order(s): Unless otherwise ordered, the Firm is directed to lodge proposed order(s) on the foregoing matter(s) via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)) and attach a copy of this tentative ruling, thereby incorporating it as this Court's actual ruling.

(2) Dates/procedures. This case was filed on 8/3/23.

- (a) Bar date: 12/5/23 (dkt. 38) (timely served, dkt. 39)
- (b) Procedures Order: dkt. 6 (timely served, dkt. 9)
- (c) Plan/Disclosure Statement: file by 1/9/24 (DO NOT SERVE - except on the U.S. Trustee). See Procedures Order.
- (d) Continued status conference: 1/9/24 at 1:00 p.m., concurrent with other matters. No written status report required.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

1:00 PM

CONT... ASE Construction, Inc.

Chapter 11

Debtor(s):

ASE Construction, Inc.

Represented By
Anthony Obehi Egbase

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

1:00 PM

2:23-14313 IVCINYA COMPANY LLC

Chapter 11

#5.00 Hrg re: Motion to Dismiss Chapter 11 Case

Docket 85

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 6, 1/2/24 at 1:00 p.m.).

Party Information

Debtor(s):

IVCINYA COMPANY LLC

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

Movant(s):

IVCINYA COMPANY LLC

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

Trustee(s):

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

1:00 PM

2:23-14313 IVCINYA COMPANY LLC

Chapter 11

#6.00 Cont'd Status Conference re: Chapter 11 Case
fr. 7/13/23, 8/8/23, 9/12/23, 10/31/23, 11/28/23,
12/5/23, 12/19/23

Docket 1

Tentative Ruling:

Tentative Ruling for 1/2/24:

Grant Debtor's motion to dismiss the case, retain jurisdiction for the purpose of ruling upon any proper post-dismissal matters (e.g., any final fee applications filed by the estate's professionals), and continue the status conference, all as set forth below. Appearances are not required on 1/2/24. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

(1) Current issues

(a) Debtor's motion to dismiss Chapter 11 case (dkt. 85), no opposition on file

The tentative ruling is that (i) Debtor has established "cause" for dismissal or conversion, based on an inability to reorganize, and (ii) that dismissal (as opposed to conversion) is in the best interests of creditors and the estate because Debtor has no unencumbered assets that could be liquidated for the benefit of creditors.

Proposed order: Unless otherwise ordered, Debtor is directed to lodge a proposed order via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)) and attach a copy of this tentative ruling, thereby incorporating it as this Court's actual ruling.

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

1:00 PM

CONT... IVCINYA COMPANY LLC

Chapter 11

(2) Dates/procedures. This case was filed on 7/11/23.

(a) Continued status conference: 1/23/24 at 1:00 p.m., provided that a status conference will be held concurrent with any self-calendared hearings on any post-dismissal matters, and further provided that this Court anticipates vacating any status conferences if there are no filed post-dismissal matters that require a hearing.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

IVCINYA COMPANY LLC

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

Trustee(s):

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

1:00 PM

2:21-17267 Lorna Jane USA, Inc.

Chapter 11

#7.00 Cont'd status Conference re: Post Confirmation
fr. 9/22/21, 10/12/21, 11/9/21, 1/25/22, 3/29/22,
9/6/22, 12/6/22, 4/4/23, 9/19/23

Docket 1

Tentative Ruling:

Tentative Ruling for 1/2/24:

Continue as set forth below. Appearances are not required on 1/2/24. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

(1) Current issues.

This Court has no issues to raise *sue sponte*.

(2) Dates/procedures. This case was filed on 9/16/21, and Debtor's plan was confirmed on 4/14/22 (dkt. 114).

(a) Continued post-confirmation status conference: 3/5/24 at 1:00 p.m.
No written status report required.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Lorna Jane USA, Inc.

Represented By
Richard H Golubow

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

1:00 PM

CONT... Lorna Jane USA, Inc.

Chapter 11

Trustee(s):

Susan K Seflin (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

1:00 PM

2:23-18579 Clinical Edify

Chapter 11

#8.00 Hrg re: Motion for authority to use cash
collateral on an interim and final basis

Docket 6

Tentative Ruling:

Appearances required. There is no tentative ruling. The parties are directed to address (1) shortening time and (2) the merits of the motion.

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

Party Information

Debtor(s):

Clinical Edify

Represented By
Steven R Fox

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

1:00 PM

2:23-18579 Clinical Edify

Chapter 11

#9.00 Hrg re: Motion to authorize debtor to pay
prepetition priority employee wages

Docket 7

Tentative Ruling:

Appearances required. There is no tentative ruling. The parties are directed to address (1) shortening time and (2) the merits of the motion.

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

Party Information

Debtor(s):

Clinical Edify

Represented By
Steven R Fox

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

1:00 PM

2:23-18579 Clinical Edify

Chapter 11

#10.00 Status conference re: Chapter 11 case

Docket 1

Tentative Ruling:

Appearances required. There is no tentative ruling. The parties are directed to address (1) shortening time and (2) the merits of the motions.

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

Party Information

Debtor(s):

Clinical Edify

Represented By
Steven R Fox

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

2:00 PM

2:23-16758 Clark Edward Parker

Chapter 11

#1.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 12/5/23,12/19/23

CALIFORNIA DEPARTMENT OF EDUCATION
vs
DEBTOR

Docket 31

Tentative Ruling:

Tentative Ruling for 1/2/24:

Grant as provided below. Appearances are not required. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

Proposed order: Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling (including for all prior dates reproduced below), thereby incorporating this tentative ruling as this Court's final ruling, subject to any changes ordered at the hearing. See LBR 9021-1(b) (1)(B).

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

Key documents reviewed: Motion for relief from the automatic stay (dkt. 31, "R/S Motion") of California Department of Education ("DOE"), Debtor's opposition (dkt. 45), DOE's reply (dkt. 48), Supplemental proofs of service (dkt. 50 & 51), Notice of continued hearing (dkt. 52), Supplemental opposition (dkt. 57), Supplemental reply (dkt. 58)

Analysis:

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

2:00 PM

CONT... Clark Edward Parker

Chapter 11

(1) Limited relief.

The tentative ruling is that mandatory abstention (28 U.S.C. 1334(c)(2)) does not apply because, as Debtor highlights in his opposition papers (dkt. 45, pp. 5:19-6:4), there is no non-core proceeding presently before this Court.

Notwithstanding the foregoing, the tentative ruling is that Movant has established sufficient "cause" to modify and condition the automatic stay under 11 U.S.C. 362(d)(1) such that Movant may proceed in the nonbankruptcy forum (x) to obtain entry of a final judgment (including any appeals), and (y) file a motion for attorneys' fees (and any related papers necessary for the State Court to make a final determination with respect to attorneys' fees), in accordance with applicable nonbankruptcy law, subject to the following limitations (Judge Bason's standard limitations).

(a) No enforcement against property of the bankruptcy estate. The stay remains in effect with respect to enforcement of any judgment against property of the debtor's bankruptcy estate - any such property shall be distributed when and how provided by the Bankruptcy Code. Nevertheless, the movant is permitted to enforce its final judgment by (i) collecting upon any available insurance in accordance with applicable nonbankruptcy law or (ii) proceeding against the debtor as to any property that is not property of this bankruptcy estate. See, e.g., 11 U.S.C. 362(b)(2)(B) & 541(b)(7) (collection of domestic support obligations from ERISA qualified retirement plans).

(b) Claim allowance, priority, and discharge issues. Any claims arising from the nonbankruptcy litigation are subject to this Bankruptcy Court's jurisdiction regarding claim allowance and priority, and the existence and scope of any bankruptcy discharge.

(c) No relief in *other* bankruptcy cases. To the extent, if any, that the motion seeks to terminate the automatic stay in *other* past or pending bankruptcy cases, such relief is denied on the present record. See *In re Ervin* (Case No. 14-bk-18204-NB, docket no. 311).

In limiting the nonbankruptcy litigation as set forth above, this Bankruptcy Court emphasizes that it does not seek in any way to impinge on

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

2:00 PM

CONT...

Clark Edward Parker

Chapter 11

the authority of the Nonbankruptcy Courts presiding over the nonbankruptcy action. Rather, this Bankruptcy Court takes seriously its obligations, as a subordinate unit of the District Court, to manage this bankruptcy case. Those obligations include taking into consideration the interests of creditors (who are not parties to the underlying nonbankruptcy litigation), and preserving the bankruptcy estate by placing limits on any relief from the automatic stay that Congress has mandated (11 U.S.C. 362(a) & (d)).

(2) Additional analysis:

The Bankruptcy Court "shall grant relief from the stay" upon a showing of "cause." 11 U.S.C. 362(d)(1). Such relief need not take the form of a complete termination of the automatic stay, but instead may include "modifying or conditioning such stay." *Id.*

"Cause" is determined on a case-by-case basis." *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990). In determining whether "cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Kronmeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004). Those factors are: (1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question; (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

2:00 PM

CONT...

Clark Edward Parker

Chapter 11

trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011).

Based on the present record, the tentative ruling is that these factors weigh in favor of granting relief as set forth above. Most significantly:

As to the first *Curtis* factor (would relief result in partial or complete resolution of the issues?), the tentative ruling is that granting relief would result in complete resolution of the issues and the issues involve matters of state law that can be resolved most expeditiously in the non-bankruptcy forum.

As to the second *Curtis* factor (connection with or interference with the bankruptcy case) and the seventh *Curtis* factor (prejudice to other creditors/interested parties) the tentative ruling is that permitting the State Court to enter judgment in the nonbankruptcy action will not interfere with this case and would be most expeditious in bringing the litigation to a conclusion and the State Court is best suited to determine whether Movant is entitled to any attorneys' fees in connection with the state court litigation.

As to the fourth *Curtis* factor (whether a specialized tribunal has been established to hear the action) and the eleventh *Curtis* factor (whether the proceedings have progressed to the point where the parties are prepared for trial), the tentative ruling is that although not a specialized tribunal, the State Court has already conducted a fifteen-day trial and should not be prevented from entering judgment as a result of this bankruptcy filing. The tentative ruling is also that, for the same reason, the State Court is best suited to determine the issue of attorneys' fees.

As to the tenth *Curtis* factor (interest of judicial economy) and the twelfth *Curtis* factor (the impact of the stay on the parties and the "balance of hurt"), the tentative ruling is that the matter is more properly resolved by the State Court because the only thing remaining for the State Court to do is enter judgment and rule on whether Movant is entitled to an award of attorneys' fees and permitting the State Court to determine those issues will avoid the unnecessary waste of time and money that would be required to sufficiently apprise this Court on the matters (assuming, solely for purposes of discussion, that anyone were to seek to bring such disputes before this Bankruptcy Court, and that this Court would not then abstain).

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

2:00 PM

CONT... Clark Edward Parker

Chapter 11

Relief notwithstanding *future* bankruptcy cases

Debtor disputes that he is the alter ego of Golden Day Schools, Inc. ("Golden Day"). The tentative ruling is that this issue is irrelevant. By analogy to 11 U.S.C. 362(d)(4), a debtor can be part of a "scheme" to "delay, hinder, or defraud creditors" even if the latest bankruptcy case is the debtor's only case, and *other* entities filed the earlier bankruptcy cases.

Debtor does not dispute that (i) that he is a principal in charge of Golden Day, (ii) that this Bankruptcy Court granted DOE's motion to dismiss Golden Day's first bankruptcy case as a bad faith filing, after six months in which Golden Day failed to propose any legitimate use of the bankruptcy system (see Case No. 17-bk-21651-NB, dkt. 1 filed 9/22/17 *and* dkt. 121, entered 4/6/18), and (iii) that in Golden Day's second bankruptcy case this Court issued an order granting relief from the automatic stay in favor of DOE, after a "breathing spell" of several weeks. See Case No. 18-bk-16562-NB, dkt. 1 (filed 6/6/18) *and* dkt. 31 (entered 7/10/18).

It is also undisputed that the parties have engaged in years of litigation including a 15-day bench trial, and that Debtor's bankruptcy petition was filed on the eve of the State Court's expected entry of a judgment against Golden Day, Debtor, and Debtor's spouse (who is co-trustee of the trust that holds the interests in Golden Day). In fact, Debtor acknowledges that preventing that litigation from proceeding is a prime objective of this bankruptcy case.

In these circumstances, the tentative ruling is that there is no question that this case was filed as part of a scheme to delay and hinder DOE in the State Court action. The tentative ruling is that, as this Court has ruled before, although 11 U.S.C. 362(d)(4) is limited to creditors holding security interests in real property, Congress' enactment of that specific authority did not overrule prior cases imposing "in rem" relief under Congress' grant of more general authority to grant relief from the automatic stay. See *generally In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31). The tentative ruling is that the grounds for in rem relief in this case are at least as substantial as the grounds required by Congress in the analogous provisions of 11 U.S.C. 362(d)(4).

For all of these reasons, the tentative ruling is that the order on this motion shall be binding in future bankruptcy filings by Debtor or any of the other co-defendants in the State Court litigation, such that no bankruptcy petition filed by any of them will stay that State Court litigation. The tentative

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

2:00 PM

CONT...

Clark Edward Parker

Chapter 11

ruling is that this relief is without prejudice to any party's ability to move to reimpose the stay in any future bankruptcy case with respect to such State Court litigation, upon a showing of good cause.

The tentative ruling is that, to provide Debtor's co-defendants in the State Court action with notice of the foregoing *in rem* relief, DOE must file and serve in the State Court a notice of this Court's order (once it is issued) granting such relief.

Effective date of relief

Grant the request to waive the 14-day stay provided by FRBP 4001(a) (3) because this matter has already been continued far beyond 14 days, and Debtor has not shown cause for any additional period in which the State Court litigation should be stayed.

Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have any basis for any different treatment from the stay under 11 U.S.C. 362(a), so the tentative ruling is to grant the identical relief regarding any co-debtor stay.

Tentative Ruling for 12/19/23:

Continue to 1/2/24 at 2:00 p.m. pursuant to Movant's notice of continued hearing (dkt. 52). Appearances are not required on 12/19/23. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

Tentative Ruling for 12/5/23:

Continue to 12/19/23 at 2:00 p.m. for the reasons set forth below. Appearances are not required on 12/5/23. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

2:00 PM

CONT... Clark Edward Parker

Chapter 11

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

Key documents reviewed (in addition to motion papers): Opposition of Debtor (dkt. 45), Reply of California Department of Education ("Movant") (dkt. 48)

Reasons:

(1) Defective service

The motion papers were not served:

(i) To Debtor both (A) through counsel and (B) directly. The proof of service (dkt. 31, PDF p. 60) does not show service on both (A) Debtor's counsel and (B) Debtor directly ("double service"), as required by Rules 7004(b)(9)&(g) and 9014(a), Fed. R. Bankr. P.). It is true that this double service requirement is the exact opposite of typical non-bankruptcy practice, in which it is generally impermissible to serve a represented party personally; but there are good reasons for the double service rule in bankruptcy. It helps protect Debtor and the bankruptcy estate (*i.e.*, all parties in interest) from matters "falling through the cracks" given the high volume and speed of matters in typical bankruptcy cases, and the frequent use of service via U.S. mail.

Notwithstanding such failure, the tentative ruling is to excuse this service defect because Debtor has filed a timely opposition (dkt. 45), so he does not appear to have been prejudiced.

(ii) On the twenty largest unsecured creditors. The proof of service (dkt. 31, PDF p. 60) does not reflect service on the creditors included on the list filed pursuant to Rule 1007(d) (Fed. R. Bankr. P.) (*i.e.*, the twenty largest unsecured creditors) as required by Rule 4001(a)(1) (Fed. R. Bankr. P.). The tentative ruling is that this Court has neither the authority nor the inclination to excuse non-compliance with these rules.

(iii) On the State Court defendants whose interests might be directly affected by Movant's request for relief notwithstanding *future* bankruptcy cases

Service must be made on the defendants in the State Court litigation.

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

2:00 PM

CONT... Clark Edward Parker

Chapter 11

Reasons: See LBR 4001-1(c)(1)(B). In addition, Judge Bason has due process concerns about granting such relief without service on the person(s) whose interests may be most directly affected. See *generally Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) (due process generally). In this matter, such persons appear to include: Golden Day Schools, Inc. and Jeanette Parker, individually and as Trustee of the Parker Trust.

Note: Service on organizations (such as Golden Day Schools, Inc., as distinguished from individuals) must comply with Rule 7004(b)(3). Per the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov), service "Attn: Officer or Managing/General Agent" or the like has been accepted as sufficient in other cases.

(2) Option for shortened time: This Court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) **but that date is conditioned on the movant, no later than 12/8/23, (i) serving the motion papers and notice of the continued hearing date, and (ii) filing that notice and a proof of service. Alternatively, the movant may self-calendar a continued hearing on regular notice.**

Party Information

Debtor(s):

Clark Edward Parker

Represented By
Leslie A Cohen

Movant(s):

California Department of Education

Represented By
Matthew C. Heyn

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

2:00 PM

2:23-16758 Clark Edward Parker

Chapter 11

#2.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/14/23, 11/28/23, 12/5/23, 12/19/23

Docket 1

Tentative Ruling:

Tentative Ruling for 1/2/24:

Grant the R/S Motion in substantial part and continue the status conference as set forth below. Appearances are not required on 1/2/24. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted Tentative Rulings.

(1) Current issues

(a) Motion for relief from the automatic stay (dkt. 31, "R/S Motion") of California Department of Education ("DOE"), Debtor's opposition (dkt. 45), DOE's reply (dkt. 48), Supplemental proofs of service (dkt. 50 & 51), Notice of continued hearing (dkt. 52), Supplemental opposition (dkt. 57), Supplemental reply (dkt. 58)

The tentative ruling is to grant the R/S Motion as set forth in the tentative ruling for Calendar no. 1, 1/2/24 at 2:00 p.m.

(2) Dates/procedures. This case was filed on 10/16/23.

- (a) Bar date: 1/5/24 (dkt. 34) (timely served, dkt. 39)
- (b) Procedures Order: dkt. 6 (timely served, dkt. 10)
- (c) Plan/Disclosure Statement: TBD.
- (d) Continued status conference: 3/5/24 at 2:00 p.m. *Brief* written status report due 2/20/24.

[PRIOR TENTATIVE RULING(S) OMITTED]

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, January 2, 2024

Hearing Room 1545

2:00 PM

CONT...

Clark Edward Parker

Chapter 11

Party Information

Debtor(s):

Clark Edward Parker

Represented By
Leslie A Cohen