

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

Tuesday, April 2, 2024

Hearing Room 1545

9:00 AM
2:00-00000

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: 160 706 8461

Password: 420441

Meeting URL: <https://cacb.zoomgov.com/j/1607068461>

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, April 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, April 2, 2024

Hearing Room 1545

10:00 AM

2:23-15595 Guadalupe Becerra

Chapter 13

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

WELLS FARGO BANK, N.A.
vs
DEBTOR

Docket 57

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)).

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).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

CONT... Guadalupe Becerra

Chapter 13

(3) for lack of sufficient cause shown.

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):

Guadalupe Becerra

Represented By
Kevin Tang

Movant(s):

Wells Fargo Bank, N.A.

Represented By
Dane W Exnowski

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, April 2, 2024

Hearing Room 1545

10:00 AM

2:23-15793 Felipe Gerardo

Chapter 13

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

DEUTSCHE BANK NATIONAL TRUST CO
VS
DEBTOR

Docket 44

***** VACATED *** REASON: APO**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Felipe Gerardo

Represented By
Jaime A Cuevas Jr.

Movant(s):

Deutsche Bank National Trust

Represented By
Fanny Zhang Wan
Sean C Ferry

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, April 2, 2024

Hearing Room 1545

10:00 AM

2:23-17331 Rosaura Ramirez De Munoz

Chapter 13

#3.00 Hrg re: Motion for relief from stay [RP]

BANK OF AMERICA, N.A.
vs
DEBTOR

Docket 34

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)).

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): non-opposition (dkt. 36)

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).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a)

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

CONT... **Rosaura Ramirez De Munoz**
(3) for lack of sufficient cause shown.

Chapter 13

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):

Rosaura Ramirez De Munoz

Represented By
Sundee M Teeple

Movant(s):

BANK OF AMERICA, N.A.

Represented By
Joseph C Delmotte

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, April 2, 2024

Hearing Room 1545

10:00 AM

2:23-18137 Rashaad Jamel Coleman

Chapter 7

#4.00 Hrg re: Motion for relief from stay [RP]

LOANDEPOT.COM, LLC
vs
DEBTOR

Docket 16

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 as to Debtor

Pursuant to 11 U.S.C. 362(c)(2)(C), the automatic stay is no longer in effect as to Debtor because (A) this is a chapter 7 case and (B) Debtor received a discharge on 3/11/24, dkt. 21. However, the automatic stay remains in effect as to property of the estate, 11 U.S.C. 362(c)(1), so it is appropriate for this Court to grant relief from the automatic stay as follows.

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

CONT... Rashaad Jamel Coleman

Chapter 7

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).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

Party Information

Debtor(s):

Rashaad Jamel Coleman

Represented By
Matthew D. Resnik

Movant(s):

LoanDepot.com, LLC

Represented By
Jennifer C Wong

Trustee(s):

John J Menchaca (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

2:23-18248 Maartje Jacoba Ingrid Aliet

Chapter 7

#5.00 Hrg re: Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 45

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), but deny the request for relief under 11 U.S.C. 362(d)(2) because Movant has not carried its burden to show that the Debtor lacks equity in the subject property. See 11 U.S.C. 362(g)(1).

To the extent, if any, that the motion seeks to terminate the automatic

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

CONT... Maartje Jacoba Ingrid Aliet Chapter 7

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).

Effective date of relief

Deny the request to waive the 14-day stay provided by FRBP 4001(a) (3) for lack of sufficient cause shown.

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):

Maartje Jacoba Ingrid Aliet

Represented By
Gene Koon

Movant(s):

Deutsche Bank National Trust

Represented By
Theron S Covey
Sean C Ferry

Trustee(s):

Timothy Yoo (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

2:24-11878 Orbra O Shobe

Chapter 13

#6.00 Hrg re: Motion for relief from stay [RP]

WOOSHIES, INC.
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant.

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) and (d)(4).

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, April 2, 2024

Hearing Room 1545

10:00 AM

CONT... Orbra O Shobe

Chapter 13

Relief notwithstanding future bankruptcy cases

Grant the following relief pursuant to 11 U.S.C. 362(d)(4) and the legal analysis in *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), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within two years after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" referenced in section 362(d)(4), unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

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):

Orbra O Shobe

Pro Se

Movant(s):

Wooshies, Inc.

Represented By

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

CONT... Orbra O Shobe

Lior Katz

Chapter 13

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, April 2, 2024

Hearing Room 1545

10:00 AM

2:24-10274 Carlos Alvarenga and Alma Olivia Camposeco

Chapter 7

#7.00 Hrg re: Motion for relief from stay [PP]

TOYOTA MOTOR CREDIT CORPORATION
vs
DEBTOR

Docket 12

Tentative Ruling:

Grant.

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)).

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) and (d)(2).

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).

Effective date of relief

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

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

CONT... Carlos Alvarenga and Alma Olivia Camposeco
(3).

Chapter 7

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):

Carlos Alvarenga

Represented By
Jaime A Cuevas Jr.

Joint Debtor(s):

Alma Olivia Camposeco

Represented By
Jaime A Cuevas Jr.

Movant(s):

Toyota Motor Credit Corporation

Represented By
Kirsten Martinez

Trustee(s):

Elissa Miller (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

2:24-10780 Louie Caraballo Torres

Chapter 7

#8.00 Hrg re: Motion for relief from stay [PP]

VW CREDIT, INC.
vs
DEBTOR

Docket 8

Tentative Ruling:

Grant.

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)).

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) and (d)(2).

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).

Effective date of relief

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

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

CONT... Louie Caraballo Torres
(3).

Chapter 7

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):

Louie Caraballo Torres

Represented By
Barry E Borowitz

Movant(s):

VW Credit, Inc.

Represented By
Kirsten Martinez

Trustee(s):

Carolyn A Dye (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

2:24-10860 Carlos Gutierrez Guardado and Paula Andrea Agudelo

Chapter 7

#9.00 Hrg re: Motion for relief from stay [PP]

AMERICREDIT FINANCIAL SERVICES, INC.
vs
DEBTOR

Docket 12

Tentative Ruling:

Grant.

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)).

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) and (d)(2).

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).

Effective date of relief

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

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

CONT... Carlos Gutierrez Guardado and Paula Andrea Agudelo
(3).

Chapter 7

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):

Carlos Gutierrez Guardado

Represented By
Nathan A Berneman

Joint Debtor(s):

Paula Andrea Agudelo Castro

Represented By
Nathan A Berneman

Movant(s):

AmeriCredit Financial Services, Inc.

Represented By
Sheryl K Ith

Trustee(s):

Wesley H Avery (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

2:24-11401 David Gonzalez

Chapter 13

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

NICOLE KAU
vs
DEBTOR

Docket 10

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 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.

Key documents reviewed (in addition to motion papers): Debtor's response (dkt. 31), Movant's reply (dkt. 32)

The automatic stay applies

Deny the request for an order confirming that no stay is in effect. First, 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.

Second, because Movant has not obtained a prepetition eviction

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

CONT... David Gonzalez

Chapter 13

judgment and writ of possession, Movant has not established the applicability of *In re Perl*, 811 F.3d 1120, 1127-28 (9th Cir. 2016) ("We conclude that under California law, entry of judgment and a writ of possession following unlawful detainer proceedings extinguishes all other legal and equitable possessory interests in the real property at issue.").

Third, as set forth in the "Procedures of Judge Bason" (available at www.cacb.uscourts.gov):

The judge does not follow *In re Smith*, 105 B.R. 50 (Bankr. C.D. Cal. 1989) (neither stay of acts against property nor stay of acts against debtor *in personam* was sufficient to prevent postpetition eviction), for the reasons stated in *In re Ramirez* (Case No. 2:15-bk-13102-NB, dkt. 57), except to the extent required by *In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (debtor had no property interest post-foreclosure after judgment and writ of possession, so automatic stay did not protect debtor from eviction).

In sum, Judge Bason respectfully disagrees with any other judges who would hold that the automatic stay does not apply on the facts presented. See Reply (dkt. 32) Ex. A at p. 11 (following *Smith*); Opposition (dkt. 31) at PDF pp. 5-6 (same).

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).

Relief notwithstanding future bankruptcy cases

Grant the following relief pursuant to the legal analysis in *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), as applicable:

If this order is duly recorded in compliance with applicable State laws governing notices of interests or liens in the property at issue, then no automatic stay shall apply to such property in any bankruptcy case purporting to affect such property and filed within 180 days after the date of entry of this order, unless otherwise ordered by the court presiding over that bankruptcy case.

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

CONT...

David Gonzalez

Chapter 13

For the avoidance of doubt, any acts by the movant to obtain exclusive possession of such property shall not be stayed, including any eviction actions, through and including any lockout or other enforcement by the Sheriff or other authorized legal authority.

Note: Per the Posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) this Court's order will state that the Court "does not make" a finding that Debtor was involved in the "scheme" to hinder, delay, and defraud creditors, unless there is sufficient evidence that Debtor was involved and Debtor is given clear notice that the movant seeks an express finding that Debtor was involved. The tentative ruling in this particular case is that there is sufficient evidence and notice.

On 11/03/23, Debtor's spouse, Stewart Gonzalez, filed a chapter 13 case that remains pending (Case No. 2:23-bk-17319-VZ). See Debtor's Voluntary Petition (dkt. 1) at ¶ 10 (listing Stewart Gonzalez as Debtor's spouse). On 12/11/23, Judge Zurzolo entered an order terminating the automatic stay in Debtor's spouse's case to allow an unlawful detainer proceeding to continue. Dkt. 24, Case No. 2:23-bk-17319-VZ. On 1/11/24, Judge Zurzolo entered a further order, which determined that (A) the automatic stay never arose in Debtor's spouse's case, because the automatic stay did not enjoin Movant "from regaining possession of residential premises from a wrongfully holding-over bankruptcy debtor/tenant, as long as the landlord seeks only to repossess the property" and that (B) because the automatic stay never took effect, neither did the co-debtor stay. Dkt. 39 at ¶ 2, Case No. Case No. 2:23-bk-17319-VZ.

Debtor filed the instant chapter 13 case on 2/26/24, and filed a chapter 13 plan (dkt. 28, the "Plan") on 3/13/24. Debtor's Plan is almost completely blank; for example, it states that Plan Payments are "TBD." Plan at Part 2, Section 1, Para. A. The Plan lists Movant as a creditor, but contains no provisions addressing the treatment of Movant's claim.

The tentative ruling is that the foregoing is sufficient evidence to support a determination that Debtor filed this case in bad faith for the purpose of delaying the unlawful detainer proceeding. In addition, the tentative ruling is that by requesting a determination that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors involving a bankruptcy petition filed by Debtor's spouse, Debtor received sufficient notice that Movant was seeking an express finding of Debtor's involvement in a bad-faith scheme.

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

CONT... **David Gonzalez**

Chapter 13

Debtor's opposition is not persuasive

The tentative ruling is that the arguments presented by Debtor in opposition to the R/S Motion are not persuasive and will be overruled. First, Debtor contends that the "Property is necessary for an effective reorganization." Response (dkt. 31) at ¶ 3(b). But Debtor is not represented by counsel and has filed a Plan that is almost completely blank, making confirmation of a Plan highly unlikely. Second, Debtor states that "[a]ll postpetition arrearages will be cured by the hearing date on this motion," Response at ¶ 3(c)(2), but Debtor has furnished no evidence showing that this is likely.

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):

David Gonzalez

Pro Se

Movant(s):

Nicole Kau

Represented By
Gary A Starre

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, April 2, 2024

Hearing Room 1545

10:00 AM

2:24-11603 Kristofer Conte

Chapter 13

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

WORLD UNITY INTERNATIONAL MANAGEMENT, INC.
vs
DEBTOR

Docket 10

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): Notice of intent to proceed with hearing (dkt. 14); 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.

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

CONT...

Kristofer Conte

Chapter 13

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

This Court also takes note of Movant's statement that it intends to appear at the hearing on the R/S Motion notwithstanding dismissal of the case based on its belief "that Debtor is attempting to delay the lockout in the unlawful detainer action" *See* Movant's notice of intent to proceed notwithstanding dismissal (dkt. 14) at p. 2. 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

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

CONT... Kristofer Conte

Chapter 13

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).

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):

Kristofer Conte

Pro Se

Movant(s):

World Unity International

Represented By
Joseph Cruz

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, April 2, 2024

Hearing Room 1545

10:00 AM

2:24-10134 Tiffany Wilson

Chapter 13

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

GINA ROSSETTI
vs
DEBTOR

Docket 21

Tentative Ruling:

Grant.

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)).

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) and (d)(2).

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).

Effective date of relief

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

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

CONT... Tiffany Wilson
(3).

Chapter 13

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):

Tiffany Wilson

Pro Se

Movant(s):

Gina Rossetti

Represented By
Marat Antonyan

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, April 2, 2024

Hearing Room 1545

10:00 AM

2:24-10555 John Stephen Rico

Chapter 13

#13.00 Hrg re: Motion for relief from stay [NA]

CITY OF RANCHO PALOS VERDES
vs
DEBTOR

Docket 13

Tentative Ruling:

Grant under 11 U.S.C. 362(b)(4) and, alternatively, 362(d)(1), and waive the 14-day stay, for the reasons stated in the motion papers.

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)).

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).

Party Information

Debtor(s):

John Stephen Rico

Represented By
Julie J Villalobos

Movant(s):

City of Rancho Palos Verdes

Represented By

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

CONT... John Stephen Rico

Shukan Patel

Chapter 13

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, April 2, 2024

Hearing Room 1545

10:00 AM

2:24-11679 Susan Jan Foley

Chapter 13

#14.00 Hrg re: Motion in Individual Case for Order
Imposing a Stay or Continuing the Automatic
Stay as the Court Deems Appropriate

Docket 18

Tentative Ruling:

Grant, subject to the following conditions, and also subject to any opposition at the hearing. 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.

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

Shortened time is appropriate, notwithstanding incorrect procedures

There are two procedural problems. The proof of service is defective, and so is the notice of the opposition deadline.

Defective service

The proof of service form clearly states that, as required by the applicable rules, the person signing declares "I am ... not a party to this bankruptcy case" Amended Motion to Continue Stay (dkt. 18) at PDF p. 14 (emphasis added). See *also* Rule 7004(a)(1) (Fed. R. Bankr. P.) (service must be by non-party). Debtor is a party, so she cannot validly sign the proof of service.

Notwithstanding this error, the automatic stay is not just for Debtor's protection but is also for creditors' protection, and the tentative ruling is that, because any creditor who alleges any lack of actual notice or any prejudice can seek relief under the provisions set forth later in this tentative ruling, it is appropriate in the interests of all parties to grant the motion on this limited basis. Debtor is strongly cautioned, however, that this Court has never

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

CONT...

Susan Jan Foley

Chapter 13

applied the same analysis for any other type of motion, and in future she must comply with the applicable rules for service.

Notice of opposition deadline

Notice of the opposition deadline is defective because the motion papers were served on shortened time (14 days' notice) but they fail to provide the notice required for such shortened time. Such 14-day notice is permitted, without any application or order shortening time, under the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov). But, contrary to those Procedures, Movant gave an incorrect deadline for any opposition: Movant stated that oppositions are due 14 days before the hearing (the same day the motion papers were served) instead of five days before the hearing, as required under the Procedures. See Amended Motion to Continue Stay (dkt. 18), p. 2.

Because of this error, and the possible prejudice to creditors who might have been confused, the tentative ruling is that any opposition may be presented orally at the hearing. In addition, Movant is cautioned that failure to comply with the Procedures in future may result in denial of the motion or other adverse consequences.

Continuation of the automatic stay is appropriate

After the hearing date this Court will prepare an order and the tentative ruling is to include the following language in that order:

The stay of 11 U.S.C. 362(a) applies subject to the following modifications and conditions:

(1) Service and reconsideration. Any party in interest who was not timely served in accordance with FRBP 7004 (incorporated by FRBP 9014(b)) is hereby granted through 14 days after proper service to seek reconsideration, including retroactive relief (under FRBP 9023 and/or 9024). Any such person (a) may set a hearing on 14 days' notice, (b) may appear by telephone (if arrangements are made per Judge Bason's posted procedures), and (c) may present all arguments orally at the hearing (*i.e.*, no written argument is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

(2) Reasons. (a) It appears appropriate to continue/impose the automatic stay, and to continue/impose it as to all persons rather than just as to selected persons, because one purpose of the

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

Tuesday, April 2, 2024

Hearing Room 1545

10:00 AM

CONT...

Susan Jan Foley

Chapter 13

automatic stay is to preventing a "race to collect" that could unfairly advantage some creditors at the expense of others. (b) To prevent possible abuse, this Court provides the foregoing simple process for reconsideration.

(3) Very limited ruling. This Court's tentative ruling to grant the foregoing relief is solely for purposes of this motion, and is not intended to have any binding effect with respect to any future assertions by any party in interest regarding the existence or lack of existence of good faith in any other context.

Party Information

Debtor(s):

Susan Jan Foley

Pro Se

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, April 2, 2024

Hearing Room 1545

11:00 AM

2:24-10554 Milton Parker

Chapter 7

#1.00 Status conference re: Chapter 7 Involuntary Petition

Docket 1

Tentative Ruling:

Appearances required.

The tentative ruling is to direct the petitioning creditors to appear to address why this case should not be dismissed for want of prosecution (11 U.S.C. 303(j)(3)) based on the lack of (x) a proof of service reflecting service of the involuntary petition and summons on Debtor, and (y) sufficient information and/or documentation filed in support of the involuntary petition for this Court to determine whether the petitioning creditors have established by a preponderance of the evidence that their claims satisfy the requirements of 11 U.S.C. 303(b)(1). *See, e.g., In re Marciano*, 446 B.R. 407, 420 (Bankr. C.D. Cal. 2010) (petitioning creditors must establish the five elements of section 303 by a preponderance of the evidence).

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)

Party Information

Debtor(s):

Milton Parker

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

2:24-10036 Shlomo Asoulin

Chapter 7

#2.00 Hrg re: Motion to dismiss chapter 7 case

Docket 27

Tentative Ruling:

Continue this matter to 6/25/24 at 11:00 a.m. to allow the 6/4/24 deadline for creditors to file proofs of claim to pass, and set a **deadline of 6/11/24** for the Trustee to file a status report addressing whether he intends to administer any non-exempt assets. Appearances are not required on 4/2/24. (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.

Key documents reviewed (in addition to motion papers): Oppositions of Samajo Properties, LLC (dkt. 37) & Chapter 7 Trustee (dkt. 42), no reply on file as of the preparation of this tentative ruling

Party Information

Debtor(s):

Shlomo Asoulin

Pro Se

Trustee(s):

John J Menchaca (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

2:23-16208 Oweleo Lysette Titi

Chapter 7

#3.00 Hrg re: Motion for denial of discharge
pursuant to 11 U.S.C. section 727(a)(8)

Docket 42

Tentative Ruling:

Grant.

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)).

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)

Party Information

Debtor(s):

Oweleo Lysette Titi

Represented By
Kahlil J McAlpin

Trustee(s):

Elissa Miller (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

2:23-15530 Young C Cho

Chapter 7

#4.00 Hrg re: Motion for Order Authorizing Trustee to Sell Real Property Free and Clear of Liens and Interests, Subject to Overbid

Docket 39

Tentative Ruling:

Appearances required. Grant the motion almost entirely, as set forth below, subject to any overbids at the hearing.

Proposed order(s): Unless otherwise ordered, Trustee 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.

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)

Analysis: The tentative ruling is to grant the motion and conditionally authorize a sale free and clear (11 U.S.C. 363(b) & (f)), for the reasons stated in the Sale Motion, subject to any overbids.

In addition, the tentative ruling is that if Hyun Soo Roh or, alternatively, the successful bidder or backup bidder, seeks a "good faith" finding (11 U.S.C. 363(m)) they must, prior to the lodging of any order containing such a finding, file declaration(s) substantially in the form set forth in the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) within 7 days after the hearing.

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

CONT... **Young C Cho**

Chapter 7

In addition, the tentative ruling is that, on the one hand, the following request for relief by Trustee normally would appear to require an adversary proceeding (per Rule 7001, Fed. R. Bankr. P.), or possibly alternative procedures. On the other hand, the tentative ruling is that Debtor and all persons claiming a right to occupancy through Debtor have not opposed Trustee's request and accordingly have waived or forfeited any right to whatever additional procedures might be required. Accordingly, the tentative ruling is to grant Trustee's request for relief set forth below (together with the apparent *quid pro quo* arranged with Debtor):

[T]his Motion also seeks the Court's order requiring Debtor and Debtor's family members residing at the Real Property (the "Other Residents") to vacate the Real Property, remove all personal property, except fixtures, without causing damage, and turning over to Estate Broker, on behalf of Trustee, all keys and other means of access to the Real Property no later than 5 p.m. on April 12, 2024, that is ten days after the sale hearing (the "Deadline to Vacate"). If Debtors or the Other Residents fail to comply with the Deadline to Vacate, Trustee seeks the Court's authority to file an emergency motion for a writ of possession to be enforced by the U.S. Marshal Service without the necessity of further notice or a hearing.

Trustee and Debtor negotiated the Homestead Stipulation to facilitate Trustee's sale of the Real Property, in lieu of Chase foreclosing. Debtor consents to the Homestead Exemption. After Debtors and the Other Residents vacate the Real Property, the Sale Escrow can close and Trustee, through BES, can disburse to Debtor the amount of the Homestead Exemption. [Sale Motion (dkt. 39) pp. 4:24-5:13.]

The tentative ruling is that any proposed writ of possession submitted by Trustee must include the language required by LBR 7064-1(e) and must comply with LBR 7069-1(b).

The tentative ruling is also to grant the request to waive the 14-day stay provided by Rule 6004(h) (Fed. R. Bankr. P.).

The tentative ruling is to deny the following prayer for relief by Trustee:
WHEREFORE, Trustee requests that the Court enter an order

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

CONT...

Young C Cho

Chapter 7

providing that:

* * *

K. There shall be **no liability to Trustee or his professionals**, in any capacity, by virtue of the consummation of the sale or by virtue of the failure of such sale to consummate [Sale Motion (dkt. 39) p. 20:12-13 & p. 22:3-5 (emphasis altered).]

The tentative ruling is that, although Trustee and his professionals probably have quasi-judicial immunity and other protections against liability that might well apply to acts or omissions in connection with the sale, it would be inappropriate for this Court to render any sort of advisory opinion on that issue. In other words, this Court cannot rule, before the acts or omissions have occurred, and before all relevant facts are known, that Trustee and his professionals have no liability for whatever those acts or omissions might be.

In addition, the tentative ruling is that it is inappropriate for Trustee to have included this request in his prayer for relief without having mentioned it, let alone supported it with any analysis or citations, in the text of the Sale Motion. Trustee's counsel is cautioned that any such substantial relief must, in future, be addressed in any motion papers, not just in a prayer for relief.

Party Information

Debtor(s):

Young C Cho

Represented By
Julie J Villalobos

Trustee(s):

Wesley H Avery (TR)

Represented By
Nancy H Zamora

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

2:23-12556 Richard B Scott

Chapter 7

Adv#: 2:23-01370 JRM Construction West LLC v. Scott

#5.00 Hrg re: Motion for an Order: (1) Extending the Discovery Cutoff Date; and (2) Modifying the Scheduling Order Entered on January 17, 2024

Docket 14

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 6), 4/2/24 at 11:00 a.m.

Party Information

Debtor(s):

Richard B Scott

Represented By
Stephen R Wade

Defendant(s):

Richard B Scott

Represented By
Stephen R Wade

Plaintiff(s):

JRM Construction West LLC

Represented By
Robert P Goe
Charity J Manee

Trustee(s):

Jason M Rund (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

2:23-12556 Richard B Scott

Chapter 7

Adv#: 2:23-01370 JRM Construction West LLC v. Scott

#6.00 Cont'd status conference re: Complaint for denial of discharge pursuant to 11 U.S.C. section 727(a)(4)(A) fr. 10/17/23, 1/23/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/2/24:

Grant the Discovery Extension Motion and continue the status conference, as set forth below. Appearances are not required on 4/2/24. (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 Plaintiff's unilateral status report (adv. dkt. 16) and the other filed documents and records in this adversary proceeding.

(a) Plaintiff's motion to extend the discovery cutoff date and related deadlines (adv. dkt. 14, "Discovery Extension Motion"), no opposition on file

The tentative ruling is to grant the motion and modify the current scheduling order (adv. dkt. 12) as set forth below.

Proposed order(s): Unless otherwise ordered, Plaintiff is directed to lodge two proposed order(s): (i) an order granting the Discovery Extension Motion, and (ii) an amended scheduling order via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)).

(2) Standard requirements

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

CONT...

Richard B Scott

Chapter 7

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

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 7, p. 4, para. f).

(b) Mediation [Intentionally omitted]

(c) Deadlines

This adversary proceeding has been pending since 8/3/23.

The scheduled deadlines and/or hearing/trial date(s) have been memorialized in this Court's written orders (adv. dkt. 8 & 12) except as modified/supplemented below. 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: 1/17/24

Discovery cutoff (for completion of discovery): 6/28/24

Expert(s) - deadline for reports: 7/9/24 if any expert testimony will be presented.

Expert(s) - discovery cutoff (if different from above): 7/16/24 if any expert testimony will be presented.

Dispositive motions to be heard no later than: 8/6/24

Joint Status Report: 6/25/24.

Continued status conference: 7/9/24 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

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

CONT... Richard B Scott

Chapter 7

Debtor(s):

Richard B Scott

Represented By
Stephen R Wade

Defendant(s):

Richard B Scott

Represented By
Stephen R Wade

Plaintiff(s):

JRM Construction West LLC

Represented By
Robert P Goe
Charity J Manee

Trustee(s):

Jason M Rund (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

2:23-11367 Freddy Enrique Luzuriaga

Chapter 7

Adv#: 2:24-01023 Leslie v. Chaparro

#7.00 Status conference re: Complaint for (1) Avoidance of transfer-alter ego and continuing fraud; (2) Declaratory relief [28 U.S.C section 2201(a), FRBP 7001(9)]; (3) Turnover of estate's property [11 U.S.C. section 542]; (4) Recovery of avoided transfers [11 U.S.C. section 550(a)]; (5) Automatic preservation of avoided transfer [11 U.S.C. section 551]; and (6) Sale of property owned in part by non-debtor [11 U.S.C. section 363(h)]

Docket 1

***** VACATED *** REASON: Order approving stipulation to vacate default and cont'd status conference to May 7, 2024 at 11:00 a.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Freddy Enrique Luzuriaga

Represented By
Cynthia Grande

Defendant(s):

Nancy Chaparro

Pro Se

Plaintiff(s):

Sam Leslie

Represented By
Toan B Chung

Trustee(s):

Sam S Leslie (TR)

Represented By
Toan B Chung

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

2:23-18208 Meir Siboni

Chapter 13

Adv#: 2:24-01027 Siboni v. Menlo et al

- #8.00** Status Conference re: Complaint to Determine Priority Extent of Liens, Declaratory Relief and Recovery of Assets of the Estate: (1) Quiet Title; (2) Quiet Title; (3) Quiet Title; (4) Declaratory Relief (5) Cancellation of Instrument; (6) Cancellation of Instrument; (7) Cancellation of Instrument; (8) Breach of Fiduciary Duty; (9) Breach of Fiduciary Duty; (10) Concealment

Docket 1

Tentative Ruling:

Continue to 4/9/24 at 11:00 a.m. to be concurrent with the hearing on several of the Defendants' motion to dismiss (adv. dkt. 8), based on this Court's review of the parties' joint status reports (adv. dkt. 12 & 14). 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.

Party Information

Debtor(s):

Meir Siboni

Represented By
Shai S Oved

Defendant(s):

Jonathan Menlo

Pro Se

Frank Menlo

Pro Se

Menlo Trust U/T/L February 22,

Pro Se

Miracle Mile Properties, LP

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

CONT... Meir Siboni
DOES 1-10

Pro Se

Chapter 13

Plaintiff(s):

Meir Siboni

Represented By
Shai S Oved

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, April 2, 2024

Hearing Room 1545

11:00 AM

2:21-19480 Howard Chornng Jeng Wu

Chapter 7

Adv#: 2:22-01071 Chiang et al v. Wu

#9.00 Cont'd status conference
fr. 1/23/24, 3/12/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/2/24:

Continue the status conference to enable the parties to attend a further mediation session and provide an updated status report on the results thereof, all as set forth below.

Appearances are not required on 4/2/24. (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. 78) and the other filed documents and records in this adversary proceeding. The parties participated in mediation before the Hon. Meredith Jury on 3/14/23, 3/27/23, and 3/11/24; as set forth in the status report filed on 3/13/24, a further mediation session is scheduled for 3/26/24. The tentative ruling is to continue the status conference so that the parties can provide an updated status report on the results of the 3/26/24 mediation conference, as set forth in part "(2)(c)," 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

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

CONT... Howard Chorng Jeng Wu

Chapter 7

issues in their status report, they need not repeat their positions at the status conference.)

(a) Venue/jurisdiction/authority

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited (adv. dkt. 22 & 44).

(b) Mediation

See part "(1)" of this tentative ruling, above.

(c) Deadlines

This adversary proceeding has been pending since 3/25/22, and was reassigned from the Hon. Ernest M. Robles to the Hon. Neil W. Bason on 9/15/23, adv. dkt. 67. On 3/31/23, Judge Robles entered an order setting deadlines for the completion of discovery and the hearing of dispositive motions. Adv. dkt. 54. On 5/3/24, Judge Robles entered an order vacating deadlines pertaining to the pretrial conference and trial and declining to set updated litigation deadlines in view of his pending retirement. Adv. dkt. 57.

The tentative ruling is to maintain the 8/23/23 discovery cutoff deadline, vacate the 8/23/23 deadline for the hearing on dispositive motions, and to decline to set any further litigation deadlines pending an updated status report on the results of the most recent mediation conference. To the extent the parties desire a different discovery cutoff deadline, they are directed either (A) to meet and confer and file a proposed stipulation and order thereon or (B) to raise the issue in connection with the continued status conference.

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 updated litigation deadlines:

Joinder of parties/amendment of pleadings-deadline: 12/31/23 (set by adv. dkt. 54)

Discovery cutoff (for *completion* of discovery): 8/23/23 (set by adv. dkt. 54)

Expert(s) - deadline for reports: 6/27/23 for expert reports (set by adv. dkt. 54); 7/27/23 for rebuttal expert reports (set by adv. dkt. 54)

Expert(s) - discovery cutoff (if different from above): 8/23/23 (same as

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

CONT... **Howard Chorng Jeng Wu** **Chapter 7**

deadline by discovery cutoff; set by adv. dkt. 54)

Dispositive motions to be heard no later than: TBD

Joint Status Report: 4/4/24

Continued status conference: 4/9/24 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

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Howard Chorng Jeng Wu

Represented By
Eric Bensamochan

Defendant(s):

Howard Chorng Jeng Wu

Represented By
Eric Bensamochan

Plaintiff(s):

Michael Chung-Hou Chiang

Represented By
Norma V. Garcia

Agnes Shene Hwa Chin

Represented By
Norma V. Garcia

Trustee(s):

Heide Kurtz (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

2:19-18316 Ashley Susan Aarons

Chapter 7

#10.00 Cont'd hrg re: Chapter 7 Trustee's Motion for Order Authorizing Abandonment of Property of the Estate Pursuant to 11 U.S.C. §554(a) fr. 10/17/23, 11/28/23, 1/23/24

Docket 643

Tentative Ruling:

Tentative Ruling for 4/2/24:

Please see the tentative ruling for Calendar No. 13 on 4/2/24 at 11:00 a.m.

Tentative Ruling for 1/23/24:

Please see the tentative ruling for Calendar No. 21 on 1/23/24 at 11:00 a.m.

Tentative Ruling for 11/28/23:

Please see the tentative ruling for Calendar No. 5 on 11/28/23 at 11:00 a.m.

Tentative Ruling for 10/17/23:

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.

Key documents reviewed (in addition to motion papers): Opposition of Verus (dkt. 646), Opposition of ClaimsXP (dkt. 647), Reply (dkt. 648)

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By

Shulman Bastian Friedman & Bui LLP

Richard L Antognini

David R Haberbusch

Vanessa M Haberbusch

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

CONT... Ashley Susan Aarons

Chapter 7

Lane K Bogard

Movant(s):

David M Goodrich (TR)

Pro Se

Trustee(s):

David M Goodrich (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

2:19-18316 Ashley Susan Aarons

Chapter 7

#11.00 Cont'd hrg re: Motion by Asset Recovery Association, Inc. D.B.A. ClaimsXP order (1) Amending the ClaimsXP employment order; (2) Amending the Furtado Employment order; & (3) Disgorging fees already paid to Furtado fr. 11/28/23, 1/23/24

Docket 649

Tentative Ruling:

Tentative Ruling for 4/2/24:

Please see the tentative ruling for Calendar No. 13 on 4/2/24 at 11:00 a.m.

Tentative Ruling for 1/23/24:

Please see the tentative ruling for Calendar No. 21 on 1/23/24 at 11:00 a.m.

Tentative Ruling for 11/28/23:

Please see the tentative ruling for Calendar No. 5 on 11/28/23 at 11:00 a.m.

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By

Shulman Bastian Friedman & Bui LLP

Richard L Antognini

David R Haberbush

Vanessa M Haberbush

Lane K Bogard

Movant(s):

Asset Recovery Association

Represented By

Selena Rojhani

Trustee(s):

David M Goodrich (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

2:19-18316 Ashley Susan Aarons

Chapter 7

#12.00 Cont'd hrg re: Motion to Partially Strike Omnibus Reply
by ClaimsXP and Strike Declaration of Debtor Ashley Aarons
fr. 11/28/23, 1/23/24

Docket 662

Tentative Ruling:

Tentative Ruling for 4/2/24:

Please see the tentative ruling for Calendar No. 13 on 4/2/24 at 11:00 a.m.

Tentative Ruling for 1/23/24:

Please see the tentative ruling for Calendar No. 21 on 1/23/24 at 11:00 a.m.

Tentative Ruling for 11/28/23:

Please see the tentative ruling for Calendar No. 5 on 11/28/23 at 11:00 a.m.

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By

Shulman Bastian Friedman & Bui LLP

Richard L Antognini

David R Haberbush

Vanessa M Haberbush

Lane K Bogard

Movant(s):

Furtado Law PC

Pro Se

Trustee(s):

David M Goodrich (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

2:19-18316 Ashley Susan Aarons

Chapter 7

#13.00 Cont'd Preliminary hrg re: Notice of compensation report & compensation report by Asset Recovery Assoc. Inc. D.B.A.Claim SXP
fr. 6/27/23, 8/15/23, 9/19/23, 10/17/23, 11/28/23, 1/23/24

Docket 612

Tentative Ruling:

Tentative Ruling for 4/2/24:

Continue all matters in the bankruptcy case in chief, as set forth below. Appearances are not required on 4/2/24. (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) The parties

A description of the parties involved in the matters set forth below is set forth in this Court's 1/23/24 tentative ruling. See dkt. 673, Ex. 1, PDF pp. 14-18.

(b) Disgorgement motion of ClaimsXP (dkt. 651), Furtado Firm's evidentiary objections (dkt. 654-656) & opposition (dkt. 657), ClaimsXP's reply (dkt. 658 & 660), Debtor Decl. (dkt. 659), Furtado Decl. (dkt. 661), Scheduling Order (dkt. 673)

This Court has no issues to raise *sua sponte* at this time, so the tentative ruling is to continue this matter to 6/18/24 at 9:00 a.m. for an evidentiary hearing.

(c) Notice/application for compensation of ClaimsXP (dkt. 612); Order

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

CONT... Ashley Susan Aarons

Chapter 7

setting initial hearing and permitting only limited additional papers (dkt. 618); Notice of hearing (dkt. 622); Oppositions of Verus (dkt. 613), Totaro Firm (dkt. 614, 615), Bastian Firm (dkt. 617), and Trustee (dkt. 626); ClaimsXP's reply (dkt. 627)

Same as above.

(d) Furtado Firm's motion to strike (dkt. 662)

Same as above.

(e) Trustee's motion to abandon (dkt. 643 & 644), Oppositions of Verus (dkt. 646), ClaimsXP (dkt. 647), and Debtor (dkt. 652, untimely filed), Trustee's reply (dkt. 648), Stipulation/order continuing hearing (dkt. 664 & 666)

This Court has no issues to raise *sua sponte* at this time so the tentative ruling is to continue this matter to the same date and time as the evidentiary hearing set forth above. See Section (1)(b), above.

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.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By

Shulman Bastian Friedman & Bui LLP
Richard L Antognini
David R Haberbush
Vanessa M Haberbush
Lane K Bogard

Movant(s):

Asset Recovery Association

Represented By

Selena Rojhani

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

CONT... Ashley Susan Aarons

Chapter 7

Trustee(s):

David M Goodrich (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

11:00 AM

2:19-18316 Ashley Susan Aarons

Chapter 7

Adv#: 2:24-01075 Ashley Aarons Trustee of The Ashley Aarons 2015 Tr v. Lexington Insurance

#14.00 Status conference re: Removal

Docket 1

Tentative Ruling:

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.

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By

Shulman Bastian Friedman & Bui LLP

Richard L Antognini

David R Haberbush

Vanessa M Haberbush

Lane K Bogard

Defendant(s):

Lexington Insurance Company a

Represented By

Jordon E Harriman

Does 1 to 25, inclusive

Pro Se

Plaintiff(s):

Ashley Aarons Trustee of The

Pro Se

Trustee(s):

David M Goodrich (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:24-10870 1415 Garvey LLC

Chapter 11

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

QUALFAX, INC.
vs
DEBTOR

Docket 18

Tentative Ruling:

Grant.

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)).

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): Movant's supplemental brief (dkt. 24), Debtor's non-opposition (dkt. 32), Movant's notice of errata (dkt. 33)

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) and (d)(2).

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).

Effective date of relief

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... **1415 Garvey LLC** **Chapter 11**
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):

1415 Garvey LLC

Represented By
Robert M Yaspan

Movant(s):

QUALFAX, INC.

Represented By
Harris L Cohen

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:24-10870 1415 Garvey LLC

Chapter 11

#2.00 Cont'd Status conference re: Chapter 11 case
fr. 3/5/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/2/24:

Dismiss this case. Appearances required by counsel for Debtor at the Status Conference (no appearances required on the motion for relief from the automatic stay: see calendar no. 1 on today's calendar - 4/2/24 at 1:00 p.m.).

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.

Current issues

(a) Motion for relief from the automatic stay (dkt. 18, "R/S Motion") of Qualfax, Inc. ("Movant") & supplemental brief (dkt. 24), Debtor's non-opposition (dkt. 32), Movant's notice of errata (dkt. 33)

Grant as set forth in the tentative ruling for calendar 1 on today's calendar (4/2/24 at 1:00 p.m.).

(b) Future of this case

Debtor has filed papers stating that it does not oppose the R/S Motion because it cannot obtain post-petition financing in time to confirm a plan (dkt. 32, p. 1). In addition, as of the preparation of this tentative ruling Debtor has not filed its February monthly operating report (which was due 3/21/24) or a budget motion (which this Court orally ordered Debtor to file by 3/26/24 at the hearing on 3/5/24).

Based on the foregoing, the tentative ruling is to dismiss this case on this Court's own motion, pursuant to 11 U.S.C. 105(a), 1112, and the Procedures Order (dkt. 4 & 6). After the hearing this Court will prepare the order.

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... 1415 Garvey LLC

Chapter 11

(c) Application to employ proposed bankruptcy counsel (dkt. 20 & 21)

This matter is not on for hearing today because Debtor has elected to proceed under the Court's negative notice procedures (see LBR 9014-1(o)), but the tentative ruling is to direct proposed counsel to appear to address whether this Court should treat the matter as moot in view of this Court's tentative ruling to dismiss this case, or alternatively if counsel will be seeking a post-dismissal award of compensation or other relief and if that means this matter is not moot.

(d) Motion for relief from the automatic stay (dkt. 29, "R/S Motion") of State Court receiver Richard C. Griswold & request for judicial notice (dkt. 31)

This matter is not on for hearing today because it has been self-calendared for hearing on 4/9/24 at 1:00 p.m. In view of this Court's tentative ruling to dismiss this case, that matter arguably is mooted; but because dismissals not infrequently are vacated this Court anticipates not treating that matter as moot and not taking that hearing off calendar (although, prior to that hearing, this Court might well post a tentative ruling that excuses appearances at that hearing).

(2) Dates/procedures. This case was filed on 2/5/24.

- (a) Bar date: 6/14/24 (dkt. 22) (timely served, dkt. 23)
- (b) Procedures Order: dkt. 4 (timely served, dkt. 6)
- (c) Plan/Disclosure Statement: file by 6/28/24 (DO NOT SERVE - except on the U.S. Trustee). See Procedures Order.
- (d) Continued status conference: 4/9/24 at 1:00 p.m., concurrent with other matters. No written status report required.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

1415 Garvey LLC

Represented By
Robert M Yaspan

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:23-17634 7111 Sepulveda LLC

Chapter 11

#3.00 Hrg re: Motion for relief from stay [RP]

QUALFAX, INC.
vs
DEBTOR

Docket 54

Tentative Ruling:

Grant.

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)).

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): Debtor's notice of non-opposition (dkt. 61)

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2), and (d)(3).

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).

Effective date of relief

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... **7111 Sepulveda LLC** **Chapter 11**
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):

7111 Sepulveda LLC

Represented By
Robert M Yaspan

Movant(s):

QUALFAX, INC.

Represented By
Harris L Cohen

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:23-17634 7111 Sepulveda LLC

Chapter 11

#4.00 Cont'd Status Conference re: Chapter 11 Case
fr.12/19/23, 1/23/24, 3/5/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/2/24:

Dismiss this case. Appearances required by counsel for Debtor at the Status Conference (no appearances required on the motion for relief from the automatic stay: see calendar no. 3 on today's calendar - 4/2/24 at 1:00 p.m.).

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. 54, "R/S Motion") of Qualfax, Inc. ("Movant"), Debtor's non-opposition (dkt. 61)

Grant as set forth in the tentative ruling for calendar 3 on today's calendar (4/2/24 at 1:00 p.m.).

(b) Future of this case

Debtor has filed papers stating that it does not oppose the R/S Motion because it cannot obtain post-petition financing in time to confirm a plan (dkt. 61, p. 1). In addition, as of the preparation of this tentative ruling Debtor has not filed its February monthly operating report (which was due 3/21/24) or a plan and disclosure statement (which was due 3/15/24, see Section (2)(c), below).

Based on the foregoing, the tentative ruling is to dismiss this case on this Court's own motion, pursuant to 11 U.S.C. 105(a), 1112, and the Procedures Order (dkt. 7 & 10). After the hearing this Court will prepare the order.

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

7111 Sepulveda LLC

Chapter 11

(c) Application to employ proposed bankruptcy counsel (dkt. 58 & 59)

This matter is not on for hearing today because Debtor has elected to proceed under the Court's negative notice procedures (see LBR 9014-1(o)), but the tentative ruling is to direct proposed counsel to appear to address whether this Court should treat the matter as moot in view of this Court's tentative ruling to dismiss this case, or alternatively if counsel will be seeking a post-dismissal award of compensation or other relief and if that means this matter is not moot.

(d) U.S. Trustee's motion to dismiss (dkt. 44, 46, 48, "MTD"), Debtor's opposition (dkt. 53), no reply on file

This matter is not on for hearing today (at the hearing on 3/5/24 at 1:00 p.m. this Court orally ordered the matter continued to 4/9/24 at 1:00 p.m.). The tentative ruling is that this matter is moot in view of the tentative ruling (above) to dismiss this case on this Court's own motion. Accordingly, the tentative ruling is also to vacate the continued hearing on the MTD, which is scheduled for 4/9/24 at 1:00 p.m.

(2) Dates/procedures. This case was filed on 11/17/23.

(a) Bar date: 2/23/24 (dkt. 20) (timely served, dkt. 21)

(b) Procedures Order: dkt. 7 (timely served, dkt. 10)

(c) Plan/Disclosure Statement: Not filed by 3/15/24 deadline.

(d) Continued status conference: *If* this Court is persuaded to adopt its tentative ruling to dismiss this case, take this matter off calendar (no further status conferences).

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

7111 Sepulveda LLC

Represented By
Robert M Yaspan

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:23-17999 Crown Jewel Properties, LLC

Chapter 11

#5.00 Hrg re: Motion for relief from stay [RP]

BMH OCEANSIDE, LLC
vs
DEBTOR

Docket 57

Tentative Ruling:

Grant.

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)).

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): Order (single asset real estate case determination, dkt. 16); Debtor's notice of non-opposition (dkt. 61)

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1), (d)(2), and (d) (3).

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, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... Crown Jewel Properties, LLC

Chapter 11

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):

Crown Jewel Properties, LLC

Represented By
Douglas M Neistat
Jeremy H Rothstein

Movant(s):

BMH Oceanside, LLC

Represented By
Matthew D Pham

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:23-17999 Crown Jewel Properties, LLC

Chapter 11

#6.00 Cont'd status conference re: Chapter 11 case
fr. 1/09/24, 2/20/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/2/24:

Appearances required by counsel for Debtor at the Status Conference (no appearances required on the motion for relief from the automatic stay: see calendar no. 5 on today's calendar - 4/2/24 at 1:00 p.m.).

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 filed by BMH Oceanside, LLC (dkt. 57), No opposition on file

Grant as set forth in the tentative ruling for calendar no. 5 on this calendar (4/2/24 at 1:00 p.m.).

(b) Dismissal

On 12/4/23, this Court issued a Procedures Order (dkt. 4), which Debtor served upon all creditors and parties in interest on 12/5/23 (dkt. 5). Among other things, the Procedures Order states that "**[w]ithout further notice** this Court will automatically hold other status conferences at the same time as any other hearing in this case and may issue appropriate orders including on ... case disposition (e.g., ... dismissal ...)" Procedures Order at ¶ 2 (emphasis in original).

It appears that the Property is Debtor's only material asset. The tentative ruling is that without the Property, Debtor lacks the ability to reorganize or take advantage of other appropriate bankruptcy objectives, and that dismissal of the case under 11 U.S.C. 1112(b) is appropriate.

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Crown Jewel Properties, LLC

Chapter 11

Proposed order: After the hearing, this Court will prepare an order dismissing the case.

(2) Dates/procedures. This case was filed on 12/1/23 (Debtor's prior bankruptcy case, no. 2:21-bk-17872-NB, was dismissed pursuant to a structured dismissal/refinance on 5/27/22).

- (a) Bar date: 3/12/24 (Bar Date Order (dkt. 38) timely served, dkt. 43).
- (b) Procedures Order: dkt. 4 (timely served, dkt. 8)
- (c) Plan/Disclosure Statement: Not applicable
- (d) Continued status conference: Not applicable

Tentative Ruling for 2/20/24:

Appearances required by counsel for Debtor.

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) Status of efforts to restructure vacant land located in northern San Diego County?

Debtor is directed to provide an update regarding the status of its efforts to develop, sell, recapitalize, or otherwise monetize its only asset, a vacant 12.5 acre contiguous site located in northern San Diego County.

(2) Dates/procedures. This case was filed on 12/1/23 (Debtor's prior bankruptcy case, no. 2:21-bk-17872-NB, was dismissed pursuant to a structured dismissal/refinance on 5/27/22).

- (a) Bar date: 3/12/24 (DO NOT SERVE notice yet - court will prepare an order after the status conference).
- (b) Procedures Order: dkt. 4 (timely served, dkt. 8)
- (c) Plan/Disclosure Statement: file by 4/12/24 (DO NOT SERVE - except on the U.S. Trustee). See Procedures Order.
- (d) Continued status conference: 4/9/24 at 1:00 p.m. No written status report required.

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... Crown Jewel Properties, LLC

Chapter 11

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Crown Jewel Properties, LLC

Represented By
Douglas M Neistat
Jeremy H Rothstein

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:23-13307 Seyed Mustafa Maghloubi

Chapter 11

Adv#: 2:24-01007 Totaro v. Maghloubi

#7.00 Status conference re: Complaint for determination of non-dischargeability of specific debt pursuant to 11 U.S.C. section 523(a)

Docket 1

Tentative Ruling:

Continue to 4/9/24 at 1:00 p.m., concurrent with other matters in the bankruptcy cases of Seyed Maghloubi (2:23-bk-13307-NB) and Michael Totaro (2:23-bk-11397-NB). Appearances are not required on 4/2/24. (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.

Party Information

Debtor(s):

Seyed Mustafa Maghloubi

Represented By
Tony Forberg

Defendant(s):

Seyed Mustafa Maghloubi

Represented By
Tony Forberg

Plaintiff(s):

Michael R Totaro

Represented By
Michael R Totaro

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... Seyed Mustafa Maghloubi

Chapter 11

Trustee(s):

Todd A. Frealy (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:23-13307 Seyed Mustafa Maghloubi

Chapter 11

#8.00 Cont'd Status conference re: Chapter 11 case
fr. 11/14/23, 11/28/23, 1/23/24, 2/20/24, 3/12/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/2/24:

Continue to 4/9/24 at 1:00 p.m., concurrent with other matters in the bankruptcy cases of Seyed Maghloubi (2:23-bk-13307-NB) and Michael Totaro (2:23-bk-11397-NB). Appearances are not required on 4/2/24. (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.

Tentative Ruling for 3/12/24:

Appearances required by counsel for Debtor and Debtor himself.

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) Order to Show Cause re sanctions etc. (the "OSC," dkt. 60, 78–79), Debtor's response (dkt. 81, "Maghloubi Decl."), Forberg Decl. (dkt. 82), Totaro Decl. (dkt. 83), Totaro Status Report (dkt. 110)

In its OSC, this Court described Mr. Maghloubi's numerous failures to comply with his obligations under the Bankruptcy Court and his disregard of

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... Seyed Mustafa Maghloubi

Chapter 11

this Court's orders. This Court has provided Mr. Maghloubi multiple opportunities to come into compliance with his bankruptcy obligations, but unfortunately he has failed to do so.

Mr. Maghloubi's continuing non-compliance includes, without limitation, (A) failure to file any monthly operating reports ("MORs"); (B) failure to meet a 2/27/24 deadline to file an Amended Schedule I containing a proper response to question 8a (which inquires about "net income from rental property and from operating a business, profession, or farm," and requires Mr. Maghloubi to "[a]ttach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income"); and (C) failure to appear at status conferences as directed by this Court.

This Court does not know whether Mr. Maghloubi appeared at the continued meeting of creditors which took place on 3/5/24 (dkt. 108), and does not know whether he has come into compliance with his reporting obligations to the United States Trustee ("UST"). The UST is requested to appear to provide an update as to these issues. In addition, this Court does not know whether Mr. Maghloubi has been cooperating with the Chapter 11 Trustee Mr. Frealy ("Trustee").

All persons appearing at this status conference are directed to address what coercive or other sanctions might be appropriate. Parties must bear in mind that monetary sanctions might fail to be coercive, and could harm creditors, because Mr. Maghloubi may have nothing to lose if he is insolvent and will either pay any funds to creditors or to this Court (if he pays anyone). Other possible sanctions could include evidentiary presumptions and/or coercive incarceration.

The tentative ruling is to set a **deadline of 3/19/24** for Trustee to file a declaration detailing in what ways (if any) Mr. Maghloubi has still fallen short in his compliance with his duties as a debtor in bankruptcy, and under this Court's orders, with a **deadline of 3/26/24** for any responsive declaration by Mr. Maghloubi, and a **deadline of 4/2/24** for any reply by Trustee. In addition, the tentative ruling is to continue the hearing on the OSC to be contemporaneous with the continued status conference (see part "(2)(d)" of this tentative ruling, below). At that time this Court can hear arguments and determine whether an evidentiary hearing is required, and address any other procedural or substantive issues.

Mr. Maghloubi is cautioned that, if he has not fully complied in every

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... **Seyed Mustafa Maghloubi**

Chapter 11

respect with his obligations and this Court's orders, and if there are no genuine disputes of material fact, he could be subject at that continued hearing to an order for immediate evidentiary sanctions, coercive incarceration, or other sanctions based on the OSC. In addition, any sanctions under the OSC are without prejudice to parties in interest seeking compensatory sanctions, punitive sanctions, or other sanctions.

Proposed order: Unless otherwise ordered, after the hearing *this Court will prepare and issue one or more appropriate orders.*

(b) Motion by the United States Trustee ("UST") to dismiss or convert this bankruptcy case (dkt. 42), Response (dkt. 57) by petitioning creditors MJ Shanahan & Associates and We Enforce Judgments, LLC (collectively, "Petitioners")

In view of the recent appoint of Mr. Frealy as the Chapter 11 Trustee and this Court's tentative rulings in parts "(1)(a)" above, the tentative ruling is to decline to grant any additional relief on the UST's motion at this time, and take it off calendar (no continuance), without prejudice to renewing that motion and seeking additional relief on 14 days' notice to Mr. Maghloubi and all parties in interest.

Proposed order: Unless otherwise ordered, the UST is directed to lodge a proposed OSC on the foregoing matter 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 adopting it as this Court's actual ruling.

(2) Dates/procedures. The involuntary petition commencing this case was filed on 5/30/23. An Order for Relief was entered on 6/27/23, dkt. 11. The case was converted from Chapter 7 to Chapter 11 on 10/12/23, dkt. 29.

- (a) Bar date: TBD
- (b) Procedures Order: dkt. 88 (no evidence of service).
- (c) Plan/Disclosure Statement: TBD
- (d) Continued status conference: 4/9/24 at 1:00 p.m. *Brief* written status report from Chapter 11 Trustee due by 4/2/24.

[PRIOR TENTATIVE RULING(S) OMITTED. See Order to Show Cause (dkt. 60) and interim sanctions order (dkt. 89) for more information.]

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... Seyed Mustafa Maghloubi

Chapter 11

Party Information

Debtor(s):

Seyed Mustafa Maghloubi

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:23-12863 Energy Plus Solar Inc.

Chapter 11

#9.00 Hrg re: Motion to stay the entire action (core proceedings)
pending resolution of issues on appeal

Docket 243

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 10,
4/2/24 at 1:00 p.m.).

Party Information

Debtor(s):

Energy Plus Solar Inc.

Represented By
Michael Jay Berger

Movant(s):

Diane L. Klausen

Represented By
Roger E Naghash
Nicole B. Naghash

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:23-12863 Energy Plus Solar Inc.

Chapter 11

#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/13/23, 7/11/23, 8/15/23, 9/12/23, 10/3/23,
11/14/23, 12/19/23, 2/6/24, 3/12/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/2/24:

Deny Ms. Klausen's motion for a stay pending appeal and continue the Status Conference as set forth below. 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

(a) Creditor Diane L. Klausen's Motion for stay pending appeal (dkt. 233); Application to shorten time (dkt. 234, "OST App"); Order (dkt. 237) denying OST App; First amended motion for stay pending appeal (dkt. 243, the "Stay Motion"); Debtor's Opposition (dkt. 267); Reply (dkt. 282)

(i) Background

Debtor's plan proposes to pay Ms. Klausen 100% of her claim. Nevertheless, she has objected to almost everything in this case. Debtor's opposition lists some of her many objections. See Opp. (dkt. 267) p. 3:1-26.

For example, she has objected not only to various motions by Debtor but also to the lodgment of orders memorializing this Court's rulings on those motions. See Orders (dkt. 166, 167, 200, 201). A more complete background is set forth in the numerous orders of this Court, including the following:

- * an order allowing in part and disallowing in part Ms. Klausen's claim (dkt. 145);
- * orders overruling her objections to monthly operating reports (dkt. 168, 198);

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Energy Plus Solar Inc.

Chapter 11

- * an order rejecting the attempted submission, *after* the hearing to which it related, of an un-authenticated Rule 2004 examination transcript (dkt. 225);
- * an order continuing the hearing on Debtor's motion for sanctions against Ms. Klausen and her counsel, Roger E. Naghash to assure that Ms. Klausen had notice and an opportunity to be heard (dkt. 226, the "Order Giving Ms. Klausen Notice");
- * an order denying Ms. Klausen's OST App on the original Stay Motion (dkt. 237, the "Order Denying OST App");
- * an order denying Ms. Klausen's omnibus motion for dismissal, conversion, recovery of funds paid to creditor SunPower Corporation, etc. (dkt. 241);
- * an order continuing hearings and narrowing the confirmation issues (dkt. 266);
- * an order imposing sanctions against Ms. Klausen and Mr. Naghash (dkt. 268, the "Sanctions Order"); and
- * an order continuing the confirmation hearing again, on the sole remaining issue of feasibility (dkt. 290).

With the foregoing general background, this Court explains some of the allegations in the Stay Motion. This Court does so both for the benefit of the parties and for the benefit of any reviewing court, because Ms. Klausen's allegations can be difficult to follow.

(ii) Allegations relying on unfiled, unauthenticated transcript

The day *after* a hearing on Ms. Klausen's motion seeking omnibus relief, she attempted to submit a transcript that she apparently believed was relevant to that hearing. This Court issued an order declining to accept that belated, unfiled, unauthenticated transcript. The order states, in part:

At approximately 4:08 p.m. on February 6, 2024, after the hearing had concluded, Ms. Klausen filed a "Notice of Lodgment of Transcript of the Debtor Energy Plus Solar, Inc.'s Person Most Knowledgeable's 2004 Examination and its Notice of Errata" (dkt. 224, the "Notice of Lodgment"). Despite the title of this Notice of Lodgment, no actual transcript was lodged (let alone filed) at that time. The morning after the filing of the Notice of Lodgment, on February 7, 2024, at approximately 9:00 a.m., Ms. Klausen

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Energy Plus Solar Inc.

Chapter 11

delivered to this Court a hard copy of a transcript of the 12/20/23 Exam (the "Rule 2004 Transcript"). [Order (dkt. 225) p. 2:12-19.]

The order went on to explain that both for present purposes and in future Mr. Naghash would have to follow the applicable rules, including timely filing declarations authenticating any transcripts, in connection with whatever motions or oppositions were at issue. See Order (dkt. 225) p. 3:10-21. The order concludes:

This Court will not *sua sponte* consider the Rule 2004 Transcript in support of any position advocated by Ms. Klausen or Mr. Naghash. If they intend for this Court to consider that transcript they must file appropriate motion(s) and declaration(s). [Order (dkt. 225) p. 4:3-6 (emphasis in original).]

Despite this clear direction, the transcript still has not been filed on the docket in connection with the Stay Motion (or, for that matter, any other motion, opposition, or other papers). Nor has the transcript been authenticated by a proper declaration. Nor is there any proof of service of any such declaration and attached transcript on Debtor. Nevertheless, the Stay Motion states that it "is also based on ... [the] 2004 Examination of Debtor's Transcript (in possession, custody, and control of [Bankruptcy Judge] Neil W. Bason)" Stay Motion (dkt. 243-1) p. 3:1-3.

To be very clear, this Court has not considered the Rule 2004 Transcript – either in connection with the instant Stay Motion or any other matters in this case. In fact, to assure that this Court acts only based on matters that are properly presented, and not based on any *ex parte* communications, this Court has not reviewed the Rule 2004 Transcript at all.

(iii) Allegations regarding Sunpower Corporation

The Stay Motion alleges that Debtor "fraudulently has unlawfully paid/offset payments to [supplier and creditor] Sunpower [Corporation]." Stay Motion (dkt. 243) p. 4:11-15. When Ms. Klausen first raised this issue, this Court was concerned about these allegations. In fact, although Ms. Klausen had not explained how this alleged wrongdoing was relevant to any issues before this Court, this Court nevertheless *sua sponte* raised the question whether Debtor was proposing its Plan in good faith. See Order (dkt. 241) Ex. A at pp. 1-3.

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Energy Plus Solar Inc.

Chapter 11

But thereafter Debtor's counsel, Mr. Michael Berger, who had himself initially disclosed the Sunpower issue, clarified that Debtor had not initiated payments to Sunpower - rather, Sunpower had engaged in "self help"; Mr. Berger had only recently learned about those acts; he thought that Sunpower might well have been within its rights to do what it did; and the cost of seeking recovery from Sunpower exceeded any likely benefits, especially given Debtor's proposed 100% dividend. This Court was persuaded that, *absent any contrary evidence*, Debtor had met its burden to show that it was proposing its Plan in good faith within the meaning of 11 U.S.C. 1129(a)(3). See Order (dkt. 266) Ex. A, at PDF pp. 4-5. See also Order Denying OST App (dkt. 237) p. 2.

Now the Stay Motion reiterates Ms. Klausen's prior arguments, but again without admissible evidence or for that matter any argument specifically tying the alleged wrongdoing to any issue before this Court (e.g., good faith under 11 U.S.C 1129(a)(3)). True, she refers to purported testimony. But she once again fails to provide any authenticated transcript.

Specifically, Ms. Klausen alleges that according to Mr. Wedell's "testimony under oath ... Sunpower had NO security interest ... and the debt that was owed to Sunpower was unsecure[d]." *Id.* p. 6:9-11 (underlining and italics added, capitalization in original). She appears to mean that, although Sunpower has a UCC-1 and may have consignment rights in inventory, Debtor did not actually have any inventory as of the petition date (although perhaps she means something different - it is difficult to tell). In addition, "[a]ccording to [Debtor's principal] Eric Wedell, Berger and his cast of characters [sic] had knowledge about the plan to pay Sunpower, after the petition was filed, **BEFORE** the actual petition was filed." Naghash Decl. (dkt. 243-2) p. 3:13-15 (underlining and italics added, capitalization and boldface in original).

The only declaration in support of the Stay Motion is that of Mr. Naghash, and he neither attaches nor authenticates any transcript of Mr. Wedell's alleged testimony, nor does he provide any evidence of what Mr. Berger did or did not know at any time. See Naghash Decl. (dkt. 243-2) *passim*. Moreover, supposing for the sake of discussion that Debtor did not have any inventory as of the petition date, and that consequently under 11 U.S.C. 506(a) Sunpower had a secured claim of \$-0-, the only evidence in the record is that Sunpower engaged in "self help" and that, even if Sunpower had no right to do so, the cost of pursuing Sunpower for recovery of funds would exceed the benefit.

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Energy Plus Solar Inc.

Chapter 11

All of this has been addressed previously by this Court. For example, in the Order Denying OST App this Court stated:

[If Debtor's proposed 100% Plan is shown to be feasible then] it does not appear to be a sensible use of funds for either Ms. Klausen or Debtor's bankruptcy estate to litigate other matters, such as any potential recovery from another creditor or from Debtor's principal, both of whom appear to have colorable defenses.

To be clear, this Bankruptcy Court is not condoning any (purported) wrongdoing. In addition, this Court can conceive how – if a wrongful intent of Debtor's principal could be proved – that could establish a lack of "good faith" for confirmation purposes (11 U.S.C. § 1129(a)(3)) or grounds for some other sort of relief. The point is only that it is not this Court's role to act without evidence and make arguments for Mr. Naghash and Ms. Klausen: they have the burden to provide admissible evidence and cogent arguments on relevant issues, and they have failed to do so. [Order Denying OST App (dkt. 237) p. 2 (emphasis added).]

(iv) Allegations regarding Mr. Berger's allegedly "Unlawful Communications" with Ms. Klausen

The Stay Motion objects that Mr. Berger mailed Ms. Klausen copies of the pleadings that were served on Mr. Naghash, and he attaches envelopes to support that allegation. See Stay Motion (dkt. 243) p. 7:8-18 *and* Naghash Decl. (dkt. 243-2). The Stay Motion claims that this violates nonbankruptcy rules against communicating directly with parties who are represented by counsel.

First, absent a declaration from Ms. Klausen, there is no actual authentication of the envelopes. Second, the Stay Motion does not explain how any purported violation of nonbankruptcy ethical rules by Debtor's counsel is relevant for any bankruptcy purposes. For example, this Court has difficulty understanding how this is relevant to the narrow inquiry whether Debtor's plan is "proposed in good faith." 11 U.S.C. 1129(a)(3). See Order (dkt. 241) Ex. A p. 2 (last paragraph, citing authorities interpreting "good faith" requirement).

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Energy Plus Solar Inc.

Chapter 11

(v) Allegations regarding this Court's "Unlawful Communication and Legal Advice" to Ms. Klausen

The Stay Motion alleges that this Court engaged in "Unlawful Communication" and "incompetent and worthless legal advice" to Ms. Klausen. Stay Motion (dkt. 243) p. 7:20-24. The Stay Motion states that this Court "advised her ... to file a declaration bypassing her counsel, Roger E. Naghash." *Id.* p. 7:24-25.

In fact, as this Court has explained before (dkt. 266 at PDF p. 7), Ms. Klausen's opposition to Debtor's sanctions motion had not included any admissible evidence to contradict Debtor's evidence of willful misconduct and bad faith. The only declaration was from Mr. Naghash, who is not competent to testify as to Ms. Klausen's own intent and good or bad faith.

This Court continued the hearing on Debtor's motion for sanctions to provide her with an additional opportunity, after the deadline for her opposition had already passed, to submit admissible evidence. This Court's order states:

The purpose of this Order is to [e]nsure that Ms. Klausen is aware of and understands that as a result of the acts and omissions of Mr. Naghash on her behalf, she is at risk of being required to pay Debtor's counsel a sanction of up to **\$45,892.98**, which amount could increase if Mr. Naghash continues to engage in improper litigation tactics on Ms. Klausen's behalf with her knowledge or involvement. ... Ms. Klausen is directed to carefully review [the tentative ruling attached as] **Exhibit "A,"** in particular the portions thereof set forth in **large, bold typeface**. [Order Giving Ms. Klausen Notice (dkt. 226) p. 2:5-13 (emphasis in original).]

The order set a deadline for Ms. Klausen to "file her own declaration" (as distinguished from the declaration of Mr. Naghash who, as already noted, could not competently testify as to Ms. Klausen's mental state). *Id.* p. 2:17-20. Mr. Naghash appears to have misinterpreted this as a direction for Ms. Klausen to file her declaration "bypassing counsel." Stay Motion (dkt. 243) p. 7:24-25. It was nothing of the sort, as this Court has explained before. See Order (dkt. 266) at PDF p. 7.

(vi) Lack of admissible evidence in support of the Stay Motion

The only evidence in support of the Stay Motion is the declaration of

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... **Energy Plus Solar Inc.**

Chapter 11

Mr. Naghash. The declaration consists almost entirely of hearsay characterizations of Mr. Wedell's purported testimony, other unsupported allegations, and argument. Mr. Naghash concludes that "[t]he entire core proceeding of Chapter 11, Subchapter V, has been irreparably tainted by Bason [this Court] and Berger's [Debtor's counsel] fraudulent behaviors, conducts [sic], and unlawful biases, which is one of the main issues on appeal, (refusal to grant motion to dismiss)." Naghash Decl. (dkt. 243-2) at ¶ 15.

This Court cannot consider arguments that remain unsupported by admissible evidence in ruling upon the Stay Motion. Accordingly, in determining whether a stay is warranted, this Court has not considered Ms. Klausen's allegations (A) that Debtor wrongfully diverted income to a related company, (B) that Debtor wrongfully paid a preferred Sunpower in advance of other creditors, (C) that Debtor's Monthly Operating Reports were falsified, or (D) other conclusory allegations.

Alternatively, even if this Court were to consider such allegations, they are unpersuasive based on their lack of any specificity and the lack of any argument tying such allegations to relevant issues. For example, Ms. Klausen still fails to provide any analysis of whether any of her allegations are relevant to whether Debtor's Plan has been "proposed in good faith" within the meaning of 11 U.S.C. 1129(a)(3).

With all of the foregoing preliminary matters addressed, this Court turns to whether a stay pending appeal is warranted.

(vii) A stay is not warranted under Rule 8007

Pursuant to Rule 8007(a)(1) (Fed. R. Bankr. P.), this Court may issue a stay of a judgment, order, or decree pending appeal. In determining whether to grant a stay pending appeal, this Court considers the following four factors:

- (1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits;
- (2) whether the applicant will be irreparably injured absent a stay;
- (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and
- (4) where the public interest lies.

[*Nken v. Holder*, 556 U.S. 418, 426 (2009).]

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Energy Plus Solar Inc.

Chapter 11

As the Supreme Court has explained, a stay pending appeal "is not a matter of right, even if irreparable injury might otherwise result." *Virginian R. Co.*, 272 U.S., at 672, 47 S.Ct. 222. It is instead "an exercise of judicial discretion," and "[t]he propriety of its issue is dependent upon the circumstances of the particular case." *Id.*, at 672–673, 47 S.Ct. 222; see *Hilton, supra*, at 777, 107 S.Ct. 2113 ("[T]he traditional stay factors contemplate individualized judgments in each case"). The party requesting a stay bears the burden of showing that the circumstances justify an exercise of that discretion....

The first two factors of the traditional standard are the most critical. It is not enough that the chance of success on the merits be "better than negligible." ... By the same token, simply showing some "possibility of irreparable injury," *Abbassi v. INS*, 143 F.3d 513, 514 (C.A.9 1998), fails to satisfy the second factor. [*Nken v. Holder*, 556 U.S. 418, 434–35.]

To be entitled to a stay pending appeal, the moving party must make a "minimum permissible showing" with respect to each of the four factors. *Leiva-Perez v. Holder*, 640 F.3d 962, 965 (9th Cir. 2011). Provided the moving party meets a minimum threshold as to each factor, this Court may "balance the various stay factors once they are established." *Id.* at 965. Under this balancing approach, a stronger showing of irreparable harm can offset a weaker showing of likelihood of success on the merits, and vice versa – provided that the minimum threshold with respect to each factor has been established. *Id.* at 965–66; see also *id.* at 964 ("Petitioner must show either a probability of success on the merits and the possibility of irreparable injury, or that serious legal questions are raised and the balance of hardships tips sharply in petitioner's favor. These standards represent the outer extremes of a continuum, with the relative hardships to the parties providing the critical element in determining at what point on the continuum a stay pending review is justified.").

Having considered the *Nken* factors, the tentative ruling is that Ms. Klausen is **not** entitled to a stay pending resolution of the Appeals.

(A) Likelihood of success on the merits

As the Ninth Circuit has explained:

The first showing a stay petitioner must make is "a strong

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Energy Plus Solar Inc.

Chapter 11

showing that he is likely to succeed on the merits." *Id.* at 1761 (quoting *Hilton*, 481 U.S. at 776, 107 S.Ct. 2113) (quotation marks omitted). There is some uncertainty as to the exact degree of likely success that stay petitioners must show, due principally to the fact that courts routinely use different formulations to describe this element of the stay test. What is clear, however, is that to justify a stay, petitioners need not demonstrate that it is more likely than not that they will win on the merits....

There are many ways to articulate the minimum quantum of likely success necessary to justify a stay — be it a "reasonable probability" or "fair prospect," as *Hollingsworth*, 130 S.Ct. at 710, suggests; "a substantial case on the merits," in *Hilton's* words, 481 U.S. at 778, 107 S.Ct. 2113; or, as articulated in *Abbassi*, 143 F.3d at 514, that "serious legal questions are raised." We think these formulations are essentially interchangeable, and that none of them demand a showing that success is more likely than not. Regardless of how one expresses the requirement, the idea is that in order to justify a stay, a petitioner must show, at a minimum, that she has a substantial case for relief on the merits. [*Leiva-Perez*, 640 F.3d 962, 967–68.]

For the reasons set forth in all of the orders referenced above (particularly dkt. 168, 198, 199, 225, 237, 241, 266, 268, and 290), the tentative ruling is that Ms. Klausen does not have a substantial case on the merits. This Court's reasoning is sufficiently set forth in its prior orders and is not restated herein.

(B) Irreparable harm

To obtain a stay pending appeal, Ms. Klausen must show that "irreparable harm is probable if the stay is not granted." *Leiva-Perez*, 640 F.3d 962, 968. Ms. Klausen's burden "with regard to irreparable harm is higher than it is on the likelihood of success prong"; Ms. Klausen must show "that an irreparable injury is the more probable or likely outcome." *Id.*

Ms. Klausen fails to explain how her allegations, even if true, would show irreparable injury. The damages Ms. Klausen alleges are solely monetary. But "economic injury alone does not support a finding of

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Energy Plus Solar Inc.

Chapter 11

irreparable harm, because such injury can be remedied by a damage award." *Rent-A-Ctr., Inc. v. Canyon Television & Appliance Rental, Inc.*, 944 F.2d 597, 603 (9th Cir. 1991).

In addition and in the alternative, even if economic injury could support a finding of irreparable harm (which it cannot), the tentative ruling is that Ms. Klausen has failed to demonstrate how the absence of a stay will cause her economic harm. Debtor's proposed Plan proposes to pay Ms. Klausen's claim *in full*. This Court cannot confirm the Plan at the upcoming confirmation hearing unless it determines that the Plan is feasible – that is, that "[c]onfirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor" 11 U.S.C. 1129(a)(11).

For these reasons, the tentative ruling is that Ms. Klausen has failed to demonstrate a likelihood of irreparable injury.

(C) Balance of the hardships

The tentative ruling is that the balance of the hardships weighs sharply against granting a stay. Debtor has the opportunity to obtain confirmation of its Plan and exit bankruptcy in the near future. The stay sought by Ms. Klausen would put confirmation on hold pending resolution of her appeals. It is impossible to know how long that will take. Debtor would incur increased administrative expenses if it were required to remain in bankruptcy during this potentially lengthy period. Other creditors would be harmed by the additional delay in payment on their claims.

(D) Public interest

"There is a great public interest in the efficient administration of the bankruptcy system." *Adelson v. Smith (In re Smith)*, 397 B.R. 134, 148 (Bankr. D. Nev. 2008). As discussed above, issuance of a stay would substantially delay the administration of Debtor's estate. The tentative ruling is that the public interest weighs against issuance of a stay.

Proposed order: After the hearing, this Court will prepare an order denying the Stay Motion.

(2) Dates/procedures. This Subchapter V case was filed on 5/9/23.

(a) Bar date: 7/18/23 per General Order 20-01 and notice (dkt. 16).

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Energy Plus Solar Inc.

Chapter 11

(b) Procedures Order: dkt. 5 (timely served, dkt. 12)

(c) Plan/Disclosure Statement (dkt. 90): continued hearing on 4/30/24 at 1:00 p.m. (per Order, dkt. 290).

(d) Continued status conference: 4/30/24 at 1:00 p.m., concurrent with other matters. No written status report required.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Energy Plus Solar Inc.

Represented By
Michael Jay Berger

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:23-12637 Robert Dwight Winter, Jr.

Chapter 11

#11.00 Hrg re: Amended motion objecting to claim
no. 4-2 of the Internal Revenue Service

Docket 114

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 13,
4/2/24 at 1:00 p.m.).

Party Information

Debtor(s):

Robert Dwight Winter Jr.

Represented By
Leslie A Cohen

Movant(s):

Robert Dwight Winter Jr.

Represented By
Leslie A Cohen

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:23-12637 Robert Dwight Winter, Jr.

Chapter 11

#12.00 Hrg re: Second interim application of Leslie Cohen Law PC,
attorneys for debtor, for allowance of interim compensation of
fees and reimbursements of expenses

Docket 124

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 13,
4/2/24 at 1:00 p.m.).

Party Information

Debtor(s):

Robert Dwight Winter Jr.

Represented By
Leslie A Cohen

Movant(s):

Robert Dwight Winter Jr.

Represented By
Leslie A Cohen

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:23-12637 Robert Dwight Winter, Jr.

Chapter 11

#13.00 Cont'd Status Conference re: Chapter 11 Case
fr. 5/30/23, 6/13/23, 6/27/23, 7/11/23, 8/8/23,
10/3/23, 10/31/23, 11/28/23, 1/23/24, 2/20/24,
3/5/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/2/24:

(A) Grant in part and continue in part Debtor's Claim Objection; (B) grant the fee applications filed by Debtor's general bankruptcy counsel and the Subchapter V Trustee; (C) and continue the Status Conference, all as set forth below. Appearances required.

(1) Current issues

(a) Debtor's amended claim objection (dkt. 114), Opposition filed by Internal Revenue Service (dkt. 128), Debtor's reply (dkt. 130)

(i) Background

On 8/23/23, this Court entered an order authorizing Debtor to sell real property located in Australia (the "Australian Property"). Dkt. 71 (the "Sale Order"). Debtor is currently holding \$3,657,131.00 in proceeds from the sale. Second Amended Plan (dkt. 102, the "Plan") at p. 1. Debtor's Plan contemplates distributing the sale proceeds to creditors. *Id.* at p. 2.

The United States, on behalf of its agency the Internal Revenue Service (the "IRS") asserts a claim of \$3,836,180.06 against Debtor's estate, comprised of a purported secured claim of \$3,125,464.65, an unsecured priority claim of \$698,124.19, and a general unsecured claim of \$12,591.22 (the "Claim"). Debtor objects to the IRS' assertion that \$3,125,464.65 of the Claim is secured, and contends that this portion of the Claim is in fact unsecured.

Debtor's theory is that tax liens recorded by the United States on 2/9/23 and 2/22/23 in Dade County, Florida, could not have attached to any of Debtor's property, because Debtor did not own any property in Dade County as of the recordation of the tax liens. In addition, Debtor seeks a determination that the tax liens asserted by the IRS do not attach to any

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... **Robert Dwight Winter, Jr.**
portion of the sale proceeds.

Chapter 11

(ii) Automatic tax liens in favor of the IRS

As a preliminary matter, it appears that the parties are sophisticated and have taken for granted some bedrock principles of tax law. It would have been helpful to this Court if they had summarized those principles, and in the absence of any such summary by the parties this Court sets forth its own summary below. The parties are directed to address at the hearing whether they disagree with any of the following analysis.

Pursuant to 26 U.S.C. 6231, "[i]f any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person." The tax lien "imposed by section 6321 shall arise at the time the assessment is made and shall continue until the liability for the amount so assessed (or a judgment against the taxpayer arising out of such liability) is satisfied or becomes unenforceable by reason of lapse of time." 26 U.S.C. 6322. The tax lien arises by operation of law and includes "all real and personal property belonging to" the delinquent taxpayer, "including after-acquired property." *U.S. By & Through I.R.S. v. McDermott*, 507 U.S. 447, 448 (1993). The language of 26 U.S.C. 6231 "is broad and reveals on its face that Congress meant to reach every interest in property that a taxpayer might have." *Drye v. United States*, 528 U.S. 49, 56 (1999) (internal citation and quotation marks omitted).

In addition, the tax lien reaches all property of the delinquent taxpayer, whether that property is located within the United States or abroad:

[T]his Court finds that 26 U.S.C. § 6321 is drafted in the broadest possible language to reach all of debtor's property wherever located. Moreover, pursuant to section 6323(f)(2)(B), for purposes of perfection of a tax lien created under section 6321, debtor's personal property assets are deemed to be situated at its residence which is the place at which its principal executive office is located. The trustee does not contend that debtor's principal executive office was in any locale other than Texas. The Court finds that section 6323(f)(2)(B) is intended by

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Robert Dwight Winter, Jr.

Chapter 11

Congress to reach assets of taxpayers both foreign and domestic. This is particularly so in view of the specific allowance for perfection of government liens where the residence of the taxpayer is without the United States. The Court concludes that the lien of the IRS extends to all of debtor's property, both foreign and domestic. [*In re Guyana Dev. Corp.*, 189 B.R. 393, 396 (Bankr. S.D. Tex. 1995) (footnote omitted).]

However, the lien in favor of the IRS that arises by operation of law is subject to avoidance by a chapter 11 debtor under 11 U.S.C. 544(a)(3), if that statutory lien has not been properly perfected through recordation in accordance with the applicable statutory requirements and corresponding federal regulations. *See, e.g., In re Focht*, 243 B.R. 263, 267 (W.D. Pa. 1999) (entering summary judgment in favor of a chapter 7 trustee and avoiding statutory lien in favor of the IRS, because the statutory lien had not been properly perfected and therefore was subject to avoidance under the trustee's strong-arm power).

(iii) Attachment of the tax liens to the sale proceeds of the Australian Property

In its opposition to Debtor's Claim Objection, the IRS has not asserted that its tax liens attach to the sale proceeds of the Australian Property. The tentative ruling is that to the extent the IRS did assert a secured claim to the sale proceeds, Debtor would be entitled to avoid that claim under 11 U.S.C. 544(a)(3). This does not appear to be disputed by the IRS. But the papers on file do not contain any meaningful analysis of the legal principles leading to this result, so it is appropriate for this Court to provide such an analysis so that the record is complete.

As set forth in the Claim, the IRS issued income tax assessments to Debtor on 11/23/20, 11/22/21, and 11/21/2022. Claim at PDF p. 4. The total assessments, including interest and penalties, equal \$3,125,464.64. *Id.* As of the date of each assessment, a tax lien in favor of the IRS arose by operation of law against all Debtor's real and personal property, whether located in the United States or abroad – including the Australian Property.

The order authorizing the sale of the Australian Property provided that the sale was "free and clear of all liens, claims, encumbrances, adverse claims of ownership, regulatory agreements, and other interests" Sale

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... Robert Dwight Winter, Jr.

Chapter 11

Order (dkt. 71) at ¶ 4. But that provision might not have defeated any security interest that the IRS might assert in the sale proceeds, for two independent reasons.

First, the Sale Motion was not served upon the civil process clerk at the United States Attorney's Office or the Attorney General of the United States; this lack of proper service upon the IRS calls into question the enforceability of provisions in the Sale Order adverse to the IRS. Second, the Sale Motion stated that "[a]lthough the Debtor owns the Property free and clear, and is unaware of any liens or encumbrances on the Property, out of an abundance of caution, the Debtor seeks authority to sell the Property free and clear of any interests under Bankruptcy Code Section 363(f)." Sale Motion (dkt. 57) at p. 5. Debtor's non-disclosure of the IRS' statutory tax lien might mean that the IRS' lien could still attach to the sale proceeds, notwithstanding the "free and clear" language in the Sale Order.

But there is nothing in the record indicating that the IRS took steps to perfect its statutory tax lien against the Australian Property. Therefore, to the extent that the statutory lien does still attach to the sales proceeds of that Property, Debtor presumably could avoid the lien under § 544(a)(3).

Generally, an adversary proceeding is required to obtain relief under § 544(a)(3). The tentative ruling is that this Court can enter an order determining that the IRS' tax lien does not attach to the sale proceeds of the Australian Property without conducting an adversary proceeding. The IRS has not taken the position that its tax lien does attach to the Australian Property, and there is nothing in the record suggesting that the IRS properly perfected its tax lien or would otherwise have grounds to defeat an avoidance action brought by Debtor. Requiring an adversary proceeding under these circumstances would not be consistent with this Court's obligation to employ the procedural rules "to secure the just, speedy, and inexpensive determination of every case and proceeding." Rule 1001 (Fed. R. Bankr. P.).

(iv) Attachment of the tax liens to Debtor's other property

Debtor scheduled an interest in five vehicles, two motorcycles, and a watercraft, collectively valued at \$445,405.69. Schedule A/B (dkt. 20) at ¶¶ 3–5. Debtor also scheduled a 100% ownership interest in nine corporations, listing the value of those interests as "unknown." *Id.* at ¶ 19.

Repeating the legal principles set forth in part "(1)(a)(ii)" of this tentative ruling, above, the IRS holds a tax lien that arose by operation of law

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... Robert Dwight Winter, Jr.

Chapter 11

against all Debtor's real and personal property, wherever located. At issue is whether this automatic tax lien was properly perfected, such that the IRS could defeat a § 544(a)(3) action brought by Debtor.

The tentative ruling is that on the record before it, this Court cannot determine whether Debtor could prevail in a § 544(a)(3) action. In a declaration filed in support of the Claim Objection, Debtor testifies that "I do not own any real or personal property in Florida." Debtor's Decl. (dkt. 114) at ¶ 5. The IRS recorded tax liens in Dade County, Florida, on 2/9/23 and 2/22/23. Claim at pp. 5–6. To the extent that any of Debtor's personal property – such as his vehicles or nine corporations – was located (for tax lien purposes) in Dade County, Florida as of the recordation of these tax liens, the IRS most likely would hold a perfected claim against such property that could **not** be defeated through a § 544(a)(3) action. Because Debtor's declaration does not include a timeframe or details or analysis regarding the nine corporations' locus for tax lien purposes, that declaration does not establish that Debtor could use § 544(a)(3) to prevent the IRS' tax lien from attaching to his personal property.

For this reason, the tentative ruling is that the IRS is entitled to limited discovery (A) regarding the location of Debtor's personal property at the time the tax liens were recorded and (B) the value of the companies in which Debtor has an interest. The tentative ruling is that approximately 60 days should be sufficient time for the IRS to conduct such discovery, subject to possible extension if preliminary discovery reveals information that warrants additional time or issues for discovery. Accordingly, the tentative ruling is to set a discovery cutoff deadline and continued status conference on the Claim Objection as set forth in part "(2)(d)" of this tentative ruling, below.

Any discovery disputes that may arise are subject to resolution by way of the posted procedures of the this Court (available at www.cacb.uscourts.gov) – that is, in the event of a dispute, the parties are directed (A) **not** to file written motions to compel or quash discovery (B) but instead first meet and confer (per Rule 7026-1(c)) (Fed. R. Bankr. P.) and (C) then contact chambers to arrange a telephonic conference and related procedures (e.g., this Court may permit or require a pre-conference summary of the dispute and/or copies of relevant documents, such as discovery requests or responses, and at the telephonic conference this Court will determine whether to require written motions, briefs, or other documents, or alternatively this Court may rule on oral motions and oppositions without the

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Robert Dwight Winter, Jr.

Chapter 11

need for any such papers). See, e.g., *Tamari v. Bache & Co. (Lebanon)* SAL, 729 F.2d 469, 472 (7th Cir. 1984) (written discovery motion not required when party receives adequate notice); *Henry v. Sneiders*, 490 F.2d 315, 318 (9th Cir. 1974) (oral discovery order equally effective as written order); *Avionic Co. v. General Dynamics Corp.*, 957 F.2d 555, 558 (8th Cir. 1992) (same); 7-37 Moore's Federal Practice - Civil § 37.42[3] (2018) (same). See also LBR 1001-1(d), Rule 9006 & 9013 (Fed. R. Bankr. P.), and Rules 16(b)(3)(B)(v), 26(b)(2)(C), 43(c)&(e) & 52(a) (Fed. R. Civ. P., incorporated by Rules 7052, 9014(c) & 9017 (Fed. R. Bankr. P.)); and see generally *In re Nicholson*, 435 B.R. 622, 635-36 (9th Cir. BAP 2010) (discussing when evidentiary hearing is required), *abrogated on other grounds, as stated in In re Elliott*, 523 B.R. 188 (9th Cir. BAP 2014).

The tentative ruling is that an adversary proceeding is **not** required to determine the issues described above. True, the question of whether the security interest asserted by the IRS may be avoided by Debtor under 11 U.S.C. 544(a)(3) is "a proceeding to determine the validity, priority, or extent of a lien or other interest in property" Rule 7001(2) (Fed. R. Bankr. P.). But neither party has asserted that an adversary proceeding is necessary. The tentative ruling is that the additional expense and delay associated with an adversary proceeding is not warranted. To the extent that the IRS disagrees, it is directed to specify at the hearing how it would be prejudiced by the absence of an adversary proceeding.

(b) Second interim fee application of Debtor's general bankruptcy counsel Leslie Cohen Law PC (dkt. 124), Notice of fee application (dkt. 125), No opposition on file

Allow \$25,471.50 in fees and \$152.20 in expenses, for a total interim award of \$25,623.70; and authorize and direct payment of the allowed fees and expenses.

(c) Second interim fee application of Subchapter V Trustee Gregory K. Jones (dkt. 123), Notice of fee application (dkt. 125), No opposition on file

Allow \$4,675.00 in fees (no expenses have been requested) for a total interim award of \$4,675.00; and authorize and direct payment of the allowed fees.

Note: The notice of the fee application contained the correct hearing date, but the fee application itself contained an incorrect

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Robert Dwight Winter, Jr.

Chapter 11

hearing date. In addition, this Court's calendar inadvertently has not included this fee application as a separate item (probably due to the error noted in the immediately preceding sentence).

The tentative ruling is that these discrepancies are sufficiently minor that re-noticing the fee application is not required (because the notice containing the correct hearing information was served upon parties in interest). But applicant is cautioned that similar errors in future might require re-noticing (and a corresponding delay in payment), and in addition any party in interest who claims to have been prejudiced may seek reconsideration.

(d) Proposed order(s)

Unless otherwise ordered, Movants/Applicants are 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)). The proposed interim order on Debtor's objection to the IRS proof of claim should attach a copy of this tentative ruling, thereby incorporating it as this Court's actual ruling.

(2) Dates/procedures. This case was filed on 4/28/23.

- (a) Bar date: 7/7/23 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 17).
- (b) Procedures Order: dkt. 8 (timely served, dkt. 12)
- (c) Second Amended Subchapter V Plan: dkt. 102 (DO NOT SERVE – except on U.S. Trustee). See Procedures Order.
- (d) Continued status conference: 6/25/24 at 1:00 p.m., with status report on the Claim Objection due by 6/18/24. (The 4/9/24 status conference and Claim Objection hearings will be taken off calendar.)
- (e) Discovery cutoff deadline for IRS Claim: 6/3/24.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Robert Dwight Winter Jr.

Represented By

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... Robert Dwight Winter, Jr.

Leslie A Cohen

Chapter 11

Trustee(s):

Gregory Kent Jones (TR)

Pro Se

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:21-10368 Mrudula Kothari

Chapter 11

#14.00 Hrg re: Debtor's second motion for an order (1) Approving the sale of debtor's real property located at 3140 S. Winsor Avenue Yuma Arizona free and clear of all liens, claims encumbrances, and interests, with the exception of enumerated exclusions; (2) Approving bidding procedures (3) Finding that the buyer is a good faith purchaser

Docket 277

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 17, 4/2/24 at 1:00 p.m.).

Party Information

Debtor(s):

Mrudula Kothari

Represented By
Stella A Havkin

Movant(s):

Mrudula Kothari

Represented By
Stella A Havkin
Stella A Havkin
Stella A Havkin

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, April 2, 2024

Hearing Room 1545

1:00 PM

2:21-10368 Mrudula Kothari

Chapter 11

#15.00 Hrg re: Application for payment of interim fees and/or expenses
[Susan K Seflin, SubChaper V Trustee]

Docket 282

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 17,
4/2/24 at 1:00 p.m.).

Party Information

Debtor(s):

Mrudula Kothari

Represented By
Stella A Havkin

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, April 2, 2024

Hearing Room 1545

1:00 PM

2:21-10368 Mrudula Kothari

Chapter 11

#16.00 Hrg re: Application for payment of
interim fees and/or expenses
[Havkin and Shrago]

Docket 287

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 17,
4/2/24 at 1:00 p.m.).

Party Information

Debtor(s):

Mrudula Kothari

Represented By
Stella A Havkin

Movant(s):

Mrudula Kothari

Represented By
Stella A Havkin
Stella A Havkin
Stella A Havkin

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, April 2, 2024

Hearing Room 1545

1:00 PM

2:21-10368 Mrudula Kothari

Chapter 11

#17.00 Cont'd Status Conference re: Chapter 11 Case
fr. 2/9/21, 03/02/21, 4/6/21, 4/27/21, 6/1/21, 7/20/21,
8/31/21, 9/28/21, 10/26/21, 12/14/21, 2/15/22, 3/15/22,
3/29/22, 4/12/22, 5/31/22, 9/6/22, 9/27/22, 10/11/22,
12/6/22, 2/7/23, 4/4/23, 6/13/23, 7/11/23, 7/18/23,
9/19/23, 11/28/23, 12/19/23, 2/6/24, 3/5/24

Docket 1

Tentative Ruling:

**Tentative Ruling for 4/2/24:
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

(a) Motion to sell 3140 S. Winsor Avenue Property (dkt. 277-279, "Sale Motion"), Opposition of Royal Business Bank ("Bank") (dkt. 293), Debtor's reply (dkt. 299)

Absent the Bank's consent, the tentative ruling is to deny the Sale Motion for the reasons set forth by Bank in its opposition papers, except for one such reason. Bank asserts that it is "especially" unnecessary for the Buyer to need an extended due diligence period because the property is being sold "as is and where is." Opp. (dkt. 293), p. 9:3-4. The tentative ruling is that a purchase "as is and where is" is all the more reason why more due diligence would be needed. But, apart from that one exception, the tentative ruling is that the Bank's objections are well taken.

(b) Fee application of Subchapter V Trustee (dkt. 282 & 283), no opposition on file

Allow \$5,063.50 in fees and \$39.43 in expenses, for a total award of

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Mrudula Kothari

Chapter 11

\$5,102.93, and authorize and direct payment of the full amounts allowed.

(c) Fee application of Havkin & Shrago (dkt. 287-289), Opposition of Bank (dkt. 292 & 294), Applicant's reply (dkt. 296, 297)

The tentative ruling is to continue this matter to 7/9/24 at 1:00 p.m. to see how the sale process goes with the El Nido property because it would be a waste of the parties' time and money to require additional briefing regarding the reasonableness of time spent on monthly operating reports and other objectionable services if it turns out that, as Debtor's counsel predicts, all debts of the estate will be paid off by the sale of the El Nido property (see dkt. 289, pp. 2:23-3:2), which might moot Bank's objections.

Additionally and alternatively, the tentative ruling is that a continuance of this matter is appropriate because Debtor presently lacks sufficient funds to pay counsel's fees (in full or in part) and also make the repairs necessary to facilitate a sale of the El Nido property, which appear to be essential to any prospect for a successful financial reorganization. See FebMOR (dkt. 295), p. 2, para. 19 (listing \$41,847.50 cash on hand as of the end of February 2024).

(d) Order to show cause ("OSC") re why Debtor should not be removed as debtor in possession and the Subchapter V Trustee's powers expanded, or why this Court should not order this case dismissed, converted, or impose other remedies?

The tentative ruling is to direct the parties to appear to address why this Court should not (x) immediately remove Debtor as debtor in possession (11 U.S.C. 1185(a)) and expand the Subchapter V Trustee's powers (11 U.S.C. 1183(b)(2)), (y) issue an OSC directing Debtor to appear at a future hearing to address why this Court should not remove her as debtor in possession and expand the Subchapter V Trustee's powers, or (z) order this case dismissed, converted to chapter 7, or impose other remedies, in view of:

(i) Lack of meaningful progress towards reorganization

Debtor has still not taken any tangible steps towards filing an amended plan despite being in bankruptcy for over three years. Debtor's counsel now represents (see dkt. 289, pp. 2:23-3:2) that Debtor intends to sell the El Nido property which will generate sufficient funds to pay all creditors in full but, as of the preparation of this tentative ruling, Debtor has not filed an application to employ a broker.

(ii) Failure to account for funds

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Mrudula Kothari

Chapter 11

It is still not clear to this Court whether Debtor has used the post-petition financing this Court approved in July 2023 (dkt. 258) to make necessary repairs.

Nor is it clear what happened to the \$1,000.00 earnest money deposit that the initial buyer of the Yuma property forfeited after failing to purchase the property. See dkts. 196, 210, & 277, pp. 5:15-6:5.

(iii) Inaccurate and unreliable monthly operating reports

("MORs")

This Court has previously identified a number of inaccuracies with Debtor's MORs in this case which has required Debtor's counsel to assist with the preparation of the reports (at an increased cost to the estate) and made it difficult for creditors and this Court to determine whether the information is reliable.

In addition, Debtor's latest MOR (dkt. 295) states that Debtor has bank accounts open other than the DIP accounts (*id.*, p. 1, para. 10) which either means that Debtor is not proactively carrying out her duties as a debtor in possession or the MOR is inaccurate.

(iv) Lack of sufficient monthly income

Debtor's latest MOR (dkt. 295) reflects a \$6,835.38 cash deficit that required Debtor to tap into cash reserves to cover the shortfall. *Id.* p. 2.

(v) Conclusion

These issues, combined with the other issues noted in this Court's prior tentative rulings, all leave this Court with serious concerns about whether this case is being grossly mismanaged, or simply has no realistic possibility of progress.

Proposed orders: Unless otherwise ordered, (x) Bank is directed to lodge proposed orders on the Sale Motion and Havkin & Shrago Fee Application, and (y) the Subchapter V Trustee is directed to lodge a proposed order on her Fee Application, via LOU within 7 days after the hearing date and attach a copy of this tentative ruling, thereby incorporating it as this Court's actual ruling. See LBR 9021-1(b)(1)(B).

(2) Dates/procedures. This case was filed on 1/19/21.

(a) Bar date: 3/30/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Mrudula Kothari

Chapter 11

has already been sent, see dkt. 11).

(b) Procedures order: dkt. 8 (timely served, dkt. 12)

(c) Amended Plan: TBD

(d) Continued status conference: 5/7/24 at 1:00 p.m. No written status report required.

*Warning: special procedures apply (see Procedures order).

Tentative Ruling for 3/5/24:

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 Debtor's and Royal Business Bank's ("Bank") status reports (dkt. 275, 276) and other filed documents and records in this case, including Debtor's sale motion (dkt. 277, 278). The parties are directed to address whether they have any issues with the proposed deadline and scope of production set forth below.

(a) Bank's request for information and production of documents

If Debtor has not provided the following information to by the time of the hearing, the tentative ruling is that, pursuant to this Court's general case management authority (11 U.S.C. 105), it is appropriate to set a **deadline of 3/19/24** for Debtor to produce documents, provide information, and permit inspection (collectively, "Discovery") to Bank and the Subchapter V Trustee on a preliminary basis as provided below. All rights are reserved for the parties to seek and respond to more formal discovery.

(i) Debtor to provide Discovery regarding which property Debtor is willing to sell.

(ii) Debtor to provide Discovery regarding the specific, detailed condition of the three hotel properties that Debtor owns.

(iii) Debtor to provide Discovery regarding what specific repairs are required on each of the properties and details regarding such need for repairs.

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Mrudula Kothari

Chapter 11

(iv) Debtor to provide Discovery on any and all estimates of repairs that are within Debtor's possession.

(v) The parties are directed to discuss what date(s) this Court should order Debtor to make the three hotel properties available for physical inspection.

(vi) The parties are directed to address what time period this Court should order Debtor to provide with respect to rent rolls for all three hotel properties.

(vii) Debtor to provide Discovery regarding the name(s) of any broker(s) Debtor is in contact with regarding a property sale.

(viii) Debtor to provide Discovery regarding how soon Debtor will file a motion to employ the broker.

(ix) Debtor to provide Discovery regarding how soon Debtor will file any additional motions for sale(s) of any properties.

(x) The tentative ruling is not to direct Debtor to provide any information with respect to possible fraudulent conveyances because it appears that the deadline to file an action seeking to avoid a potential preferential or fraudulent transfer has passed. See 11 U.S.C. 546(a)(1).

(xi) Debtor to provide Discovery regarding whether Debtor received any of the post-petition financing funds approved by this Court in July 2023 and where such funds are being held.

(xii) Debtor to provide Discovery regarding Debtor's tax returns for 2021 through 2022, and to provide Discovery regarding the tax return for 2023 when it is filed, as required by 11 U.S.C. 521(f), subject to redaction of any personal identifying information. See Rule 9037 (Fed. R. Bankr. P.).

(xiii) [N/A: Yuma property information - see sale motion, dkt. 277, 278].

(2) Dates/procedures. This case was filed on 1/19/21.

(a) Bar date: 3/30/21 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 11).

(b) Procedures order: dkt. 8 (timely served, dkt. 12)

(c) Amended Plan: TBD

(d) Continued status conference: 4/2/24 at 1:00 p.m., contemporaneous with other matters. No written status report required.

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT...

Mrudula Kothari

Chapter 11

*Warning: special procedures apply (see Procedures order).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Mrudula Kothari

Represented By
Stella A Havkin

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, April 2, 2024

Hearing Room 1545

1:00 PM

2:23-15752 Elite Investment Management Group, LLC

Chapter 11

Adv#: 2:23-01434 Elite Investment Management Group, LLC v. 932 Irolo, LLC

#18.00 Hrg re: Motion For Summary Judgment or, in
the alternative, summary adjudication

Docket 18

Tentative Ruling:

Please see the tentative ruling for the adversary status conference (Calendar No. 19, 4/2/24 at 1:00 p.m.).

Party Information

Debtor(s):

Elite Investment Management

Represented By
John N Tedford IV
Zev Shechtman
Aaron E. DE Leest

Defendant(s):

932 Irolo, LLC

Represented By
John P Kreis

Movant(s):

Elite Investment Management

Represented By
John N Tedford IV

Plaintiff(s):

Elite Investment Management

Represented By
John N Tedford IV

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:23-15752 Elite Investment Management Group, LLC

Chapter 11

Adv#: 2:23-01434 Elite Investment Management Group, LLC v. 932 Irolo, LLC

#19.00 Cont'd Status Conference re: Complaint for Authority
to Sell Co-Owner's Interest in Property
fr. 12/5/23, 2/6/24, 3/12/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/2/24:
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

(a) Plaintiff/Debtor's motion for summary judgment (adv. dkt. 18), Menlo Declaration (adv. dkt. 19), Request for judicial notice (adv. dkt. 20), Statement of uncontroverted facts and conclusions of law (adv. dkt. 21), Proof of service (adv. dkt. 23), no opposition on file

This Court is refraining from posting any tentative ruling because it has been reported that the parties might be settling their disputes. See, e.g., adv. dkt. 25. The parties are directed to address the status of any settlement negotiations that might resolve and/or moot this motion.

(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 have stated their positions (see dkt. 13, p. 4, para. F) and

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... **Elite Investment Management Group, LLC**

Chapter 11

this Court has not yet ruled on these issues, to the extent any rulings eventually might be necessary.

(b) Mediation [Intentionally omitted]

(c) Deadlines

This adversary proceeding has been pending since 9/28/23.

The scheduled deadlines and/or hearing/trial date(s) have been memorialized in this Court's written order (adv. dkt. 15) except as modified/supplemented below.

Joinder of parties/amendment of pleadings-deadline: TBD

Discovery cutoff (for completion of discovery): TBD

Expert(s) - deadline for reports: TBD

Expert(s) - discovery cutoff (if different from above): TBD

Dispositive motions to be heard no later than: TBD

Joint Status Report: N/a

Continued status conference: TBD

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

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Elite Investment Management

Represented By
John N Tedford IV
Zev Shechtman
Aaron E. DE Leest

Defendant(s):

932 Irolo, LLC

Represented By
John P Kreis

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... Elite Investment Management Group, LLC

Chapter 11

Plaintiff(s):

Elite Investment Management

Represented By
John N Tedford IV

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:23-15752 Elite Investment Management Group, LLC

Chapter 11

#20.00 Hrg re: Application for Authority to Employ Concierge Auctions, LLC,
as Auctioneer Pursuant to 11 U.S.C. § 328

Docket 114

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 22,
4/2/24 at 1:00 p.m.).

Party Information

Debtor(s):

Elite Investment Management

Represented By
John N Tedford IV
Zev Shechtman
Aaron E. DE Leest

Movant(s):

Elite Investment Management

Represented By
John N Tedford IV
Zev Shechtman
Aaron E. DE Leest

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:23-15752 Elite Investment Management Group, LLC

Chapter 11

#21.00 Hrg re: Motion for an Order Appointing Chapter 11 Trustee or
for Conversion of the Case

Docket 109

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 22,
4/2/24 at 1:00 p.m.).

Party Information

Debtor(s):

Elite Investment Management

Represented By
John N Tedford IV
Zev Shechtman
Aaron E. DE Leest

Movant(s):

Meir Siboni

Represented By
Shai S Oved

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:23-15752 Elite Investment Management Group, LLC

Chapter 11

#22.00 Cont'd Status Conference re: Chapter 11 Case
fr. 10/3/23, 10/17/23, 11/28/23, 12/5/23, 12/19/23,
1/09/24, 2/6/24, 2/20/24, 3/12/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/2/24:

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

(a) Application to employ auctioneer (dkt. 114); no opposition on file
Grant subject to Judge Bason's standard employment terms, except for the prohibition on buyer's premiums and compensation will be per the application terms (11 U.S.C. 328) rather than requiring fee applications and reviewing for reasonableness (11 U.S.C. 330). See posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov).

(b) Motion to appoint chapter 11 trustee (dkt. 109, "Trustee Motion")
filed by Meir Siboni; Opposition of Miracle Mile Properties, LP, Frank Menlo,
and Menlo Trust U/T/L February 22, 1983 ("Menlo Parties") (dkt. 118) &
Evidentiary objections to Oved declaration (dkt. 119); Opposition of Debtor
(dkt. 120) & joinder to Menlo Creditor's evidentiary objections (dkt. 121),
Reply (dkt. 123), Response to evidentiary objections (dkt. 124)

The tentative ruling is to sustain the evidentiary objections and strike the Oved Declaration for the reasons stated in the opposition papers and because any reference to outside pleadings should have been set forth in Mr. Oved's declaration in the first instance.

The tentative ruling is also to deny the Trustee Motion because Mr.

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... Elite Investment Management Group, LLC

Chapter 11

Siboni's allegations of bad faith are unsupported by any admissible evidence. Additionally and alternatively, the tentative ruling is to deny the Trustee Motion for the reasons stated by Debtor in its opposition papers. Additionally and alternatively, the tentative ruling is that Mr. Siboni has not carried his burden to establish that appointment of a chapter 11 trustee or conversion to chapter 7 would be in the best interest of creditors and any alleged prejudice to creditors is significantly diminished by the fact that Debtor has proposed a liquidating plan and is not eligible to receive a discharge pursuant to 11 U.S.C. 1141(d)(3).

Proposed order(s): Unless otherwise ordered, Debtor 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 9/5/23.

- (a) Bar date: 12/1/23 (dkt. 24) (timely served, dkt. 26, 27)
- (b) Procedures Order: dkt. 5 (timely served, dkt. 8)
- (c) Plan/Disclosure Statement (dkt. 97, 105, & 106): Combined disclosure statement and confirmation hearing set for 4/9/24 at 1:00 p.m. See dkt. 102.
- (d) Continued status conference: 4/9/24 at 1:00 p.m., concurrent with other matters. No written status report required.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Elite Investment Management

Represented By
John N Tedford IV
Zev Shechtman
Aaron E. DE Leest

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:24-10037 Orlando F. Cabanday, Jr.

Chapter 11

#23.00 Cont'd hrg re: Motion for Authority to Use
Cash Collateral on an Interim Basis
fr. 2/20/24

Docket 27

Tentative Ruling:

Tentative Ruling for 4/2/24:

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

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Orlando F. Cabanday, Jr.

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

Movant(s):

Orlando F. Cabanday, Jr.

Represented By

Matthew D. Resnik

Matthew D. Resnik

Matthew D. Resnik

Roksana D. Moradi-Brovia

Roksana D. Moradi-Brovia

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, April 2, 2024

Hearing Room 1545

1:00 PM

2:24-10037 Orlando F. Cabanday, Jr.

Chapter 11

#24.00 Cont'd status conference re: Chapter 11 case
fr. 2/6/24, 2/20/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/2/24:

Authorized the continued use of cash collateral on an interim basis, and continue the status conference, as set forth below. Appearances are not required on 4/2/24. (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) Continued use of cash collateral

The tentative ruling is (A) to authorize the continued use of cash collateral through and including **6/30/24**, on the same terms and conditions as reflected in the Cash Collateral Order entered on 2/23/24 (dkt. 40) and (B) to conduct a hearing regarding use of cash collateral beyond that date on **6/25/24 at 1:00 p.m.**

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)).

(b) Late Status Report (dkt. 52)

The deadline for Debtor to file a Status Report was 3/19/24. The status report was not filed under 3/26/24, which impedes this Court's ability to prepare for this hearing. Debtor is cautioned that the failure to adhere to deadlines may result in adverse consequences.

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... **Orlando F. Cabanday, Jr.**

Chapter 11

- (2) Dates/procedures. This case was filed on 1/3/24.
- (a) Bar date: 3/13/24 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 12)
 - (b) Procedures Order: dkt. 8 (timely served, dkt. 14)
 - (c) Plan (dkt. 54): to be addressed (if not amended) at a future status conference, after negotiations contemplated by Debtor (DO NOT SERVE - except on the U.S. Trustee). See Procedures Order.
 - (d) Continued status conference: 5/14/24 at 1:00 p.m. *Brief* written status report due by 4/30/24.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Orlando F. Cabanday, Jr.

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, April 2, 2024

Hearing Room 1545

1:00 PM

2:23-16398 1052 Martel, LLC

Chapter 11

#25.00 Cont'd status conference re: Chapter 11 case
fr. 10/31/23, 11/28/23, 1/23/24

Docket 1

***** VACATED *** REASON: Case dismissed. See dkt. 56.**

Tentative Ruling:

Party Information

Debtor(s):

1052 Martel, LLC

Represented By
Thomas B Ure

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

2:23-10384 Joseph Youshaei

Chapter 11

#26.00 Cont'd Status Conference re: Chapter 11 Case
fr. 2/21/23, 3/21/23, 4/25/23, 5/30/23, 6/13/23,
8/8/23, 10/3/23, 11/28/23, 12/19/23, 1/09/24,
2/20/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/2/24:

Continue as set forth below based on this Court's review of the Subchapter V Trustee's latest status report (dkt. 173). Appearances are not required on 4/2/24. (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 *sua sponte* at this time.

(2) Dates/procedures. This case was filed on 1/24/23. On 6/2/23 this Court entered an order removing Debtor from possession and expanding the Subchapter V Trustee's powers. See dkt. 86.

(a) Bar date: 4/4/23 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 12).

(b) Procedures Order: dkt. 6 (timely served, dkt. 10)

(c) AmPlan/Disclosure Statement: TBD

(d) Continued status conference: 6/25/24 at 1:00 p.m. *Brief* status report due 6/11/24.

[PRIOR TENTATIVE RULINGS OMITTED]

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

Tuesday, April 2, 2024

Hearing Room 1545

1:00 PM

CONT... Joseph Youshaei

Chapter 11

Party Information

Debtor(s):

Joseph Youshaei

Represented By
Stella A Havkin

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Represented By
Timothy J Yoo

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

Tuesday, April 2, 2024

Hearing Room 1545

2:00 PM

2:23-12137 Vistam, Inc.

Chapter 11

#1.00 [CASE DISMISSED ON 6/14/2023]

Cont'd Status Conference re: Chapter 11 Case
fr. 5/2/23, 5/10/23, 5/23/23, 5/30/23, 6/13/23,
7/18/23, 8/8/23, 10/31/23, 11/14/23, 2/6/24,
2/20/24

Docket 1

Tentative Ruling:

This Court anticipates posting a tentative ruling or issuing a memorandum decision at a later time. Appearances required.

Party Information

Debtor(s):

Vistam, Inc.

Represented By
Selwyn Whitehead

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se