

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

Tuesday, April 9, 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: 160 235 3693

Password: 308224

Meeting URL: <https://cacb.zoomgov.com/j/1602353693>

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

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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
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Tuesday, April 9, 2024

Hearing Room 1545

10:00 AM

2:23-16088 Michael Richard Simmons and Diana Patricia Simmons

Chapter 13

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

LAKEVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 44

***** VACATED *** REASON: Continued to 4/30/24 at 10:00 a.m. pursuant to stipulation (dkt. 50) and order thereon**

Tentative Ruling:

Party Information

Debtor(s):

Michael Richard Simmons

Represented By
Andrew Moher

Joint Debtor(s):

Diana Patricia Simmons

Represented By
Andrew Moher

Movant(s):

Lakeview Loan Servicing, LLC, and

Represented By
Nathan F Smith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 9, 2024

Hearing Room 1545

10:00 AM

2:21-15027 Maria Theresa Dimacali

Chapter 13

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

SPECIALIZED LOAN SERVICING, LLC
vs
DEBTOR

Docket 61

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see Debtor's response, dkt. 64, 66).

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):

Maria Theresa Dimacali

Represented By
Nicholas M Wajda

Movant(s):

Specialized Loan Servicing, LLC as

Represented By
Nichole Glowin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:24-11246 Benjamin Seth Nachimson

Chapter 13

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

UNIFY FINANCIAL FEDERAL CREDIT UNION
vs
DEBTOR

Docket 25

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)

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).

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CONT... **Benjamin Seth Nachimson**

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):

Benjamin Seth Nachimson

Pro Se

Movant(s):

UNIFY Financial Federal Credit

Represented By

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CONT... Benjamin Seth Nachimson

Chapter 13

Esequiel Valerio
Jennifer C Wong

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Tuesday, April 9, 2024

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10:00 AM

2:22-15868 Larry Donnell Robinson

Chapter 13

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

THOMAS SAFRAN & ASSOCIATES
VS
DEBTOR

Docket 76

Tentative Ruling:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see Debtor's response, dkt. 83, and Movant's reply, dkt. 85).

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):

LARRY DONNELL ROBINSON

Represented By
Steven A Alpert

Movant(s):

Thomas Safran & Associates

Represented By
Catherine Schlomann Robertson

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:24-11887 Demetri Nikolopoulos

Chapter 7

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

SINAI SI ABRAHAMI
vs
DEBTOR

Docket 9

Tentative Ruling:

Grant in part and deny in part, 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

The motion papers were served on shortened time (20 days' notice). Where, as here, relief from the automatic stay is sought to pursue an unlawful detainer action, the R/S Motion may be heard on only 14 days' notice, 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, instead of five days before the hearing, as required under the Procedures. See R/S Motion (dkt. 11), p. 2.

Because of that error, and the possible prejudice to parties in interest who might have been confused, the tentative ruling is that any opposition may be presented orally at the hearing. In addition, Movant's counsel is cautioned

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CONT...

Demetri Nikolopoulos

Chapter 7

that failure to comply with the Procedures in future may result in denial of the motion or other adverse consequences.

The automatic stay does not apply

This case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

In the alternative and in addition, the tentative ruling is to grant relief from the automatic stay as follows.

Note regarding mootness: As provided in the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov), the tentative ruling is that a motion for relief from the automatic stay is not mooted even when the tentative ruling is that the stay no longer exists, for the following reasons:

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

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

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

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

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CONT... Demetri Nikolopoulos

Chapter 7

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).

Relief notwithstanding future bankruptcy cases

Deny, without prejudice to any other types of relief granted herein (or previously granted). The tentative ruling is to deny that request for lack of sufficient cause shown: there is no evidence of the type typically required for such relief, such as multiple bankruptcy filings or unauthorized transfers combined with a scheme to delay, hinder or defraud creditors.

11 U.S.C. 362(b) is inapplicable

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

Effective date of relief

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

Retroactive relief

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

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

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CONT... Demetri Nikolopoulos

Chapter 7

Debtor(s):

Demetri Nikolopoulos

Pro Se

Movant(s):

Sinai Si Abrahami

Represented By
Jacob Haghazadeh

Trustee(s):

Brad D Krasnoff (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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10:00 AM

2:24-10134 Tiffany Wilson

Chapter 13

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

ROSE CHOI
vs
DEBTOR

Docket 27

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)

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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):

Rose Choi

Represented By
Eric A Mitnick

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:20-12056 Hassan R Skafi

Chapter 13

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

TOYOTA MOTOR CREDIT CORPORATION
VS
DEBTOR

Docket 42

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

Tentative Ruling:

Party Information

Debtor(s):

Hassan R Skafi

Represented By
Michael Jay Berger

Movant(s):

Toyota Motor Credit Corporation

Represented By
Kirsten Martinez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

10:00 AM

2:23-16286 Rocio Adriana Dancer

Chapter 13

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

MICHAEL JAY BERGER
vs
DEBTOR

Docket 33

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)

(1) Limited relief. Modify and condition the automatic stay under 11 U.S.C. 362(d)(1) such that the movant may proceed in the nonbankruptcy forum to final judgment (including any appeals) in accordance with applicable nonbankruptcy law, subject to the following limitations (Judge Bason's standard limitations).

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Rocio Adriana Dancer

Chapter 13

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

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

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

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

(2) Additional analysis:

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

"Cause" is determined on a case-by-case basis." *In re Tucson Estates, Inc.*, 912 F.2d 1162, 1166 (9th Cir.1990). In determining whether

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CONT... **Rocio Adriana Dancer**

Chapter 13

"cause" exists to grant relief from the automatic stay to allow a movant to pursue litigation in a non-bankruptcy forum, courts in the Ninth Circuit have examined the factors set forth in *In re Curtis*, 40 B.R. 795, 799–800 (Bankr. D. Utah 1984). See *In re Merriman*, 616 B.R. 381, 389 & n. 5 (9th Cir. BAP 2020); *In re Kronemeyer*, 405 B.R. 915 (9th Cir. BAP 2009); *In re Plumberex Specialty Prods., Inc.*, 311 B.R. 551, 559–60 (Bankr. C.D. Cal.2004). Those factors are: (1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the foreign proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and whether that tribunal has the expertise to hear such cases; (5) Whether the debtor's insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action essentially involves third parties, and the debtor functions only as a bailee or conduit for the goods or proceeds in question; (7) Whether the litigation in another forum would prejudice the interests of other creditors, the creditors' committee and other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant's success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interests of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the foreign proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the "balance of hurt." *Plumberex*, 311 B.R. at 559. "[W]hile the *Curtis* factors are widely used to determine the existence of 'cause,' not all of the factors are relevant in every case, nor is a court required to give each factor equal weight." *In re Landmark Fence Co., Inc.*, 2011 WL 6826253 at *4 (C.D. Cal. Dec. 9, 2011). Accord *Merriman*, 616 B.R. 381, 389. See also, e.g., *In re Conejo Enters., Inc.*, 96 F.3d 346, 353 (9th Cir. 1996) (discretion to deny stay relief even when faced with non-core state claims).

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

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

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Chapter 13

As to the second *Curtis* factor (connection with or interference with the bankruptcy case) and the seventh *Curtis* factor (prejudice to other creditors/interested parties) the tentative ruling is that it does not appear that proceeding to final judgment in state court will interfere with this case because Debtor does not claim more than a record title interest in the subject property and permitting the litigation to proceed in state court will be most expeditious in bringing this litigation to a conclusion.

As to the fourth *Curtis* factor (whether a specialized tribunal has been established to hear the action) and the eleventh *Curtis* factor (whether the proceedings have progressed to the point where the parties are prepared for trial), the tentative ruling is that although not a specialized tribunal, the state court would be best suited to determine the state law claims.

As to the tenth *Curtis* factor (interest of judicial economy) and the twelfth *Curtis* factor (the impact of the stay on the parties and the "balance of hurt"), the tentative ruling is that the matter is more properly determined by the state court because it involves matters of state law and Debtor has not responded with any opposition or argument to convince this Court that the issues would be better dealt with in this Court.

(3) Retroactive relief

Grant the request for retroactive annulment of the stay. See *In re Nat'l Enviro. Waste Corp.*, 129 F.3d 1052, 1054-56 (9th Cir. 1997); *In re Fjeldsted*, 293 B.R. 12 (9th Cir. BAP 2003); and see also *In re Merriman*, 616 B.R. 381, 389-90 & n. 6 and 391-95 (9th Cir. BAP 2020) (retroactive relief is permissible, and Fjeldsted factors should not be applied mechanically); *In re Williams*, 323 B.R. 691, 697-702 (9th Cir. BAP 2005) (various issues involving annulment, and application of *Fjeldsted*), *aff'd*, 204 Fed.Appx. 582 (9th Cir. 2006), *overruled on other issues*, *In re Perl*, 811 F.3d 1120 (9th Cir. 2016) (scope of automatic stay).

(4) Effective date of relief

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

(3).

(5) Co-debtor stay

Any co-debtor stay (11 U.S.C. 1301(c)) has not been shown to have

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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):

Rocio Adriana Dancer

Represented By
Matthew D. Resnik

Movant(s):

Michael Jay Berger

Represented By
Michael Jay Berger

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 1545

10:00 AM

2:24-11843 Joyce Elaine Durden

Chapter 13

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

Docket 14

Tentative Ruling:

Grant, subject to the following conditions. 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)

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

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

Tuesday, April 9, 2024

Hearing Room 1545

10:00 AM

CONT...

Joyce Elaine Durden

Chapter 13

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 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):

Joyce Elaine Durden

Represented By
Thomas B Ure

Movant(s):

Joyce Elaine Durden

Represented By
Thomas B Ure
Thomas B Ure

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 9, 2024

Hearing Room 1545

10:00 AM

2:24-12130 Lydia Graciela Rodriguez

Chapter 13

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

Docket 10

Tentative Ruling:

Grant, subject to the following conditions. 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)

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.

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
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Tuesday, April 9, 2024

Hearing Room 1545

10:00 AM

CONT...

Lydia Graciela Rodriguez

Chapter 13

(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 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):

Lydia Graciela Rodriguez

Represented By
Devin Sawdayi

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 9, 2024

Hearing Room 1545

10:00 AM

2:24-12061 Annayelli Marquina

Chapter 13

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

Docket 5

Tentative Ruling:

Grant, subject to the following conditions. 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)

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

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
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Tuesday, April 9, 2024

Hearing Room 1545

10:00 AM

CONT...

Annayelli Marquina

Chapter 13

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 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):

Annayelli Marquina

Represented By
Jaime A Cuevas Jr.

Movant(s):

Annayelli Marquina

Represented By
Jaime A Cuevas Jr.
Jaime A Cuevas Jr.

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 9, 2024

Hearing Room 1545

10:00 AM

2:23-12320 Tina Louise Jefferson

Chapter 13

#12.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/5/24

U.S. BANK NATIONAL ASSOCIATION
VS
DEBTOR

Docket 34

***** VACATED *** REASON: Continued to 5/21/24 at 10:00 a.m. pursuant
to stipulation (dkt. 37) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

Tina Louise Jefferson

Represented By
David Lozano

Movant(s):

U.S. Bank National Association, as

Represented By
Fanny Zhang Wan
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 9, 2024

Hearing Room 1545

10:00 AM

2:22-14995 Jean-Bernard H. Hebert

Chapter 13

#13.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/5/24

SPECIALIZED LOAN SERVICING, LLC
VS
DEBTOR

Docket 59

***** VACATED *** REASON: APO (dkt. 65)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jean-Bernard H. Hebert

Represented By
Eliza Ghanooni

Movant(s):

Specialized Loan Servicing, LLC

Represented By
Nichole Glowin

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 9, 2024

Hearing Room 1545

10:00 AM

2:22-15509 Tara Carlos Lico and Shellan Yvette Lico

Chapter 13

#14.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/5/24

DEUTSCHE BANK NATIONAL TRUST COMPANY
VS
DEBTOR

Docket 51

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

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tara Carlos Lico

Represented By
H. Jasmine Papian

Joint Debtor(s):

Shellan Yvette Lico

Represented By
H. Jasmine Papian

Movant(s):

Deutsche Bank National Trust

Represented By
Theron S Covey
Dane W Exnowski
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 9, 2024

Hearing Room 1545

10:00 AM

2:23-16208 Oweleo Lysette Titi

Chapter 7

#15.00 Cont'd hrg re: Motion for relief from stay [UD]
fr. 11/28/23, 1/23/24, 2/20/24

BLVD 6200 OWNER SOUTH, LLC
vs
DEBTOR

Docket 18

Tentative Ruling:

Tentative Ruling for 4/9/24:

Appearances required.

At the hearing on 2/20/24 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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 2/20/24:

Appearances required.

At the hearing on 1/23/24 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
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Tuesday, April 9, 2024

Hearing Room 1545

10:00 AM

CONT... **Oweleo Lysette Titi**
posted tentative rulings.

Chapter 7

Tentative Ruling for 1/23/24:

Appearances required.

At the hearing on 11/28/23 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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 11/28/23:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see Debtor's response, dkt. 21).

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):

Oweleo Lysette Titi

Represented By
Kahlil J McAlpin

Movant(s):

Bldv 6200 Owner South, LLC

Represented By
Richard Sontag

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

Tuesday, April 9, 2024

Hearing Room 1545

10:00 AM

CONT... Oweleo Lysette Titi

Chapter 7

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 9, 2024

Hearing Room 1545

10:00 AM

2:24-12286 Lizbeth Reyes Rodriguez

Chapter 13

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

Docket 8

Tentative Ruling:

Grant, subject to the following conditions. 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)

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.

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

Tuesday, April 9, 2024

Hearing Room 1545

10:00 AM

CONT...

Lizbeth Reyes Rodriguez

Chapter 13

(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 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):

Lizbeth Reyes Rodriguez

Represented By
Richard T Baum

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 9, 2024

Hearing Room 1545

10:00 AM

2:24-10134 Tiffany Wilson

Chapter 13

#17.00 Cont'd hrg re: Motion for relief from stay [UD]
fr. 4/2/24

GINA ROSSETTI
vs
DEBTOR

Docket 21

Tentative Ruling:

Tentative Ruling for 4/9/24:

Appearances required.

At the hearing on 4/2/24 this Court was persuaded to continue this matter to today, provided that Debtor appears at the hearing and brings a cashier's check payable to the U.S. Bankruptcy Court in the amount of \$3,200.00. See dkt. 39. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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 4/2/24:

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.")

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 9, 2024

Hearing Room 1545

10:00 AM

CONT... Tiffany Wilson

Chapter 13

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) (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):

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
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Tuesday, April 9, 2024

Hearing Room 1545

10:00 AM

2:24-11401 David Gonzalez

Chapter 13

#18.00 Cont'd hrg re: Motion for relief from stay [UD]
fr. 4/2/24

NICOLE KAU
vs
DEBTOR

Docket 10

Tentative Ruling:

Tentative Ruling for 4/9/24:

Appearances required.

At the hearing on 4/2/24 this Court was persuaded to continue this matter to today. There is no tentative ruling but Debtor is directed to address whether, in view of the issues pointed out in Movant's Reply (dkt. 36), there is any realistic way for Debtor legitimately to use the powers of the Bankruptcy Code to preserve any right to occupancy under the (expired) lease.

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 4/2/24:

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

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

Tuesday, April 9, 2024

Hearing Room 1545

10:00 AM

CONT... David Gonzalez

Chapter 13

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 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).

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Tuesday, April 9, 2024

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10:00 AM

CONT... David Gonzalez

Chapter 13

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.

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

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Hearing Room 1545

10:00 AM

CONT... David Gonzalez

Chapter 13

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.

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

**United States Bankruptcy Court
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Los Angeles
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Tuesday, April 9, 2024

Hearing Room 1545

10:00 AM

CONT... David Gonzalez

Chapter 13

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
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Tuesday, April 9, 2024

Hearing Room 1545

11:00 AM

2:23-14459 Online Edugo, Inc.

Chapter 7

#1.00 Hrg re: Chapter 7 Trustee's Motion to approve
Compromise Of Controversy With Open Bank

Docket 118

Tentative Ruling:

Grant. Appearances are not required.

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)).

(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):

Online Edugo, Inc.

Pro Se

Movant(s):

Heide Kurtz (TR)

Represented By
Timothy J Yoo

Trustee(s):

Heide Kurtz (TR)

Represented By

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

Tuesday, April 9, 2024

Hearing Room 1545

11:00 AM

CONT...

Online Edugo, Inc.

Timothy J Yoo

Chapter 7

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

Tuesday, April 9, 2024

Hearing Room 1545

11:00 AM

2:23-10189 Arutyun Aboyan

Chapter 7

Adv#: 2:23-01132 TBK Bank, SSB v. Aboyan

#2.00 Hrg re: Motion for Default Judgment

Docket 47

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 3, 4/9/24 at 11:00 a.m.).

Party Information

Debtor(s):

Arutyun Aboyan

Represented By
Varand Gourjian

Defendant(s):

Arutyun Aboyan

Pro Se

Movant(s):

TBK Bank, SSB

Represented By
Andrew K Alper
Gerrick Warrington

Plaintiff(s):

TBK Bank, SSB

Represented By
Andrew K Alper
Gerrick Warrington

Trustee(s):

Jason M Rund (TR)

Represented By
Robert A Hessling

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

Tuesday, April 9, 2024

Hearing Room 1545

11:00 AM

2:23-10189 Arutyun Aboyan

Chapter 7

Adv#: 2:23-01132 TBK Bank, SSB v. Aboyan

#3.00 Cont'd status conference re: Complaint for nondischargeability of debt [11 U.S.C. section 523 (a)(6)] fr. 6/27/23, 9/19/23, 10/17/23, 12/5/23, 2/20/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

Grant Plaintiff's motion for default judgment to the extent provided below and set a continued status conference as a holding date to provide Plaintiff the opportunity to present any requests for post-judgment relief. Appearance required by Plaintiff.

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's motion for default judgment (dkt. 47, the "Default Judgment Motion"), Notice of Default Judgment Motion (dkt. 46), Declaration regarding attorney fees and costs (dkt. 44), Plaintiff's request for additional time to file Default Judgment Motion (dkt. 45)

(i) Background

On 3/8/24, this Court entered two orders: (1) an order (a) striking Defendant/Debtor's Answer, (b) entering Defendant/Debtor's default, (c) and setting the instant default prove-up hearing (dkt. 39, the "Terminating Sanctions Order") and (2) an order (a) awarding Plaintiff monetary sanctions for having been required to file a motion to compel Defendant/Debtor to respond to discovery (dkt. 25-26 & 34, the "Discovery Motion"), (b) denying Plaintiff's request to compel discovery responses as moot in view of the Terminating Sanctions Order, (c) and setting deadlines for Plaintiff to submit evidence of the attorney fees incurred in bringing the Discovery Motion (dkt.

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CONT...

Arutyun Aboyan

Chapter 7

40, the “Discovery Order”). Plaintiff served both the Terminating Sanctions Order and the Discovery Order upon Defendant/Debtor by the 3/11/24 deadline set by this Court. Dkt. 41.

(ii) Plaintiff’s request for an extension of time

This Court directed Plaintiff to file the Default Judgment Motion by 3/12/24. Plaintiff filed the Default Judgment Motion on 3/13/24, but filed a request for an extension of time, explaining that additional time was needed to obtain the signature authenticating a declaration because the declarant was on vacation. The tentative ruling is to grant Plaintiff’s request and to deem the Default Judgment Motion to have been filed timely. Given that Defendant/Debtor’s default has been entered, there is no prejudice to any party from this very short extension.

(iii) Sanctions for costs incurred by Plaintiff in bringing the Discovery Motion

This Court has reviewed the declaration submitted by Plaintiff’s counsel regarding fees incurred in bringing the Discovery Motion as well as the accompanying billing records. The tentative ruling is to award Plaintiff \$11,874.50 in attorney fees, pursuant to Rule 37(c)(1)(A) (Fed. R. Civ. P.) (made applicable by Rule 7052, Fed. R. Bankr. P.).

(iv) Entry of default judgment

As a result of the striking of Defendant/Debtor’s Answer and the entry of his default, “the factual allegations of the complaint, except those relating to the amount of damages, [are] taken as true.” *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917–18 (9th Cir. 1987).

The amount of damages sought by Plaintiff is not entirely clear. A declaration submitted by Plaintiff’s Vice President, Tulani M. Ruffin, states that Plaintiff “requests a nondischargeable judgment in the sum of \$80,000.00 against Defendant together with attorney’s fees and costs as allowed by law.” Ruffin Decl. (dkt. 47-2) at ¶ 20. But at one point in the Default Judgment Motion, Plaintiff asserts that it is “entitled to the sum of no less than \$450,000.00, which was the value of the vehicles [securing Plaintiff’s loan] on an orderly liquidation value together with interest from and after the date of default.” Default Judgment Motion (dkt. 47) at p. 8 (PDF p. 12).

The well-pleaded allegations of the Complaint (which are now taken as true) establish that Defendant/Debtor diverted at least \$80,000.00 in insurance proceeds from a damaged 2020 Freightliner Cascadia Tractor that Plaintiff was entitled to be paid. Complaint (dkt. 1) at ¶¶ 11 & 22. The

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CONT...

Arutyun Aboyan

Chapter 7

Complaint's legal theory – that Plaintiff was damaged by Defendant/Debtor's conversion of the insurance proceeds – and the evidence submitted in support of the Default Judgment Motion is consistent with a damages award of \$80,000.00. The tentative ruling is to award damages of \$80,000.00, plus attorney fees and costs, and to enter a non-dischargeable judgment in favor of Plaintiff in that amount, pursuant to 11 U.S.C. 523(a)(6).

To the extent Plaintiff seeks additional damages, it is directed to address this issue at the hearing. The tentative ruling is that on the current record, Plaintiff most likely would **not** be entitled to damages beyond \$80,000. It appears that of the five Freightliner Tractors securing Plaintiff's loan, one was severely damaged in an accident and at least two were returned to Plaintiff. 341(a) Tr. at pp. 9:25–10:2 (dkt. 47 at Ex. 1). It is unclear what happened to the remaining two vehicles. Even if the vehicles returned to Plaintiff were in poor condition, that alone most likely would not be sufficient to entitle Plaintiff to damages for "willful and malicious injury" to its property under 11 U.S.C. 523(a)(6). Regardless of what actually occurred, Plaintiff has the burden of establishing damages, and at this point Plaintiff has not presented evidence showing an entitlement to damages exceeding \$80,000 (plus attorney fees and costs).

Proposed order(s): Unless otherwise ordered, Movant is directed to lodge (x) a proposed order granting the Default Judgment Motion and (y) a proposed form of default judgment 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) 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

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited.

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CONT...

Arutyun Aboyan
(b) Mediation [omitted]

Chapter 7

(c) Deadlines

The tentative ruling is to set a continued status conference for **5/21/24 at 11:00 a.m.** as a holding date, to provide Plaintiff the opportunity to present any requests for post-judgment relief. No written status report is required, and if Plaintiff does not seek post-judgment relief, the status conference will most likely be taken off calendar.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Arutyun Aboyan

Represented By
Varand Gourjian

Defendant(s):

Arutyun Aboyan

Pro Se

Plaintiff(s):

TBK Bank, SSB

Represented By
Andrew K Alper
Gerrick Warrington

Trustee(s):

Jason M Rund (TR)

Represented By
Robert A Hessling

**United States Bankruptcy Court
Central District of California
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11:00 AM

2:22-13069 George Gordon Strong, III

Chapter 13

Adv#: 2:23-01359 Michael Horner and Thomas Horner as Co-Trustees of v. Strong, III

#4.00 Cont'd status conference re: Complaint for determination of nondischargeability of debt pursuant to 11 U.S.C. section 523 fr. 9/19/23, 10/17/23, 12/19/23, 2/6/24, 2/12/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

Continue as set forth below. Appearances are not required on 4/9/24. (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

On 3/14/24, this Court announced an oral ruling denying Defendant/Debtor's chapter 13 plan and converting this case to chapter 7. A Memorandum Decision and written orders memorializing that ruling will be entered shortly.

Upon entry of the order converting this case from chapter 13 to chapter 7, a new time period for filing dischargeability actions under 11 U.S.C. 523 will commence. See Rules 1019(2) and 4007 (Fed. R. Bankr. P.) and *F & M Marquette Nat. Bank v. Richards*, 780 F.2d 24, 25 (8th Cir. 1985).

Certain debts that are dischargeable in chapter 13 are **not** dischargeable in chapter 7 – including, for example, debts for "willful and malicious injury" under 11 U.S.C. 523(a)(6). Compare 11 U.S.C. 1328(a)(2). In other words, certain claims may be asserted in dischargeability actions filed against chapter 7 debtors that are not available in dischargeability actions filed against chapter 13 debtors. See, e.g., *In re Toste*, No. ADV 12-02333,

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CONT... George Gordon Strong, III

Chapter 13

2014 WL 3908139, at *2 (9th Cir. BAP Aug. 12, 2014) ("Section 1328(a) incorporates specific sub-parts of section 523(a); as relevant here, it does not incorporate section 523(a)(6) willful and malicious injury claims. Instead, section 1328(a)(4) makes only the sub-group of civil awards based on willful or malicious personal injury or wrongful death claims nondischargeable in a chapter 13 case. Section 1328(a)(4), thus, makes some, but not all section 523(a)(6) type claims for relief nondischargeable in the typical chapter 13 case.") (cleaned up).

This Court is not aware of any authority mandating whether Plaintiffs elect to pursue any post-conversion nondischargeability claims by (i) amending their complaint in this Adversary Proceeding or (ii) commencing a new adversary proceeding. Accordingly, this Court defers to Plaintiffs to elect how they choose to proceed.

Either way, this Court notes that the scope of Plaintiff's claims might change. Specifically, at a hearing conducted on 9/19/23 this Court dismissed Plaintiffs' 11 U.S.C. 523(a)(6) claim without leave to amend, because section 523(a)(6) is not applicable in chapter 13 cases. Dkt. 15 at p. 8. But, as discussed above, section 523(a)(6) **is** applicable in chapter 7 cases. Again, it is up to Plaintiffs how they elect to proceeding, and then of course it is up to Defendant/Debtor what responsive papers to file.

(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

Matters of venue, jurisdiction, and authority have been determined and/or waived or forfeited at the prior status conferences and in connection with this Court's ruling on Defendant's Motion to Dismiss (adv. dkt. 15) and in the parties' prior status report (adv. dkt. 18, p. 4).

(b) Mediation [omitted]

(c) Deadlines

This adversary proceeding has been pending since 7/17/23.

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CONT...

George Gordon Strong, III

Chapter 13

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: 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: 5/28/24

Continued status conference: 6/11/24 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):

George Gordon Strong III

Represented By
Sevan Gorginian

Defendant(s):

George Gordon Strong III

Represented By
Sevan Gorginian

Plaintiff(s):

Michael Horner and Thomas Horner

Represented By
Byron Z Moldo
Sonia Singh

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
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Tuesday, April 9, 2024

Hearing Room 1545

11:00 AM

2:23-18208 Meir Siboni

Chapter 13

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

#5.00 Hrg re: Motion to Dismiss Fifth, Sixth and Seventh Claims
for Relief Pursuant to FRCP 12(b)(6)

Docket 8

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 5.1,
4/9/24 at 11:00 a.m.).

Party Information

Debtor(s):

Meir Siboni

Represented By
Shai S Oved

Defendant(s):

Jonathan Menlo

Pro Se

Frank Menlo

Represented By
Paul P Young

Menlo Trust U/T/L February 22,

Represented By
Paul P Young

Miracle Mile Properties, LP

Represented By
Paul P Young

DOES 1-10

Pro Se

Movant(s):

Frank Menlo

Represented By
Paul P Young

Menlo Trust U/T/L February 22,

Represented By
Paul P Young

Miracle Mile Properties, LP

Represented By

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11:00 AM

CONT... Meir Siboni

Chapter 13

Paul P Young

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
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Tuesday, April 9, 2024

Hearing Room 1545

11:00 AM

2:23-18208 Meir Siboni

Chapter 13

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

- #5.10** Cont'd 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 fr. 4/2/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

Continue to 4/11/24 at 8:30 a.m., concurrent with related matters.

Appearances are not required on 4/9/24. (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' latest joint status reports (adv. dkt. 12 & 14) and the other filed documents and records in this adversary proceeding.

(a) Abstention

The parties have not raised the issue of abstention, but in view of the jurisdictional implications the tentative ruling is that this Court must or should raise that issue on its own. See 11 U.S.C. 105(a). Defendants' motion to dismiss some of Plaintiff's claims (the "MTD," adv. dkt. 8) notes the existence of a pending State Court action that appears to overlap if not be identical to this adversary proceeding:

Plaintiff previously filed a complaint in the Los Angeles County Superior Court (Case No. 23STCV27250)(the "State Court Action")

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CONT...

Meir Siboni

Chapter 13

on November 6, 2023 asserting cancellation of the same notes and deeds of trust at issue in the Adversary Proceeding. [MTD (adv. dkt. 8), p. 3, n. 2. See *also* Mot. Dism. Bankr. Case (dkt. 62) p. 11:1-4 (alleging "nearly identical" claims and prayers for relief in both actions); *and see* State Court Complaint (RJN Ex. 12, dkt. 49-12).]

At the continued hearing, all of the parties to this adversary proceeding are directed to appear to address whether this Court must abstain or alternatively should abstain for discretionary reasons. Mandatory abstention is required as to any non-core matter "with respect to which an action could not have been commenced in a court of the United States absent jurisdiction under this section," if the action "is commenced, and can be timely adjudicated, in a State forum of appropriate jurisdiction." 28 U.S.C. 1334(c)(2). Permissive abstention looks to "the interest of justice" or "the interest of comity with State courts or respect for State law." 28 U.S.C. 1334(c)(1). See *also In re Tucson Estates*, 912 F.2d 1162, 1167 (9th Cir. 1990).

(b) Motion to dismiss fifth, sixth & seventh claims for relief ("MTD," adv. dkt. 8) filed by Defendants Frank Menlo, individually and as trustee of the Menlo Trust U/T/L February 22, 1983, and Miracle Mile Properties, L.P. ("Menlo Defendants"), Plaintiff/Debtor's opposition (adv. dkt. 15), Menlo Defendants' reply (adv. dkt. 16)

If this Court does not abstain from hearing this matter, this Court anticipates hearing oral arguments and then making an oral ruling on the merits of the Menlo Defendants' MTD.

(c) Discovery dates and deadlines

If this Court is not persuaded to abstain from hearing this proceeding, all of the parties to this proceeding should be prepared to address whether this Court should adopt the dates and deadlines set forth in paragraph (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 issues in their status report, they need not repeat their positions at the status conference.)

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CONT... **Meir Siboni**

Chapter 13

(a) Venue/jurisdiction/authority

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

(b) Mediation

Is there is any reason why this Court should not order some or all of the parties to mediation before one of the volunteer mediators (*not* a Bankruptcy Judge), and meanwhile set the deadlines set forth below? The tentative ruling is to set a **deadline of 4/23/24** for the parties to lodge a proposed mediation order (the parties are directed to use the time between now and that deadline to find a mutually agreeable mediator whose schedule can accommodate the needs of this matter; and if the parties cannot even agree on a mediator they may lodge separate orders and Judge Bason will choose among them, or issue his own order).

(c) Deadlines

This adversary proceeding has been pending since 2/1/24. ***If*** this Court is persuaded not to abstain, and regardless of the disposition of the MTD (*i.e.*, whether *some* or *all* of Plaintiff's claims are still at issue), the tentative ruling is to adopt the following deadlines.

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

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CONT... Meir Siboni

Chapter 13

copy of this tentative ruling or otherwise memorializing the following.
Joinder of parties/amendment of pleadings-deadline: 6/25/24.
Discovery cutoff (for completion of discovery): 7/9/24.
Expert(s) - deadline for reports: 7/16/24 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: 9/10/24
Joint Status Report: 7/16/24.
Continued status conference: 7/30/24 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):

Meir Siboni	Represented By Shai S Oved
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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
DOES 1-10	Pro Se

Plaintiff(s):

Meir Siboni	Represented By Shai S Oved
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**United States Bankruptcy Court
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11:00 AM

CONT... Meir Siboni

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Los Angeles
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Hearing Room 1545

11:00 AM

2:22-13500 Moussa Moradieh Kashani

Chapter 7

Adv#: 2:23-01425 Armon Funding, LLC et al v. Kashani

#6.00 Cont'd Status Conference re: Complaint to
Determine Dischargeability of Debt
fr. 11/28/23, 01/23/24

Docket 1

***** VACATED *** REASON: Continued to 5/14/24 at 11:00 a.m., pursuant
to the parties' stipulation (adv. dkt. 13) and order thereon.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Moussa Moradieh Kashani

Represented By
Sandford L. Frey
Robyn B Sokol

Defendant(s):

Moussa Moradieh Kashani

Pro Se

Plaintiff(s):

Armon Funding, LLC

Represented By
Andrew Mase
Matthew H. Aguirre

The Ryzman Family Partnership

Represented By
Andrew Mase
Matthew H. Aguirre

Benson Capital Partners, LLC

Represented By
Andrew Mase
Matthew H. Aguirre

RNGF Investments #1, LLC

Represented By
Andrew Mase
Matthew H. Aguirre

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11:00 AM

CONT... Moussa Moradieh Kashani

Chapter 7

The Ryzman Foundation, Inc.

Represented By
Andrew Mase
Matthew H. Aguirre

Rafael Ryzman

Represented By
Andrew Mase
Matthew H. Aguirre

Elimor Goldwicht

Represented By
Andrew Mase
Matthew H. Aguirre

Philana Chen

Represented By
Andrew Mase
Matthew H. Aguirre

Michael Fenig

Represented By
Andrew Mase
Matthew H. Aguirre

Elie Ryzman

Represented By
Andrew Mase
Matthew H. Aguirre

Trustee(s):

John P Pringle (TR)

Represented By
Toan B Chung

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

Tuesday, April 9, 2024

Hearing Room 1545

11:00 AM

2:23-11247 Edmund Lincoln Anderson

Chapter 13

Adv#: 2:23-01505 Anderson v. Bank of New York Mellon FKA Bank of New York as Tr

#7.00 [Final Judgment approved against deft., BNY Mellon 3/8/24]

Cont'd status conference re: Complaint to (1) Specific performance; (2) Quiet title to establish title holder; (3) Declaratory relief regarding entirety of alleged lien and secured claim; (4) Declaratory relief regarding entirety of alleged lien and secured claim (5) Objection to claim of alleged lien holder; (6) Cancellation of instrument; (7) Declaratory relief regarding entirety of alleged lien and secured claim; and (8) Objection to claim of alleged lien holder fr. 2/20/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

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 parties' joint status report (adv. dkt. 15) and the other filed documents and records in this adversary proceeding.

(a) Confusing status report

The status report contains several errors: (1) the caption contains an incorrect Defendant (under the FAC, adv. dkt. 9, the named party is no longer a Defendant); (2) the date of the hearing is incorrect; and (3) paragraph five states that Plaintiff/Debtor has extended Real Time Resolution's deadline to respond to the Complaint, even though Real Time Resolutions is not named as a Defendant in the First Amended Complaint (although perhaps it is the sevicer for Defendant Wells Fargo Bank, N.A., as trustee). The extent of

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these errors makes it difficult for this Court to have any confidence in the accuracy of any of the representations made by Plaintiff in the status report.

Plaintiff is cautioned that a similar lack of attention to detail in future status reports may result in adverse consequences.

(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

Plaintiff/Debtor and Defendant have both consented to entry of final judgment by this Bankruptcy Court. See First Amended Complaint (dkt. 9) at ¶ 4 and Answer (dkt. 14) at ¶ 14.

(b) Mediation

Given the history of this matter, this Court is not inclined to order mandatory mediation at this time.

(c) Deadlines

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:

Discovery cutoff (for completion of discovery): 10/31/24

Expert(s) - deadline for reports: 11/14/24

Expert(s) - discovery cutoff (if different from above): 11/28/24

Dispositive motions to be heard no later than: 1/7/25

Joint Status Report: 7/2/24

Continued status conference: 7/16/24 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

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[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

Defendant(s):

Bank of New York Mellon FKA

Represented By
Stella A Havkin
Brandon J. Mika

Real Time Resolutions Inc., As

Pro Se

Wells Fargo Bank, N.A., As Trustee

Pro Se

Plaintiff(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:23-11247 Edmund Lincoln Anderson

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#8.00 Cont'd hrg re: Motion for an order disallowing
Claim number 2 of Wells Fargo Bank
fr. 9/7/23, 10/5/23, 1/11/24, 2/20/24

Docket 67

Tentative Ruling:

Tentative Ruling for 4/9/24:

Deny the Claim Objection without prejudice as moot, because this contested matter has been superseded by an adversary proceeding addressing the same issues. Appearances are not required on 4/9/24. (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: Debtor's Claim Objection (dkt. 67, the "Claim Objection"), Debtor's second amended notice of hearing (dkt. 78), Debtor's supplemental brief in support of Claim Objection (dkt. 77), Wells Fargo's opposition (dkt. 82, the "Opp."), Debtor's reply (dkt. 88, the "Reply"), Complaint in Adv. No. 2:23-ap-01505-NB (adv. dkt. 1), Final judgment against Bank of New York Mellon (adv. dkt. 10), First Amended Complaint (adv. dkt. 9, the "FAC"), Wells Fargo's Answer to FAC (adv. dkt. 14), Joint status report (adv. dkt. 15)

Analysis:

On 12/20/23, Plaintiff/Debtor filed a complaint (the "Complaint," Adv. No. 2:23-ap-01505-NB, dkt. 1) based upon the same nucleus of operative facts as the Claim Objection. On 3/8/24, this Court entered a final judgment regarding one of the defendants named in the Complaint, the Bank of New York Mellon. Adv. Dkt. 10. On 3/5/24, Plaintiff/Debtor filed the operative First

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Amended Complaint (adv. dkt. 9, the "FAC"). Wells Fargo Bank, N.A. ("Wells Fargo") is the only defendant named in the FAC. On 3/26/24, Wells Fargo filed an Answer to the FAC. Adv. dkt. 14.

The tentative ruling is to deny the Claim Objection without prejudice as moot in view of the FAC.

Proposed order(s): Unless otherwise ordered, Movant is directed to lodge proposed order(s) on each of 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.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

Movant(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:23-12556 Richard B Scott

Chapter 7

Adv#: 2:23-01373 Board of Trustees of the Southern Nevada and Calif v. Scott

#9.00 Cont'd status conference re: Complaint to Determine
the dischargeability of certain debt
fr. 10/17/23, 1/23/24

Docket 1

***** VACATED *** REASON: Order approving stipulated judgment on
3/25/24 [dkt. 17]**

Tentative Ruling:

Party Information

Debtor(s):

Richard B Scott

Represented By
Stephen R Wade

Defendant(s):

Richard B Scott

Represented By
Stephen R Wade

Plaintiff(s):

n/a n/a Board of Trustees of the

Represented By
Michael R Odoca
Dylan J. Lawter

Trustee(s):

Jason M Rund (TR)

Pro Se

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2:23-12682 Stephen Perl

Chapter 7

Adv#: 2:23-01375 Cheung et al v. Perl

#10.00 Cont'd Status Conference re: Complaint to Determine
Nondischargeability of Debt Under 11 U.S.C. Section
523(a)(2) and (4)
fr. 10/17/23, 1/23/24, 2/20/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

Take this matter off calendar (no further continuances) because it appears that this proceeding has been fully resolved by this Court's orders dismissing this proceeding without leave to amend (adv. dkt. 19 & 23) and no party has filed any papers seeking post-dismissal relief. 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.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Stephen Perl

Represented By
David S Hagen

Defendant(s):

Stephen Perl

Represented By
David S Hagen

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Plaintiff(s):

Ka Cheung

Represented By
Joon M Khang

Ching Wong

Represented By
Joon M Khang

Martha Garibay

Represented By
Joon M Khang

Trustee(s):

David M Goodrich (TR)

Pro Se

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2:23-14528 Brian D Witzer

Chapter 7

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

- #11.00** Cont'd status conference re: Complaint to object to the discharge of certain debts of Brian D. Witzer, and or the Law Offices of Brian D. Witzer: 1) Breach of contract; 2) Breach of implied covenant of good faith and fair dealing; 3) Professional negligence; 4) Breach of fiduciary duties; 5) Fraud; 6) Conversion; 7) Negligent misrepresentation
fr. 1/2/24, 2/20/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

Dismiss this adversary proceeding for failure to prosecute. 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.

(1) Current issues

This Court has reviewed the documents and records filed in this adversary proceeding.

(a) Service remains deficient

The tentative ruling posted prior to the hearing on 2/20/24 (copied below) highlighted Plaintiff's failure to file a proof of service reflecting service of the summons and complaint on Defendant/Debtor in accordance of Rule 7004(e) (Fed. R. Bankr. P.). That tentative ruling was to set a deadline (see adv. dkt. 26, Ex. 1) of 3/5/24 for Plaintiff to (i) obtain a new summons, and (ii)

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file a proof of service establishing proper service of the complaint and new summons on Defendant/Debtor.

Plaintiff did not appear at the 2/20/24 hearing. Despite that lack of prosecution, this Court provided Plaintiff with an additional opportunity to prosecute this case: this Court issued an order (adv. dkt. 26) clearly setting forth what Plaintiff needed to do, and that order was served on Plaintiff at her address of record, via U.S. mail, on 2/24/24 (adv. dkt. 27).

As of the preparation of this tentative ruling Plaintiff has not complied with this Court's order. She has neither requested that another summons be issued nor filed a proof of service establishing that service of the original summons and complaint was timely. Therefore, the tentative ruling to dismiss this adversary proceeding for lack of prosecution. See Local Bankruptcy Rule 7026-1 (g).

Proposed order(s): Unless otherwise ordered, Debtor/Defendant is directed to lodge a proposed order dismissing this adversary proceeding 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) 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

In the unlikely event that this adversary is not dismissed as provided above, the parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant "believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly."); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702

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F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014) (authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(b) Mediation [Intentionally omitted]

(c) Deadlines

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

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: TBD.

Continued status conference: In the unlikely event that this Court does not adopt the above tentative ruling to dismiss this adversary proceeding, the tentative ruling is to continue this status conference to 5/7/24 at 11:00 a.m.

Lodge Joint Proposed Pretrial Order: TBD

Pretrial conference: TBD

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

Trial commencement: TBD

Tentative Ruling for 2/20/24:

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

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This Court has reviewed the documents and records filed in this adversary proceeding.

(a) Deficient service of the summons and complaint

As of the preparation of this tentative ruling Plaintiff has not filed a proof of service reflecting service of the summons and complaint on Defendant/Debtor in accordance with Rule 7004(e) (Fed. R. Bankr. P.), which requires service of a summons and complaint "within 7 days after the summons is issued."

It appears that service in accordance with that rule did not timely occur, because Defendant/Debtor has filed a motion to dismiss the complaint (adv. dkt. 20, "MTD") pursuant to Rule 12(b)(5) (Fed. R. Civ. P.), made applicable to this proceeding pursuant to Rule 7012 (Fed. R. Bankr. P.), on the grounds that Plaintiff did not serve him with the summons and complaint until 2/9/24, so service was not proper. *Id.*, p. 4:5-11.

On 2/13/24, this Court issued an order (adv. dkt. 22) staying any further proceedings on the MTD and directing the parties to appear to address why this Court should not extend Plaintiff's time to serve the summons and complaint pursuant to Rule 4(m) (Fed. R. Civ. P.), made applicable to this proceeding pursuant to Rule 7004(a)(1) (Fed. R. Bankr. P.). *See, e.g., Caldera-Bredeson v. U.S. Postal Serv.*, 2023 U.S. Dist. LEXIS 42469, at *5-6 (D. Nev. Mar. 13, 2023).

The tentative ruling is that this Court has discretion to provide an extension of time (*see id. and 10 Collier on Bankruptcy* para. 7004.02), and the tentative ruling is that in the circumstances of this matter it is appropriate to do so for the following reasons. First, the deadline to file a nondischargeability action was 10/23/23 (the same day the complaint was filed) so if this Court were to dismiss the complaint, even without prejudice, the claims will be time-barred. Second, Defendant/Debtor filed a motion seeking sanctions against Plaintiff for violating the automatic stay by filing a state court complaint and in those papers Defendant/Debtor referenced this proceeding so he is already aware of this proceeding. Third, Defendant/Debtor has not established any prejudice in granting an extension (except maybe the cost of filing the MTD). Fourth, "decisions on the merits are favored over dispositions based on procedural grounds." *In re Watt*, 2019 Bankr. LEXIS 3426, at *8 (Bankr. D. Nev. Oct. 10, 2019) (citations omitted). Fifth and finally, although Plaintiffs' delay in effectuating service is not

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insignificant, the "Ninth Circuit has affirmed district courts when granting extensions for service months after the initial deadline." *Caledera-Bredeson*, 2023 U.S. Dist. LEXIS 42469, at *10 (citations omitted).

For all of the foregoing reasons, the tentative ruling is to (x) continue this proceeding as set forth below and (y) set a **deadline of 3/5/24** for Plaintiff to (i) obtain a new summons, and (ii) file a proof of service establishing proper service of the complaint and new summons on Defendant/Debtor.

(b) Motion to dismiss (adv. dkt. 20); Motion to shorten notice (dkt. 21) and Order on same (dkt. 22); Declaration re same (dkt. 24)

The tentative ruling is also that *if* this Court is persuaded to adopt the tentative ruling set forth above, the MTD will be moot.

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.

(c) Missing unilateral status report from Plaintiff

The local bankruptcy rules ("LBRs") require parties to file a joint status report at least 14 days before each status conference using mandatory court form F 7016-1.STATUS.REPORT (LBR 7016-1(a)(2)) or, alternatively, a unilateral status report (using the same mandatory form) not less than 7 days before each status conference if they are unable to obtain the other parties' cooperation in time to file a joint status report. As of the preparation of this tentative ruling, Plaintiff has not filed a unilateral status report. The tentative ruling is to direct Plaintiff to file an appropriate status report in future.

(2) Standard requirements

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

(a) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final

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

(b) Mediation

The tentative ruling is not to order mediation at this time, but with the expectation that this Court will order it in future.

(c) Deadlines

This adversary proceeding has been pending since 10/23/23. Pursuant to LBR 9021-1(b)(1)(B), plaintiff is directed to lodge a proposed order via LOU within 7 days after the status conference, attaching a copy of this tentative ruling or otherwise memorializing the following.

Joinder of parties/amendment of pleadings-deadline: 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: 3/19/24.

Continued status conference: 4/2/24 at 11:00 a.m.

Lodge Joint Proposed Pretrial Order: TBD

Pretrial conference: TBD

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

Trial commencement: TBD

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Debtor(s):

Brian D Witzer

Represented By
David S Hagen
Michael S Kogan

Defendant(s):

Brian D Witzer

Represented By
Michael S Kogan

Law Offices of Brian D. Witzer

Pro Se

Does 1 through 100, inclusive

Pro Se

Plaintiff(s):

Lori Hoeft

Pro Se

Trustee(s):

Sam S Leslie (TR)

Represented By
Jeremy Faith

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2:23-15048 Jorge E. Padilla

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#12.00 Cont'd hrg re: Motion Objecting to Debtor's Homestead Exemption fr. 1/23/24, 3/12/24

Docket 41

Tentative Ruling:

Tentative Ruling for 4/9/24:

Continue to 6/4/24 at 11:00 a.m., with a status report due 5/21/24, to accommodate the parties' continued mediation, as requested in Plaintiff's status report (adv. dkt. 55). Appearances are not required on 4/9/24. (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.

At the hearing on 1/23/24 this Court was persuaded to continue this matter to today, with no ruling on the merits, to allow time for the parties to participate in mediation. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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.

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Tentative Ruling for 1/23/24:

Grant the Motion/Objection of the chapter 7 trustee ("Trustee") to Debtor's asserted homestead exemption because the record title to the purported homestead property indicates that Debtor has only a 1/3 interest as a joint tenant in such property and, because Debtor did not file an adversary proceeding to establish otherwise, he has no title to the remaining 2/3 interest and therefore cannot exempt that interest; or alternatively order mandatory mediation. Appearances required.

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.

Key documents reviewed (in addition to motion papers): Opposition (dkt. 45); Reply (dkt. 47).

Analysis:

Debtor appears to be in a heartbreaking situation. He claims to be fully disabled, to have misunderstood the loan documents he was signing, and to have misunderstood what he needed to disclose to his attorneys and to the chapter 7 trustee ("Trustee") during his examination at the meeting of creditors under 11 U.S.C. 341(a). Debtor asserts that the grant deed transferring away 2/3 of the subject property actually only transferred bare legal title (to his sons, for purposes of obtaining a loan), not equitable title, and "[w]hen my legal counsel interviewed me, I reported that I was the sole owner of the property because that is what I believed." Debtor Decl. (dkt. 45, Ex. A) para. 6 (PDF p. 6:11-12) (emphasis added).

But that is only one version of the story. Debtor has not filed any adversary proceeding seeking declaratory relief that his version of events is accurate. See Rule 7001(2) & (9) (Fed. R. Bankr. P.). If Debtor had done so, he would have been subject to cross examination about issues such as (a) why he should not be held to the plain meaning of important legal documents when he allegedly knew that he was signing them without understanding them, (b) whether he cannot claim a 100% equitable interest in the subject property because to do so would be to commit a fraud on his mortgage lender (the lender apparently insisted on not just a guaranty by the sons but a

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transfer of a 2/3 interest to them, which makes sense because then the sons would have a far greater incentive to pay the mortgage and help their father avoid bankruptcy, with all of its potentially negative effects on timely payment of the mortgage debt), and (c) why he did not disclose the facts to his attorney or Trustee instead of silently relying on his "belie[f]" in the legal effect of documents he admits he did not understand.

In addition, there might be questions about whether Debtor's attorneys should have conducted a search of the real estate records (and whether that is standard practice, especially if there were any doubts about Debtor's ability to understand legal documents), and whether Debtor should be charged with the acts or omissions of his attorneys. This Court notes that Debtor has a duty to prepare schedules carefully, completely, and accurately, rather than placing the burden on Trustee and creditors to try to unearth the true facts. See *Cusano v. Klein*, 264 F.3d 936, 946 (9th Cir. 2001); *In re Mohring*, 142 B.R. 389, 394 (Bankr. E.D. Cal. 1992).

Of course, this Court recognizes that there *might* be grounds on which Debtor could excuse all of these things, and that this Court presumably has discretion to continue this objection and give Debtor time to amend his bankruptcy schedules, file an adversary proceeding, and do anything else he might need to do so as to assert those excuses. But this Court recognizes that Trustee would then have to incur the expense of responding to any such papers.

In addition, Debtor appears to go further and attempt to place the burden on Trustee not only to respond to any such belated acts by Debtor but also for Trustee to file his own adversary proceeding. Specifically, Debtor argues that it would be premature to apply the analysis under 11 U.S.C. 522(g) at this time because Trustee has yet to file an adversary proceeding and obtain a judgment regarding ownership of the subject property.

The tentative ruling is that Debtor is correct that section 522(g) does not actually apply, but also it would be inappropriate at this time to force Trustee to incur additional expenses - including responding to any amended bankruptcy schedules or other papers filed by Debtor, and forcing Trustee to file his own adversary proceeding - when, as set forth above, it is Debtor who (i) should have provided full disclosure in his bankruptcy schedules and (ii) should have filed an adversary proceeding or other appropriate papers to establish that his record ownership of 1/3 of the subject property should be treated as a 100% ownership instead. Nor is it clear that Debtor should be

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Chapter 7

granted additional "bites at the apple" to correct these things, given (A) standard principles of judicial estoppel and (B) the Congressional policy embodied in section 522(g) of only granting relief as to involuntary transfers that were not concealed.

In other words, the tentative ruling is that, although Debtor is correct that section 522(g) is not yet applicable, nevertheless the Congressional policy reflected in section 522(g) suggests that this Court should be wary to granting Debtor additional opportunities, let alone shifting the expense to Trustee. Accordingly, this Court has doubts about granting Debtor an opportunity to file amended bankruptcy schedules or other papers before this Court rules on Trustee's motion/objection.

Notwithstanding all of the foregoing, the tentative ruling is to direct the parties to address why this Court should not order mandatory mediation. There are at least two reasons why mediation might be preferable to any ruling at this hearing and/or preferable to any ongoing litigation.

First, if this Court were to rule on the merits today, or even after extensive litigation, it probably lacks discretion to do anything other than "all or nothing," whereas in mediation the parties could agree to some sort of equitable compromise. Second, if this matter were fully litigated, either side could lose, and meanwhile, the parties' litigation expenses could consume much or all of any benefit that either side might hope to gain even if they prevail.

If this Court is persuaded to order mandatory mediation then the tentative ruling is to stay these proceedings and set a continued hearing for oral argument and any ruling on the pending motion/objection (if the matter has not settled). The tentative ruling, if this Court is persuaded to order mediation, is to set any such continued hearing on this motion/objection for 3/12/24 at 11:00 a.m., with a **deadline of 2/6/24** for the parties to lodge proposed order(s) assigning this matter to mediation.

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

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

Tuesday, April 9, 2024

Hearing Room 1545

11:00 AM

CONT... Jorge E. Padilla

Chapter 7

Debtor(s):

Jorge E. Padilla

Represented By

Christopher J Lauria

Christopher J Langley

Movant(s):

John P Pringle (TR)

Represented By

Michelle A Marchisotto

Trustee(s):

John P Pringle (TR)

Represented By

Michelle A Marchisotto

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

Tuesday, April 9, 2024

Hearing Room 1545

11:00 AM

2:23-16072 Jhonalyn Jhoiey Ramirez

Chapter 7

Adv#: 2:23-01497 Cassaforte Limited v. Ramirez Duarte

#13.00 Cont'd Status conference re: Complaint to determine dischargeability of debt pursuant to 11 U.S.C. section 523(a)(2)(A) fr. 2/20/24

Docket 1

Tentative Ruling:

Appearances required.

(1) Current issues

This Court has reviewed the filed documents and records in this adversary proceeding. Plaintiff failed to serve the initial summons (adv. dkt. 2), and has now failed to file any proof of service of the replacement summons (adv. dkt. 5). Very recently Plaintiff has filed a motion to appear pro hac vice (adv. dkt. 6), and has filed a notice of lodgement of an order on that motion (adv. dkt. 7), but has not actually lodged any order. Plaintiff appears to be confused, and is directed to appear so that this Court can attempt to clarify the requirements for service of a summons in an adversary proceeding (typically via U.S. mail) and the difference between filing a notice of lodgement and actually lodging a proposed order.

In addition, Plaintiff is cautioned that the failure to file timely status reports and otherwise appear in proper prosecution of this adversary proceeding may result in dismissal for lack of prosecution, or other adverse consequences.

(2) Standard requirements

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

(a) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a)

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CONT... **Jhonalyn Jhoiey Ramirez**

Chapter 7

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

(b) Mediation

[Intentionally omitted]

(c) Deadlines

This adversary proceeding has been pending since 12/20/23. Ordinarily this Court would set the deadlines for all of the following matters, but due to the lack of prosecution to date the tentative ruling is only to set a continued status conference.

Joinder of parties/amendment of pleadings-deadline: n/a.

Discovery cutoff (for completion of discovery): n/a.

Expert(s) - deadline for reports: n/a.

Expert(s) - discovery cutoff (if different from above): n/a.

Dispositive motions to be heard no later than: n/a.

Joint Status Report: 5/7/24

Continued status conference: 5/21/24 at 11:00 a.m.

Lodge Joint Proposed Pretrial Order: n/a.

Pretrial conference: n/a.

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: n/a.

Trial commencement: n/a.

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11:00 AM

CONT... Jhonalyn Jhoiey Ramirez

Chapter 7

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):

Jhonalyn Jhoiey Ramirez

Represented By
Peter M Lively

Defendant(s):

Jhonalyn Jhoiey Ramirez Duarte

Pro Se

Plaintiff(s):

Cassaforte Limited

Represented By
Leonard Salvatore Spinelli
Mark B Chassman

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 9, 2024

Hearing Room 1545

11:00 AM

2:24-11389 Sandra C Estrada

Chapter 13

#14.00 Order to show cause why this court should not impose sanctions against debtor's counsel, Aaron Berger

Docket 14

Tentative Ruling:

Discharge the OSC, subject to the conditions set forth below. Appearances are not required on 4/9/24. (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: Order: (1) Dismissing Case, (2) Vacating Order to Show Cause Regarding Venue, and (3) Requiring Debtor's Counsel Aaron Berger to Appear and Show Cause Why this Court Should Not Impose Sanctions Against Him (dkt. 14, the "OSC"); Disclosure of compensation (dkt. 19); Declaration of Aaron Berger re OSC (dkt. 20)

Analysis:

In his declaration in response to the OSC, Aaron Berger states:

As of right now, I have no intention of ever representing a client in a bankruptcy case again. I am very sorry and embarrassed for the inconvenience I have unintentionally caused the court, trustee, creditors, and any other parties involved in this case. I swear it will never happen again. [Berger Decl. (dkt. 20) at ¶¶ 32–34.]

This Court interprets Mr. Berger's statement as a voluntary agreement not to appear as counsel for any party in any bankruptcy case pending in the Central District of California for an indefinite period of time, and potentially on a permanent basis. The tentative ruling is that it is appropriate to bar Mr.

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11:00 AM

CONT...

Sandra C Estrada

Chapter 13

Berger from appearing as counsel for any party in any bankruptcy case in this district for a period of **one year from this hearing date**, absent further order of this Court lifting this bar. To be clear, Mr. Berger offers plausible explanations, and appears to exhibit appropriate remorse, and to avoid the time and expense of an evidentiary hearing it appears appropriate to accept Mr. Berger's apparent offer rather than attempt to determine precisely whether a lesser or greater sanction is appropriate.

To the extent this Court has misinterpreted Mr. Berger's statement, he is directed to appear to contest this tentative ruling. Provided that Mr. Berger is prepared to voluntarily agree not to represent clients in bankruptcy cases filed in this district for a period of one year as set forth above, this Court is prepared to discharge the OSC.

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

Party Information

Debtor(s):

Sandra C Estrada

Represented By
Aaron Berger

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

Tuesday, April 9, 2024

Hearing Room 1545

11:00 AM

2:21-19480 Howard Chorng Jeng Wu

Chapter 7

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

#15.00 Cont'd status conference
fr. 1/23/24, 3/12/24, 4/2/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

Continue to 5/21/24 at 11:00 a.m. for the parties to finalize and file their settlement agreement and lodge a stipulated judgment of nondischargeability as stated in Defendant/Debtor's status report (adv. dkt. 79). If those things are accomplished, this Court anticipates posting a tentative ruling prior to the continued status conference taking this matter off calendar.

Appearances are not required on 4/9/24. (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.

[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

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

11:00 AM

CONT... Howard Chorong Jeng Wu

Chapter 7

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
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Tuesday, April 9, 2024

Hearing Room 1545

11:00 AM

2:23-15530 Young C Cho

Chapter 7

#16.00 Cont'd hrg re: Motion for Order Authorizing Trustee to Sell Real Property Free and Clear of Liens and Interests, Subject to Overbid fr. 4/2/24

Docket 39

Tentative Ruling:

Tentative Ruling for 4/9/24:

Appearances required.

At the hearing on 4/2/24 this Court was persuaded to continue this matter to today to address any remaining disputes on the distribution of proceeds of sale, including any carve-out for payment of the Trustee fees and any other administrative expenses, and the Debtor's homestead/\$36,000.00 move out advance. The parties should prepare to address these issues.

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 RULING(S) OMITTED]

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
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Tuesday, April 9, 2024

Hearing Room 1545

1:00 PM

2:24-12114 Patriot Linen Services LLC

Chapter 11

#1.00 Cont'd Status conference re: Chapter 11 case
fr. 4/4/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

Appearances required by counsel for Debtor and by Debtor's principal.

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, except to note that (a) in other cases Judge Bason does not recall ever having granted a "critical vendor" motion (*cf.* Stat. Rpt., dkt. 61, p. 9) and (b) as of the preparation of this tentative ruling no proposed order has been lodged memorializing this Court's oral interim order authorizing continuation of pre-petition factoring, use of cash collateral, etc.

(2) Dates/procedures. This Subchapter V case was filed on 3/19/24.

- (a) Bar date: 5/28/24 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. 14).
- (b) Procedures Order: dkt. 3 (belatedly served, dkt. 64)
- (c) Plan/Disclosure Statement: file by 90 days after the petition date (per 11 U.S.C. 1189(b)) (DO NOT SERVE - except on the U.S. Trustee). See Procedures Order.
- (d) Continued status conference: 5/15/24 at 1:00 p.m. (specially set), *brief* status report due 5/1/24.

[PRIOR TENTATIVE RULING(S) OMITTED]

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Central District of California
Los Angeles
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Tuesday, April 9, 2024

Hearing Room 1545

1:00 PM

CONT... Patriot Linen Services LLC

Chapter 11

Party Information

Debtor(s):

Patriot Linen Services LLC

Represented By
David T Tran

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 9, 2024

Hearing Room 1545

1:00 PM

2:24-10870 1415 Garvey LLC

Chapter 11

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

RICHARDSON C. GRISWOLD
vs
DEBTOR

Docket 29

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 3, 4/9/24 at 1:00 p.m.).

Party Information

Debtor(s):

1415 Garvey LLC

Represented By
Robert M Yaspan

Movant(s):

Richardson C Griswold

Represented By
Richardson C Griswold

**United States Bankruptcy Court
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Tuesday, April 9, 2024

Hearing Room 1545

1:00 PM

2:24-10870 1415 Garvey LLC

Chapter 11

#3.00 Cont'd Status conference re: Chapter 11 case
fr. 3/5/24, 4/2/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

Continue all matters as set forth below. Appearances are not required on 4/9/24. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

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

(1) Current issues

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

The tentative ruling is that this matter is arguably moot because the automatic stay terminated on 4/3/24 upon the dismissal of this case pursuant to 11 U.S.C. 362(c)(2)(B) (see dkt. 36). But in other cases this Court has ruled that dismissal does not moot motions for relief from the automatic stay because (i) case dismissals are not infrequently vacated; (ii) in that situation, a debtor can evade any hearing or ruling on the merits of a motion for relief from the automatic stay, and the movant will either have to re-set the hearing on ordinary notice or incur the time and expense of an application for an order shortening time, and either way the movant will be harmed if the motion is not heard now and determined on the merits; and therefore (iii) an actual case or controversy on the merits continues to exist and such motions are not mooted by dismissal.

Therefore, the tentative ruling is that it is appropriate to reach the

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CONT... 1415 Garvey LLC

Chapter 11

merits of the R/S Motion. But the tentative ruling is also that Movant has not served the R/S Motion in compliance with the applicable rules.

Accordingly, the tentative ruling is to grant Movant an interim comfort order, if it elects to lodge such an order, clarifying that the automatic stay no longer applies due to dismissal of this case, and to continue this hearing because Movant's proof of service (dkt. 29, PDF pp. 28-29) does not show service on:

(A) both (i) Debtor's counsel and (ii) Debtor directly ("double service") as required by Rules 7004(b)(9)&(g) and 9014(a) (Fed. R. Bankr. P.), and

(B) the creditors included on the list filed pursuant to Rule 1007(d) as required by Rules 4001(a)(1) and 9014(a) (Fed. R. Bankr. P.).

If Movant elects to pursue a ruling on the merits at a continued hearing, the tentative ruling is to set a **deadline of 4/10/24** for Movant to (x) serve the motion papers on the parties not previously served, (y) file and serve a notice of the continued hearing and the deadline for any response, and (z) file a supplemental proof of service. The tentative ruling is to set a **deadline of 4/17/24** for any response by any party not previously served with the motion papers, a **deadline of 4/23/24** for any replies, and a **hearing** contemporaneous with the continued status conference (see below). If Movant does not timely serve the motion papers and a notice of the continued hearing and file a proof of service, this Court anticipates posting a tentative ruling in advance of the continued hearing denying the motion as moot and/or for lack of prosecution.

(2) Dates/procedures. This case was filed on 2/5/24 and dismissed on 4/3/24 (dkt. 36).

(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: N/A

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

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
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Tuesday, April 9, 2024

Hearing Room 1545

1:00 PM

CONT... 1415 Garvey LLC

Chapter 11

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 9, 2024

Hearing Room 1545

1:00 PM

2:24-10262 Golden Wellness Rx, Inc

Chapter 7

#4.00 Hrg re: U.S. Trustee Motion to dismiss or convert case

Docket 26

***** VACATED *** REASON: Case converted to Chapter 7 on 3/15/2024**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Golden Wellness Rx, Inc

Represented By
Michael R Totaro

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

Trustee(s):

John J Menchaca (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 9, 2024

Hearing Room 1545

1:00 PM

2:23-15752 Elite Investment Management Group, LLC

Chapter 11

**#5.00 Combined hrg re: Approval of Debtor's Disclosure Statement and
(B) Confirmation of Debtor's Chapter 11 Plan of Liquidation**

Docket 1

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 6.1,
4/9/24 at 1:00 p.m.).

Party Information

Debtor(s):

Elite Investment Management

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

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
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Tuesday, April 9, 2024

Hearing Room 1545

1:00 PM

2:23-15752 Elite Investment Management Group, LLC

Chapter 11

#6.00 Cont'd hrg re: Motion for an Order Appointing
Chapter 11 Trustee or for Conversion of the Case
fr. 4/2/24

Docket 109

Tentative Ruling:

Tentative Ruling for 4/9/24:

Please see the tentative ruling for the status conference (Calendar No. 6.1, 4/9/24 at 1:00 p.m.).

Tentative Ruling for 4/2/24:

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 9, 2024

Hearing Room 1545

1:00 PM

2:23-15752 Elite Investment Management Group, LLC

Chapter 11

#6.10 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, 4/2/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:
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 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)

At the hearing on 4/2/24 this Court heard oral argument and took this matter under submission. After reviewing the papers (again) this Court is not persuaded to depart from its tentative ruling for 4/2/24 (copied below).

To be clear, this Court takes very seriously Mr. Siboni's allegations of misconduct and assertions that Debtor, acting through Frank and/or Jonathan Menlo or any other party, caused Debtor to transfer assets for significantly less than fair market value. But Mr. Siboni has not presented any evidence to reasonably support his assertions of wrongful conduct.

For example, Mr. Siboni alleges that "[t]here is no dispute that Debtor, through its entity, Occidental [Gardens] LLC, transferred out property essentially worth \$18.5 million dollars for effectively \$10.23 million in liens. Reply (dkt. 123), p. 2:14-15. In fact, the Menlo Creditors and Debtor dispute

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

Chapter 11

that characterization and represent that Debtor never held title to the subject property, but instead holds a 90% ownership interest in Occidental.

Additionally, Mr. Siboni's reply fails to address Debtor's opposition papers, which describe with particular detail the nature of that transaction, including that (w) the fair market value of the property is estimated to be \$15.6 million based on a recent appraisal (Opp. (dkt. 120), p. 15, Ex. 31), (x) Miracle Mile advanced \$2.75 million dollars worth of loans to Occidental (*id.*, p. 13:3-6), (y) Miracle Mile incurred another approximately \$2 million dollars worth of expenses to finish construction after purchasing the property (*id.*, p. 15:8-12), and (z) a sale of the property would be subject to a significant mansion tax (*id.*, p. 15:20-21), all of which substantially undermines Mr. Siboni's contention that any entity holds an \$8 million fraudulent transfer claim, let alone that Debtor has engaged in any wrongdoing that would warrant appointment of a chapter 11 trustee.

Accordingly, in the absence of persuasive evidence, this Court is not persuaded that appointment of a chapter 11 trustee is appropriate on this record. That is particularly so because Debtor's plan is a liquidating plan so under 11 U.S.C. 1141(d)(3) Debtor is not eligible to receive a discharge. See Plan (dkt. 105), p. 51.

Note: The tentative ruling is to sustain all of the evidentiary objections (dkt. 119, 121) to the declaration of Mr. Oved (dkt. 109 at PDF pp. 18-20). The tentative ruling is that the response (dkt. 124) is unpersuasive. Alternatively, the tentative ruling is that this Court would reach the same result even if the portions of the declaration that go beyond legal argument were considered for whatever evidentiary value they might have.

Proposed order(s): Unless otherwise ordered, Debtor is directed to lodge a proposed order on the foregoing matter via LOU within 7 days after the hearing date, and attach a copy of this tentative ruling, thereby adopting it as this Court's actual ruling.

(b) Debtor's consolidated Disclosure Statement ("D/S") and chapter 11 plan of liquidation ("Plan") (dkt. 105 & redline dkt. 106), Order setting combined hearing on final approval of D/S and confirmation of Plan (dkt. 102), Proof of service (dkt. 108), Ballot summary (dkt. 122), Limited objection of Meir Siboni (dkt. 125), Debtor's reply (dkt. 128), Debtor's proposed confirmation order (dkt. 131)

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

Tuesday, April 9, 2024

Hearing Room 1545

1:00 PM

CONT...

Elite Investment Management Group, LLC

Chapter 11

The tentative ruling is to overrule Mr. Siboni's objection, approve the D/S on a final basis and confirm the Plan, as set forth below.

(i) Overrule Mr. Siboni's objection (dkt. 125)

The tentative ruling is to overrule Mr. Siboni's objection that the D/S lacks sufficient information about the timing of the effective date so that Mr. Siboni can make an equity contribution to retain his equity interests in the reorganized Debtor because, as Debtor confirms (dkt. 128, pp. 3:13-4:8), Mr. Siboni will not be required to pay anything to retain his interests.

The tentative ruling is to overrule Mr. Siboni's objection to confirmation of the Plan because the Plan does not provide for a neutral third-party to evaluate, prosecute, and maintain fraudulent transfer claims because, as this Court explains in more detail in Section (1)(a), above, Mr. Siboni has not presented any evidence establishing the need for a neutral third-party to investigate potential avoidance claims and because Debtor is not entitled to a discharge so Mr. Siboni is not without legal recourse. For the same reasons, the tentative ruling is to overrule Mr. Siboni's objection to the proposed post-confirmation management of Debtor.

Mr. Siboni has not adequately explained how his remaining concerns regarding Go Green and 932 Irolo are relevant to confirmation of the Plan. The tentative ruling is that such objections are too remote, and that Mr. Siboni has not addressed precisely what is inadequate about the information provided, so those objections will be overruled.

(ii) Cramdown

The starting point is Debtor's ballot summary (dkt. 122), augmented by this Court's review of the classes designated as impaired or unimpaired in Debtor's Plan (dkt. 105). Debtor has two consenting impaired classes (Classes 5 and 7), five classes that Debtor's Plan has designated (without objection) as unimpaired (Classes 1, 2, 3, 4 & 8) and which therefore are deemed to have accepted the Plan pursuant to 11 U.S.C. 1126(f), and two classes that are designated as impaired and did not vote (Classes 1 and 6). The fact that some impaired classes did not vote for confirmation means that the elements of 11 U.S.C. 1129(a)(8) are not satisfied for those classes, so the Plan can only be confirmed if "cramdown" is appropriate per 11 U.S.C. 1129(b).

For the Plan to be fair and equitable with respect to Classes 1 and 6 (both of which are secured claims), the Plan must satisfy the requirements of

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1129(b)(2)(A). The tentative ruling is that the Plan is fair and equitable with respect to Class 1 (LA County Tax Collector) because the Plan provides for Class 1 to be paid in full through a sale of the subject property or, alternatively, to retain its lien against the property. Dkt. 105, p. 33.

The tentative ruling is that the Plan is fair and equitable with respect to Class 6 (Small Business Administration, the "SBA") because the Plan provides for Class 6 to retain any and all liens securing its claim, to the extent that Debtor has assets subject to Class 6's lien(s), and to receive payment on account of any net sale proceeds of any assets upon which its lien(s) is secured. Dkt. 105, pp. 37-38. The Plan also provides that, to the extent any portion of Class 6's lien is unsecured, that unsecured portion will be treated as if it were included in Class 7 (general unsecured claims). *Id.* p. 37. Since Class 7 has voted to accept the Plan, the Plan satisfies 11 U.S.C. 1129(b)(1) with respect to any unsecured portion of the SBA's claim. The SBA has not objected to this proposed treatment, so any objections it may raise in future are forfeited and/or waived.

For the foregoing reasons, the tentative ruling is that Debtor's proposed Plan meets the "fair and equitable" requirements (11 U.S.C. 1129(b)).

(iii) Form of proposed confirmation order (dkt. 131)

The tentative ruling is that the proposed form of order is acceptable with the following exceptions.

First, the following provision must be amended:

The transfers contemplated under the Plan (a) are or shall be legal, valid and effective transfers of property for fair and reasonable consideration, (b) ..., (c) do not and shall not constitute fraudulent conveyances or transfers or unlawful distributions under any applicable law, ... [Proposed order para. 17 (dkt. 131, Ex. 1, at p. 6:8-13) (emphasis added).]

This Court's tentative ruling is that the emphasized language cannot be approved because that would be an advisory ruling about the effect of transactions that have yet to occur and that conceivably could be unfair, unreasonable, and fraudulent if the facts were sufficiently egregious.

Second, the confirmation order should include the language required by the local rules regarding post-conversion status reports and the effect of any future conversion. See LBR 3020-1(b), 9021-1(b)(1)(B).

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Third, the confirmation order should refer to this Court's anticipated Memorandum Decision Approving Disclosure Statement And Confirming Plan that adopts these tentative rulings as this Court's actual rulings, and the confirmation order should refer to those rulings as being among the grounds for issuing the order.

(iv) Conclusion

The tentative ruling is that Debtor's Plan satisfies all other requirements of 11 U.S.C. 1129. The tentative ruling is also to grant Debtor's request to waive the 14-day stay under Rule 3020(e) (Fed. R. Bankr. P.) to avoid any unnecessary delay in Debtor's ability to effectuate a sale of the subject property.

Proposed order(s): Unless otherwise ordered, Debtor is directed to lodge the proposed confirmation order, with the changes noted above, via LOU within 7 days after the hearing date. The notice of lodgment should attach a redlined copy, showing the changes required above.

- (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. 105): See above.
 - (d) Continued status conference: 5/7/24 at 1:00 p.m., concurrent with other matters (no written status report required), and then a further continued status conference on 7/16/24 at 1:00 p.m., with a status report due 7/2/24.

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.

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(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. 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)

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(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

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#7.00 Hrg re: Motion to Convert Case from Chapter 11 to Chapter 7

Docket 113

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 9, 4/9/24 at 1:00 p.m.).

Party Information

Debtor(s):

Seyed Mustafa Maghloubi

Represented By
Tony Forberg

Movant(s):

Seyed Mustafa Maghloubi

Represented By
Tony Forberg
Tony Forberg
Tony Forberg
Tony Forberg
Tony Forberg

Trustee(s):

Todd A. Frealy (TR)

Pro Se

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#8.00 Cont'd hrg re: Order to show cause why this court should not impose sanctions and/or direct the appointment of a Chapter 11 trustee
fr. 1/23/24, 2/20/24, 3/12/24

Docket 60

Tentative Ruling:

Tentative Ruling for 4/9/24:

Please see the tentative ruling for the status conference (Calendar No. 9, 4/9/24 at 1:00 p.m.).

Tentative Ruling for 3/12/24:

Please see the tentative ruling for the status conference (Calendar No. 13, 3/12/24 at 1:00 p.m.).

[PRIOR TENTATIVE RULING(S) OMITTED.]

Party Information

Debtor(s):

Seyed Mustafa Maghloubi

Represented By
Tony Forberg

Trustee(s):

Todd A. Frealy (TR)

Pro Se

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#9.00 Cont'd Status conference re: Chapter 11 case
fr. 11/14/23, 11/28/23, 1/23/24, 2/20/24, 3/12/24,
4/2/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

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), Forberg Decl. (dkt. 82), Totaro Decl. (dkt. 83), Totaro Status Report (dkt. 110), Chapter 11 Trustee Status Report (dkt. 128), Maghloubi Decl. (dkt. 132)

In its OSC, this Court described Mr. Maghloubi's numerous failures to comply with his obligations under the Bankruptcy Court and his disregard of 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, but is not limited to, the following:

- 1) Failure to comply with this Court's order (dkt. 97, PDF pp. 5–6) directing the filing of an Amended Schedule I containing a proper response to question 8a (which requires the submission of "a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income").
- 2) Failure to file any Monthly Operating Reports ("MORs").

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(This case was converted to chapter 11 on 10/12/23, so MORs for October 2023 through February 2024 should have been filed by now, and the MOR for March 2024 is due on 4/21/24. See 28 C.F.R. § 58.8(e)(1) ("Unless otherwise provided by local rule, each MOR must be filed by no later than the 21st day of the month immediately following the reporting period covered by the MOR.").)

- 3) Failure to fully account for property of the estate, including business income earned since conversion of this case to chapter 11 on 10/12/23.
- 4) Failure to produce all of the documents requested by Todd A. Frealy, the chapter 11 trustee ("Trustee"). Frealy Decl. (dkt. 128) at ¶¶ 14–16.

Mr. Maghloubi filed a motion to re-convert this case to chapter 7 on 3/8/24 (dkt. 111, the "Motion to Re-Convert"), shortly after this Court directed the United States Trustee to appoint a Chapter 11 Trustee on 2/22/24 (dkt. 97). The Motion to Re-convert appears to have been a tactical attempt by Mr. Maghloubi to avoid the consequences of his failure to comply with his obligations under chapter 11 of the Bankruptcy Code.

This Court remains deeply concerned by Mr. Maghloubi's continuing non-compliance. Mr. Maghloubi testifies that documents necessary to prepare the MORs were stolen from his car. Maghloubi Decl. (dkt. 132) at ¶ 6 ("[D]ue to a break-in in my car, while parked outside my home, many of my personal belongings were stolen, including financial records that I needed to prepare for the monthly operating reports for the preceding months.").

The tentative ruling is to specially **set an evidentiary hearing on 4/23/24 at 1:00 p.m.** for Mr. Maghloubi to testify as to the reasons for all of his failures to comply with his obligations as set forth above, with 20 minutes for direct testimony, 20 minutes for cross-examination by Mr. Totaro, 20 minutes for cross-examination by Trustee, 15 minutes for any redirect, and 10 minutes for each party to make any arguments in favor or against sanctions under the OSC or in favor of a continuance for any additional discovery or other matters. The tentative ruling is 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.

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The tentative ruling is to set a **deadline of 4/12/24** for Mr. Maghloubi to transfer to this Court a true and complete copy of the video referenced in his declaration, after coordinating with chambers and with this Court's IT staff to assure that this Court will be able to view the video both prior to and at the evidentiary hearing, on screens viewable by parties in interest. Dkt. 132, p. 2:10-16. The tentative ruling is that any party in interest may request that relevant portions of such video be viewed at the evidentiary hearing and that Debtor testify as to that video and any related issues.

The tentative ruling is to deny Mr. Totaro's request that Mr. Maghloubi be incarcerated now for a short period of time to "alert him to the seriousness of the situation." Dkt. 129 at p. 4. A sanction of the type requested by Mr. Totaro – confinement for a specified time period – would constitute a punitive contempt sanction that this Court lacks authority to impose.

To be clear, this Court does have the ability to incarcerate Mr. Maghloubi, but only if the incarceration is for the purpose of compelling him to perform specific actions (e.g., Mr. Maghloubi could be incarcerated until he files properly completed Monthly Operated Reports). But incarceration for a predetermined time period would not qualify as coercive incarceration. See, e.g., *Hicks v. Fetlock*, 485 U.S. 624, 635 n.7 (1988) (a sanction is coercive if "the contemnor can avoid the sentence imposed on him, or purge himself of it, by complying with the terms of the original order"); see also *Shillitani v. United States*, 384 U.S. 364, 368 ("When the petitioners carry 'the keys of their prison in their own pockets,' the action 'is essentially a civil remedy designed for the benefit of other parties and has quite properly been exercised for centuries to secure compliance with judicial decrees.'").

Unless this Court is persuaded to depart from the foregoing tentative ruling, this Court will issue an order setting the evidentiary hearing.

(b) Mr. Maghloubi's motion to re-convert case to chapter 7 (dkt. 111, the "Motion to Re-convert"), Order setting hearing on Motion to Re-Convert (dkt. 118), Notice of hearing (dkt. 122), Mr. Totaro's objection and amended objection (dkt. 129 & 130), Chapter 11 Trustee's conditional non-opposition (dkt. 131), Maghloubi Decl. (dkt. 132)

At the outset, it is appropriate for this Court to note that Mr. Maghloubi is not entitled to conversion from chapter 11 to chapter 7 as of right under 11 U.S.C. 1112(a), on three independent grounds: first, Mr. Maghloubi is not a debtor in possession, 11 U.S.C. 1112(a)(1); second, Mr. Maghloubi's "case

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was originally commenced as an involuntary case," 11 U.S.C. 1112(a)(2); and third, Mr. Maghloubi's case was converted to Chapter 11 upon the motion of Mr. Totaro, 11 U.S.C. 1112(a)(3).

Trustee "does not believe that this case should remain in chapter 11 because [Mr. Maghloubi's] auto body repair business has ceased operating and [Mr. Maghloubi] currently lacks regular income which can be used to fund a chapter 11 plan." Dkt. 131 at p. 2. Trustee does not oppose re-conversion to chapter 7, conditioned upon Mr. Maghloubi's (a) filing of monthly operating reports, (b) payment of quarterly fees, (c) amendment of Schedule I, and (d) satisfaction of all United States Trustee compliance and reporting requirements. *Id.*

Mr. Totaro asserts that the Motion to Re-Convert is an attempt by Mr. Maghloubi to "evade creditors so that he can attempt to live a lifestyle that has always been beyond his means." Dkt. 130 at p. 2.

The tentative ruling is that, in view of Mr. Maghloubi's continuing non-compliance with his obligations under the Bankruptcy Code (see part "(1)(a)," above), re-conversion to chapter 7 would be premature. The tentative ruling is to deny the Motion to Re-convert without prejudice; provided, however, that Mr. Maghloubi will be allowed to present a renewed request for reconversion only if the OSC is discharged. In other words, Mr. Maghloubi cannot rely upon the hope of conversion to chapter 7 to escape his obligations under chapter 11.

Proposed order(s): Unless otherwise ordered, Mr. Totaro 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.

(c) Service of the Amended Procedures Order

Because Mr. Maghloubi failed to serve the Procedures Order (dkt. 32) issued on 10/13/23 upon parties in interest, this Court issued an Amended Procedures Order on 1/26/24 (dkt. 88). There is no evidence that Mr. Maghloubi has served the Amended Procedures Order.

The tentative ruling is to set a **deadline of 4/11/24** for Mr. Maghloubi's counsel Mr. Forberg to serve that order, together with this part "(1)(c)" of this tentative ruling, upon all parties in interest, via U.S. mail, and file a proof of

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such service (even if he has withdrawn from representing Mr. Maghloubi by then for any reason). If Mr. Forberg fails to file that Proof of Service, this Court will direct the Clerk of the Court to serve the order, and without further notice or hearing will then impose a \$250.00 compensatory contempt sanction upon Mr. Forberg to cover the costs of service, and may impose additional coercive or other sanctions.

(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); see part "(1)(c)," above.

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: contemporaneous with specially-set evidentiary hearing on OSC (see part "(1)(a)" of this tentative ruling, above). No written status report required.

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

Party Information

Debtor(s):

Seyed Mustafa Maghloubi

Pro Se

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

- #9.10** Cont'd status conference re: Complaint for determination of non-dischargeability of specific debt pursuant to 11 U.S.C. section 523(a) fr. 4/2/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:
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 parties' joint status report (adv.dkt. 12), the unilateral status report filed by Mr. Totaro on 3/19/24 (adv. dkt. 11), and the other filed documents and records in this adversary proceeding.

(a) Joinder of the trials of Adv. No. 2:24-ap-01007-NB and Adv. No. 2:23-ap-01155-NB

In his own chapter 11 bankruptcy case, Mr. Totaro has filed a complaint against Mr. and Ms. Maghloubi, seeking to recover unpaid rent and other damages from the Maghloubis (Adv. No. 2:23-ap-01155-NB, the "Damages Action"). In Mr. Maghloubi's bankruptcy case, Mr. Totaro has filed a complaint seeking a determination that the indebtedness alleged in the Damages Action is non-dischargeable as to Mr. Maghloubi (Adv. No. 2:24-ap-01007-NB, the "Dischargeability Action").

Under Rule 42(a)(1) (Fed. R. Civ. Proc.), if "actions before the court involve a common question of law or fact, the court may join for hearing or trial any or all matters at issue in the actions." In determining whether to join matters for trial, "a court weighs the interest of judicial convenience against

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the potential for delay, confusion and prejudice” *Sw. Marine, Inc. v. Triple A Mach. Shop, Inc.*, 720 F. Supp. 805, 807 (N.D. Cal. 1989).

The tentative ruling is that because the Damages Action and Dischargeability Action involve common questions of law and fact, joining the trials of those actions would facilitate the “just, speedy, and inexpensive determination” of both proceedings, Rule 1001 (Fed. R. Bankr. P.). Therefore, the tentative ruling is (A) to set the same litigation deadlines in both actions and (B) to conduct a joint trial of the actions (but to continue to maintain separate dockets for both actions to avoid confusion).

(b) Potential settlement?

In a status report filed in his chapter 11 case on 4/2/24, Mr. Totaro states that he may have reached a settlement with Mr. Maghloubi in the Dischargeability Action. Case No. 2:23-bk-11397-NB, dkt. 220, at p. 1. The parties are directed to provide an update as to any potential settlement – and to clarify whether the potential settlement pertains to both the Damages Action and the Dischargeability Action, or only the Dischargeability Action.

(2) Standard requirements

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

(a) Venue/jurisdiction/authority

The parties are directed to address any outstanding matters of (a) venue, (b) jurisdiction, (c) this Bankruptcy Court's authority to enter final orders or judgment(s) in this proceeding and, if consent is required, whether the parties do consent, or have already expressly or impliedly consented. See generally *Stern v. Marshall*, 131 S.Ct. 2594, 2608 (2011) (if litigant “believed that the Bankruptcy Court lacked the authority to decide his claim...then he should have said so – and said so promptly.”); *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015) (consent must be knowing and voluntary but need not be express); *In re Bellingham Ins. Agency, Inc.*, 702 F.3d 553 (9th Cir. 2012) (implied consent), *aff'd on other grounds*, 134 S. Ct. 2165 (2014); *In re Pringle*, 495 B.R. 447 (9th Cir. BAP 2013) (rebuttable presumption that failure to challenge authority to issue final order is intentional and indicates consent); *In re Deitz*, 760 F.3d 1028 (9th Cir. 2014)

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(authority to adjudicate nondischargeability encompasses authority to liquidate debt and enter final judgment). *See generally In re AWTR Liquidation, Inc.*, 548 B.R. 300 (Bankr. C.D. Cal. 2016).

(b) Mediation

Mediation of the issues raised in this dischargeability action occurred in August 2023 and January 2024 (prior to the filing of this action). This Court is not inclined to order further mandatory mediation at this time.

(c) Deadlines

This adversary proceeding has been pending since 1/16/24.

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: 5/17/24.

Discovery cutoff (for completion of discovery): 5/31/24.

Expert(s) - deadline for reports: 6/7/24.

Expert(s) - discovery cutoff (if different from above): 6/14/24.

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

Joint Status Report: 5/21/24.

Continued status conference: 6/4/24 at 1:00 p.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):

Seyed Mustafa Maghloubi

Represented By

Tony Forberg

Defendant(s):

Seyed Mustafa Maghloubi

Represented By

Tony Forberg

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Plaintiff(s):

Michael R Totaro

Represented By
Michael R Totaro

Trustee(s):

Todd A. Frealy (TR)

Pro Se

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2:23-11397 Michael R Totaro

Chapter 11

Adv#: 2:23-01155 Totaro v. Maghloubi et al

- #10.00** Cont'd status conference re: Complaint against Seyed Maghloubi, Nelly Maghloubi aka Nelly Salamanca for 1) Abuse of process; 2) Breach of contract; 3) Intentional Infliction of emotional distress; 4) Fraud; 5) Financial elder abuse
fr. 7/18/23, 8/15/23, 10/17/23, 11/14/23, 11/28/23, 1/23/24, 2/6/24, 2/20/24, 3/12/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

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 unilateral status reports filed by Mr. Totaro (adv. dkt. 16) and Mr. Maghloubi (adv. dkt. 17) and the other filed documents and records in this adversary proceeding.

(a) Joinder of the trials of Adv. No. 2:24-ap-01007-NB and Adv. No. 2:23-ap-01155-NB

In his own chapter 11 bankruptcy case, Mr. Totaro has filed a complaint against Mr. and Ms. Maghloubi, seeking to recover unpaid rent and other damages from the Maghloubis (Adv. No. 2:23-ap-01155-NB, the "Damages Action"). In Mr. Maghloubi's bankruptcy case, Mr. Totaro has filed a complaint seeking a determination that the indebtedness alleged in the Damages Action is non-dischargeable as to Mr. Maghloubi (Adv. No. 2:24-ap-01007-NB, the "Dischargeability Action").

Under Rule 42(a)(1) (Fed. R. Civ. Proc.), if "actions before the court involve a common question of law or fact, the court may join for hearing or

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trial any or all matters at issue in the actions.” In determining whether to join matters for trial, “a court weighs the interest of judicial convenience against the potential for delay, confusion and prejudice” *Sw. Marine, Inc. v. Triple A Mach. Shop, Inc.*, 720 F. Supp. 805, 807 (N.D. Cal. 1989).

The tentative ruling is that because the Damages Action and Dischargeability Action involve common questions of law and fact, joining the trials of those actions would facilitate the “just, speedy, and inexpensive determination” of both proceedings, Rule 1001 (Fed. R. Bankr. P.). Therefore, the tentative ruling is (A) to set the same litigation deadlines in both actions and (B) to conduct a joint trial of the actions (but to continue to maintain separate dockets for both actions to avoid confusion).

(b) Potential settlement?

In a status report filed in his chapter 11 case on 4/2/24, Mr. Totaro states that he may have reached a settlement with Mr. Maghloubi in the Dischargeability Action. Case No. 2:23-bk-11397-NB, dkt. 220, at p. 1. The parties are directed to provide an update as to any potential settlement – and to clarify whether the potential settlement pertains to both the Damages Action and the Dischargeability Action, or only the Dischargeability Action.

(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

Mr. and Ms. Maghloubi, who have been named as the defendants in the Damages Action, have previously consented to this Court's entry of final judgment. See Status Report filed on 6/27/23 (dkt. 6) at ¶ F.

(b) Mediation

Mediation of the issues raised in the Damages Action occurred in August 2023 and January 2024. This Court is not inclined to order further mandatory mediation at this time.

(c) Deadlines

This adversary proceeding has been pending since 5/15/23.

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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: 5/17/24.

Discovery cutoff (for completion of discovery): 5/31/24.

Expert(s) - deadline for reports: 6/7/24.

Expert(s) - discovery cutoff (if different from above): 6/14/24.

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

Joint Status Report: 5/21/24.

Continued status conference: 6/4/24 at 1:00 p.m.

Lodge Joint Proposed Pretrial Order: TBD

Pretrial conference: TBD

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

Trial commencement: TBD

Tentative Ruling for 3/12/24:

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 unilateral Status Report (adv. dkt. 13) filed by Plaintiff on 2/28/24 and the other filed documents and records in this adversary proceeding.

On 2/13/24, this Court entered an order setting a deadline of 3/7/24 for Defendants to respond to discovery that Plaintiff had previously propounded, see adv. dkt. 11. Plaintiff is directed to provide an update as to whether Defendants provided adequate responses to the discovery.

To the extent that Defendants have not complied with their discovery obligations, the tentative ruling is to issue an order requiring Defendants to show cause why their Answer should not be stricken and why default judgment should not be entered against them.

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The tentative ruling is (A) to decline to set any additional litigation deadlines until after it has been determined whether Defendants have sufficiently responded to discovery and (B) to continue the Status Conference to **4/9/24 at 1:00 p.m.**, with a Joint Status Report due by **4/2/24**.

Meanwhile, Plaintiff/Debtor is directed to address at the hearing how it happened that he - a lawyer with extensive experience in bankruptcy cases - signed a purported proof of service (adv. dkt. 13, last 2 pages, the "POS") even though, as every attorney should be aware and as reflected in the first sentence of the POS, only someone who is "not a party" to the adversary proceeding can sign the POS. In addition, this Court notes that the POS purports to serve Defendants by "Manual Service," "c/o Tony Forberg," but paragraph "3" of the POS (concerning personal delivery, overnight mail, etc.) is not filled out, and it is unclear whether Plaintiff/Debtor Mr. Totaro means to declare that he himself has served Plaintiff via personal delivery, or that a messenger service did so, or that "manual" service was accomplished via overnight mail, or some other form of "manual" service.

More generally, Plaintiff/Debtor is cautioned that his litigation of this matter and related matters involving Mr. Maghloubi might benefit from association of counsel in view of this and other errors. These matters add needless time and complexity for all parties in interest and this Court.

(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

Defendants have previously consented to this Court's entry of final judgment. See Status Report filed on 6/27/23 (dkt. 6) at ¶ F.

(b) Mediation [intentionally omitted]

(c) Deadlines

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

[PRIOR TENTATIVE RULING(S) OMITTED]

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Chapter 11

Party Information

Debtor(s):

Michael R Totaro

Pro Se

Defendant(s):

Syed Mostafa Maghloubi

Represented By
Tony Forberg

Nelly Maghloubi

Represented By
Tony Forberg

Plaintiff(s):

Michael R Totaro

Pro Se

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2:23-11397 Michael R Totaro

Chapter 11

#11.00 Cont'd Status Conference re: Chapter 11 case
fr. 3/21/23, 4/4/23, 4/28/23, 5/16/23, 6/13/23,
7/18/23, 8/15/23, 10/17/23, 11/14/23, 11/28/23,
1/23/24, 2/6/24, 2/20/24, 3/5/24, 3/12/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

Appearances required by Debtor (or any 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

This Court has reviewed the status report filed by Debtor on 4/2/24 (dkt. 220). This Court clarifies that Debtor is not required to use Microsoft Excel form of Chapter 11 plan available at www.cacb.uscourts.gov.

Mr. Totaro inquires as to whether a separate disclosure statement is necessary "rather than a plan with the proper documentation considering there is virtually no unsecured debt and the IRS never submits a ballot." Dkt. 220 at p. 2. This Court will determine whether additional disclosures are necessary after Mr. Totaro has filed a plan.

This Court has no other issues to raise *sua sponte*.

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

(a) Bar date: 6/15/23 (dkt. 73, 90); Proof of Service (dkt. 91)

(b) Procedures order: dkt. 30 (timely served, dkt. 41).

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 5/7/24 at 1:00 p.m., concurrent with other matters. *Brief* written status report due by 5/2/24.

[PRIOR TENTATIVE RULINGS OMITTED]

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Party Information

Debtor(s):

Michael R Totaro

Pro Se

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2:23-15583 Mega Sunset, LLC

Chapter 11

#12.00 Cont'd Status conference re: Chapter 11 Case
fr. 10/3/23, 10/17/23, 10/31/23, 01/23/24, 2/6/24,
3/12/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

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) Debtor's failure to prosecute

Dismiss this case for failure to prosecute. Although Debtor recently filed some missing Monthly Operating Reports ("MORs," dkt. 71, 72), Debtor has a long history of lack of prosecution, and the MORs do not appear to provide any reason to hope that this case will be better prosecuted in future.

Much of Debtor's lack of prosecution is reflected in the prior tentative rulings reproduced below. In addition, Debtor's counsel failed to appear at or file a status report for the immediately prior status conference, held on 3/12/24. On 3/15/24, this Court issued an order directing Debtor to file a status report by no later than 4/2/24, see dkt. 69. As of the preparation of this tentative ruling, no status report is on file.

Debtor's failure to appear at status conferences and file status reports prevents this Court from properly supervising this case. In addition, Debtor's inaction suggests an intent not to properly prosecute this case. In addition, Debtor's MORs suggest that Debtor might not have sufficient cash or cash flow to proceed. For all of these reasons, dismissal of this case appears appropriate, pursuant to this Court's Procedures Order (dkt. 6), service thereof on all parties in interest (dkt. 24), and 11 U.S.C. 1112.

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

- (2) Dates/procedures. This case was filed on 8/29/23.
- (a) Bar date: 12/19/23 (dkt. 34) (not timely served, but served on 10/13/23 (dkt. 40), which provides creditors sufficient notice)
 - (b) Procedures Order: dkt. 6 (not timely served, but eventually served which gives notice of matters therein, dkt. 24)
 - (c) Plan (dkt. 63)/Disclosure Statement (dkt. 62): TBD
 - (d) Continued status conference and OSC hearing: *If* this Court is persuaded not to dismiss this case, 5/21/24 at 1:00 p.m.

Tentative Ruling for 3/12/24:

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) Missing Status Report

The deadline for Debtor to file a Status Report was 3/5/24. As of the preparation of this tentative ruling, no Status Report is on file, 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.

In a prior Status Report, Debtor reported that it was negotiating with Yair Ben Moshe and MBM Acquisitions, LLC, both of whom assert claims against the real property that is the estate's primary asset (the "Property"). Debtor is directed to provide an update on these negotiations.

(b) Missing Monthly Operating Report for January 2024

The deadline for Debtor to file its Monthly Operating Report ("MOR")

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for January 2024 was February 21, 2024, see 28 C.F.R. § 58.8(e)(1) ("Unless otherwise provided by local rule, each MOR must be filed by no later than the 21st day of the month immediately following the reporting period covered by the MOR."). As of the preparation of this tentative ruling, the January 2024 MOR is not on file. Why not?

(c) Employment of a real estate broker to market the Property

In its Disclosure Statement (dkt. 62), which was filed on 1/25/24, Debtor represented that it "is in the process of preparing an application to employ CBRE, Inc. as a real estate broker" to market the Property. *Id.* at p. 10. As of the preparation of this tentative ruling, no such application is on file. What is the status of Debtor's efforts to market the Property?

(d) Plan (dkt. 63) and Disclosure Statement (dkt. 62)

As this Court noted in connection with the prior Status Conference, the Plan will be funded by "proceeds from the sale" of the Property. Disclosure Statement (dkt. 62) at p. 18. At the prior Status Conference, this Court determined that "it would be premature to set deadlines with respect to plan confirmation, or to direct Debtor to serve the Plan and Disclosure Statement upon any party other than the United States Trustee, until more substantial progress has been made toward the sale of the Property." Tentative Ruling for 2/6/24 Status Conference.

The tentative ruling is that given the apparent lack of progress toward marketing or selling the Property, setting any deadlines pertaining to plan confirmation or service of the plan remains premature. The parties should be prepared to address that apparent lack of progress and what remedies might be appropriate.

(2) Dates/procedures. This case was filed on 8/29/23.

- (a) Bar date: 12/19/23 (dkt. 34) (not timely served, but served on 10/13/23 (dkt. 40), which provides creditors sufficient notice)
- (b) Procedures Order: dkt. 6 (not timely served, but eventually served which gives notice of matters therein, dkt. 24)
- (c) Plan (dkt. 63)/Disclosure Statement (dkt. 62): See part "(1)(d)" of this tentative ruling, above.
- (d) Continued status conference: 4/9/24 at 1:00 p.m. *Brief* written

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status report due by 4/2/24.

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Tentative Ruling for 2/6/24:

Appearances required by counsel for Debtor and by Mr. Moshe.

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

(1) Current issues

(a) Debtor's request for continued authorization to use of cash collateral, Opposition of MBM Acquisitions LLC and Yair Moshe (dkt. 61)

On 11/6/23, this Court entered an order authorizing Debtor to use cash collateral (the "Cash Collateral Order," dkt. 50) in accordance with a budget containing income and expense projections for the months of October 2023 through January 2024 (dkt. 37, Ex. 1).

Debtor's primary asset is undeveloped real property (the "Property"). Yair Moshe, the sole owner of MBM Acquisitions, LLC ("MBM Acquisitions"), filed an opposition to Debtor's continued use of cash collateral, both in his individual capacity as the holder of the second deed of trust against the Property and on behalf of MBM Acquisitions, the holder of the first deed of trust against the Property. MBM Acquisitions and Mr. Moshe oppose the use of cash collateral for any purpose other than the payment of insurance and property taxes. Dkt. 61, ¶ 8.

Because MBM Acquisitions is a corporation, it "may appear in the federal courts only through licensed counsel." *Rowland v. California Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 202 (1993); see also LBR 9011-2(a). Where, as here, papers are filed on behalf of a corporation by an individual who is not an attorney, this Court's general practice is to continue the hearing to provide the corporation an opportunity to retain counsel so that it may be heard. The tentative ruling is that in this case, such a continuance is unnecessary because Mr. Moshe advances identical arguments in his capacity as an individual and in his capacity as MBM Acquisitions' sole owner. Unlike corporations, individuals may appear in federal court without representation by counsel, so nothing prevents this

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CONT... Mega Sunset, LLC

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Court from considering the arguments Mr. Moshe advances in his individual capacity. Therefore, as a practical matter, a continuance to allow MBM Acquisitions to retain counsel is likely unnecessary, as the interests of Mr. Moshe and MBM Acquisitions appear to be aligned. (Notwithstanding the foregoing, this Court strongly advises MBM Acquisitions to retain competent counsel to represent its interests.)

Entry of the Cash Collateral Order was supported by this Court's determination that secured creditors were adequately protected by a 27.5% equity cushion. Cash Collateral Order at p. 6. Mr. Moshe contends that the \$6.45 million valuation of the Property reflected on Debtor's Schedule A/B (dkt. 19, ¶ 55) is overstated since it is based on a broker's opinion of value which, according to Mr. Moshe, assumes the Property has been fully entitled, when in fact that is not the case. Moshe Decl. (dkt. 61) at ¶¶ 4–5. Mr. Moshe has **not** submitted a competing appraisal of the Property, and the broker's opinion of value alluded to in his declaration has not been made part of the record.

The tentative ruling is that, on the present record, Mr. Moshe has not submitted sufficient evidence to rebut this Court's prior determination that the secured creditors are protected by a substantial equity cushion. True, this Court's prior determination was based solely upon the declaration testimony of Ted Hsu, Debtor's manager. See Dkt. 37 at ¶ 4 (Mr. Hsu's testimony that the Property is worth more than \$4 million). Notably, however, the \$4 million valuation attested to by Mr. Hsu—which was also the valuation relied upon by this Court in determining that creditors were protected by a 27.5% equity cushion—is significantly less than the \$6.45 million valuation from Debtor's schedules that Mr. Moshe attacks as inflated. In other words, even if Mr. Moshe is correct about the \$6.45 million valuation being too high, secured creditors would still likely be protected by a meaningful equity cushion.

The tentative ruling is (A) to authorize the continued use of cash collateral through and including **5/14/24**, on the same terms and conditions as reflected in the Cash Collateral Order; (B) to conduct a hearing regarding use of cash collateral beyond that date on **5/7/24 at 1:00 p.m.**, with a **deadline of 4/16/24** for Debtor to submit further evidence in support of the continued use of cash collateral, a **deadline of 4/23/24** for any parties in interest to oppose the continued use of cash collateral, and a **deadline of 4/30/24** for Debtor to reply to any opposition; and (C) to direct Debtor to provide notice of the continued hearing upon all parties in interest and file a proof of service no

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later than **2/13/24**.

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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.

(b) Plan (dkt. 63) and Disclosure Statement (dkt. 62)

The Plan will be funded by "proceeds from the sale" of the Property. Disclosure Statement (dkt. 62) at p. 18. Debtor represents that it "is in the process of preparing an application to employ CBRE, Inc. as a real estate broker." *Id.* at p. 10. The tentative ruling is that it would be premature to set deadlines with respect to plan confirmation, or to direct Debtor to serve the Plan and Disclosure Statement upon any party other than the United States Trustee, until more substantial progress has been made toward the sale of the Property.

(c) Claims Bar Date

Mr. Moshe states that he will be seeking "damages in this Court in the form of a proof of claim once a bar date is actually set." Dkt. 62 at ¶ 6. On 10/5/23, this Court entered an order setting **12/19/23** as the claims bar date. Dkt. 34. The Proof of Service of the Bar Date Order (dkt. 40) indicates that it was served upon MBM Acquisitions to the attention of Mr. Moshe. Dkt. 40 at p. 6.

Although the issue is not presently before this Court, it appears that any Proof of Claim filed by MBM Acquisitions or Mr. Moshe would likely be untimely and thus potentially barred. (This Court makes no ruling with respect to the timeliness of any claim that MBM Acquisitions or Mr. Moshe may or may not file, but felt it necessary to correct Mr. Moshe's misapprehension as to the claims bar date.)

(2) Dates/procedures. This case was filed on 8/29/23.

- (a) Bar date: 12/19/23 (dkt. 34) (not timely served, but served on 10/13/23 (dkt. 40), which provides creditors sufficient notice)
- (b) Procedures Order: dkt. 6 (not timely served, but eventually served which gives notice of matters therein, dkt. 24)

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(c) Plan (dkt. 63)/Disclosure Statement (dkt. 62): See part "(1)(b)" of this tentative ruling, above.

(d) Continued status conference: 3/12/24 at 1:00 p.m. *Brief* written status report due by 3/5/24.

Tentative Ruling for 1/23/24:

[No Tentative Ruling posted since hearing was continued by order, dkt. 58.]

Tentative Ruling for 10/31/23:

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) Cash collateral motion (dkt. 37), Rule 4001 statement regarding cash collateral (dkt. 38), no opposition on file

Grant on an interim basis as set forth in the tentative ruling for calendar no. 4 (10/31/23 at 1:00 p.m.), and set a continued hearing concurrent with the continued Status Conference (see below).

(2) Dates/procedures. This case was filed on 8/29/23.

(a) Bar date: 12/19/23 (dkt. 34) (not timely served, but served on 10/13/23 (dkt. 40), which provides creditors sufficient notice)

(b) Procedures Order: dkt. 6 (not timely served, but eventually served which gives notice of matters therein, dkt. 24)

(c) Plan/Disclosure Statement: file by 1/15/24 (DO NOT SERVE - except on the U.S. Trustee). See Procedures Order.

(d) Continued status conference: 1/23/24 at 1:00 p.m. *Brief* written status report due by 1/16/24.

[PRIOR TENTATIVE RULING(S) OMITTED]

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Debtor(s):

Mega Sunset, LLC

Represented By
Raymond H. Aver

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2:23-14986 ASE Construction, Inc.

Chapter 11

#13.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/12/23, 9/19/23, 10/3/23, 10/17/23, 10/31/23,
12/19/23, 1/2/24, 1/09/24, 1/23/24, 3/5/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

Continue as set forth below. Appearances are not required on 4/9/24. (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 8/3/23.

(a) Bar date: 12/5/23 (dkt. 38) (timely served, dkt. 39)

(b) Procedures Order: dkt. 6 (timely served, dkt. 9)

(c) AmPlan/Disclosure Statement (dkt. 138, 139): File by 4/23/24 (see dkt. 150) (DO NOT SERVE - except on the U.S. Trustee). See Procedures Order.

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

Tentative Ruling for 3/5/24:

Continue as set forth below. Appearances are not required on 3/5/24. (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

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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) Amended plan (dkt. 138), amended disclosure statement (dkt. 139, "D/S"), & Morales Declaration (dkt. 141)

The tentative ruling is to set a **deadline of 3/26/24** for Debtor to file, BUT NOT SERVE on anyone except the United States Trustee and parties requesting a copy, manually "blacklined" and "clean" copies of an amended Plan, correcting/addressing the following:

(i) Cash flow projections (dkt. 139, Ex. C, at PDF p. 6)

Debtor's projected cash balance on the effective date is negative \$469,498.17. See Ex. C (dkt. 139 at PDF p. 6), line 11a. It appears that Debtor either will need to (A) defer the Effective Date until it has more funds in its bank account as of the Effective Date, (B) reduce the dollar amount of payments on the Effective Date, or more likely (C) list on line "2c" the anticipated profits from the sale of 8420 S. Broadway (see dkt. 139, at PDF p. 16, para. 4).

There is a row of pound signs rather than a number in line 14. See dkt. 139 at PDF p. 6. This appears to be caused by the fact that Debtor projects a very large surplus (over \$10 million) and the font used by Debtor's printer makes the number too large to fit into the available space. Debtor is directed to experiment with changing the font size for that one cell or, if that is not possible, call chambers.

(ii) Cash flow projections (dkt. 139, Ex. I, PDF p. 18)

Debtor's projected monthly cash flow for February 2024 and forward is significantly higher than Debtor's actual net cash flow since the petition date. See dkt. 139, at PDF p. 7 & August 2023 – January 2024 MORs (dkt. 139 & dkt. 58, 95, 103, 114, 130, 140). This Court presumes that increase is due to four new construction projects Debtor recently secured bids for (see dkt.

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CONT... ASE Construction, Inc.

Chapter 11

139, at PDF p. 16, para. 4). In anticipation of this feasibility at the confirmation hearing, Debtor presumably will need to provide evidence to support this increase.

The tentative ruling is to direct Debtor to file a declaration, concurrent with filing the blacklined version of the Plan, providing such evidence (e.g., copies of contracts or other documents evidencing the basis for projecting increased cash flow). Additionally, Debtor should include cash flow projections for the duration of the proposed plan, not just for a few months, to demonstrate that the proposed payments are feasible.

(iii) Priority tax claims (dkt. 138, at PDF p. 8)

Debtor states that the IRS, FTB, and LACTTC priority unsecured claims (Classes 3A-3C) will be paid in full over 60 months of the Effective Date, but 11 U.S.C. 1129(a)(9)(C)(ii) requires payments to be completed within 60 months from the petition date. Is Debtor anticipating that the IRS, FTB, and LACTTC will waive or forfeit that statutory deadline?

(iv) General unsecured claims (dkt. 139, at PDF p. 8)

Debtor states that general unsecured claims (apart from Cellco/Verizon listed on line 5) total \$114,965.74 (line 8). But, although line 8 refers to a "Continuation Sheet," Debtor does not attach any such continuation sheet listing each claimant and their respective claim amounts. Debtor should either include an exhibit with that information or, alternatively, attach Schedule F (if appropriate, with any markups to show claim disallowance or other changes).

(b) Monthly Operating Reports ("MORs")

As of the preparation of this tentative ruling Debtor has not filed its February MOR which was due 2/21/24. If Debtor has not timely filed its February and March MORs by the time of the next status conference, this Court anticipates posting a tentative ruling directing Debtor to appear and address why this case should not be dismissed or why other remedies should not be imposed.

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

(a) Bar date: 12/5/23 (dkt. 38) (timely served, dkt. 39)

(b) Procedures Order: dkt. 6 (timely served, dkt. 9)

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ASE Construction, Inc.

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(c) AmPlan/Disclosure Statement (dkt. 138, 139): See above (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.

Tentative Ruling for 1/23/24:

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 for relief from the automatic stay (dkt. 109 & 110, "R/S Motion") of Velocity Commercial Capital, LLC ("Movant"), Debtor's opposition (dkt. 115), Movant's reply (dkt. 117), Notice of continued hearing (dkt. 125, amended by dkt. 126), proof of service of R/S Motion on twenty-largest unsecured creditors (dkt. 127)

The tentative ruling is to grant the R/S Motion for the reasons set forth in the motion and reply papers as set forth below, but with no foreclosure for a period to be addressed at the hearing.

(i) 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).

(ii) Effective date of relief

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

(3).

(iii) 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.

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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.

(b) Plan (dkt. 123) and Disclosure Statement ("D/S," dkt. 124)

The tentative ruling is that Debtor's Plan and D/S contemplate rental income from Debtor's interest in the 8420 South Broadway property, but that is a minor portion of Debtor's projected cash flow. Accordingly, if this Court is persuaded to adopt its tentative ruling on the R/S Motion (see above), then Debtor is directed to address whether it will need to file an amended Plan and D/S and at least an amended Exhibit "I" to the D/S (dkt. 124, at PDF pp. 19-20).

If this Court is persuaded to grant the R/S Motion, the tentative ruling is to set a **deadline of 2/20/24** for Debtor to file (BUT NOT SERVE - except on the U.S. Trustee) an amended Plan and D/S.

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

(a) Bar date: 12/5/23 (dkt. 38) (timely served, dkt. 39)

(b) Procedures Order: dkt. 6 (timely served, dkt. 9)

(c) Plan/Disclosure Statement (dkt. 123, 124): timely filed on 1/9/24
(DO NOT SERVE - except on the U.S. Trustee). See
Procedures Order.

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

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

ASE Construction, Inc.

Represented By
Anthony Obehi Egbase

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2:22-14801 Edwin Minassian

Chapter 11

#14.00 Cont'd Status Conference re: Chapter 11 Case
fr. 9/27/22, 10/11/22, 12/6/22, 12/20/22, 1/24/23,
2/21/23, 4/4/23, 4/25/23, 5/30/23, 6/13/23, 8/15/23,
9/12/23, 12/19/23, 4/9/24

Docket 1

***** VACATED *** REASON: Order Closing Case on an Interim Basis
Entered 03/06/24**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Edwin Minassian

Represented By
Onyinye N Anyama

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2:21-10956 LAX In-Flite Services, LLC

Chapter 11

#15.00 Cont'd Status Conference re: Post confirmation
fr. 02/25/21, 03/02/21, 4/6/21, 4/27/21, 5/11/21,
5/19/21, 5/26/21, 6/15/21, 6/29/21, 7/6/21, 7/20/21,
8/31/21, 9/28/21, 10/26/21, 11/9/21, 12/14/21, 12/21/21,
2/15/22, 3/1/22, 03/29/22 4/12/22, 5/10/22, 5/31/22,
8/9/22, 8/23/22, 10/11/22, 10/25/22, 11/15/22, 2/21/23
5/30/23, 12/19/23

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

Continue as set forth below. Appearances are not required on 4/9/24. (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) Deadlines/dates

This case was filed on 2/5/21, and Debtor's plan was confirmed on 8/23/22 (dkt. 302). The tentative ruling is to set a further continued Post-Confirmation Status Conference for 8/6/24 at 1:00 p.m., with no additional post-confirmation status report required, subject to being taken off calendar/mooted if a final decree is issued prior to that time.

[PRIOR TENTATIVE RULINGS OMITTED]

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CONT... LAX In-Flite Services, LLC

Chapter 11

Party Information

Debtor(s):

LAX In-Flite Services, LLC

Represented By
Jeremy H Rothstein
Yi Sun Kim
James R Felton

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:19-23303 Candelario Lora

Chapter 11

#16.00 Cont'd Status Conference re: Post Confirmation
fr. 12/17/19, 1/14/20, 02/18/20, 03/31/20, 4/21/20,
5/5/20, 6/30/20, 7/28/20, 9/1/20, 9/15/20, 9/29/20,
11/12/20, 1/5/21, 3/2/21, 6/1/21, 9/7/21, 9/14/21,
12/14/21, 3/15/22, 4/26/22, 9/20/22, 12/20/22,
1/24/23, 2/21/23, 4/25/23, 5/30/23, 6/27/23, 10/3/23,
2/6/24, 3/12/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

Appearance required by counsel for Debtor.

As previously ordered, Debtor's counsel is required to appear **in person in the courtroom**, see Order (dkt. 291). Any other parties in interest who wish to make an appearance may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

(1) Current issues

(a) Debtor's continuing failure to file post-confirmation status reports

As set forth in the "Order Setting Continued Status Conference" issued on 3/15/24 (dkt. 289, the "Order"), Debtor's counsel, James D. Hornbuckle, has repeatedly failed to file status reports and appear at status conferences. Most recently, Mr. Hornbuckle failed to meet the 4/2/24 deadline to file "a comprehensive post-confirmation status report, which must at a minimum include a spreadsheet or table that (A) lists, for each creditor, the dollar amounts paid and the date of each payment and that (B) indicates whether such payments were timely and in the full dollar amount required by the confirmed plan." Order at ¶ 2.

On 4/5/24, this Court issued an order directing Mr. Hornbuckle to appear in person and show cause why he should not be subject to a sanction of \$200.00, see dkt. 291 (the "OSC"). Mr. Honbuckle has now (belatedly, on

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CONT...

Candelario Lora

Chapter 11

4/8/24) filed a status report (dkt. 294) that recites difficulties obtaining responses and documents from Debtor. Although that is a partial excuse, it does not explain the repeated failure to file even such a partial report. In addition, filing reports the day before a hearing impose unnecessary additional burdens on the U.S. Trustee and any other parties in interest who may be monitoring this case (and on this Court's staff).

The tentative ruling is (i) to caution Mr. Hornbuckle that if he continues to disregard this Court's orders he will be subject to sanctions, (ii) to continue the OSC to be contemporaneous with the continued status conference (see part "(2)," below) to monitor whether there is better reporting in future, and (iii) to direct Mr. Hornbuckle to **appear in person in the courtroom** at that continued status conference.

(2) Deadlines/dates

This case was filed on 11/11/19, and Debtor's plan was confirmed on 11/20/20 (dkt. 218). The tentative ruling is to set a further continued post-confirmation status conference for 5/7/24 at 1:00 p.m., with a **deadline of 4/23/24** for Debtor to file the comprehensive post-confirmation status report which should have been filed on 4/2/24 (see Order, dkt. 289), or alternatively a comprehensive declaration of Mr. Hornbuckle addressing in detail why he is unable to file such a status report, and a status report addressing whether this case should be dismissed, or converted, or whether other remedies should be imposed.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Candelario Lora

Represented By
James D. Hornbuckle

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2:19-23303 Candelario Lora

Chapter 11

#16.10 Order directing debtor's counsel, James D. Hornbuckle, Esq., to appear in person and show cause why this court should not impose sanctions against him

Docket 291

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 16, 4/9/24 at 1:00 p.m.).

Party Information

Debtor(s):

Candelario Lora

Represented By
James D. Hornbuckle

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2:23-17999 Crown Jewel Properties, LLC

Chapter 11

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

Docket 1

***** VACATED *** REASON: Case dismissed**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Crown Jewel Properties, LLC

Represented By
Douglas M Neistat
Jeremy H Rothstein

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2:24-12006 Briganti Enterprise, Inc.

Chapter 11

#18.00 Cont'd hrg re: Debtor's motion for an order authorizing interim use of cash collateral pursuant to 11 U.S.C. section 363 fr. 3/26/24

Docket 6

Tentative Ruling:

Tentative Ruling for 4/9/24:

Please see the tentative ruling for the status conference (Calendar No. 19, 4/9/24 at 1:00 p.m.).

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Briganti Enterprise, Inc.

Represented By
Michael Jay Berger

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2:24-12006 Briganti Enterprise, Inc.

Chapter 11

#19.00 Cont'd status conference re: Chapter 11 case
fr. 3/26/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

Appearances required by counsel for Debtor and Debtor's principal.

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 status reports by Debtor (dkt. 36) and the Subchapter V Trustee (dkt. 42) and other filings and records in this bankruptcy case.

(a) Cash collateral motion (dkt. 6, 7), Application for hearing on shortened time (dkt. 8), Order shortening time (dkt. 13), proof of service (dkt. 23, 24, 26, 27), Notice of final hearing (dkt. 35), Interim order (dkt. 37)

The tentative ruling is to approve Debtor's use of cash collateral on a final basis, subject to the same conditions set forth in the interim order (dkt. 37).

Proposed orders: Unless otherwise ordered, Debtor is directed to lodge a proposed order 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 Subchapter V case was filed on 3/15/24.

(a) Bar date: 5/24/24 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. 33).

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CONT...

Briganti Enterprise, Inc.

Chapter 11

(b) Procedures Order: dkt. 4 (timely served, dkt. 18)

(c) Plan/Disclosure Statement: file by 90 days after the petition date
(per 11 U.S.C. 1189(b)) (DO NOT SERVE - except on the U.S.
Trustee). See Procedures Order.

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

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Briganti Enterprise, Inc.

Represented By
Michael Jay Berger

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2:23-17634 7111 Sepulveda LLC

Chapter 11

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

Docket 1

*** VACATED *** REASON: Case dismissed

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

7111 Sepulveda LLC

Represented By
Robert M Yaspan

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2:23-17634 7111 Sepulveda LLC

Chapter 11

#21.00 Cont'd hrg re: U.S. Trustee's Motion to Dismiss or Convert Case
fr. 3/5/24

Docket 44

***** VACATED *** REASON: Moot. Case dismissed.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

7111 Sepulveda LLC

Represented By
Robert M Yaspan

Movant(s):

United States Trustee (LA)

Represented By
Dare Law

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2:22-11471 Cherry Man Industries, Inc.

Chapter 11

#22.00 Cont'd Status Conference re: Chapter 11 Case
fr. 03/22/22, 03/29/22, 04/07/22, 04/12/22, 4/14/22,
4/26/22, 5/5/22, 5/10/22, 5/17/22, 5/20/22, 5/31/22,
6/14/22, 6/21/22, 6/30/22, 7/8/22, 7/26/22, 8/2/22,
9/1/22, 9/6/22, 9/20/22, 9/28/22, 10/6/22, 10/11/22,
10/25/22, 11/1/22, 11/3/22, 11/4/22, 11/18/22,
12/6/22, 12/8/22, 12/20/22, 1/3/23, 1/24/23, 2/7/23,
3/7/23, 4/4/23, 4/25/23, 6/13/23, 7/18/23, 8/15/23,
9/19/23, 10/31/23, 11/14/23, 1/23/24, 2/20/24,
3/12/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

Continue the status conference as set forth below. Appearances are not required on 4/9/24. (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 3/17/22.

(a) Bar date: 9/13/22 (per Order, dkt. 356, and Proof of Service, dkt. 359)

Admin bar date: 10/31/22 (per Order, dkt. 463, and Proof of Service, dkt. 468 & 469)

(b) Procedures Order: dkt. 9 (served on 4/11/22, dkt. 109)

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Cherry Man Industries, Inc.

Chapter 11

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 6/4/24 at 2:00 p.m. (not 1:00 p.m.)
(concurrent with status conferences in avoidance actions filed
by Trustee). No written status report required.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Cherry Man Industries, Inc.

Represented By
David S Kupetz
Asa S Hami
Victor A Sahn
Hamid R Rafatjoo
David B Golubchik

Trustee(s):

Hamid R. Rafatjoo (TR)

Represented By
Hamid R Rafatjoo
Krikor J Meshefejian
David B Golubchik
Jonathan Gottlieb

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2:22-11471 Cherry Man Industries, Inc.

Chapter 11

Adv#: 2:23-01415 Bankruptcy Estate Of Cherry Man Industries, Inc. B v. Barraza

- #23.00** Cont'd Status Conference re: Complaint for: (1) Avoidance of Preferential Transfers [11 U.S.C. Section 547]; (2) Avoidance of Actual Fraudulent Transfers [11 U.S.C. Section 548(a)(1)(A)]; (3) Avoidance of Constructive Fraudulent Transfers [11 U.S.C. 548(a)(1)(B)]; (4) Recovery of Avoided Transfers [11 U.S.C. Section 550]; and (5) Disallowance of Claims [11 U.S.C. Section 502]
fr. 12/19/23, 2/20/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

Set trial and pretrial conference dates and continue the status conference, all as set forth below. Appearances are not required on 4/9/24. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

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

(1) Current issues

This Court has reviewed the parties' joint status report (adv. dkt. 19) and the other filed documents and records in this adversary proceeding. This Court has no issues to raise *sua sponte*.

(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.)

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CONT...

Cherry Man Industries, Inc.

Chapter 11

(a) Venue/jurisdiction/authority

Defendant has consented to this Court's entry of final judgment in this avoidance action, both in the Status Report (dkt. 19, ¶ F) and in her Answer (dkt. 9, ¶ 2).

(b) Mediation

The tentative ruling is that it would be premature to order the matter to formal mediation at this time, because (A) discovery remains ongoing and (B) neither party requests formal mediation at this time, see 3/26/24 Status Report (dkt. 19) at ¶ E(3).

(c) Deadlines

This adversary proceeding has been pending since 8/31/23. The tentative ruling is (A) to approve the parties' stipulation for an extension of litigation deadlines (adv. dkt. 20) (the stipulated extended deadlines are restated below for the convenience of the parties), (B) to set litigation deadlines pertaining to the pretrial conference and trial (newly set litigation deadlines are in **bold typeface**), and (C) to continue the Status Conference, all as set forth 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: 5/16/24

Discovery cutoff (for completion of discovery): 5/30/24

Expert(s) - deadline for reports: 6/6/24

Expert(s) - discovery cutoff (if different from above): 6/13/24

Dispositive motions to be heard no later than: 7/11/24

Joint Status Report: 5/28/24

Continued status conference: 6/4/24 at 2:00 p.m. (not 1:00 p.m.)

(concurrent with status conferences in other avoidance actions filed by the chapter 11 trustee)

Lodge Joint Proposed Pretrial Order: 8/13/24

Pretrial conference: 8/27/24 at 2:00 p.m.

Deliver trial exhibits to other parties and chambers, including direct testimony by declaration unless excused: 8/29/24

Trial commencement: 9/4/24 at 9:00 a.m.

[PRIOR TENTATIVE RULING(S) OMITTED]

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CONT... Cherry Man Industries, Inc.

Chapter 11

Party Information

Debtor(s):

Cherry Man Industries, Inc.

Represented By
David S Kupetz
Asa S Hami
Victor A Sahn
Hamid R Rafatjoo
David B Golubchik

Defendant(s):

Patricia Barraza

Represented By
Derrick Talerico

Plaintiff(s):

Bankruptcy Estate Of Cherry Man

Represented By
David B Golubchik
Krikor J Meshefejian
Robert Carrasco

Trustee(s):

Hamid R. Rafatjoo (TR)

Represented By
Hamid R Rafatjoo
Krikor J Meshefejian
David B Golubchik
Jonathan Gottlieb

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

Tuesday, April 9, 2024

Hearing Room 1545

1:00 PM

2:23-12637 Robert Dwight Winter, Jr.

Chapter 11

#24.00 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

Docket 1

***** VACATED *** REASON: Cont'd to 6/25/24@1p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(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
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Tuesday, April 9, 2024

Hearing Room 1545

1:00 PM

2:23-12637 Robert Dwight Winter, Jr.

Chapter 11

#25.00 Cont'd hrg re: Objection to Claim Number 4-2 by Claimant
Department of Treasury-Internal Revenue Service
fr. 2/20/24

Docket 103

***** VACATED *** REASON: Cont'd to 6/25/24@1p.m.**

Tentative Ruling:

- NONE LISTED -

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 9, 2024

Hearing Room 1545

1:00 PM

2:23-16232 9301 Cherokee Lane, LLC, a Delaware Limited Liabil

Chapter 11

#26.00 Hrg re: BMO Bank N.A.'S Motion to Dismiss Case
Under 11 U.S.C. §§ 1112(b) and 105(a)

Docket 157

***** VACATED *** REASON: Continued to 5/7/24 at 1:00 p.m. per
stipulation (dkt. 179) and order thereon**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

9301 Cherokee Lane, LLC, a

Represented By
Marc A Lieberman
Alan W Forsley

Movant(s):

BMO Bank N.A.

Represented By
Wayne R Terry
Catherine M. G. Allen

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 9, 2024

Hearing Room 1545

1:00 PM

2:23-16232 9301 Cherokee Lane, LLC, a Delaware Limited Liabil

Chapter 11

#27.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 2/6/24, 2/20/24, 3/5/24

PMF CA REIT, LLC
vs
DEBTOR

Docket 89

***** VACATED *** REASON: Continued to 5/14/24 at 1:00 p.m. pursuant
to stipulation (dkt. 184) and order thereon.**

Tentative Ruling:

Party Information

Debtor(s):

9301 Cherokee Lane, LLC, a

Represented By
Marc A Lieberman
Alan W Forsley

Movant(s):

PMF CA REIT, LLC

Represented By
Jennifer R Tullius
Lindsay A Aragon

**United States Bankruptcy Court
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Tuesday, April 9, 2024

Hearing Room 1545

1:00 PM

2:23-16232 9301 Cherokee Lane, LLC, a Delaware Limited Liabil

Chapter 11

#28.00 Cont'd hrg re: Discovery Dispute re: Order Granting Omnibus Ex Parte Application for an Order Pursuant to Federal Rule of Bankruptcy Procedure 2004 Authorizing Secured Creditor PMF CA REIT, LLC to Issue a Subpoena Requiring the Production of Documents by (1) Banc of California, Inc.; (2) Ventura County Credit Union; (3) Goldman Sachs & Co., LLC; (4) Wells Fargo Bank, N.A. and (5) Portfolio Escrow Inc.
fr. 1/25/24, 2/6/24, 03/05/24

Docket 69

Tentative Ruling:

Tentative Ruling for 4/9/24:

Please see the tentative ruling for the status conference (Calendar No. 30, 4/9/24 at 1:00 p.m.).

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

9301 Cherokee Lane, LLC, a

Represented By
Marc A Lieberman
Alan W Forsley

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 9, 2024

Hearing Room 1545

1:00 PM

2:23-16232 9301 Cherokee Lane, LLC, a Delaware Limited Liabil

Chapter 11

#29.00 Cont'd Status Conference re: Chapter 11 Case
fr. 10/31/23, 11/28/23, 1/09/24; 2/6/24, 2/20/24,
3/5/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

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 for relief from the automatic stay (dkt. 89, "R/S Motion") filed by PMF CA REIT, LLC ("1stDOT Holder"); related documents (dkt. 90, 92, 94, 97, 102, 103-06, 110, 112); Debtor's opposition (dkt. 119, 120); Reply (dkt. 127); Order granting limited relief (dkt. 138); Debtor's appraiser declarations (dkt. 140, 147), Order continuing hearing & setting related deadlines (dkt. 162), Stipulation to extend rebuttal declarations (dkt. 147), 1stDOT Holder's appraiser declaration (dkt. 154), Order continuing hearing (dkt. 162), Stipulation & order extending deadline to file appraisal rebuttals (dkt. 174 & 175)

This matter has been continued to 5/14/24 at 1:00 p.m. See dkt. 184 & order thereon.

(b) Motion to dismiss case (dkt. 157, "MTD") filed by BMO Bank N.A. (2ndDOT Holder); Notice of hearing (dkt. 158); Witmer Declaration (dkt. 159) & Request for judicial notice (dkt. 160); Debtor's opposition (dkt. 176) and Evidentiary objection to Witmer Declaration (dkt. 177)

This matters has been continued to 5/7/24 at 1:00 p.m. See dkt. 179 & 181.

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CONT... 9301 Cherokee Lane, LLC, a Delaware Limited Liabil

Chapter 11

(c) Continued discovery dispute (see dkt. 67, 69, 88, 99-101, 114, 137, 148, & 150)

This matter was continued to this date by stipulation of the parties and order thereon (dkt. 150). The parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

(d) Debtor's settlement motion with La Montaigne, LLC (dkt. 141, "9019 Motion"), Order setting matter for hearing (dkt. 166), Supplemental memorandum of points and authorities (dkt. 169), Broker's Declaration (dkt. 170), Supplemental proof of service (dkt. 172), no opposition on file

The tentative ruling is to grant the 9019 Motion based on this Court's review of the supplemental memorandum and broker's declaration.

Proposed order(s): Unless otherwise ordered, Debtor is directed to lodge proposed order(s) on each of 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 9/25/23.

(a) Bar date: 12/8/23 (dkt. 40) (timely served, dkt. 42)

(b) Procedures Order: dkt. 4 (timely served, dkt. 10)

(c) Plan/Disclosure Statement (dkt. 60, 61): timely filed on 12/22/23
(DO NOT SERVE - except on the U.S. Trustee). See
Procedures Order.

(d) Continued status conference: 5/7/24 at 1:00 p.m., concurrent with other matters. *Brief* status report due 4/30/24.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

9301 Cherokee Lane, LLC, a

Represented By
Marc A Lieberman
Alan W Forsley

**United States Bankruptcy Court
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Hearing Room 1545

1:00 PM

2:23-12137 Vistam, Inc.

Chapter 11

#30.00 [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, 4/2/24

Docket 1

***** VACATED *** REASON: Continued to 5/7/24 at 1:00 p.m. (dkt. 158)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vistam, Inc.

Represented By
Selwyn Whitehead

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, April 9, 2024

Hearing Room 1545

1:00 PM

2:24-12614 Boisson Inc.

Chapter 11

#31.00 Hrg re: Debtor's Emergency Motion for Entry of an Interim Order:
(I) Authorizing the Debtor to Use Cash Collateral; (II) Granting
Adequate Protection; (III) Scheduling a Final Hearing; and
(IV) Granting Related Relief

Docket 7

Tentative Ruling:

Grant the motion (dkt. 7) on an interim basis, subject to (x) any opposition at the hearing, and (y) the conditions set forth below, with a final hearing on 5/7/24 at 1:00 p.m., and a deadline of 4/12/24 for the movant to file and serve a notice of the final hearing.

Judge Bason's standard conditions for use of cash collateral and/or postpetition financing (by creditors holding prepetition claims)

(1) Written order

(a) Form. Use local form

F2081-2.1.ORDER.CASH.COLLATERAL or the equivalent. Attach a copy of this tentative ruling as an exhibit, thereby adopting it as the written ruling of this Court, subject to any changes ordered at the hearing. Do not repeat the terms set forth in the motion or any stipulation. Incorporate those terms by reference (including the docket number of the document), subject to any modification by this Court.

(b) Timing. Lodge the proposed order within 7 days after the hearing. See LBR 9021-1(b)(1)(B).

(2) Minimum adequate protection

In addition to the postpetition security interests that are automatically provided pursuant to 11 U.S.C. 552 (e.g., in traceable proceeds and profits), and subject to any more comprehensive protection that may be approved, Debtor shall provide at least the following protection to any creditor with a security interest in the subject property (pursuant to 11 U.S.C. 361-364, as applicable):

(a) Insurance. For all collateral of a type that typically is insured (e.g., real property and improvements), Debtor is directed to maintain

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1:00 PM

CONT...

Boisson Inc.

Chapter 11

insurance in a dollar amount at least equal to Debtor's good faith estimate of the value of such creditor's interest in the collateral, and such insurance shall name such creditor as an additional insured. Debtor is directed to remain current on payments for such insurance.

(b) Taxes. Debtor is directed to remain current on payments on account of postpetition real estate taxes (to the extent that real estate is part of the collateral).

(c) Disclosures/access. Debtor is directed to provide, upon such creditor's reasonable request, periodic accountings of the foregoing insurance and tax obligations and payments, as well as postpetition proceeds, products, offspring, or profits from the collateral, including gross revenues and expenses and a calculation of net revenues. Debtor is directed to provide appropriate documentation of those accountings, and access for purposes of inspection or appraisal.

(3) Grant of, and limitation on, postpetition liens

The tentative ruling is to grant postpetition liens to any creditors holding secured claims by granting replacement liens, but such liens shall be limited to the same validity, priority, and amount as prepetition liens. As used herein, the "validity, priority, and amount" or any similar phrase that may be used by the parties or this Court is deemed to include the following:

(a) Extent. Such liens shall be limited to the *type* of collateral in which the creditor held a security interest as of the petition date. For example, if prepetition liens extended to inventory and accounts receivable but not equipment then postpetition liens are likewise limited (unless otherwise expressly provided by order of this Court). In addition, postpetition liens shall not extend to any avoidance actions or the proceeds thereof, any claim or recoveries under 11 U.S.C. 506(c), any "carveout" under 11 U.S.C. 552, or any claim or recoveries under 11 U.S.C. 724(a).

(b) Priority. Such liens shall be limited to the same *priority* as the security interest held by the creditor as of the petition date.

(c) Dollar amount. Such liens shall be limited to the dollar amount needed to protect the creditor against diminution in the *value* of the secured claims as of the petition date.

(d) Enforceability. Such liens shall be limited to the extent that the creditor's security interests were duly *perfected* and *valid* as of the petition date, and to the extent that they are *unavoidable*.

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CONT...

Boisson Inc.

Chapter 11

(e) Automatic postpetition perfection. Any *automatic* perfection of such liens shall be subject to any applicable limitations regarding the Court's authority, jurisdiction, or due process.

(4) Automatic disapproval of insufficiently disclosed provisions

Any provision of the type listed in FRBP 4001(c)(1)(B) or in local form F4001-2 (e.g., cross-collateralization) or any waiver of the "equities of the case" exception in 11 U.S.C. 552(b)(2) shall be deemed automatically disapproved and excepted from any order granting the motion, notwithstanding any other provision of such order, unless either: (a) such provision is specifically and prominently disclosed in the motion papers in a checklist (such as local form F4001-2), or alternatively (b) such provision is specifically identified in any proposed order granting the motion, using terminology of the type used in FRBP 4001(c)(1)(B) or local form F4001-2 (e.g., any "cross-collateralization" that is not specifically identified as such is deemed to be disapproved).

(5) Disputes

In the event of any disputes regarding the rulings in this order, the parties are directed to meet and confer and, if they cannot resolve their disputes consensually, contact Judge Bason's chambers to arrange a mutually convenient time for either a telephonic or in-person hearing to address such disputes.

Party Information

Debtor(s):

Boisson Inc.

Represented By
Ron Bender
Todd M Arnold

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
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Tuesday, April 9, 2024

Hearing Room 1545

1:00 PM

2:24-12614 Boisson Inc.

Chapter 11

#32.00 Status Conference re: Chapter 11 Case

Docket 1

Tentative Ruling:

Appearances required by counsel for Debtor (Debtor's principal is not required to appear at this status conference, but is required to attend the principal status conference on 5/7/24 at 1:00 p.m., see dkt. 3).

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) Cash collateral motion (dkt. 7), Order granting emergency hearing request (dkt. 4), opposition and reply are due at the hearing

Subject to any opposition at the hearing, the tentative ruling is to grant the cash collateral motion subject to the conditions set forth in the tentative ruling for that matter (Calendar 31, 4/9/24 at 1:00 p.m.).

Proposed orders: Unless otherwise ordered, Debtor is directed to lodge proposed orders on each of the foregoing motions 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).

(b) Failure to serve Procedures Order (dkt. 3)

The Procedures Order directs service within two court days after the entry of that order (4/5/24) - *i.e.*, by 4/9/24. As of the preparation of this tentative ruling, no proof of service is on file.

(2) Dates/procedures. This subchapter v case was filed on 4/4/24.

(a) Bar date: 6/13/24 per General Order 20-01 (70 days after petition)

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CONT...

Boisson Inc.

Chapter 11

date in Subchapter V cases) (DO NOT SERVE any notice: one will be sent by the Clerk's Office and bankruptcy noticing center).

(b) Procedures Order (dkt. 3): see part "(1)(b)" of this tentative ruling, above.

(c) Plan/Disclosure Statement: file by 90 days after the petition date (per 11 U.S.C. 1189(b)) (DO NOT SERVE - except on the U.S. Trustee). See Procedures Order.

(d) Continued status conference: 5/7/24 at 1:00 p.m., initial status report on local form F 2015-3.1.SUBV.STATUS.RPT due 4/23/24. See dkt. 3, p. 2:7-10.

Party Information

Debtor(s):

Boisson Inc.

Represented By
Ron Bender
Todd M Arnold

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 9, 2024

Hearing Room 1545

2:00 PM

2:23-16232 9301 Cherokee Lane, LLC, a Delaware Limited Liabil

Chapter 11

**#1.00 Hrg re: Motion for an Order Approving Compromise of
Controversy Between Debtor and La Montaigne, LLC
Pursuant to Federal Rule of Bankruptcy Procedure 9019**

Docket 141

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 29,
4/9/24 at **1:00 p.m.**).

Party Information

Debtor(s):

9301 Cherokee Lane, LLC, a

Represented By
Marc A Lieberman
Alan W Forsley

**United States Bankruptcy Court
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Tuesday, April 9, 2024

Hearing Room 1545

2:00 PM

2:23-15574 Aleksandr Vitalievich Sabadash

Chapter 15

#2.00 Cont'd hrg re: Application for Recognition of Foreign Main Proceeding, or in the Alternative, for Recognition of Foreign Nonmain Proceeding and Certain Related Relief
fr. 11/14/23, 12/5/23, 12/19/23, 01/10/24, 2/20/24, 3/12/24

Docket 2

Tentative Ruling:

Tentative Ruling for 4/9/24:

The parties are directed to address the effect of IFC Bank's ownership of Tavrishesky Bank. *Compare* dkt. 73 p. 2:7-17 *with* dkt. 80 p. 3:5-6 ("Mr. Gaava, and [Mr. Sabadash's bankruptcy estate], are not on any sanctions list."). The parties are not invited to address the other issues, as to which this Court anticipates issuing a written decision shortly after this 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: Memorandum Decision Granting Petition for Recognition of Foreign Proceeding (dkt. 67, the "Memorandum Decision"); Order Continuing Hearing on Petition for Recognition of Foreign Proceeding and Briefing Schedule (dkt. 72); Mr. Sabadash's supplemental brief in response to Memorandum Decision (dkt. 73), Request for judicial notice (dkt. 74), Declarations of Keith C. Owens (dkt. 75), Darya Trubina (dkt. 76), and Michael Zorkin (including Mr. Zorkin's supplemental declaration) (dkt. 77 & 79); Mr. Gavva's supplemental brief in opposition to Mr. Sabadash's motion for reconsideration of Memorandum Decision (dkt. 80), Declaration of Mr. Gavva (dkt. 82), Evidentiary objections to Trubina Decl. (dkt. 83); Mr. Gavva's supplemental brief in opposition to Mr. Sabadash's motion for reconsideration of Memorandum Decision based on 12/06/23 Russian Appellate Ruling (dkt. 84), Declaration of Alexander Kirpichev (dkt. 85); Mr. Sabadash's

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CONT... Aleksandr Vitalievich Sabadash

Chapter 15

supplemental brief in response to Memorandum Decision (dkt. 86),
Declarations of Anton Asoskov (dkt. 87) and Michael Zorkin (dkt. 88); Order
setting continued hearing (dkt. 89).

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Aleksandr Vitalievich Sabadash

Represented By
Benjamin R King
Noah Weingarten
Schuyler Carroll
Keith C Owens
Michael Zorkin

Movant(s):

Aleksandr Vitalievich Sabadash

Represented By
Benjamin R King
Noah Weingarten
Schuyler Carroll
Keith C Owens
Michael Zorkin

**United States Bankruptcy Court
Central District of California
Los Angeles
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Hearing Room 1545

2:00 PM

2:23-15574 Aleksandr Vitalievich Sabadash

Chapter 15

#3.00 Cont'd Status Conference re: Recognition of a Foreign Proceeding
fr. 11/14/23, 12/5/23, 12/19/23, 01/10/24, 2/20/24, 3/12/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

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

See Calendar No. 3 (4/9/24 at 2:00 p.m.).

(2) Dates/procedures. This chapter 15 petition for recognition was filed on 8/29/23.

(a) Continued status conference: 6/4/24 at 2:00 p.m. Mr. Gavva and Mr. Sabadash may each file *brief* written status reports by no later than 5/21/24.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Aleksandr Vitalievich Sabadash

Represented By
Benjamin R King
Noah Weingarten
Schuyler Carroll
Keith C Owens
Michael Zorkin

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Hearing Room 1545

2:00 PM

2:22-14320 Golden Sphinx Limited

Chapter 15

#4.00 Cont'd hrg re: Motion for relief from stay [NA]
[Garry Y. Itkin vs. Golden Sphinx Limited]
fr. 10/11/22, 11/8/22, 11/15/22, 2/7/23,
3/7/23, 5/30/23, 9/7/23, 12/5/23, 12/19/23, 3/5/24,
3/12/24

GARRY Y. ITKIN
vs
DEBTOR

Docket 49

Tentative Ruling:

Tentative Ruling for 4/9/24:

Please see the tentative ruling for the status conference (Calendar No. 6, 4/9/24 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Golden Sphinx Limited

Represented By
Michael Zorkin
Kyle Ortiz
Kurt Ramlo

Movant(s):

Garry Y. Itkin

Represented By
Daniel J McCarthy
Boris Treyzon

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Central District of California
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Hearing Room 1545

2:00 PM

2:22-14320 Golden Sphinx Limited

Chapter 15

#5.00 Cont'd hrg re: Motion for relief from stay [NA]
[AFB P-Trading One, Inc. vs Garry Y. Itkin]
fr. 10/11/22, 11/8/22, 11/15/22, 2/7/23,
3/7/23, 5/30/23, 9/7/23, 12/5/23, 12/19/23, 3/5/24,
3/12/24

GARRY Y. ITKIN
vs
DEBTOR

Docket 48

Tentative Ruling:

Tentative Ruling for 4/9/24:

Please see the tentative ruling for the status conference (Calendar No. 6, 4/9/24 at 2:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Golden Sphinx Limited

Represented By
Michael Zorkin
Kyle Ortiz
Kurt Ramlo

Movant(s):

Garry Y. Itkin

Represented By
Daniel J McCarthy
Boris Treyzon

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Hearing Room 1545

2:00 PM

2:22-14320 Golden Sphinx Limited

Chapter 15

#6.00 Cont'd Status Conference
fr. 11/14/23, 12/5/23, 12/19/23, 3/5/24, 3/12/24

Docket 116

Tentative Ruling:

Tentative Ruling for 4/9/24:

This Court anticipates issuing, before the start of this hearing, a revised draft of the correspondence with the Royal Court of Jersey and hearing brief oral argument about whether to make any final changes.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Golden Sphinx Limited

Represented By
Michael Zorkin
Kyle Ortiz
Kurt Ramlo

**United States Bankruptcy Court
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Hearing Room 1545

2:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 7

#7.00 Cont'd hrg re: Creditor Pravati Credit Fund III LP's Motion for Summary Judgment on Motion to Disallow Proof of Claim No. 8-1 by Amicus Capital Group, LLC fr. 11/15/22, 12/20/22, 6/13/23, 9/19/23, 10/31/23, 1/09/24

Docket 548

Tentative Ruling:

Tentative Ruling for 4/9/24:

Please see the tentative ruling for the status conference (Calendar No. 11, 4/9/24 at 2:00 p.m.).

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael S Kogan

Movant(s):

Pravati Credit Fund III LP

Represented By
Aram Ordubegian
Annie Y Stoops
Michael W Brown
Dylan J Yamamoto

Trustee(s):

Timothy Yoo (TR)

Represented By
Monica Y Kim

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2:21-12517 Law Offices of Brian D. Witzer

Chapter 7

#8.00 Cont'd hrg re: Creditor Pravati Credit Fund III LP's Motion to Disallow Claim by Acosta & Associates LLC as Scheduled by Debtor fr. 4/12/22, 5/31/22, 6/21/22, 7/8/22, 7/26/22, 8/23/22, 9/6/22, 12/20/22, 6/13/23, 9/19/23, 10/31/23, 1/09/24

Docket 301

***** VACATED *** REASON: Order approving stip to continue to July 9, 2024 at 11:00 a.m. [dkt. 791]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael S Kogan

Movant(s):

Pravati Credit Fund III LP

Represented By
Aram Ordubegian
Annie Y Stoops
Michael W Brown
Dylan J Yamamoto

Trustee(s):

Timothy Yoo (TR)

Represented By
Monica Y Kim

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

Tuesday, April 9, 2024

Hearing Room 1545

2:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 7

#9.00 Cont'd hrg re: Creditor Pravati Credit Fund III LP's Motion to Disallow to Proof of Claim No. 8-1 for Amicus Capital Group, LLC for Lack of Supporting Documentation
fr. 4/12/22, 5/31/22, 6/21/22, 7/8/22, 7/26/22, 8/23/22, 9/6/22, 12/20/22, 6/13/23, 9/19/23, 10/31/23, 1/09/24

Docket 299

Tentative Ruling:

Tentative Ruling for 4/9/24:

Please see the tentative ruling for the status conference (Calendar No. 11, 4/9/24 at 2:00 p.m.).

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael S Kogan

Movant(s):

Pravati Credit Fund III LP

Represented By
Aram Ordubegian
Annie Y Stoops
Michael W Brown
Dylan J Yamamoto

Trustee(s):

Timothy Yoo (TR)

Represented By
Monica Y Kim

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

Tuesday, April 9, 2024

Hearing Room 1545

2:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 7

#10.00 Cont'd hrg re: Creditor Pravati Credit Fund III LP's Motion to Disallow to Proof of Claim No. 10-1 for Harold Wrobel for Lack of Supporting Documentation fr. 4/12/22, 5/31/22, 6/21/22, 7/8/22, 7/26/22, 8/23/22, 9/6/22 12/20/22, 6/13/23, 9/19/23, 10/31/23, 1/09/24

Docket 300

Tentative Ruling:

Tentative Ruling for 4/9/24:

Please see the tentative ruling for the status conference (Calendar No. 11, 4/9/24 at 2:00 p.m.).

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael S Kogan

Movant(s):

Pravati Credit Fund III LP

Represented By
Aram Ordubegian
Annie Y Stoops
Michael W Brown
Dylan J Yamamoto

Trustee(s):

Timothy Yoo (TR)

Represented By
Monica Y Kim

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

Tuesday, April 9, 2024

Hearing Room 1545

2:00 PM

2:21-12517 Law Offices of Brian D. Witzer

Chapter 7

#11.00 Cont'd Status Conference re: Chapter 7 Case
fr. 3/31/21, 4/27/21, 5/11/21, 6/15/21, 6/29/21,
7/6/21, 07/20/21, 07/22/21, 8/17/21, 09/14/21,
9/22/21, 10/26/21, 11/16/21, 11/30/21, 1/18/22,
2/15/22, 2/24/22, 3/15/22, 3/29/22, 4/12/22,
5/10/22, 5/31/22, 6/14/22, 7/8/22, 7/26/22, 8/23/22,
9/6/22, 11/15/22, 12/20/22, 2/21/23, 4/25/23, 6/13/23,
7/19/23, 8/8/23, 9/19/23, 10/17/23, 11/14/23, 1/09/24,
2/6/24, 3/12/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/9/24:

Continue all matters on calendar for today, all as set forth below.
Appearances are not required on 4/9/24. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

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

(1) Current issues

(a) Motion for summary judgment by Creditor Pravati Credit Fund III LP ("Pravati") (dkt. 548, 549, 550), Opposition by Amicus Capital Group, LLC ("Amicus") (dkt. 557, 555), Reply (dkt. 558)

Continue to 7/9/24 at 11:00 a.m., concurrent with the continued hearing on Pravati's motion to disallow the claim of Acosta & Associates (see part "(1)(c)," below) with a deadline of 6/25/24 for a *brief* status report from Pravati.

**United States Bankruptcy Court
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Los Angeles
Neil Bason, Presiding
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CONT...

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Chapter 7

(b) Pravati's Motion to disallow Amicus' proof of claim ("POC") No. 8-1 in its entirety (dkt. 299), Response by Amicus (dkt. 342), Pravati's Omnibus Reply (dkt. 346, "Pravati's Omni. Reply")

Continue to 7/9/24 at 11:00 a.m., concurrent with the continued hearing on Pravati's motion to disallow the claim of Acosta & Associates (see part "(1)(c)," below) with a deadline of 6/25/24 for a *brief* status report from Pravati.

(c) Pravati's Motion to disallow Acosta & Associates, LLC's ("Acosta") claim as scheduled by Debtor in its entirety (dkt. 301), Opposition by Acosta (dkt. 340), Pravati's Omni. Reply (dkt. 346), Omnibus Statement of Acosta (dkt. 429, "Acosta's Omni. Stmt."), Order approving stipulated continuance (dkt. 791)

This Court has approved a stipulated continuance of this matter to 7/9/24 at 11:00 a.m., see dkt. 791. The tentative ruling is to set a deadline of 6/25/24 for a *brief* status report from Pravati.

(d) Pravati's Motion to disallow Harold Wrobel's POC No. 10-1 in its entirety for lack of supporting documents (dkt. 300), Debtor's Omni. Reply (dkt. 343), Pravati's Omni. Reply (dkt. 346)

Continue to 7/9/24 at 11:00 a.m., concurrent with the continued hearing on Pravati's motion to disallow the claim of Acosta & Associates (see part "(1)(c)," above) with a deadline of 6/25/24 for a *brief* status report from Pravati.

Proposed scheduling order re Pravati claim objections: Unless otherwise ordered, Pravati is directed to lodge a single proposed scheduling order covering all the foregoing matters via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)). (It is not necessary to attach a copy of this tentative ruling.) The scheduling order should be linked to the Bankruptcy Petition rather than to any one claim objection, because it relates to all claim objections, not just one.

(2) Dates/procedures. This case was filed on 3/29/21 and converted from chapter 11 to chapter 7 on 12/19/22 (dkt. 576).

(a) Continued status conference: 7/9/24 at 11:00 a.m. (**not** 2:00 p.m.),

**United States Bankruptcy Court
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CONT...

Law Offices of Brian D. Witzer

Chapter 7

concurrent with other matters. No status report from Debtor required.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael S Kogan

Trustee(s):

Timothy Yoo (TR)

Represented By
Monica Y Kim