

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

Thursday, April 11, 2024

Hearing Room 1545

8:00 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: 161 437 4191

Password: 522979

Meeting URL: <https://cacb.zoomgov.com/j/1614374191>

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 -

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2:22-15857 Charbel Elkhoury

Chapter 13

#1.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1
(n) and (w) to modify plan or suspend plan payments

Docket 76

Tentative Ruling:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 79).

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):

Charbel Elkhoury

Represented By
Matthew D. Resnik

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:21-18312 Marsha Field Aligo

Chapter 13

#2.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1
(n) and (w) to modify plan or suspend plan payments

Docket 39

***** VACATED *** REASON: Resolved. See dkt. 45 and order thereon.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Marsha Field Aligo

Represented By
H. Jasmine Papian

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:22-15868 Larry Donnell Robinson

Chapter 13

#3.00 Hrg re: Motion under Local Bankruptcy Rule 3015-1
(n) and (w) to modify plan or suspend plan payments

Docket 66

Tentative Ruling:

Appearances required, absent either (1) an agreement with the Chapter 13 Trustee's office to further continue this matter or (2) withdrawal of the motion. The tentative ruling is to grant the motion to modify, subject to the terms proposed by the Chapter 13 Trustee (dkt. 90).

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

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:23-18208 Meir Siboni

Chapter 13

#4.00 Hrg re: Objection to Claim Number

<u>Claim No.#</u>	<u>Claimant</u>
5	Estate of Vera Menlo
6	Miracle Mile Properties, LP
7	Frank Menlo
8	Miracle Mile Properties, LP
9	Miracle Mile Properties, LP
10	Miracle Mile Properties, LP
11	Miracle Mile Properties, LP
12	Miracle Mile Properties, LP
13	Elite Investment Management Group, LLC

Docket 56

Tentative Ruling:

Please see the tentative ruling for Calendar No. 6 (4/11/24 at 8:30 a.m.).

Party Information

Debtor(s):

Meir Siboni

Represented By
Shai S Oved

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:23-18208 Meir Siboni

Chapter 13

#5.00 Hrg re: Motion For Sanctions pursuant to FED.R.BANK.P.9011

Docket 48

Tentative Ruling:

Please see the tentative ruling for Calendar No. 6 (4/11/24 at 8:30 a.m.).

Party Information

Debtor(s):

Meir Siboni

Represented By
Shai S Oved

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:23-18208 Meir Siboni

Chapter 13

#6.00 Hrg re: Motion for Order Dismissing
Debtor's Chapter 13 Bankruptcy Case

Docket 62

Tentative Ruling:

Appearances required.

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

Due to their interrelated nature, and for convenience, the following matters are all being addressed in this combined tentative ruling.

(1) Omnibus claim objections (dkt. 56, 57), Oppositions of Elite Investment Management Group, LLC (dkt. 68), Menlo parties (dkt. 69, 70), Debtor's replies (dkt. 72, 74, 76, 78, 84) & evidentiary objections (dkt. 73, 75, 83)

(a) Overrule the claim objections without prejudice

The tentative ruling is that, as argued in the opposition papers, Debtor's claim objections are procedurally improper both because they purport to be omnibus objections but do not qualify to be omnibus, and because they include claims as to liens that require an adversary proceeding. For these procedural reasons alone, the tentative ruling is to overrule the objections.

Alternatively, to the extent, if any, that the claim holders must show some sort of prejudice from these procedural deficiencies, the tentative ruling is that they are correct that mixing all of the claim objections together does cause prejudice by confusing the issues. Therefore, again, the tentative ruling is to overrule the objections.

Alternatively, there is a practical problem with combining multiple claim objections involving different parties and issues into a single document: in the event this Court were to rule on the merits, and claimant A were to appeal,

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but claimant B does not, is the order final as to claimant B? This problem is taken care of as to authorized omnibus claim objections by Rule 3007(f) (Fed. R. Bankr. P.), but Debtor's combined claim objection has no such safeguard.

Alternatively, the tentative ruling is that Debtor has not overcome the *prima facie* validity of the claims, for the reasons stated in the opposition papers. See Elite Opp. (dkt. 68) pp. 6:1:8:28; Menlo Opp. (dkt. 69) pp. 2:23-8:2. This is another reason to overrule the claim objections.

Alternatively, the tentative ruling is that even if there were no *prima facie* validity of the proof of claim (which there is) Debtor has not established a sufficient ground for objection under any of the paragraphs of 11 U.S.C. 502(b). See *Travelers Cas. & Sur. Co. of Am. V. Pacific Gas & Elec. Co.*, 549 U.S. 443, 452 (2007) ("we generally presume that claims enforceable under applicable state law will be allowed in bankruptcy unless they are expressly disallowed" under section 502); *In re Rodriguez*, 375 B.R. 535, 545 (9th Cir. BAP 2007) (unless there is a basis under section 502(b) to disallow, the bankruptcy court must allow the claim) (citation omitted); *In re Consolidated Pioneer Mortg.*, 178 B.R. 222, 225-26 (9th Cir. BAP 1995) (describing shifting burdens of proof); *In re Heath*, 331 B.R. 424 (9th Cir. BAP 2005) (sufficiency of claim objections), and *In re Campbell*, 336 B.R. 430 (9th Cir. BAP 2005) (same); and see also *In re SNTL Corp.*, 571 F.3d 826 (9th Cir. 2009).

Put differently, Debtor's vague and at times inconsistent allegations (see, e.g., dkt. 68, p. 7:11-16) are too weak to shift the burden to the claimants to prove the validity of their claims. Debtor must do more than say "duress" without any details, allege inconsistently that he did and did not receive funds, allege that liquidated and non-contingent debts are somehow unliquidated and contingent, and make other confusing and unclear allegations and arguments.

For all of these alternative reasons the tentative ruling is to overrule the claim objections without prejudice.

To be clear, this Court takes very seriously Debtor's allegations of duress, based on the alleged power of the Menlo Creditors within the social, religious and/or business community in which they and Debtor live and work. But the facts are too vague - e.g., why, in a city as large as Los Angeles, did Debtor believe he could not find business partners other than the Menlo Creditors, such that he felt himself to be under sufficient duress to force him, allegedly, to sign documents without reading them and accept millions of dollars of harm silently for years? It is not enough, in the face of signed legal

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documents, simply to allege "duress" and failure to read or obtain an understanding of the documents.

In other words, this Court presumes that Debtor might well be able to allege facts and assert legal theories sufficient to state grounds for relief under one or more paragraphs of section 502(b), and to overcome the *prima facie* validity of the claims. But the tentative ruling is that his vague and inconsistent allegations do not meet those tests.

(b) Evidentiary objections related to the proof of claim objections

The tentative ruling is not to reach the parties' evidentiary objections because they would make no difference to the outcome. Alternatively, the tentative rulings on the evidentiary issues are as follows.

(i) Jonathan Menlo (dkt. 68, p. 12); Debtor's obj. (dkt. 73)

Sustain Debtor's objection (Obj. dkt. 73 p. 2:5-6) to the "books and records" aspect of Jonathan Menlo's declaration due to lack of foundation or personal knowledge as to the elements of FRE 803(6), fka the "books and records" exception to the hearsay rule. (But the tentative ruling is that this makes no difference because, even without Jonathan Menlo's declaration, Debtor has not overcome the *prima facie* validity of the proofs of claim and, alternatively, Debtor has not established that any of the paragraphs of 11 U.S.C. 502(b) applies, as set forth above.)

The tentative ruling is to overrule all the other objections to Jonathan Menlo's declaration. As for Debtor's request to set an evidentiary hearing, the tentative ruling is that Debtor has not presented sufficient evidence to warrant an evidentiary hearing at this time.

(ii) Frank Menlo declaration (dkt. 69-1); Debtor's objections (dkt. 75)

Same as for Jonathan Menlo.

(iii) Rabbi Bing declaration (dkt. 8, 84); Menlo Creditors' objection (dkt. 83)

Overrule the objection to the lack of signature because that was cured. Overrule the broad objection to the form allegedly not complying with 28 U.S.C. 1746 because the exception for those matters stated on information and belief is standard, and no authority has been cited that adding such language takes away from the validity of the declaration as to matters *not* stated to be on information and belief.

Sustain the objection as to the lack of foundation for any knowledge or

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belief as to Frank Menlo's intentions.

(2) Motion To Dismiss the Adversary Proceeding Complaint's claims no. 5, 6 & 7 ("MTD-Adv," *Siboni v. Menlo et. al*, 2:24-ap-01027-NB, adv. dkt. 8), opposition (adv. dkt. 15) & reply (adv. dkt. 16)

The parties are directed to appear to address this issues set forth in the tentative ruling for the adversary proceeding status conference for today (Calendar No. 8, 4/11/24 at 8:30 a.m.).

(3) Motion to dismiss bankruptcy case ("MTD-Case," dkt. 62, 67, & 71) and 9011 motion (dkt. 48, 49, 53, 66 & 71)

The tentative ruling is that Debtor's counsel had no good faith basis to disregard as "contingent" or "unliquidated" the secured claims of the Menlo Creditors (putting aside for present purposes the so-called Personal Guaranty Claims that Debtor claims to have forgotten when he verified his bankruptcy petition). Debtor had commenced prepetition litigation involving those secured claims, and has not denied knowing about them.

Those claims easily add up to enough to put Debtor well over the dollar limit in 11 U.S.C. 109(3). Therefore, Debtor's counsel had no good faith basis to conclude that Debtor was eligible for chapter 13.

In addition, the tentative ruling is that sanctions are appropriate against Debtor - not just his counsel - because parties are charged with the acts and omissions of their counsel, unless an exception is established. No exception has been asserted, let alone established. Therefore, they are jointly and severally liable for the sanctions.

The motion for sanctions under Rule 9011 seeks compensatory sanctions of \$29,036.25, and that is supported by authenticated daily timesheets and declarations about counsel's experience and skills in support of their hourly rates. There is no contrary evidence or argument. The tentative ruling is to award all of these requested sanctions. (The tentative ruling is not to rely in any way on the so-called "Laffey Matrix," which is not sufficiently supported to be admitted in evidence (dkt. 48-2 Ex.A); but the tentative ruling is that this makes no difference.)

Even if sanctions were not warranted (and they are), the tentative ruling is that Debtor is not eligible for chapter 13 not only due to the secured claims but also, alternatively, due to the Personal Guaranty Claims. Therefore, for multiple alternative reasons, Debtor is well over the dollar limit

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of section 109(e). In other words, even if sanctions were not appropriate (and they are), this case must be converted or dismissed.

As for the choice among dismissal, conversion to chapter 7, and conversion to chapter 11, the tentative ruling is that Debtor is not barred from exercising his right to convert to chapter 11, and in that event dismissal or re-conversion to chapter 7 is not warranted on the present record. True, the foregoing tentative ruling is that Debtor is charged with his counsel's acts and omissions *for purposes of sanctions*. But no authority has been cited that Debtor cannot be trusted to administer the case as a "debtor in possession" based on the acts or omissions of his counsel when, as in this case, based on Debtor's testimony at the section 341(a) meeting of creditors, he does not appear to understand the technical bankruptcy terms of "contingent" and "unliquidated." In addition, this is reinforced by Debtor's apparent assertion that he does not always understand English. See Complaint (2:24-ap-01027-NB, adv. dkt. 1, p. 6:2 & p. 15:14).

For all of these reasons, the tentative ruling is that, although Debtor is "on thin ice" when it comes to being trusted with the powers and duties of a debtor in possession, this Court cannot bar Debtor from exercising his right to convert this case to chapter 11 under 11 U.S.C. 1307(b) (if he chooses to do so, as he has indicated he plans to do). Nor is this Court persuaded that in the event of conversion to chapter 11 this Court should, based on the current MTD-Case or *sua sponte*, order the appointment of a chapter 11 trustee (11 U.S.C. 1104) or convert this case to chapter 7 (11 U.S.C. 1112) or dismiss this case (*id.*).

(4) This Court's *sua sponte* rulings relevant to all matters

The tentative ruling is that the following issues make no difference to the outcome of any matters on calendar for today. But the tentative ruling is also that it is appropriate for this Court to address these issues both for completeness of the record and for the parties' future reference.

(a) Oved declarations

The tentative ruling is to disregard all of the declarations of Mr. Oved because they are largely argument and based on lack of personal knowledge. In future, Mr. Oved is encouraged to tailor his declarations more precisely to the types of things for which attorneys' declarations are appropriate (*e.g.*, authenticating documents or records of which this Court can take judicial notice).

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(b) Debtor's declarations

As for Debtor's declarations,

- (i) they purport to verify the "foregoing" facts not the "following" facts (see, e.g., dkt. 56, p. 11:3, emphasis added), which appears to be an incorrect reference (of course, it is conceivable that Debtor intended to verify all of the factual allegations contained in whatever document was "foregoing" to his declaration; but that broad an assertion, without distinguishing facts from argument, is not an appropriate way to verify facts - the declaration itself should state the facts, not attempt to incorporate another document);
- (ii) they purport to be based on "my personal knowledge or knowledge obtained in the course of my employment" (*id.*, p. 11:3-4, emphasis added) and, because the emphasized language is contrasted ("or") with "personal knowledge," the implication is that this is non-personal knowledge, *i.e.*, perhaps some sort of books and records exception (?), but not meeting the requirements of FRE 803(6) - in other words, it is impossible to tell what allegations are based on "personal knowledge," rendering the declarations worthless; and
- (iii) Mr. Siboni has alleged that he does not always understand English, so how can he sign declarations in English?

(c) Confusing papers

More generally, Debtor's somewhat inconsistent and confusing papers make it difficult for parties in interest to respond, or for this Court to analyze and resolve the issues.

(d) Conclusion

Debtor's counsel is encouraged to comply with the evidentiary rules and the usual formalities of practice. Failure to do so makes the issues confused, inappropriately shifts the burdens to other parties (and this Court), and may result in adverse rulings or other consequences.

Proposed order(s): Unless otherwise ordered, the Elite and Menlo parties are directed to lodge proposed order(s) on the foregoing

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matter(s) via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)) and attach a copy of this entire tentative ruling, thereby incorporating it as this Court's actual ruling as relevant to each matter.

Party Information

Debtor(s):

Meir Siboni

Represented By
Shai S Oved

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

#7.00 Cont'd hrg re: Motion to Dismiss Fifth, Sixth and Seventh Claims for Relief Pursuant to FRCP 12(b)(6) fr. 4/9/24

Docket 8

Tentative Ruling:

Tentative Ruling for 4/11/24:

Please see the tentative ruling for the adversary status conference (Calendar No. 8, 4/11/24 at 8:30 a.m.).

Tentative Ruling for 4/9/24:

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

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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
Paul P Young

Plaintiff(s):

Meir Siboni

Represented By
Shai S Oved

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

- #8.00** 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, 4/9/24

Docket 1

Tentative Ruling:

**Tentative Ruling for 4/11/24:
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' 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") 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 *a/so* Mot. Dism. Bankr. Case (dkt. 62) p.

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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).]

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.)

(a) Venue/jurisdiction/authority

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

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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 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.

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Meir Siboni

Chapter 13

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

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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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

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(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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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.

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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

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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CONT... Meir Siboni

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Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:22-11956 Luis B Rosales

Chapter 13

#9.00 Cont'd hrg re: Motion under Local Bankruptcy Rule 3015-1
(n) and (w) to modify plan or suspend plan payments
fr. 1/11/24, 3/14/24

Docket 67

Tentative Ruling:

Tentative Ruling for 4/11/24:

Appearances required.

At the hearing on 3/14/24 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 3/14/24:

Appearances required.

At the hearing on 1/11/24 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 1/11/24:

Appearances required, absent either (1) an agreement with the Chapter 13

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CONT...

Luis B Rosales

Chapter 13

Trustee's office to further continue this matter or (2) withdrawal of the motion. There is no tentative ruling, but the parties should be prepared to address the issues raised by the Chapter 13 Trustee (dkt. 74).

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):

Luis B Rosales

Represented By
Lionel E Giron

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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9:30 AM

2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 9:30 AM
CONFIRMATION CALENDAR CAN BE VIEWED ON THE
COURT'S WEBSITE (www.cacb.uscourts.gov) UNDER:
JUDGES>BASON, N.>CHAPTER 13>CONFIRMATION HEARINGS CALENDAR**

Docket 0

Tentative Ruling:

- NONE LISTED -

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11:00 AM
2:00-00000

Chapter

**#1.00 PLEASE BE ADVISED THAT THE CHAPTER 13 HEARINGS
at 11:00 AM CAN BE VIEWED ON THE COURT'S WEBSITE
(www.cacb.uscourts.gov) UNDER: JUDGES>BASON, N.>CHAPTER 13**

Docket 0

Tentative Ruling:

- NONE LISTED -

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2:24-12499 Arturo Mancilla

Chapter 13

#1.00 [Judge Brand's Case]

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

Docket 6

Tentative Ruling:

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

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

Key documents reviewed (in addition to motion papers): Order setting hearing on shortened time (dkt. 12), Notice of hearing (dkt. 14), Proof of service of notice (dkt. 15), 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

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CONT...

Arturo Mancilla

Chapter 13

is required). If written arguments appear necessary then this court will set a briefing schedule at the hearing.

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

Arturo Mancilla

Represented By
Jaime A Cuevas Jr.

Movant(s):

Arturo Mancilla

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

Trustee(s):

Nancy K Curry (TR)

Pro Se