

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

Tuesday, April 30, 2024

Hearing Room 1545

9:00 AM
2:00-000000

Chapter

- #1.00** Hearings in Judge Bason's courtroom (1545) are simultaneously:
- (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices),
 - (2) via ZoomGov video, and
 - (3) via ZoomGov telephone.

You are free to choose any of these options, except that evidentiary hearings/trials must be in person in the courtroom (unless otherwise ordered). You do not need to call Chambers for advance approval or notice. ZoomGov appearances are free.

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 161 719 6513

Password: 566905

Meeting URL: <https://cacb.zoomgov.com/j/1617196513>

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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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10:00 AM

2:19-12302 La Chanda Charlene Webb

Chapter 13

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

CARRINGTON MORTGAGE SERVICES, LLC
vs
DEBTOR

Docket 135

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

Tentative Ruling:

Party Information

Debtor(s):

La Chanda Charlene Webb

Represented By
Hale Andrew Antico

Movant(s):

CARRINGTON MORTGAGE

Represented By
Josephine E Salmon
Joseph C Delmotte

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 30, 2024

Hearing Room 1545

10:00 AM

2:20-18844 Graciela Gomez

Chapter 13

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

NEWREZ LLC
vs
DEBTOR

Docket 102

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.

Key documents reviewed (in addition to motion papers): Debtor's response (dkt. 107), Debtor's Third Amended Plan (dkt. 66)

Debtor is directed to clarify whether she asserts an interest in the Property

Prior to the petition date, the original borrower executed an unauthorized Grant Deed transferring a 2% fractional interest in the Property to Debtor. R/S Motion (dkt. 102) at Ex. 4. Debtor's Third Amended Plan (dkt. 66, the "Plan"), which was confirmed on 9/23/21 (dkt. 69), does not include the Property, and Debtor did not schedule the Property (dkt. 17, p. 4). It therefore appears that this might be a "hijacked" case, and that Debtor might be innocent of any involvement. See e.g., *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017) (describing hijacking); *In re Dorsey*, 476 B.R. 261 (Bankr. C.D. Cal. 2012) (same). However, Debtor's counsel did file an opposition to the R/S Motion, which states that "Debtor's attorney's office contacted Debtor re MFR and re curing the payment via APO." Dkt. 107 at ¶ 3(c). At the hearing, counsel is directed to clarify whether Debtor does in fact assert any interest in the Property, or whether the opposition was filed only in an abundance of caution to preserve Debtor's rights (possibly because

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CONT... Graciela Gomez

Chapter 13

counsel had not yet been able to contact her client to ascertain whether she did in fact claim any interest in the Property). This Court notes that according to the petition, Debtor lives in Long Beach, while the Property at issue is located in Elk Grove, a suburb of Sacramento.

To the extent Debtor does assert any interest in the Property, the tentative ruling is that on the current record it does not appear that it would be feasible for Debtor to cure the delinquency of approximately \$125,000.

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).

Effective date of relief

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

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

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CONT... Graciela Gomez

Chapter 13

Debtor was involved. The tentative ruling in this particular case is that there is not sufficient evidence and notice.

No prejudice to Debtor intended. As discussed above, it appears that this might be a "hijacked" case, and that Debtor might be innocent of any involvement. In a hijacking case, the Debtor faces the legitimate concern of being subject to a 180-day bar and other adverse consequences if, for example, Debtor later requests and obtains a voluntary dismissal and subsequently needs to file another bankruptcy petition. See, e.g., 11 U.S.C. 109(g)(2), 362(b)(21)(A). There is authority that section 109 "eligibility issues" are nonjurisdictional, can be waived, forfeited, or subject to estoppel, and should not be applied if that would produce an "illogical, unjust, or capricious result, or when the benefit of dismissal would inure to a bad faith creditor." *In re Leaffy*, 489 B.R. 545, 550-51 (9th Cir. BAP 2012) (citing cases including under 109(g)(2)). See also *In re Mendez*, 367 B.R. 109, 116-17 (9th Cir. BAP 2007); *In re Luna*, 122 B.R. 575, 577 (9th Cir. BAP 1991); *Dorsey*, 476 B.R. 261, 270. The same principles apply to any other adverse consequences from a hijacking. Accordingly, the tentative ruling is to condition the relief from the automatic stay granted in this tentative ruling such that no adverse consequences apply to Debtor from the hijacking, including under 11 U.S.C. 109(g)(2) or 362(b)(21)(A). Note: None of the foregoing will shield Debtor if it turns out that Debtor was not, in fact, innocent of any involvement in the apparent hijacking or other abusive scheme.

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):

Graciela Gomez

Represented By
Caroline S Kim

Movant(s):

NewRez LLC dba Shellpoint

Represented By
Joseph C Delmotte

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CONT... Graciela Gomez

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:22-15943 Gretchen D Zalamea

Chapter 13

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

NEW AMERICAN FUNDING, LLC
vs
DEBTOR

Docket 34

***** VACATED *** REASON: This matter is scheduled to be heard on
05/21/24 at 10:00 a.m. per parties' stipulation and order thereon**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gretchen D Zalamea

Represented By
Jaime G Montecarlo

Movant(s):

New American Funding, LLC F/K/A

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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10:00 AM

2:22-16248 Maria Johnson

Chapter 13

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

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 45

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. 47).

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 Johnson

Represented By
Jaime A Cuevas Jr.

Movant(s):

U.S. Bank National Association

Represented By
Natalie E Lea
Jennifer C Wong

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

10:00 AM

2:23-11462 Damian Lopez

Chapter 13

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

U.S. BANK TRUST NATIONAL ASSOC
vs
DEBTOR

Docket 34

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. 36/38).

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):

Damian Lopez

Represented By
Onyinye N Anyama

Movant(s):

U.S. Bank Trust National

Represented By
Fanny Zhang Wan
Sean C Ferry

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

2:23-13902 Tim Nguyen

Chapter 13

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

THE HUNTINGTON NATIONAL BANK
vs
DEBTOR

Docket 43

***** VACATED *** REASON: Voluntary Dismissal of Motion Filed
04/24/24 (Dkt. 46)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tim Nguyen

Represented By
Steven A Alpert

Movant(s):

The Huntington National Bank

Represented By
Joseph C Delmotte

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

10:00 AM

2:23-18602 Ricki Denise West

Chapter 7

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

HARD MONEY FAST, INC.
vs
DEBTOR

Docket 22

Tentative Ruling:

Grant as set forth below.

Proposed order(s): Unless otherwise ordered, Movant is directed to lodge proposed order(s) on the foregoing matter(s) via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)).

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

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

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

Termination

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

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CONT... **Ricki Denise West** **Chapter 7**

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

Co-debtor stay

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

Party Information

Debtor(s):

Ricki Denise West

Pro Se

Movant(s):

HARD MONEY FAST, INC., A

Represented By
Lee S Raphael

Trustee(s):

John J Menchaca (TR)

Pro Se

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

10:00 AM

2:23-18381 Clara Perez

Chapter 13

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

MHC DATE PALM, LLC
dba DATE PALM COUNTRY CLUB
vs
DEBTOR

Docket 52

Tentative Ruling:

Grant as set forth below. 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.

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, including the earlier version of the motion papers at dkt. 24-28): Debtor's opposition papers (dkt. 56-58); Debtor's proposed Plan (dkt. 60).

Note: This Court notes that the motion papers were not served until 4/18/24 (see dkt. 52 at PDF p. 15) which is less than the 14 days required under the "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) so Movant should have filed an application for an order setting this hearing on shortened notice. But it does not appear that there is any undue prejudice from not following the proper procedures, so the tentative ruling is to excuse this non-compliance, with a warning to Movant to follow the correct procedures next time.

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CONT... Clara Perez

Chapter 13

The automatic stay applies

Deny the request for an order confirming that no stay is in effect. Although Movant obtained a prepetition unlawful detainer judgment (dkt. 52, Ex. 1), Movant has not demonstrated that it also obtained a writ of possession. See *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.") (emphasis added).

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).

Note: This Court recognizes that the situation is unfortunate for both parties. Debtor faces the loss of her home, because she probably lacks the resources to move her mobile home to a new location. Movant, meanwhile, is owed a substantial amount of money.

Sometimes the bankruptcy system can provide a means to cure defaults and generate a better outcome for both parties than the alternatives, or at least a better outcome for one party without unduly harming the other party. But the tentative ruling is that in this particular case the bankruptcy system cannot provide any such relief, for two alternative reasons.

First, on 9/18/23, Movant obtained a judgment providing, among other things, that "[t]he rental agreement is canceled" and "[t]he lease is forfeited." Dkt. 52, Ex. 1. This Bankruptcy Court cannot revive a lease that has already been terminated.

Second, even if Debtor presented argument and evidence showing that she could somehow reinstate and, in bankruptcy terms, "assume" a lease which has been canceled (no such argument or evidence has been presented), Debtor has not shown that she has the ability to "promptly cure[]" the arrearages. 11 U.S.C. 365(b)(1)(A). Specifically, Debtor has not provided any evidence that she could pay in excess of \$14,635.00 promptly, as well as staying current with ongoing obligations. (The \$14,635 is based on a Notice to Quit served on 3/22/23, see dkt. 27 at Ex. 2, so the current arrearages are likely much higher.)

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CONT...

Clara Perez

Chapter 13

For both of the foregoing alternative reasons, this Bankruptcy Court cannot authorize Debtor to continue to occupy the formerly leased space upon which her mobile home is located.

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.

Relief notwithstanding *future* bankruptcy cases

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

The motion requests "*in rem*" relief (*i.e.*, relief applicable notwithstanding *future* bankruptcy cases (under 11 U.S.C. 362(d)(4) and/or *In re Vazquez*, 580 B.R. 526 (Bankr. C.D. Cal. 2017), and/or *In re Choong* (case no. 2:14-bk-28378-NB, docket no. 31)). The tentative ruling is to deny that request because Movant has not presented evidence demonstrating that Debtor has abused the bankruptcy process to the extent necessary to warrant such relief.

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.

Party Information

Debtor(s):

Clara Perez

Pro Se

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

2:24-11217 Cynthia D Lee

Chapter 7

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

CAPITAL ONE AUTO FINANCE
vs
DEBTOR

Docket 15

Tentative Ruling:

Grant as set forth below.

Proposed order(s): Unless otherwise ordered, Movant is directed to lodge proposed order(s) on the foregoing matter(s) via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)).

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

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

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

Termination

Terminate the automatic stay under 11 U.S.C. 362(d)(1) 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... Cynthia D Lee
(3).

Chapter 7

Co-debtor stay

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

Party Information

Debtor(s):

Cynthia D Lee

Pro Se

Movant(s):

Capital One Auto Finance, a division

Represented By
Cheryl A Skigin

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
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2:23-15025 Russell Kham Phan Ros and Mary Sok Puth-Ros

Chapter 13

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

AMERICAN HONDA FINANCE CORP
vs
DEBTOR

Docket 60

***** VACATED *** REASON: Voluntary dismissal of motion filed on
4/17/2024 [dkt. 68]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Russell Kham Phan Ros

Represented By
Jacqueline D Serrao

Joint Debtor(s):

Mary Sok Puth-Ros

Represented By
Jacqueline D Serrao

Movant(s):

American Honda Finance

Represented By
Jennifer C Wong

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

2:24-11126 Samuel Runions

Chapter 7

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

ESSEX PROPERTY TRUST, INC.
vs
DEBTOR

Docket 10

Tentative Ruling:

Grant as set forth below.

Proposed order(s): Unless otherwise ordered, Movant is directed to lodge proposed order(s) on the foregoing matter(s) via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)).

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

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

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

Termination

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

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

Effective date of relief

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

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CONT... **Samuel Runions**
(3).

Chapter 7

Co-debtor stay

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

Party Information

Debtor(s):

Samuel Runions

Pro Se

Movant(s):

Essex Property Trust, Inc.

Represented By
Agop Gary Arakelian

Trustee(s):

Sam S Leslie (TR)

Pro Se

**United States Bankruptcy Court
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2:24-12638 Silvio Diaz

Chapter 13

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

UNION MUTUALISTA DE SAN JOSE
vs
DEBTOR

Docket 15

Tentative Ruling:

Grant as set forth below. 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.

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)

Sustain Lessor's objection (dkt. 13) to Debtor's certification (dkt. 4) under 11 U.S.C. 362(l)

The tentative ruling is to sustain Lessor's objection to Debtor's certification under 11 U.S.C. 362(l) (the "Certification") for each of the following alternative reasons:

(a) Debtor has not even alleged, let alone provided evidence, to establish that he has a right under nonbankruptcy law to stay as an occupant of the leased premises "by paying my landlord the entire delinquent amount." Debtor Statement form (dkt. 4) (unchecked box).

(b) The lease at issue is of nonresidential property and therefore 11

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CONT... Silvio Diaz

Chapter 13

U.S.C. 362(l) is unavailable to Debtor.

(c) Even if the lease pertained to residential property (it does not), Debtor still could not avail himself of 11 U.S.C. 362(l) because the default under the lease is not a monetary default, but instead consists of the failure to bring the Property into compliance with zoning regulations of the City of Los Angeles (which failure has subjected Lessor to potential criminal prosecution by the City).

(d) Landlord has provided evidence that Debtor is an unauthorized subtenant, and the amount of rent Debtor has deposited with the Clerk of the Court (\$500) is only 10% of the monthly rent (\$5,000).

The automatic stay does not apply

First, this bankruptcy case has been dismissed (see dkt. 18). That terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

Second, and alternatively, on 2/20/24, the Superior Court of the State of California for the County of Los Angeles issued a judgment which, among other things, determined (A) that Debtor's alleged rental agreement with Lessor had terminated as of 9/17/23 (B) and that Lessor was entitled to possession of the Property. Lessor's Certification Objection (dkt. 13-2), Ex. B, at p. 2. Therefore, pursuant to 11 U.S.C. 362(b)(10), the automatic stay is no longer in effect as to Lessor.

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

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CONT...

Silvio Diaz

Chapter 13

relief from the stay is appropriate (under 11 U.S.C. § 362(d)). If the first ground later turns out to be reversed or altered (e.g., if a dismissal is vacated), the movant would be prejudiced if this Court had refused to reach the movant's alternative argument that the stay should be lifted. *See also, e.g., In re Krueger*, 88 B.R. 238, 241-42 (9th Cir. BAP 1988) (notwithstanding dismissal, stay held to continue due to lack of proper notice re dismissal).

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

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

Termination

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

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 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

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CONT...

Silvio Diaz

Chapter 13

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 delay, hinder, 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.

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.

Movant is not entitled to relief under 11 U.S.C. 362(b)(22) or (b)(23)

Deny the request for a determination that the stay is no longer in effect by virtue of 11 U.S.C. 362(b)(22) & (23), because that section does not apply since the lease pertains to nonresidential property. As discussed above, the stay is no longer in effect pursuant to 11 U.S.C. 362(b)(10).

Party Information

Debtor(s):

Silvio Diaz

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:24-12638 Silvio Diaz

Chapter 13

#11.10 Hrg re: Lessor's Objection to Debtor's Certification and/or
Debtor's Further Certificate Concerning Residential Property

Docket 13

Tentative Ruling:

Please see the tentative ruling for the unlawful detainer motion (Calendar No.
11, 4/30/24 at 10:00 a.m.).

Party Information

Debtor(s):

Silvio Diaz

Pro Se

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:24-12635 Luisa Paredes

Chapter 13

#12.00 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)

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

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CONT...

Luisa Paredes

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):

Luisa Paredes

Represented By
Sundee M Teeple

Movant(s):

Luisa Paredes

Represented By
Sundee M Teeple
Sundee M Teeple
Sundee M Teeple

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:22-14879 Minnie Lee Young

Chapter 13

#13.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 1/23/24, 3/12/24

NATIONSTAR MORTGAGE LLC
VS
DEBTOR

Docket 29

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

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Minnie Lee Young

Represented By
Julie J Villalobos

Movant(s):

Nationstar Mortgage LLC

Represented By
Nichole Glowin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:23-10129 Richard Clinton Neal

Chapter 13

#14.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/12/24

NEWREZ LLC d/b/a SHELLPOINT MORTGAGE SERVICING
VS
DEBTOR

Docket 57

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

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Richard Clinton Neal

Represented By
Daniela P Romero

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
Nichole Glowin

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:23-14528 Brian D Witzer

Chapter 7

#15.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 11/14/23, 12/19/23, 2/20/24

NEVADA FUNDING, LLC
vs
DEBTOR

Docket 58

Tentative Ruling:

Tentative Ruling for 4/30/24:

Continue to 6/11/24 at 10:00 a.m. with a **deadline of 5/28/24** for Debtor to file a status report, based on this Court's review of Debtor's latest status report (dkt. 168). Appearances are not required on 4/30/24. (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):

Brian D Witzer

Represented By
David S Hagen
Michael S Kogan

Movant(s):

Nevada Funding, LLC, a Nevada

Represented By
Edward T Weber

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CONT... Brian D Witzer

Chapter 7

Trustee(s):

Sam S Leslie (TR)

Represented By
Jeremy Faith

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2:23-14528 Brian D Witzer

Chapter 7

#16.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/3/23, 12/19/23, 2/20/24

ROYAL BUSINESS BANK
vs
DEBTOR

Docket 38

Tentative Ruling:

Tentative Ruling for 4/30/24:

Continue to 6/11/24 at 10:00 a.m. with a **deadline of 5/28/24** for Debtor to file a status report, based on this Court's review of Debtor's latest status report (dkt. 168). Appearances are not required on 4/30/24. (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):

Brian D Witzer

Represented By
David S Hagen
Michael S Kogan

Movant(s):

Royal Business Bank

Represented By
Nicholas S Couchot

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CONT... Brian D Witzer

Chapter 7

Trustee(s):

Sam S Leslie (TR)

Represented By
Jeremy Faith

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10:00 AM

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

Chapter 13

#17.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 04/09/24

LAKEVIEW LOAN SERVICING, LLC
vs
DEBTOR

Docket 44

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

Tentative Ruling:

- NONE LISTED -

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
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10:00 AM

2:22-11182 Vernon David Harm Behrens

Chapter 13

#18.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 3/12/24

U.S. BANK TRUST NATIONAL ASSOCIATION
VS
DEBTOR

Docket 73

***** VACATED *** REASON: Voluntary Dismissal of Motion Filed
03/18/24 (dkt. 81)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Vernon David Harm Behrens

Represented By
Nima S Vokshori

Movant(s):

U.S. Bank Trust National

Represented By
Joseph C Delmotte

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:23-18248 Maartje Jacoba Ingrid Aliet

Chapter 7

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

DEUTSCHE BANK NATIONAL TRUST CO
vs
DEBTOR

Docket 45

Tentative Ruling:

Tentative Ruling for 4/30/24:

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 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.

Movant failed to provide notice of this continued hearing to Debtor (and any new counsel retained by Debtor) as directed by this Court at the prior hearing. Movant is cautioned that failure to adhere to this Court's directives may result in the imposition of adverse consequences, including but not limited to denial of the motion without prejudice for failure to prosecute.

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 in part and deny in part as set forth below.

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

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CONT... Maartje Jacoba Ingrid Aliet

Chapter 7

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

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

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

Termination

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

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

Effective date of relief

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

Co-debtor stay

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

Party Information

Debtor(s):

Maartje Jacoba Ingrid Aliet

Represented By
Gene Koon

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CONT... Maartje Jacoba Ingrid Aliet

Chapter 7

Movant(s):

Deutsche Bank National Trust

Represented By
Theron S Covey
Sean C Ferry

Trustee(s):

Timothy Yoo (TR)

Pro Se

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2:24-10554 Milton Parker

Chapter 7

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

SECRETARY OF HOUSING AND
URBAN DEVELOPMENT
vs
DEBTOR

Docket 13

Tentative Ruling:

Grant as set forth below.

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

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

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

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

The automatic stay does not apply

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

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

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CONT...

Milton Parker

Chapter 7

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.

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... Milton Parker
(3).

Chapter 7

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 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" to delay, hinder, 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 4/3/24, this Court issued an order requiring Alleged Debtor to show cause why he should not be sanctioned (dkt. 7, the "OSC"). Alleged Debtor failed to file a written response to the OSC by the 4/16/24 deadline. The tentative ruling that Alleged Debtor is involved in the bad-faith scheme is based upon (A) Alleged Debtor's failure to respond to the OSC, (B) the multiple bankruptcy cases affecting the Property (one of which was a face-sheet petition filed by Alleged Debtor that was dismissed approximately two weeks after it was filed), and (C) Alleged Debtor's success in postponing the unlawful detainer trial through various bad-faith litigation tactics (described in the supplemental declaration of Eva Hollands (dkt. 13 at pp. 13–16)).

Party Information

Debtor(s):

Milton Parker

Pro Se

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CONT... Milton Parker

Chapter 7

Movant(s):

SECRETARY OF HOUSING AND

Represented By
John E Bouzane

**United States Bankruptcy Court
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2:24-13237 Trisha Franklin

Chapter 13

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

Docket 9

Tentative Ruling:

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

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

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

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

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

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

(2) Reasons. (a) It appears appropriate to continue/impose the automatic stay, and to continue/impose it as to all persons rather

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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):

Trisha Franklin

Represented By
Thomas B Ure

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:24-11143 Salme Siltanen

Chapter 7

#1.00 Status conference re: Chapter 7 Involuntary petition

Docket 1

Tentative Ruling:

Appearances required.

The tentative ruling is to dismiss this case because the docket does not reflect any proof of service by the petitioning creditor, Matti Siltanen, of the involuntary petition and summons on Debtor. Pursuant to LBR 1010-1, this Court "may dismiss an involuntary petition without further notice or hearing if the petitioner fails to ... serve the summons and petition within the time allowed by FRBP 7004 [or] file a proof of service of the summons with the court."

Mr. Siltanen is also directed to address how he can establish, by a preponderance of the evidence, all of the elements of 11 U.S.C. 303(b)(1) or (2). *See, e.g., In re Marciano*, 446 B.R. 407, 420 (Bankr. C.D. Cal. 2010) (petitioning creditors must establish the five elements of section 303 by a preponderance of the evidence).

In addition, Mr. Siltanen is directed to address the following issue. On 3/1/24, this Court received an unsigned letter (dkt. 6), which states that Mr. Siltanen "has not lived at" the address that Mr. Siltanen designated as his mailing address on the involuntary petition since August 29, 2015. This Court notes that Mr. Siltanen verified, under penalty of perjury, that the information provided in the involuntary petition is true and correct, so if the address is incorrect that might constitute perjury.

Note: Nothing in the foregoing directions to Mr. Siltanen to address certain issues should be construed to supersede his right to invoke his privilege against self-incrimination under the Fifth Amendment to the U.S. Constitution. But, if he fails to appear or to provide persuasive offers of proof, this Court can and might well make factual findings adverse to Mr. Siltanen's interests.

Proposed order: After the hearing date this Court will prepare an order

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dismissing the involuntary petition.

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):

Salme Siltanen

Pro Se

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2:24-10262 Golden Wellness Rx, Inc

Chapter 7

#2.00 Hrg re: Motion to (1) Sell Property of the Estate Free and Clear of Liens;
(2) Assume and assign a non-residential lease; and (3) Abandon property
to the buyers

Docket 43

Tentative Ruling:

Trustee is directed to address why this matter should not be continued to 5/21/24 at 11:00 a.m. with a **deadline of 5/1/24** for him to re-file the mandatory "Notice of Sale of Estate Property" form for publication on the Bankruptcy Court's website and/or cure the other issues set forth below. If this Court is persuaded not to continue this matter, an **auction on 4/30/24 at 11:00 a.m.** will take place in the courtroom. 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)

Analysis:

(1) Notice of Sale

Although Trustee did file the "Notice of Sale of Estate Property" form required by LBR 6004-1(f) (the "Sale Notice"), the Sale Notice was filed as Exhibit 4 to the Sale Motion, rather than as a separate docket entry. As a result, notice of the sale, which is subject to overbids, was **not** published on the "Current Notice of Sales" section of the Bankruptcy Court's website (see <https://www.cacb.uscourts.gov/notice-of-sales> (last checked April 18, 2024)). This means that parties who regularly participate in bankruptcy sales by monitoring the website would have had no notice of this sale, potentially reducing the number of overbids and therefore the ultimate sale price. "The court's obligation in § 363(b) sales is to assure that optimal value is realized

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by the estate under the circumstances." *In re Lahijani*, 325 B.R. 282, 288 (9th Cir. BAP 2005).

Trustee is directed to address at the hearing why this matter should not be continued as set forth at the start of this tentative ruling. If this Court continues this matter then Trustee will be required to consult the Clerk's Office to obtain the correct docket event code for re-filing the Sale Notice. After re-filing the Sale Notice, Trustee should check the website to verify that the Sale Notice has been published.

(2) Assumption/assignment/sale free and clear

If this matter is not continued as set forth above, Trustee is directed to address the following issues. If those issues are not addressed satisfactorily then the tentative ruling is, again, to continue the hearing, with the same deadline as set forth above to cure the deficiencies (if they are curable).

If, on the other hand, the issues set forth below are fully resolved at the hearing then the tentative ruling is to approve the assumption/assignment/sale/abandonment, free and clear of liens and without payment by the bankruptcy estate/Trustee under 11 U.S.C. 363(b) & (f)(1), 365(a), (b) & (f), and to authorize abandonment of certain property pursuant to 11 U.S.C. 554, all subject to the caveats set forth below.

(3) Alleged understandings with Landlord

Trustee represents his understanding that the landlord, Montana/Euclid Properties LLC ("Landlord") (i) has waived any administrative claim against the estate (as confirmed in an authenticated email - see dkt. 43 p. 12 n. 2 *and* Ex. 3) and (ii) has agreed to the assumption and assignment to the proposed buyer, Montana Wellness Rx ("Montana" or proposed "Buyer"), subject to the landlord then being able to terminate the existing lease and enter into a new lease "whose terms they have agreed to" (the "New Lease"). See Ex. 1 to Motion (dkt. 43), Addendum No. 1, para. 4 (at PDF p. 21 of 24). The motion papers do not include any declaration from Landlord, nor any copy of the anticipated New Lease between Landlord and Montana, nor any summary of its terms.

This raises a number of issues.

(a) Service on Landlord/consent

Has Landlord been properly served, or will it confirm the foregoing

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understandings at the hearing? Service appears to be insufficient for several reasons.

First, although the proof of service (dkt. 43, last 4 pages) shows email service on Jonathan Farasat (who apparently has acted as an attorney for Landlord in communications with Trustee), email service generally is ineffective absent written consent. See Rule 4(d) (Fed. R. Civ. P.) (incorporated by Rules 7004 and 9014(b), Fed. R. Bank. P.) (written waiver required). See *also* Rule 5(b)(2)(E) (Fed. R. Civ. P.) (incorporated by Rules 7005 and 9014(b), Fed. R. Bankr. P.) *and* Rule 9036 (Fed. R. Bankr. P.) (after service of initial papers, electronic service by Clerk of Court is sufficient).

Second, it is not clear that Mr. Farasat has consented to be served or has otherwise appeared in this matter on Landlord's behalf. See *In re Villar*, 317 B.R. 88 (9th Cir. BAP 2004).

Third, although the proof of service (dkt. 43, last 4 pages) shows that Landlord was served via U.S. mail, it was not served either (i) "Attention: Director of Asset Management" as required in the Lease (dkt. 43, Ex. 2, p. 17, section 31.15) or (ii) "to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process [with a copy, if required by law, to Landlord itself]" as required by Rule 7004(b)(3) (Fed. R. Bankr. P.).

All of that said, this Court anticipates that Trustee will arrange for Mr. Farasat or another attorney for Landlord to appear at the hearing and probably moot the issue of service. Trustee is cautioned in future to abide by the rules for service, in case future parties in interest do not waive any deficiencies in service.

This Court also anticipates that Landlord's counsel will confirm its substantive waivers. Specifically, this Court expects that Landlord's counsel will confirm (i) its waiver of any administrative claim - which, to be clear, includes both any postpetition lease payments and also any "cure" payment under section 365 - and (ii) its consent to assumption and assignment of the existing lease, subject to being able to terminate the existing lease and enter into the New Lease.

(b) Overbidders

Will Landlord agree to enter into the New Lease with any potential overbidders? If not, how can there be any overbidding? If so, have Trustee

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and/or Landlord fully disclosed the terms of the New Lease to overbidders, and have they agreed to those terms?

(4) "Abandonment" of assets

In addition to assumption/assignment/sale - of (i) the lease, (ii) any rights appurtenant to the License that can be used for Montana or its principal to petition the CSBP for a license, and (iii) the goodwill of the existing business - the proposed transaction contemplates that Trustee will:

abandon (the "Abandonment") **to the Buyer** pursuant to Section 554 of the Bankruptcy Code the Tangible Personal Property [as defined in the Addendum], any accounts receivable of the Debtor, the business records of the Debtor [other than the tax records, avoidance claims and personally identifiable information of the customers of the Debtor ("PII")], and all other assets of the Debtor, subject to any existing liens, encumbrances and leases, on an "as is, where is" basis, without warranty either express or implied. [Ex. 1 to Motion (dkt. 43), Addendum No. 1, p. 2, para. 6.b. (at PDF p. 22 of 24) (emphasis added).]

The tentative ruling is that, technically, "abandonment" of property under 11 U.S.C. 554(b) means that all of the bankruptcy estate's rights and interests in the property that Trustee seeks to "abandon" would be relinquished back to Debtor, and/or any other person who still has any right or interest in such property that existed as of the petition date. In other words, abandonment under section 554(b) is not "to the Buyer" but to Debtor and, for example, if Debtor fails or refused to remove the Tangible Personal Property from the premises, then presumably Landlord has rights to seize that property and dispose of it in accordance with applicable nonbankruptcy law.

That said, the tentative ruling is that this Court interprets the proposed transaction to include an understanding among Trustee, Debtor, Landlord, and Montana or any overbidder that all of the property that Trustee proposes to "abandon" will in fact be turned over to Montana or any overbidder. As this Court understands the proposed transaction, the point is that, whereas Trustee will transfer some property free and clear of liens and other interests (*i.e.*, the subject leasehold rights, the goodwill of Debtor's business, and any transferrable rights to apply for a license), Trustee is, for example, transferring the Tangible Personal Property subject to liens and other interests because a cash register or other equipment might be subject to UCC-1 liens, or a former

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customer of Debtor conceivably might have superior rights in some inventory that are superior than anyone else.

Subject to the foregoing understandings of this Court, the tentative ruling is to authorize Trustee to turn over to Montana or any overbidder whatever rights and interests the bankruptcy estate has in any of the property that Trustee proposed to "abandon." Trustee is directed to clarify at the hearing if this Court's understanding is incorrect.

Other parties in interest also may be heard, including Debtor, Landlord, Montana, and any overbidder, if any of them have any questions or concerns about what Trustee is and is not proposing to transfer or turn over. If they do not raise any objections to Trustee's proposed transactions then they will be deemed to have waived or forfeited any objections.

(5) "Good faith" findings

The tentative ruling is that if the proposed buyer or any overbidder wishes to have a "good faith" finding under 11 U.S.C. 363(m) then, before any order is lodged approving the sale, they will need to file a declaration addressing the issues set forth in the "Procedures of Judge Bason" (available at www.cacb.uscourts.gov). The declaration must be served on the United States Trustee and any parties in interest who have requested special notice.

To be clear, the tentative ruling is that, based on the limited record before this Court, the proposed transactions have all of the hallmarks of a good faith transaction that is a marvelous result for all parties in interest: the bankruptcy estate, the local community that will have a much-needed pharmacy, the Landlord that will have a seamless transition to a new tenant, Montana or an overbidder who will be able to establish a new business in a proven location, and all other parties in interest. The only point is that, before any good faith finding is made, this Court needs actual evidence that, for example, any winning purchaser has not colluded with other prospective purchasers so as to depress the bidding.

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.

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Debtor(s):

Golden Wellness Rx, Inc

Represented By
Michael R Totaro

Movant(s):

John J Menchaca (TR)

Represented By
Wesley H Avery

Trustee(s):

John J Menchaca (TR)

Represented By
Wesley H Avery

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2:24-10818 Christina Clark

Chapter 7

Adv#: 2:24-01035 Clark v. U.S. Dept. of Education

#3.00 Status conference re: Complaint for
discharge of student loans

Docket 1

Tentative Ruling:

Appearance required by Plaintiff/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) Plaintiff/Debtor's apparent lack of service of Summons and Complaint; and lack of status report

Plaintiff/Debtor filed her complaint seeking to except student loan indebtedness from discharge on 2/9/24 (adv. dkt. 1, the "Complaint"). On 2/12/24, the Clerk of the Court (the "Clerk") issued and mailed a summons to Plaintiff/Debtor.

But Plaintiff/Debtor has not filed a proof of service (signed by someone other than Plaintiff/Debtor), showing service of the Summons and Complaint within seven days after issuance of the Summons, as required by Rule 7004(e) (Fed. R. Bankr. P.), and showing service upon (i) Defendant U.S. Department of Education, (ii) the Attorney General, and (iii) the civil process clerk (as required by Rule 7004(b)(4)-(5)). See Court Manual, Appendix D (available at:

https://www.cacb.uscourts.gov/sites/cacb/files/documents/court-manual/CtManual_Sec7_Append_D.pdf).

The tentative ruling is that because there has been no proper service of process this Court does not at this time have jurisdiction over Defendant. See *Benny v. Pipes*, 799 F.2d 489, 492 (9th Cir. 1986), *amended*, 807 F.2d 1514 (9th Cir. 1987) ("A federal court is without personal jurisdiction over a

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defendant unless the defendant has been served in accordance with Fed. R. Civ. P. 4.”).

This Court further notes that Plaintiff/Debtor has failed to file a Status Report in connection with this Status Conference, as required by LBR 7016-1(a)(2).

(b) Failure of the Complaint to state a claim upon which relief can be granted

In the Complaint, Plaintiff/Debtor states that she “believe[s] that my situation warrants a thorough examination of the undue hardship I am facing in paying my student loans.” Complaint at p. 1. To state a claim under 11 U.S.C. 523(a)(8), the Complaint must contain specific factual allegations supporting a reasonable inference that Plaintiff/Debtor (1) “**cannot maintain, based on current income and expenses, a ‘minimal’ standard of living for herself and her dependents** if forced to repay the loans; (2) that additional circumstances exist indicating that **this state of affairs is likely to persist** for a significant portion of the repayment period of the student loans; and (3) that [Plaintiff/Debtor] has made **good faith efforts to repay** the loans.” *Brunner v. New York State Higher Educ. Servs. Corp.*, 831 F.2d 395, 396 (2d Cir. 1987) (adopted by the Ninth Circuit in *In re Pena*, 155 F.3d 1108, 1111 (9th Cir. 1998)).

The Complaint contains only vague and conclusory factual allegations. For example, Plaintiff/Debtor alleges that she has “faced substantial discrimination,” has “documentation of instances where I have taken legal action against employers due to certain injustices,” and has “won a wage claim” in connection with a labor case for retaliation. Complaint at p. 1. Those allegations potentially could be relevant as part of showing good faith efforts to repay the student loans (at all times since they were incurred - in 1993, according to her bankruptcy schedules), a lack of future earning power, etc. But the Complaint does not “connect the dots” to allege what discrimination occurred, how that affected her earnings and opportunities for advancement, etc.

This Court recognizes that a little bit more is alleged in a separate declaration (adv. dkt. 3). But that is not part of the Complaint, and it still does not fully connect the dots.

(c) Deadline to correct deficiencies

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To provide Plaintiff/Debtor the opportunity to correct these deficiencies (which might require the aid of an attorney who specializes in student loan dischargeability actions), the tentative ruling is (A) to **set a deadline of 6/28/24** for Plaintiff/Debtor to file a First Amended Complaint ("FAC"), (B) to direct Plaintiff/Debtor to serve the summons and FAC and file a proof of such service immediately afterwards, and (C) to conduct a Status Conference on the FAC on **8/6/24 at 11:00 a.m.** (with a status report on the local form due 7/23/24).

If Plaintiff cannot do these things, or chooses not to do so, this Court may be left with no choice but to dismiss the complaint. *See Omar v. Sea-Land Service, Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) ("A trial court may dismiss a claim *sua sponte* under Fed. R. Civ. P. 12(b)(6). Such a dismissal may be without notice where the claimant cannot possibly win relief.").

(d) Plaintiff/Debtor's lack of representation by counsel

This Court cannot give legal advice. But this Court can inform Plaintiff/Debtor of several matters that might advance this litigation without favoring any party in interest (*i.e.*, this Court must remain neutral, but this Court can help move things forward).

First, independent of any litigation, it might be that Plaintiff/Debtor could be eligible for cancellation of some or all of her indebtedness under existing regulations or possibly under new regulations, **if** proposed new regulations promulgated by the Department of Education on April 17, 2024 take effect (and survive any subsequent legal challenges). *See* 89 Fed. Reg. 27564 (notice of proposed rulemaking) (available at <https://www.govinfo.gov/content/pkg/FR-2024-04-17/pdf/2024-07726.pdf>). To be clear, this Court does not know whether Plaintiff/Debtor actually would be eligible for any loan forgiveness, so this is only a potential avenue to address the underlying issues, not any sort of guaranteed solution.

Second, there is a "self-help desk" at the courthouse, staffed by volunteers and/or charitable organization employees, who might be able to help Plaintiff/Debtor move this litigation forward by complying with the applicable procedures and getting to the merits or, better yet, might help Plaintiff/Debtor find an attorney who is willing and qualified to handle student loan dischargeability litigation. Although Plaintiff/Debtor is not required to hire an attorney to represent her in this action, this Court believes it is appropriate to note some of the significant risks of proceeding without an attorney with

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experience is student loan discharge:

- Generally speaking, non-attorney litigants are less likely to achieve favorable results than those assisted by counsel.
- The opposing party is likely to have a lawyer.
- This Court is a neutral adjudicator of the law. The role of the judge is to resolve disputes arising between the parties in accordance with the law. As such, the judge cannot assist either party, cannot answer the parties' legal questions, and cannot take sides in the dispute. Nor can any members of the judge's staff do so.
- This is a complex area of the law, where experience and professional training are greatly desired. Litigating a § 523(a)(8) action requires a great deal of time, preparation, knowledge, and skill. Parties without lawyers are held to the same standards as a lawyer as far as complying with the court procedures and the rules and regulations of the court system.

This Court understands that there are very few attorneys who are willing to litigate student loan issues for free or for a discounted fee, and there could be a substantial financial burden of obtaining competent counsel. But as a practical matter it might be effectively impossible to obtain favorable results without an attorney who can handle student loan litigation.

Proposed order: After the hearing, this Court will prepare an order consistent with the foregoing.

Party Information

Debtor(s):

Christina Clark	Pro Se
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Defendant(s):

U.S. Dept. of Education	Pro Se
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Plaintiff(s):

Christina Clark	Pro Se
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Trustee(s):

Timothy Yoo (TR)

Pro Se

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2:24-11046 Zollie R. Stevens

Chapter 13

Adv#: 2:24-01063 Stevens et al v. U.S. Bank National Association as Indenture Trustee

#4.00 Hrg re: Motion to Dismiss Adversary Proceeding

Docket 3

Tentative Ruling:

There is no tentative ruling; but the parties are directed to address the issues set forth below. Appearances required.

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

Key documents reviewed: Complaint (adv. dkt. 1); motion of U.S. Bank National Association, as indenture trustee for VCC2020 MCI TRUST and Velocity Commercial Capital LLC ("Velocity") to dismiss (adv. dkt. 7, "MTD"); opposition papers (adv. dkt. 10-12); reply (adv. dkt. 13).

Analysis

(1) Incomplete record

How can this Court render any decisions, including on the jurisdictional issues set forth below, without (a) a copy of the exhibits to the Complaint, (b) copies of relevant papers involving Velocity's co-defendants, such as returns of summons, Answers, and/or other responsive papers, and (c) a copy of the docket of the State Court and other documents that may have been filed in the State Court action?

(2) Jurisdictional

(a) Co-defendant issues

How can this Bankruptcy Court exercise personal jurisdiction over Velocity's co-defendants? Would it be appropriate for this Bankruptcy Court to exercise subject matter jurisdiction over the disputes between Plaintiff/Debtor and Velocity in the absence of Velocity's co-defendants? See

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below regarding abstention.

(b) Mandatory abstention issues

Would it be appropriate for this Court to adjudicate any issues when it appears that, upon a timely motion of any party, mandatory abstention might apply? See 28 U.S.C. 1334(c)(2). This Bankruptcy Court recognizes that one of the elements of mandatory abstention might not be satisfied, because the bankruptcy petition was filed on 2/13/24 at 10:57 a.m. and the Complaint might have been filed after that time, at midnight on 2/13/24. But that is not entirely clear because this Bankruptcy Court does not know whether the conventions used by the State Court for its time stamp of "12:00 AM" on "2/13/2024" (adv. dkt. 1, Ex. 1, at PDF p. 10 of 119) mean midnight between 2/12/24 and 2/13/24, or midnight between 2/13/24 and 2/14/24.

(c) Discretionary abstention issues

It appears that the parties' disputes do not "arise under" the Bankruptcy Code, nor do they "arise in" this bankruptcy case within the meaning of 28 U.S.C. 157(b) and 1334(b), although they are "related to" this case - *i.e.*, these are "non-core" matters. Accordingly, although it appears that this Bankruptcy Court has subject matter jurisdiction, is it appropriate to exercise discretionary abstention (28 U.S.C. 1334(c)(1)) in favor of the State Court as the more appropriate forum, given the apparent lack of personal jurisdiction over the co-defendants?

In addition, in non-core matters this Bankruptcy Court generally cannot render a final decision, but instead, with some exceptions, must submit proposed findings of fact and conclusions of law to the District Court. See 28 U.S.C. 157(c)(1). That potentially means that the parties would have to litigate the same issues more than once: once before this Bankruptcy Court and again, at least to some extent, on "de novo" review by the District Court, which could exercise that review on the existing record or, conversely, could require complete relitigation of the issues (although this Bankruptcy Court might be able to render final decisions on pretrial matters that do not involve factfinding, such as this MTD).

In addition to any burden on the parties, what about the potential additional burden on the District Court? If it might have to review matters de novo, is that an appropriate use of judicial resources, as distinguished from having the State Court adjudicate matters on which it can render a final decision?

This Bankruptcy Court notes that the District Court has already issued

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an order declining to exercise supplemental jurisdiction. See RJN (adv. dkt. 1), Ex. 3 (District Court's Order), p. 9:13-16 (RJN at PDF p. 101 of 102). This Bankruptcy Court notes that it does not have the benefit of the District Court's reasoning because that order incorporates by reference the reasoning in an earlier order (see *id.*) that is not part of the record before this Bankruptcy Court.

(3) Merits of MTD issues

This Bankruptcy Court has reviewed the parties' papers and is prepared to hear oral arguments and address the merits if appropriate. But, based on the jurisdictional and practical issues set forth above, the tentative ruling is to decline to do so, at least at this time. The parties should be prepared to address what is the most efficient and appropriate way to proceed, consistent with preserving the rights of all parties in interest.

(4) Related issues

This Bankruptcy Court is concerned that the attorneys who filed the Complaint in State Court for Plaintiff/Debtor appear to have done so after the bankruptcy petition was filed but without having obtained any authorization from this Court to be employed as special counsel to file that Complaint. See 11 U.S.C. 327. Moreover, as of the preparation of this tentative ruling, over two months after the petition was filed, there is still no such application on file. How can these attorneys be paid, out of funds that otherwise would be available to pay creditors, without authorization to be employed?

This Bankruptcy Court is also concerned that, although as of the preparation of this tentative ruling Velocity is one of only three creditors listed on Debtor's creditor matrix, nevertheless its (disputed) secured claim was not mentioned in Debtor's original bankruptcy Schedule "D" (dkt. 10 at PDF pp. 12-13), nor, for that matter, in Debtor's bankruptcy Schedule "E/F," *id.* at PDF p. 14) (but cf. dkt. 22 - belated listing in amended Schedule D), and still is not listed in Debtor's chapter 13 plan. See dkt. 13 (Plan), 35 (Velocity Obj.). Why not?

In addition, despite the fact that the instructions on Debtor's bankruptcy Schedule "I" line 8a direct Debtor to attach a statement (for the Stanley property) of gross receipts, ordinary and necessary business expenses, and net income, no such statement is attached (see dkt. 1 at PDF p. 18) and Debtor's bankruptcy Schedule "J" (*id.* at PDF p. 18 lines 4 & 5) list \$-0- for

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CONT... Zollie R. Stevens

Chapter 13

Debtor's mortgage or other homeownership expense. On what theory would Debtor be entitled to project his disposable income based on an assumption that he can live "rent-free" at the Stanley property, or alternatively, if Debtor is not proposing to live "rent-free," why has Debtor not proposed any adequate protection payments and/or disputed claims reserves with respect to his secured creditors? See, e.g., Trustee Obj. to Plan (dkt. 37). In addition, the Chapter 13 Trustee has noted numerous other apparent deficiencies in Debtor's prosecution of this bankruptcy case. See *id.*

In addition, this Court has issued an order (dkt. 29) rejecting Debtor's contention that this bankruptcy case was filed in good faith, in connection with Debtor's motion (dkt. 18) under 11 U.S.C. 362(c)(3) to continue the automatic stay. True, Debtor has belatedly declared, in connection with the MTD, that he did not in fact divert any rents (because initially he did not receive any rents, later his chapter 11 trustee terminated an "airbnb" rental arrangement, and his attorney allegedly did not inform him of his turnover obligations). See Debtor Decl. (adv. dkt. 12) pp. 3:3-4:9. But (i) this Court cannot presume that the facts are now as Debtor belatedly asserts; (ii) diversion of rents was just one of several grounds for this Court's rejection of Debtor's assertions that this bankruptcy case was filed in good faith; and (iii) given the totality of the circumstances this Court questions whether Debtor is appearing in proper prosecution of this bankruptcy case. See 11 U.S.C. 109(g)(1).

The tentative ruling is not to reach these issues at this hearing. The point is only to give Debtor as much notice as possible that the problems with this adversary proceeding appear to be part of a larger set of problems with this bankruptcy case that might result in adverse consequences. This Court expresses no opinion whether these problems are curable, but at the very least Debtor and his bankruptcy counsel and other attorneys who are purporting to act for Debtor will need to address these issues immediately.

Party Information

Debtor(s):

Zollie R. Stevens

Represented By
James D. Hornbuckle

Defendant(s):

Ani Kamikyan

Pro Se

Mariya Pokhomova

Pro Se

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Compass California, Inc.	Pro Se
Paloma Fierro	Pro Se
Fred Doctorovich	Pro Se
AFD Realty, Inc.	Pro Se
Anatoly Doctorovich	Pro Se
Velocity Commercial Capital, LLC	Represented By Brett Ramsaur John P. Ward
Lending Bee, Inc.	Pro Se
Boris Dorfman	Pro Se
Vladimir Isperov	Pro Se
U.S. Bank National Association as	Represented By Brett Ramsaur John P. Ward
Iridium, LLC	Pro Se

Movant(s):

U.S. Bank National Association as	Represented By Brett Ramsaur John P. Ward
Velocity Commercial Capital, LLC	Represented By Brett Ramsaur John P. Ward

Plaintiff(s):

Z Real Estate Holdings LLC	Represented By Susan M Murphy
Zollie R. Stevens	Represented By Susan M Murphy

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Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:23-11367 Freddy Enrique Luzuriaga

Chapter 7

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

#5.00 Hrg re: Motion to Dismiss Adversary Proceeding

Docket 12

Tentative Ruling:

Grant the motion to dismiss for the reasons set forth below. Appearances required.

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

Key documents reviewed (in addition to motion papers): Complaint (adv. dkt. 1), Answer (adv. dkt. 11), Opposition to MTD (adv. dkt. 15); reply (adv. dkt. 16).

(1) This Court will *sua sponte* set aside Defendant's default

The Chapter 7 Trustee ("Trustee") filed this fraudulent transfer complaint (adv. dkt. 1, the "Complaint") against Nancy Chaparro ("Defendant") on 1/29/24. On 3/1/24, the Clerk of the Court (the "Clerk") entered Defendant's default. On 3/22/24, upon stipulation of Trustee and Defendant (adv. dkt. 7), this Court entered an order setting aside Defendant's default "on condition that an Answer is filed on or before April 9, 2024" Adv. dkt. 8 at p. 2.

Trustee previously argued that Defendant is in default, and cannot move to dismiss the Complaint, because she did not file her Answer (dkt. 11) until 4/10/24, one day after the 4/9/24 deadline. It appears that Trustee has now consented to accept the late-filed papers (see adv. dkt. 16); and alternatively the tentative ruling is to *sua sponte* set aside Defendant's default for the reasons set forth below.

(a) Applicable standard

Civil Rule 55(c) (Fed. R. Civ. P.), made applicable to these

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proceedings by Bankruptcy Rule 7055 (Fed. R. Bankr. P.), provides: "The Court may set aside an entry of default for good cause." "The 'good cause' standard that governs vacating an entry of default under Rule 55(c) is the same standard that governs vacating a default judgment under Rule 60(b)." *Franchise Holding II, LLC v. Huntington Restaurants Grp., Inc.*, 375 F.3d 922, 925 (9th Cir. 2004). The Court may deny a motion to vacate a default for any of the following reasons: "(1) the plaintiff would be prejudiced if the judgment is set aside, (2) defendant has no meritorious defense, or (3) the defendant's culpable conduct led to the default." *Am. Ass'n of Naturopathic Physicians v. Hayhurst*, 227 F.3d 1104, 1108 (9th Cir. 2000, *as amended on denial of reh'g* (Nov. 1, 2000)). Because "[t]his tripartite test is disjunctive" the Debtor/Plaintiff is required only to demonstrate that one of the factors applies in order for this Court to deny the motion to vacate default. *Id.* However, "judgment by default is a drastic step appropriate only in extreme circumstances; a case should, whenever possible, be decided on the merits." *United States v. Signed Pers. Check No. 730 of Yubran S. Mesle*, 615 F.3d 1085, 1098 (9th Cir. 2010).

(i) Trustee would not be prejudiced by vacatur of the default

To constitute prejudice, the harm that would result from setting aside the entry of default must be something more than delay or the costs associated with the litigation itself. *TCI Group Life Insurance Plan v. Knoebber*, 244 F.3d 691, 701 (9th Cir. 2001), *overruled on other grounds by Egelhoff v. Egelhoff ex rel. Breiner*, 532 U.S. 141 (2001). Merely "being forced to litigate on the merits" is not considered prejudice. *Id.* "The delay must result in tangible harm such as loss of evidence, increased difficulties of discovery, or greater opportunity for fraud or collusion." *Id.*

Trustee has already stipulated to vacatur of the default, conditioned upon Defendant's filing of an Answer by 4/9/24. Defendant missed this deadline by one day. The tentative ruling is that Trustee is not prejudiced by this exceptionally minor delay, and that accordingly vacatur of the default is appropriate.

(ii) Defendant has a meritorious defense

A party has a meritorious defense if "there is some possibility that the outcome of the suit after a full trial will be contrary to the result achieved by the default." *Hawaii Carpenters' Trust Funds v. Stone*, 794 F.2d 513 (9th Cir. 1986). The burden of demonstrating a meritorious defense "on a party seeking to vacate a default judgment is not extraordinarily heavy." *Knoebber*,

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244 F.3d at 700. "All that is necessary to satisfy the 'meritorious defense' requirement is to allege sufficient facts that, if true, would constitute a defense: 'the question whether the factual allegation [i]s true' is not to be determined by the court when it decides the motion to set aside the default. Rather, that question 'would be the subject of the later litigation.'" *Mesle*, 615 F.3d 16 1094.

For the reasons described in part "(4)," below, this Court is prepared to dismiss the Complaint without leave to amend. Accordingly, the tentative ruling is that Defendant has a meritorious defense.

(iii) Defendant's failure to timely respond to the Complaint was not culpable

A "defendant's conduct is culpable if he has received actual or constructive notice of the filing of the action and *intentionally* failed to answer . . . Neglectful failure to answer as to which the defendant offers a credible, good faith explanation negating any intention to take advantage of the opposing party, interfere with judicial decision-making, or otherwise manipulate the legal process is not 'intentional' under our default cases, and is therefore not *necessarily* . . . culpable." *Knoebber*, 244 F.3d 691, 697-98 (emphasis in original).

Nothing in the record indicates that Defendant's very brief delay in responding to the Complaint was culpable. To the contrary, it appears to be caused by IT problems. The tentative ruling is that this factor weighs in Defendant's favor.

(b) Conclusion regarding vacatur of default

For the foregoing reasons, the tentative ruling is that it is appropriate for this Court to set aside Defendant's default either by agreement of Plaintiff/Trustee or, alternatively, upon this Court's own motion. Requiring Defendant to file a separate motion to vacate her default would not be consistent with this Court's obligation to construe the rules of procedure in a manner that effectuates the "just, speedy, and inexpensive determination of every case and proceeding." Rule 1001 (Fed. R. Bankr. P.) (emphasis added).

For all of these reasons the tentative ruling is to set aside the default and turn to the merits.

(2) Adjudication of the MTD is appropriate notwithstanding the filing of an Answer

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As set forth in Rule 12(b) (Fed. R. Civ. P.), made applicable to these proceedings by Rule 7012 (Fed. R. Bankr. P.), a motion to dismiss for failure to state a claim upon which relief can be granted "must be made before pleading if a responsive pleading is allowed." Here, Defendant filed her Answer on 9:49 a.m. on 4/10/24 and filed the MTD two minutes later, at 9:51 a.m. on that same date. Although Defendant should have filed the MTD first, the tentative ruling is that under the circumstances refusing to adjudicate the MTD would place form over substance, and again would not be consistent with this Court's obligations under Rule 1001.

(3) Trustee is not prejudiced by a hearing on 20 days' notice

Defendant filed the MTD on 20 days' notice (not 21 days' notice as required by the Local Bankruptcy Rules). The tentative ruling is that Trustee is not prejudiced by having one day less notice of the MTD than required under the rules.

(4) The tentative ruling is to grant the MTD and dismiss the Complaint without leave to amend

Freddy Enrique Luzuriaga ("Debtor") filed a voluntary chapter 7 petition on 3/9/23. The property that is the subject of the instant Complaint – Debtor's one-fourth interest in 15702 Pocono Street, La Puente, CA 91744 (the "Property") – was transferred to Defendant by a quitclaim deed recorded on 1/5/16 (the "Quitclaim Deed"). Complaint at Ex. 1. On 8/23/18, Defendant transferred the Property to a trust in Defendant's name (the "Trust"). *Id.* at ¶ 10 and Ex. 4.

In an attempt to overcome the fact that the Quitclaim Deed was recorded more than seven years prior to the petition date – outside the statute of limitations and even the statute of repose applicable to avoidance actions brought under California's implementation of the Uniform Voidable Transfers Act ("UVTA") (codified at Cal. Civ. Proc. Code 3439.09 *et seq.*, and made applicable by 11 U.S.C. 544) – Trustee argues that the statute of limitations/repose does not apply pursuant to *In re Schwarzkopf*, 626 F.3d 1032 (9th Cir. 2010). Opposition (adv. dkt. 15) at pp. 4–5.

Schwarzkopf involved a trust created by a debtor (not an alleged transferee). *Schwarzkopf*, 626 F.3d 1032, 1035 (9th Cir. 2010). The *Schwarzkopf* court held that the trustee's action to invalidate the debtor's trust was not time-barred because the trust, having been "created for the purpose

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of defrauding creditors or other persons," was "illegal and may be disregarded." *Id.*, 626 F.3d 1032, 1037 (internal citation and internal quotation marks omitted). Because the trust was invalid, the statute of limitations did not begin to run until the trustee of the trust repudiated the trust by answering the chapter 7 trustee's complaint. *Id.*, 626 F.3d 1032, 1037.

The tentative ruling is that Trustee's reliance upon *Schwarzkopf* to plead around the statute of limitations issue is unavailing, because the facts of that case simply do not apply to the facts alleged here. According to the Complaint, Debtor transferred the Property to Defendant on 1/5/16 (more than seven years prior to the petition date). Only after this initial transfer did Defendant transfer the Property to the Trust on 8/23/18. Therefore, even if Trustee had sufficiently alleged that Defendant's Trust was created to defraud creditors (and the Complaint contains no factual allegations on this issue), that would not overcome the problem that the initial transfer occurred outside the statute of limitations.

The tentative ruling is that the statute of limitations issue is fatal to Trustee's complaint, and that accordingly granting leave to amend would be futile. See *Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011) ("Although leave to amend should be given freely, a district court may dismiss without leave where a plaintiff's proposed amendments would fail to cure the pleading deficiencies and amendment would be futile.").

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.

Party Information

Debtor(s):

Freddy Enrique Luzuriaga

Represented By
Cynthia Grande

Defendant(s):

Nancy Chaparro

Represented By
Leighton M. Anderson

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Chapter 7

Movant(s):

Nancy Chaparro

Represented By
Leighton M. Anderson

Plaintiff(s):

Sam Leslie

Represented By
Toan B Chung

Trustee(s):

Sam S Leslie (TR)

Represented By
Toan B Chung

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2:23-14459 Online Edugo, Inc.

Chapter 7

Adv#: 2:24-01038 Online Edugo, Inc. v. Open Bank et al

#6.00 ***[Notice of dismissal with prej of defendants, American Default Management, LLC and United States Small Bus Admin. pursuant to Rule 7041 of the Federal Rules of Bankruptcy Procedure and Rule 41(a)(l)(A)(i) filed on 4/11/2024]***

Status conference re: Removal

Docket 2

*** VACATED *** REASON: Order dismissing adversary proceeding entered 4/16/24

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Online Edugo, Inc.

Pro Se

Defendant(s):

Open Bank

Represented By
Christopher Crowell

American Default Management,

Pro Se

U.S. Small Business Administration

Represented By
Elan S Levey

Plaintiff(s):

Online Edugo, Inc.

Represented By
Andrew K Kim
Timothy J Yoo

Trustee(s):

Heide Kurtz (TR)

Represented By
Timothy J Yoo

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Chapter 7

#7.00 [Converted to chapter 7 on 3/1/2024]

Cont'd Status Conference re: Chapter 11 Case
fr. 8/15/23, 9/12/23, 10/17/23, 12/19/23, 1/23/24,
2/6/24, 2/20/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/24:

Take this status conference off calendar, and conduct no further status conferences in this chapter 7 case absent further order of this Court, in view of recent developments (see, e.g., dkt. 128). 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.

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

(a) Dismissal, conversion, or appointment of a Chapter 11 Trustee
On 1/21/24, this Court entered an order granting relief from the

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automatic stay with respect to Debtor's primary real property asset (the "Property"), see dkt. 86. On 2/13/24, this Court entered an order denying Debtor's application to employ Tang & Associates as its general bankruptcy counsel, see dkt. 97. There is no indication in the record that any attorney represents Debtor with respect to this bankruptcy case.

On 1/30/24, Open Bank, the creditor in whose favor stay relief had been granted, foreclosed upon the Property. On 2/5/24, Debtor filed an action in the state court asserting causes of action for predatory lending, wrongful foreclosure, and quiet title (the "State Court Action"). On 2/12/24, Open Bank removed the State Court Action to this Bankruptcy Court. Dkt. 95.

At prior hearings, this Court has determined that there is "cause" to dismiss or convert this case under 11 U.S.C. 1112(b). The tentative ruling is that the removal of the State Court Action does not change this Court's prior determination that dismissal or conversion under 11 U.S.C. 1112(b) is appropriate. Accordingly, this Court's next task is to determine "whether dismissal, conversion, or the appointment of a trustee or examiner is in the best interests of creditors and the estate," and to "identify whether there are unusual circumstances that establish that dismissal or conversion is not in the best interests of creditors and the estate." *In re Sullivan*, 522 B.R. 604, 612 (9th Cir. BAP 2014).

Based on the recommendation of the Subchapter V Trustee (dkt. 99), joined in by Open Bank (dkt. 101) and apparently the Small Business Administration (dkt. 99 p. 2:22-24), the tentative ruling is to convert the case to Chapter 7, so that a Chapter 7 Trustee may investigate (A) the claims set forth in the State Court Action and (B) any potential claims against insiders or other parties.

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

(b) Subchapter V Trustee's final fee application (dkt. 89, the "Fee Application"), Notice of Fee Application (dkt. 90), No opposition on file

Allow \$15,350.00 in fees and \$0.40 in expenses, as requested by the Subchapter V Trustee (the "SubV Trustee"), for a total award of \$15,350.40,

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but decline to authorize any payment at this time (provided that this Court maintains its tentative ruling to convert this case to Chapter 7). *See In re Home Loan Serv. Corp.*, 533 B.R. 302, 304 (Bankr. N.D. Cal. 2015) (“[Section 726(b) deals] with the situation in which there is money in a chapter 7 estate, but not enough money to pay both unpaid chapter 11 and chapter 7 administrative expenses. Section 726(b) provides that the chapter 7 administrative claims will take priority, meaning that the chapter 7 administrative expenses will be paid in full before the chapter 11 expenses receive any distribution.”).

Proposed order(s): Unless otherwise ordered, the Subchapter V Trustee is directed to lodge proposed order(s) on the foregoing matter(s) via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)).

(c) Removed State Court Action

The tentative ruling is (A) to decline to make any determinations regarding whether remand of the State Court Action is appropriate until after a Chapter 7 Trustee has been appointed and has had sufficient time to investigate the State Court Action and take a position regarding remand, (B) to decline to set any deadlines in the State Court Action, again to provide a Chapter 7 Trustee sufficient time to conduct a proper investigation, and (C) to schedule a Status Conference to address issues arising in both the Chapter 7 case and the State Court Action for the date and time set forth in part “(2)(d)” of this tentative ruling, below.

(d) Cash collateral motion (dkt. 15) and interim orders (e.g., dkt. 96)

Deny any continued authorization to use cash collateral as moot because Debtor does not appear to be operating and, if this case is converted to chapter 7 as provided above and the chapter 7 trustee needs to operate the business temporarily, a new motion for use of cash collateral can be filed.

Proposed order(s): Unless otherwise ordered, the Subchapter V Trustee is directed to lodge proposed order(s) on the foregoing matter(s) via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)).

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(2) Dates/procedures. This case was filed on 7/17/23.

(a) Bar date: 9/25/23 per General Order 20-01 (70 days after petition date in Subchapter V cases) (DO NOT SERVE any notice: one has already been sent, see dkt. 10).

(b) Procedures Order: dkt. 6 (served 11 days late, see dkt. 19)

(c) Plan (dkt. 63)/Disclosure Statement (dkt. 64)/Sale Motion: Not applicable

(d) Continued status conference: 4/30/24 at 11:00 a.m. (**not** 1:00 p.m.). *Brief* status report from Chapter 7 Trustee due by **4/16/24**.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Online Edugo, Inc.

Pro Se

Trustee(s):

Heide Kurtz (TR)

Represented By
Timothy J Yoo

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2:23-14528 Brian D Witzer

Chapter 7

#8.00 Hrg re: Motion for Order Directing that 341(a)
Meeting of Creditors in this Case be Concluded

Docket 165

***** VACATED *** REASON: Motion voluntarily dismissed on 4/22/24
(dkt. 170)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Brian D Witzer

Represented By
David S Hagen
Michael S Kogan

Movant(s):

Brian D Witzer

Represented By
David S Hagen
Michael S Kogan

Trustee(s):

Sam S Leslie (TR)

Represented By
Jeremy Faith

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2:23-14528 Brian D Witzer

Chapter 7

#9.00 Cont'd hrg re: Motion for relief from stay [NA]
fr. 2/6/24

LORI HOEFT
vs
DEBTOR

Docket 125

Tentative Ruling:

Tentative Ruling for 4/30/24:

Continue to 5/14/24 at 11:00 a.m., concurrent with the hearing on Ms. Hoeft's motion to vacate the dismissal of Adv. No. 2:23-ap-01446-NB. Appearances are not required on 4/30/24. (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. For background on disputes involving Ms. Hoeft, see dkt. 141 & 169].

Party Information

Debtor(s):

Brian D Witzer

Represented By
David S Hagen
Michael S Kogan

Movant(s):

Lori Hoeft

Pro Se

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Trustee(s):

Sam S Leslie (TR)

Represented By
Jeremy Faith

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2:23-14528 Brian D Witzer

Chapter 7

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

#10.00 Cont'd Status Conference re: Complaint to Determine Non-Dischargeability
fr. 1/2/24, 1/23/24

Docket 1

***** VACATED *** REASON: Adversary proceeding dismissed order
entered 3/26/24**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Brian D Witzer

Represented By
David S Hagen
Michael S Kogan

Defendant(s):

BRIAN D. WITZER

Represented By
Michael S Kogan

Plaintiff(s):

NATHANIEL HOWARD

Represented By
Timothy Lee

Trustee(s):

Sam S Leslie (TR)

Represented By
Jeremy Faith

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2:24-10554 Milton Parker

Chapter 7

#11.00 Order directing Milton Parker, Hugo Gutierrez, Anthony Ramos, and Michael Deangeles Cansler to Appear and Show Cause Why they should not be sanctioned or have other adverse consequences imposed

Docket 7

Tentative Ruling:

Issue contempt sanctions, and impose a permanent bar against Milton Parker being a debtor in bankruptcy, absent further order of this Court, all as set forth below. Appearances required.

Key documents reviewed: Order Directing Milton Parker, Hugo Gutierrez, Anthony Ramos, and Michael Deangeles Cansler to Appear and Show Cause Why they Should Not be Sanctioned or Have Other Adverse Consequences Imposed (dkt. 7, the "OSC"), No opposition on file

Analysis:

Milton Parker, Hugo Gutierrez, Anthony Ramos, and Michael Deangeles (collectively, the "Contemnors") have failed to file a written response to this Court's Order to Show Cause (dkt. 7, the "OSC"). The tentative ruling is to impose a permanent bar against Milton Parker being a debtor in bankruptcy, for the reasons set forth in the OSC. *See In re Leavitt*, 171 F.3d 1219 (9th Cir. 1999) (affirming dismissal with prejudice based on finding of bad faith, considering whether debtor misrepresented facts, unfairly manipulated Code, or otherwise filed his petition or plan in inequitable manner; debtor's history of filings and dismissals; whether the debtor intended to defeat state court litigation; and whether egregious behavior is present); *see also In re Khan*, 846 F.3d 1058, 1066 (9th Cir. 2017) (not every *Leavitt* factor must be met; what matters is totality of circumstances).

In addition, the tentative ruling is to hold each of the Contemnors in contempt, and impose a sanction of \$500.00 upon each Contemnor, for the reasons set forth in the OSC. Each Contemnor is directed to pay the sanction to the Clerk of Court no later than **5/24/2024**, and to contact the Clerk's Office for directions regarding the mechanics of making that payment.

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Tuesday, April 30, 2024

Hearing Room 1545

11:00 AM

CONT...

Milton Parker

Chapter 7

Proposed order(s): After the hearing, this Court will prepare
appropriate orders.

Party Information

Debtor(s):

Milton Parker

Pro Se

**United States Bankruptcy Court
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Tuesday, April 30, 2024

Hearing Room 1545

11:00 AM

2:23-15530 Young C Cho

Chapter 7

#12.00 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, 4/9/24

Docket 39

Tentative Ruling:

Tentative Ruling for 4/30/24:

Appearances required.

At the hearing on 4/9/24 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. 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

Movant(s):

Wesley H Avery (TR)

Represented By
Nancy H Zamora

Trustee(s):

Wesley H Avery (TR)

Represented By

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CONT...

Young C Cho

Nancy H Zamora

Chapter 7

**United States Bankruptcy Court
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Tuesday, April 30, 2024

Hearing Room 1545

11:00 AM

2:20-10484 The New School of Cooking, Inc.

Chapter 7

Adv#: 2:22-01016 Avery v. Allen J. & Barbara C. Manzano Intervivos Trust

#13.00 Cont'd Status Conference re: Complaint for Avoidance and Recovery of Voidable and/or Fraudulent Transfers; and Objection to Claim fr. 3/29/22, 5/10/22, 5/31/22, 9/6/22, 12/6/22, 1/24/23, 4/18/23, 4/25/23, 06/27/23, 9/5/23, 10/17/23, 1/23/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/24:

Continue this status conference to 6/4/24 at 11:00 a.m. as a holding date, to be taken off calendar if this matter is dismissed pursuant to the parties' approved settlement agreement. See case in chief, dkt. 246, 247, and 251. If the matter has not been dismissed by the date of the continued status conference, this Court will most likely require Trustee to appear to explain why consummation of the settlement has been delayed. Appearances are not required on 4/30/24. (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):

The New School of Cooking, Inc.

Represented By
Crystle Jane Lindsey
Daniel J Weintraub
James R Selth

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CONT... The New School of Cooking, Inc.

Chapter 7

Defendant(s):

Allen J. & Barbara C. Manzano

Represented By
Shirlee L Bliss

Plaintiff(s):

Wesley H. Avery

Represented By
Matthew A Lesnick
Lauren N Gans
Lisa Patel

Trustee(s):

Wesley H Avery (TR)

Represented By
Lesnick Prince & Pappas, LLP
Jeffrey L Sumpter
Debra E Cardarelli
Matthew A Lesnick
Lauren N Gans
Lisa Patel

**United States Bankruptcy Court
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Los Angeles
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Tuesday, April 30, 2024

Hearing Room 1545

11:00 AM

2:20-10484 The New School of Cooking, Inc.

Chapter 7

Adv#: 2:22-01067 Avery v. Becker

#14.00 Cont'd Status Conference re: Complaint for: (1) Avoidance and Recovery of Preferential Transfers; (2) Avoidance and Recovery of Voidable and/or Fraudulent Transfers; (3) Objection to Claim; (4) Breach of Fiduciary Duty; (5) Conversion (6) Unjust Enrichment
fr. 5/31/22, 9/6/22, 12/6/22, 1/24/23, 4/18/23, 4/25/23, 06/27/23, 9/5/23, 10/17/23, 1/23/24

Docket 1

***** VACATED *** REASON: Stipulation for entry of Judgment approved on 3/15/2024**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

The New School of Cooking, Inc.

Represented By
Crystle Jane Lindsey
Daniel J Weintraub
James R Selth

Defendant(s):

Christopher Becker

Represented By
Shirlee L Bliss

Plaintiff(s):

Wesley H. Avery

Represented By
Matthew A Lesnick
Lauren N Gans
Lisa Patel

Trustee(s):

Wesley H Avery (TR)

Represented By
Lesnick Prince & Pappas, LLP

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CONT... The New School of Cooking, Inc.

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Jeffrey L Sumpter
Debra E Cardarelli
Matthew A Lesnick
Lauren N Gans
Lisa Patel

**United States Bankruptcy Court
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Tuesday, April 30, 2024

Hearing Room 1545

11:00 AM

2:20-10046 Samini Cohen Spanos LLP

Chapter 7

Adv#: 2:21-01259 Ehrenberg (TR) v. Samini Scheinberg, APC, a California corporation

#15.00 Cont'd Status Conference re: Complaint for (1) Avoidance and Recovery of Fraudulent Transfers, (2) Preservation of Fraudulent Transfers, and (3) Disallowance of Claims
fr. 3/15/22, 5/31/22, 8/2/22, 11/15/22, 2/21/23, 5/2/23, 8/8/23,
11/14/23, 1/23/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/24:

Continue to 9/10/24 at 11:00 a.m., as a holding date, to be taken off calendar if this matter is dismissed pursuant to the parties' approved settlement agreement. See case in chief, dkt. 130 & 133 and status report filed on 4/16/24 (adv. dkt. 44). Appearances are not required on 4/30/24. (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 RULINGS OMITTED]

Party Information

Debtor(s):

Samini Cohen Spanos LLP

Represented By
Robert P Goe

Defendant(s):

Samini Scheinberg, APC, a

Represented By
James D. Hornbuckle

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CONT... Samini Cohen Spanos LLP

Chapter 7

Plaintiff(s):

Howard M Ehrenberg (TR)

Represented By
Steve Burnell
Daniel A Lev

Trustee(s):

Howard M Ehrenberg (TR)

Represented By
Daniel A Lev
Steve Burnell

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 7

#16.00 Cont'd hrg re: Motion to Reconsider Allegretti & Company's Motion
for Relief of Order Approving Trustee's Sale of Real Property Entered
April 5, 2019
fr. 3/5/24

Docket 660

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 17,
4/30/24 at 11:00 a.m.).

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Movant(s):

Allegretti & Company

Represented By
Larry D Simons

Trustee(s):

Richard M. Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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Hearing Room 1545

11:00 AM

2:17-19548 Layfield & Barrett, APC

Chapter 7

#17.00 Cont'd Status Conference re: Chapter 7 Case
fr. 9/19/17, 10/17/17, 4/17/18, 5/1/18, 7/10/18, 9/18/18,
10/26/18, 12/6/18, 12/18/18, 2/5/19, 03/05/19, 04/02/19,
04/30/19, 06/04/19, 7/30/19, 9/10/19, 10/1/19, 10/15/19,
11/12/19, 12/10/19, 12/17/19, 2/18/20, 3/3/20, 03/31/20,
8/4/20, 9/1/20, 9/15/20, 12/8/20, 5/4/21, 7/20/21, 8/3/21,
10/12/21, 1/18/22, 5/31/22, 9/27/22, 4/6/22, 4/4/23, 8/8/23,
12/5/23, 2/20/24. 3/5/24

Docket 323

Tentative Ruling:

Tentative Ruling for 4/30/24:

Deny the Reconsideration Motion, order mediation, and continue the status conference, all as set forth below. Appearances required.

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

(1) Current issues

(a) Motion for reconsideration of sale order, by Allegretti & Company ("Allegretti") (dkt. 660, "Reconsideration Motion"), Order setting hearing (dkt. 661), proofs of service (dkt. 664 & 666), Objections of Stuart Summit Properties, LLC ("Stuart Summit") (dkt. 667) and Trustee (dkt. 668), Trustee's request for judicial notice (dkt. 669), Trustee's evidentiary objections to Rupert and Allegretti declarations (dkt. 670 & 671), Allegretti's reply (dkt. 674), Supplemental Allegretti declaration re: timing of Reconsideration Motion (dkt. 675), Supplemental Allegretti declarations re: service (dkt. 676 & 678), Scheduling order (dkt. 677), Opposition of Toll Creek Condominium Association ("CondoAssoc") (dkt. 680), Summit Properties' response to Supplemental Allegretti declaration re: timing (dkt. 686), Trustee's supplemental opposition (dkt. 687) and evidentiary objections to

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CONT... Layfield & Barrett, APC

Chapter 7

Supplemental Allegretti Decl. re: timing (dkt. 688)

(i) Background

Through an avoidance action, Trustee recovered for the benefit of the estate the following real property, all located within the Toll Creek Village office condominium complex ("Toll Creek") in Park City, Utah: (1) three office condominium units (Units 200, 210, and 220); (2) seven parking spaces located within an underground parking garage serving Toll Creek (parking spaces 1, 2, 3, 35, 39, 40, and 41); and (3) an underground storage unit located adjacent to the underground parking garage (Storage Unit A) (collectively, the "Property"). See Adv. No. 2:18-ap-01050-NB, adv. dkt. 17, 36, and 40.

Prior to the fraudulent transfers that made it necessary for Trustee to commence litigation to recover the Property, all the Property was owned by Debtor. (**Note:** Debtor changed its name from Layfield & Wallace, APC to its current name of Layfield & Barrett, APC in 2015. See Barnard Decl. in support of Petitioning Creditors' motion to appoint interim trustee (dkt. 3) at ¶ 2 and Ex. A. Certain of the property records relevant to the instant dispute predate the name change and therefore designate ownership of the Property using Debtor's former name, Layfield & Wallace.)

Pursuant to Toll Creek's Second Amended Condominium Plat (dkt. 680 at Ex. A, the "Plat") and its Declaration of Covenants, Conditions, and Restrictions (dkt. 680 at Ex. B, the "CC&Rs"), all parking spaces in the underground parking garage are designated as "Limited Common Areas." Toll Creek Second Amended Condominium Plat (dkt. 680 at Ex. A, the "Plat") and CC&R Art. I, ¶ 15. As a result of being so designated, each underground parking space is assigned to a specific condominium unit, and ownership of the parking space can be separated from ownership of the corresponding condominium unit only under limited circumstances:

Any parking areas and storage facilities that are identified on the Plat as Limited Common Areas are permanently assigned to specific Units, as an appurtenance to such Units, for the exclusive use of such Units. The Plat may permanently designate the Unit or Units to which each of the Limited Common Areas is reserved and appurtenant. For purposes of the underground (covered) parking, identified on the Plat, upon the initial sale of a Unit by the Declarant [Toll Creek, L.C., the developer of the project], Declarant shall have the right to

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CONT...

Layfield & Barrett, APC

Chapter 7

designate as Limited Common Area, the number (if any) and location of any underground parking stalls which shall be appurtenant to the Unit being sold. Once designated as Limited Common Area by the Declarant, the underground parking stalls comprising the Limited Common Area shall be appurtenant to the Unit for the exclusive use of such Unit and cannot be severed from the Unit or otherwise reassigned by the Association without the consent of the Owner. [CC&R at Art. I, ¶ 15.]

Although the CC&Rs provide that specific parking spaces are assigned to specific units, a Notice of Assignment of Limited Common Area (dkt. 680 at Ex. C, the “10/19/15 Parking Space Notice”) recorded on 10/19/15 refers to parking spaces by the owner of the unit (not by the unit to which the parking spaces are assigned). At the time the 10/19/15 Parking Space Notice was recorded, Debtor owned Units 200, 210, and 220, Storage Unit A, and parking spaces 1, 2, 3, 35, 39, 40, and 41. The 10/19/15 Parking Space Notice states only that parking spaces 1, 2, 3, 35, 39, 40, and 41 are owned by Debtor, and does not indicate how ownership of those parking spaces is allocated among the four units also owned by Debtor.

To take an illustrative example, it is impossible to tell from the 10/19/15 Parking Space Notice which (if any) of the seven parking spaces are “appurtenant to [Unit 200] for the exclusive use of such Unit” within the meaning of CC&R Art. I, ¶ 15. Likewise, it is impossible to tell which (if any) of the spaces are “appurtenant to [Storage Unit A] for the exclusive use of such Unit,” *id.*, and so on.

On 2/7/19, this Court entered an order approving the sale of Unit 200 and parking spaces 1, 2, 3, and 35 to Sterling Holdings LLC (“Sterling”). Dkt. 407. An amended order correcting the incorrect parking space numbers referenced in the initial sale order was entered on 2/20/19 (dkt. 414). That amended order clarified that the spaces sold were spaces 35, 39, 40, and 41.

On 4/5/19, this Court entered an order approving the sale of Units 210 and 220 to Allegretti. Dkt. 428. Unlike the sale orders entered in connection with Sterling’s purchase of assets from the estate, the sale order entered with respect to Allegretti did **not** include any reference to parking spaces.

On 6/21/23, Stuart Summit, which holds a secured claim against Storage Unit A, filed a motion for relief from the automatic stay so that it could foreclose upon Storage Unit A. Trustee filed a notice indicating that he did

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CONT... Layfield & Barrett, APC

Chapter 7

not oppose Stuart Summit's R/S Motion (dkt. 637), and on 7/13/23, this Court entered an order terminating the automatic stay as to Storage Unit A. Dkt. 638. On 1/12/24, Stuart Summit acquired Storage Unit A at a foreclosure auction. See dkt. 631, Ex. 1 (foreclosure trustee's Deed).

According to Chad Lassig, Secretary of the CondoAssoc, Storage Unit A is the only storage unit in the Toll Creek development "equipped with roll up truck doors, which allow the owner of Storage Unit A to back a truck up to such doors for loading and unloading purposes." Lassig Decl. (dkt. 680) at ¶ 20. Parking spaces 1, 2, and 3 are located directly in front of these roll-up truck doors. See Plat (dkt. 680-1 at PDF p. 3) (architectural drawing showing the location of Storage Unit A relative to the parking spaces) and Appraisal Report filed in support of Stuart Summit's 6/21/23 R/S Motion (dkt. 635, Ex. 5) at p. 34 (PDF p. 41) (photograph showing the location of Storage Unit A's roll up truck doors relative to parking spaces 1, 2, and 3). Mr. Lassig testifies that the full use and enjoyment of Storage Unit A cannot be realized without simultaneous ownership of parking spaces 1, 2, and 3. Lassig Decl. (dkt. 680) at ¶ 21.

Stuart Summit contends that it acquired ownership of parking spaces 1, 2, and 3 when it acquired Storage Unit A at the 1/12/24 foreclosure sale. Allegetti maintains that those same parking spaces were conveyed to it in connection with Allegetti's purchase of Units 210 and 220.

The CondoAssoc supports Stuart Summit's claim to ownership of parking spaces 1, 2, and 3; it takes the position that Toll Creek's developers intended those parking spaces to be permanently assigned to Storage Unit A to enable access to the unit, both (A) for the convenience of the owner of Storage Unit A and (B) as a matter of fire safety, because certain fire-related fixtures are within Storage Unit A and, allegedly, it would be more difficult to access those fixtures if ownership of that storage unit were separate from ownership of the parking spaces. Stephen Stuart, who is the principle of Stuart Summit, is also the president of the CondoAssoc.

(ii) Allegetti is not entitled to reconsideration of the 4/15/19 Sale

Order

The tentative ruling is that solely for purposes of the Reconsideration Motion, Allegetti has not shown that the 4/15/19 Sale Order (dkt. 428) must be amended to include parking spaces 1, 2, and 3, because Allegetti has not submitted sufficient evidence establishing that those parking spaces are

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Chapter 7

legally "appurtenant" to Units 210 and 220 which were sold to Allegretti. None of the evidence submitted by Allegretti shows that parking spaces 1, 2, and 3 were ever legally allocated to Units 210 and 220, although Allegretti apparently was led to believe that two or three parking spaces would be transferred to it along with those units.

As the party seeking relief under Rule 60(b)(6) (Fed. R. Civ. P., incorporated by Rule 9024, Fed. R. Bankr. P.), Allegretti has the burden of showing extraordinary circumstances. See, e.g., *Zurich Am. Ins. Co. v. Int'l Fibercom, Inc. (In re Int'l Fibercom, Inc.)*, 503 F.3d 933, 941 (9th Cir. 2007) (Rule 60(b)(6) is to be used "only where extraordinary circumstances prevented a party from taking timely action to prevent or correct an erroneous judgment"). The tentative ruling is that for the reasons set forth above, Allegretti has failed to meet that high burden.

This Court is determining only that insufficient evidence has been presented to warrant reconsideration, and is not making any determination as to who owns parking spaces 1, 2, and 3. As a result, an adversary proceeding under Rule 7001 (Fed. R. Bankr. P.) is not required.

Further, this Court takes no position on whether a determination of the ownership of parking spaces 1, 2, and 3 could or should be properly presented to this Court by way of an adversary proceeding, or whether any dispute regarding such ownership instead could be more properly presented to a nonbankruptcy court. Nor does this Bankruptcy Court express any opinion regarding how any damages that Allegretti might claim should be allocated as between the CondoAssoc (or possibly Toll Creek, L.C., the developer of the project) - for apparently failing to take proper steps to designate which parking spaces were allocated to which units (thereby apparently causing the confusion about whether the units sold to Allegretti included any appurtenant parking spaces) - or any other parties.

This Court notes that litigation of these issues likely would be expensive, especially when compared with the present discounted value of the possible future gain or loss to either the CondoAssoc or Allegretti (or any other persons who might be involved in such litigation). The tentative ruling is to order mandatory mediation between the CondoAssoc and Allegretti to determine whether they can resolve their differences more efficiently through any payment of money, any transfer of alternative parking spaces, or any alternative arrangements.

The parties are also directed to address, at this hearing, whether this

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Court should delay issuance of any order denying the reconsideration motion, or otherwise preserve appeal rights, while the parties are engaged in mediation.

Proposed order(s): Unless otherwise ordered at the hearing: (A) Trustee is directed to lodge a proposed order denying the reconsideration motion, and (B) Allegretti is directed to lodge a proposed order assigning this matter to mediation. Such orders must be lodged via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)) and the order denying the reconsideration motion must attach a copy of this tentative ruling, thereby adopting it as this Court's actual ruling.

(2) Deadlines/dates

This case was filed as an involuntary chapter 7 on 8/3/17, converted to chapter 11 on 8/11/17 (dkt. 25), and reconverted back to chapter 7 on 12/9/22 (dkt. 619).

The tentative ruling is to continue the status conference to 6/25/24 at 11:00 a.m. (no written status report required).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Layfield & Barrett, APC

Pro Se

Movant(s):

Layfield & Barrett, APC

Pro Se

Trustee(s):

Richard M. Pachulski (TR)

Represented By
Malhar S Pagay
James KT Hunter

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11:00 AM

2:19-18316 Ashley Susan Aarons

Chapter 7

#18.00 Cont'd hrg re: Chapter 7 Trustee's Motion for Order Authorizing
Abandonment of Property of the Estate Pursuant to 11 U.S.C. §554(a)
fr. 10/17/23, 11/28/23, 1/23/24, 4/2/24

Docket 643

Tentative Ruling:

Tentative Ruling for 4/30/24:

Please see the tentative ruling for Calendar No. 21 on 4/30/24 at 11:00 a.m.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By

Shulman Bastian Friedman & Bui LLP

Richard L Antognini

David R Haberbush

Vanessa M Haberbush

Lane K Bogard

Movant(s):

David M Goodrich (TR)

Pro Se

Trustee(s):

David M Goodrich (TR)

Pro Se

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11:00 AM

2:19-18316 Ashley Susan Aarons

Chapter 7

#19.00 Cont'd hrg re: Motion by Asset Recovery Association, Inc. D.B.A. ClaimsXP order (1) Amending the ClaimsXP employment order; (2) Amending the Furtado Employment order; & (3) Disgorging fees already paid to Furtado fr. 11/28/23, 1/23/24, 4/2/24

Docket 649

Tentative Ruling:

Tentative Ruling for 4/30/24:

Please see the tentative ruling for Calendar No. 21 on 4/30/24 at 11:00 a.m.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By

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

Movant(s):

Asset Recovery Association

Represented By

Jeremy H Rothstein

Trustee(s):

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

2:19-18316 Ashley Susan Aarons

Chapter 7

#20.00 Cont'd hrg re: Motion to Partially Strike Omnibus Reply
by ClaimsXP and Strike Declaration of Debtor Ashley Aarons
fr. 11/28/23, 1/23/24, 4/2/24

Docket 662

Tentative Ruling:

Tentative Ruling for 4/30/24:

Please see the tentative ruling for Calendar No. 21 on 4/30/24 at 11:00 a.m.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By

Shulman Bastian Friedman & Bui LLP

Richard L Antognini

David R Haberbusch

Vanessa M Haberbusch

Lane K Bogard

Movant(s):

Furtado Law PC

Pro Se

Trustee(s):

David M Goodrich (TR)

Pro Se

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2:19-18316 Ashley Susan Aarons

Chapter 7

#21.00 Cont'd Preliminary hrg re: Notice of compensation report
& compensation report by Asset Recovery Assoc.
Inc. D.B.A.Claim SXP
fr. 6/27/23, 8/15/23, 9/19/23, 10/17/23, 11/28/23, 1/23/24,
4/2/24

Docket 612

Tentative Ruling:

Tentative Ruling for 4/30/24:

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) The parties

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

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

At the hearing on 4/2/24, Claims XP reported that a settlement in principle had been reached with Mr. Furtado. The parties are directed to provide an update regarding any settlement.

To the extent that a settlement has not been reached, the tentative ruling is to maintain the previously-ordered deadlines pertaining to the 6/18/24 evidentiary hearing set by the Scheduling Order (dkt. 673) issued on 4/27/24.

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

Tuesday, April 30, 2024

Hearing Room 1545

11:00 AM

CONT...

Ashley Susan Aarons

Chapter 7

(c) Notice/application for compensation of ClaimsXP (dkt. 612); Order setting initial hearing and permitting only limited additional papers (dkt. 618); Notice of hearing (dkt. 622); Oppositions of Verus (dkt. 613), Totaro Firm (dkt. 614, 615), Bastian Firm (dkt. 617), and Trustee (dkt. 626); ClaimsXP's reply (dkt. 627)

Same as above.

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

Same as above.

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

Same as above.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By

Shulman Bastian Friedman & Bui LLP

Richard L Antognini

David R Haberbush

Vanessa M Haberbush

Lane K Bogard

Movant(s):

Asset Recovery Association

Represented By

Jeremy H Rothstein

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 30, 2024

Hearing Room 1545

11:00 AM

2:19-18316 Ashley Susan Aarons

Chapter 7

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

#22.00 Cont'd status conference re: Removal
fr. 4/2/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/24:
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.

[PRIOR TENTATIVE RULING(S) OMITTED. For recent background, see adv. dkt. 49.]

Party Information

Debtor(s):

Ashley Susan Aarons

Represented By

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

Defendant(s):

Lexington Insurance Company a

Represented By

Jordon E Harriman

Does 1 to 25, inclusive

Pro Se

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

Tuesday, April 30, 2024

Hearing Room 1545

11:00 AM

CONT... Ashley Susan Aarons

Chapter 7

Plaintiff(s):

Ashley Aarons Trustee of The Pro Se

Trustee(s):

David M Goodrich (TR) Pro Se

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

Tuesday, April 30, 2024

Hearing Room 1545

1:00 PM

2:24-12006 Briganti Enterprise, Inc.

Chapter 11

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

LHOME MORTGAGE TRUST 2021-RTL2
vs
DEBTOR

Docket 39

Tentative Ruling:

Grant in part and continue in part concurrent with the continued status conference (see calendar no. 2, 4/30/24 at 1:00 p.m.), as set forth below. Appearances are not required on 4/30/24. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

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

Key documents reviewed (in addition to motion papers): Debtor's limited opposition (dkt. 39)

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).

Relief notwithstanding *future* bankruptcy cases

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
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Tuesday, April 30, 2024

Hearing Room 1545

1:00 PM

CONT...

Briganti Enterprise, Inc.

Chapter 11

As to the requested relief that will remain effective notwithstanding any future bankruptcy case, continue the motion to the date and time set forth at the start of this tentative ruling, for proper service on the persons who executed the documents through which the movant asserts its interest in the property (*i.e.*, the original borrower). Reasons: See LBR 4001-1(c)(1)(B). In addition, Judge Bason has due process concerns about granting such relief without service on the person(s) whose interests may be most directly affected. See *generally Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) (due process generally). In this matter, such persons appear to include: Tomines Investments Corp. ("Tomines") (which should be served at both the address set forth in the loan documents (5823 Saddleback St., Montclair, CA 91763) and the address for Tomines' agent for service of process, as listed on the website of the California Secretary of State (Hongda Fei, 337 N. Vineyard Ave., 4th Floor, Ste. #25, Ontario, CA 91764)). (The R/S Motion was not served upon either of the foregoing addresses, but was instead mailed to the Property, which is apparently undergoing construction. Consequently, it appears unlikely that Tomines received notice of the R/S Motion.)

Option for shortened time: This Court has selected a continued hearing date that contemplates shortened notice (per Rule 9006) but that date is conditioned on the movant serving all papers on *the day after the current hearing date*. Alternatively, the movant may self-calendar a continued hearing on *regular* notice.

Option for interim/partial order: Movant may elect to lodge a proposed order granting the *partial* relief provided in this tentative ruling, but any such order must recite that a continued hearing has been set to consider additional relief (or, alternatively, that Movant no longer seeks additional relief and the Clerk's office is requested and directed to take the continued hearing off calendar).

Party Information

Debtor(s):

Briganti Enterprise, Inc.

Represented By
Michael Jay Berger

Movant(s):

LHome Mortgage Trust 2021-RTL2

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
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Tuesday, April 30, 2024

Hearing Room 1545

1:00 PM

CONT... Briganti Enterprise, Inc.

Jennifer C Wong

Chapter 11

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Tuesday, April 30, 2024

Hearing Room 1545

1:00 PM

2:24-12006 Briganti Enterprise, Inc.

Chapter 11

#2.00 Cont'd status conference re: Chapter 11 case
fr. 3/26/24, 4/9/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/24:

Continue as provided below. Appearances are not required on 4/30/24. (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) R/S motion (dkt. 39), Debtor's limited opposition (dkt. 52)

Grant in part as set forth in the tentative ruling for Cal. No. 1, and continue in part concurrent with the continued status conference (see part "(2)(d)" of this tentative ruling, below).

(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).

(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: 5/14/24 at 1:00 p.m., concurrent with other matters. No written status report required.

[PRIOR TENTATIVE RULING(S) OMITTED]

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

Tuesday, April 30, 2024

Hearing Room 1545

1:00 PM

CONT... Briganti Enterprise, Inc.

Chapter 11

Party Information

Debtor(s):

Briganti Enterprise, Inc.

Represented By
Michael Jay Berger

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Tuesday, April 30, 2024

Hearing Room 1545

1:00 PM

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

Chapter 11

#3.00 Hrg re: Debtor's Motion for Order: (1) Approving Compromise of Controversy Between Debtor and Secured Creditor PMF CA REIT, LLC ("PMF"); (2) Resolving PMF's Motion for Relief from Stay [Doc 89]; and (3) Resolving Debtor's Objection to PMF Claim No. 1 [Doc 64]

Docket 183

***** VACATED *** REASON: This matter is scheduled to be heard on
05/07/24 at 1:00 p.m. per parties' stipulation 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):

9301 Cherokee Lane, LLC, a

Represented By
Marc A Lieberman
Alan W Forsley

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
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Tuesday, April 30, 2024

Hearing Room 1545

1:00 PM

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

Chapter 11

#4.00 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, 4/9/24

Docket 69

Tentative Ruling:

Tentative Ruling for 4/30/24:

Please see the tentative ruling for the status conference (Calendar No. 6, 4/30/24 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 30, 2024

Hearing Room 1545

1:00 PM

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

Chapter 11

#5.00 Cont'd hrg re: Objection to Claim #1 by Claimant
PMF CA Reit, LLC. in the amount of \$ 9679516.77
fr. 2/20/24

Docket 64

***** VACATED *** REASON: Off Calendar. Date to be set on 05/07/24 per
parties' Stipulation and order thereon.**

Tentative Ruling:

- NONE LISTED -

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
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, April 30, 2024

Hearing Room 1545

1:00 PM

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

Chapter 11

#6.00 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, 4/9/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/24:

Appearances required by parties involved in the discovery dispute (Debtor, who is not involved in the discovery dispute and whose counsel has a scheduling conflict, is not required to appear).

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

(1) Current issues

(a) Debtor's motion for approval of compromise resolving Debtor's objection to PMF's claim and PMF's R/S Motion (dkt. 183, the "Settlement Motion"), Limited objection filed by BMO (dkt. 194, the "Limited Objection"), Stipulation to continue hearing (dkt. 198) and order thereon

This matter has been continued to 5/7/24 at 1:00 p.m. See dkt. 198 and order thereon.

(b) 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)

**United States Bankruptcy Court
Central District of California
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Tuesday, April 30, 2024

Hearing Room 1545

1:00 PM

CONT...

9301 Cherokee Lane, LLC, a Delaware Limited Liabil

Chapter 11

This matter has been taken off calendar, but will be restored to the calendar if the Settlement Motion is not granted. See dkt. 198 and order thereon.

(c) Debtor's objection to PMF's claim and related documents (dkt. 64–66, the "Claim Objection"); Stipulation and order continuing hearing on Claim Objection (dkt. 86–87)

This matter has been taken off calendar, but will be restored to the calendar if the Settlement Motion is not granted. See dkt. 198 and order thereon.

(d) 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 matter has been continued to 5/7/24 at 1:00 p.m. See dkt. 179 & 181.

(e) Continued discovery dispute (see dkts. 67, 69, 88, 99-101, 114, 137, 148, 150, & 197)

The tentative ruling is (A) **to set a deadline of 5/14/24** for the Meyers Entities (as defined in PMF's status report, dkt. 197) to produce to PMF either (i) responsive documents or (ii) as to any withheld documents, a full privilege log in the usual form (listing each document separately; listing the date of each document; describing the basis for any asserted privilege or other ground for withholding the document; disclosing, for claims of attorney-client privilege or attorney work product, all recipients of the document; etc.); (B) to hold a continued hearing on **6/11/24 at 1:00 p.m.** in order (i) to monitor the Meyers Entities' compliance with their discovery obligations and (ii) to provide PMF sufficient time to review the documents that were only recently produced by Cody Holmes; and (C) to direct PMF to file a *brief* status report by 6/4/24.

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

(2) Dates/procedures. This case was filed on 9/25/23.

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Tuesday, April 30, 2024

Hearing Room 1545

1:00 PM

CONT...

9301 Cherokee Lane, LLC, a Delaware Limited Liabil

Chapter 11

(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. No written status report required.

[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
Central District of California
Los Angeles
Neil Bason, Presiding
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Tuesday, April 30, 2024

Hearing Room 1545

1:00 PM

2:23-12863 Energy Plus Solar Inc.

Chapter 11

#7.00 Hrg re: Motion to disqualify and recuse Judge

Docket 286

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 10, 4/30/24 at 1:00 p.m.).

Party Information

Debtor(s):

Energy Plus Solar Inc.

Represented By
Michael Jay Berger

Movant(s):

Diane L. Klausen

Represented By
Roger E Naghash
Nicole B. Naghash

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
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Tuesday, April 30, 2024

Hearing Room 1545

1:00 PM

2:23-12863 Energy Plus Solar Inc.

Chapter 11

#8.00 Hrg re: Motion for award of attorney's fee and expenses
and increase creditor, Diane L. Klausen's allowed claim

Docket 292

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 10,
4/30/24 at 1:00 p.m.).

Party Information

Debtor(s):

Energy Plus Solar Inc.

Represented By
Michael Jay Berger

Movant(s):

Diane L. Klausen

Represented By
Roger E Naghash
Nicole B. Naghash

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, April 30, 2024

Hearing Room 1545

1:00 PM

2:23-12863 Energy Plus Solar Inc.

Chapter 11

#9.00 Cont'd Combined hrg re: Final Approval of
Disclosures and Plan Confirmation
fr. 12/19/23, 2/6/24, 3/12/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/24:

Please see the tentative ruling for the status conference (Calendar No. 10,
4/30/24 at 1:00 p.m.).

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Energy Plus Solar Inc.

Represented By
Michael Jay Berger

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Courtroom 1545 Calendar**

Tuesday, April 30, 2024

Hearing Room 1545

1:00 PM

2:23-12863 Energy Plus Solar Inc.

Chapter 11

#10.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/13/23, 7/11/23, 8/15/23, 9/12/23, 10/3/23,
11/14/23, 12/19/23, 2/6/24, 3/12/24, 4/2/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/24:

Deny Ms. Klausen's motion for disqualification, deny Ms. Klausen's motion for an award of attorney fees, and continue the confirmation hearing, all as set forth below. Appearances are not required on 4/30/24. (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.")

Proposed order(s): Unless otherwise ordered, Debtor is directed to lodge proposed order(s) on the following matter(s) via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)) and attach a complete copy of this tentative ruling to each order, thereby assuring completeness of the record and incorporating the relevant portions as this Court's actual ruling on the matters to which each order relates (disqualification motion; attorney fees motion; and plan confirmation).

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

(1) Current issues

(a) Creditor Diane L. Klausen's Motion to disqualify Judge Bason (dkt. 286, the "Disqualification Motion"), Debtor's opposition (dkt. 311), Ms. Klausen's reply (dkt. 314)

(i) Background

On 4/4/24, this Court entered an order denying Ms. Klausen's motion for a stay pending appeal (dkt. 233 & 243, the "Stay Motion") of the entirety of

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Tuesday, April 30, 2024

Hearing Room 1545

1:00 PM

CONT...

Energy Plus Solar Inc.

Chapter 11

this bankruptcy case. Dkt. 303 (the "Order Denying Stay Motion"). Although the Disqualification Motion and Stay Motion seek different remedies, they are based upon substantially identical allegations. The only allegation made in the Disqualification Motion not also presented in the Stay Motion is Ms. Klausen's contention that various rulings with which she disagreed were motivated by the undersigned Judge's alleged "personal and undisclosed friendship" with Debtor's counsel. Disqualification Motion at p. 5.

Ms. Klausen seeks disqualification on two grounds. First, she argues that disqualification is required under 28 U.S.C. 455(a) because this Court's "impartiality might reasonably be questioned." Second, she asserts that disqualification is required under 28 USC 455(b)(1) because this Court has an actual "personal bias or prejudice" against her. This Court addresses each asserted ground for disqualification in turn.

(ii) Disqualification under 28 U.S.C. 455(a)

Title 28 U.S.C. 455(a) provides that "[a]ny justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." Under section 455(a), "what matters is not the reality of bias or prejudice but its appearance." *Liteky v. United States*, 510 U.S. 540, 548 (1994). "This inquiry is an objective one, made from the perspective of a reasonable observer who is informed of all the surrounding facts and circumstances." *Microsoft Corp. v. United States*, 530 U.S. 1301, 1302 (2000).

Ms. Klausen advances several reasons in support of her contention that this Court's impartiality is reasonably subject to question. The tentative ruling is that none of her reasons is persuasive.

(A) This Court's refusal to consider allegations based upon an unfiled, unauthenticated transcript

Ms. Klausen contends that this Court demonstrated partiality toward Debtor by refusing to consider allegations of Ms. Klausen that were based upon an unfiled, unauthenticated transcript. The circumstances pertaining to the transcript, and this Court's reasons for declining to consider allegations based thereon, are explained in the Order Denying Stay Motion as follows:

The day after a hearing on Ms. Klausen's motion seeking omnibus relief, she attempted to submit a transcript that she apparently believed was relevant to that hearing. This Court

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Tuesday, April 30, 2024

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1:00 PM

CONT...

Energy Plus Solar Inc.

Chapter 11

issued an order declining to accept that belated, unfiled, unauthenticated transcript. The order states, in part:

At approximately 4:08 p.m. on February 6, 2024, after the hearing had concluded, Ms. Klausen filed a "Notice of Lodgment of Transcript of the Debtor Energy Plus Solar, Inc.'s Person Most Knowledgeable's 2004 Examination and its Notice of Errata" (dkt. 224, the "Notice of Lodgment"). Despite the title of this Notice of Lodgment, no actual transcript was lodged (let alone filed) at that time. The morning after the filing of the Notice of Lodgment, on February 7, 2024, at approximately 9:00 a.m., Ms. Klausen delivered to this Court a hard copy of a transcript of the 12/20/23 Exam (the "Rule 2004 Transcript"). [Order (dkt. 225) p. 2:12-19.]

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

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

Despite this clear direction, the transcript still has not been filed on the docket in connection with the Stay Motion (or, for that matter, any other motion, opposition, or other papers). Nor has the transcript been authenticated by a proper declaration. Nor is there any proof of service of any such

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CONT...

Energy Plus Solar Inc.

Chapter 11

declaration and attached transcript on Debtor. Nevertheless, the Stay Motion states that it “is also based on ... [the] 2004 Examination of Debtor’s Transcript (in possession, custody, and control of [Bankruptcy Judge] Neil W. Bason)” Stay Motion (dkt. 243-1) p. 3:1-3.

To be very clear, this Court has not considered the Rule 2004 Transcript – either in connection with the instant Stay Motion or any other matters in this case. In fact, to assure that this Court acts only based on matters that are properly presented, and not based on any *ex parte* communications, this Court has not reviewed the Rule 2004 Transcript at all. [Order Denying Stay Motion at p. 6.]

The tentative ruling is that any reasonable observer who was informed of the circumstances described above would not conclude that this Court is biased or prejudiced against Ms. Klausen.

(B) This Court’s response to Ms. Klausen’s allegations
against Sunpower

Ms. Klausen argues that rulings made by this Court after she presented allegations against Sunpower Corporation (“Sunpower”) show partiality toward Debtor. But the only evidence Ms. Klausen presented in support of her allegations against Sunpower was the unfiled, unauthenticated transcript which this Court has not considered for the reasons set forth in part “(1)(a)(ii)(A),” above.

Notwithstanding Ms. Klausen’s failure to present admissible evidence in support of her allegations, this Court evaluated whether those allegations, if true, would pose an impediment to the confirmation of Debtor’s Plan. Even giving Ms. Klausen the benefit of the doubt by assuming the truthfulness of her unsubstantiated allegations, this Court ultimately determined that it was appropriate to allow Debtor to move forward with Plan confirmation. This Court explained its reasoning as follows:

The Stay Motion alleges that Debtor “fraudulently has unlawfully paid/offset payments to [supplier and creditor] Sunpower [Corporation].” Stay Motion (dkt. 243) p. 4:11-15. When Ms. Klausen first raised this issue, this Court was

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concerned about these allegations. In fact, although Ms. Klausen had not explained how this alleged wrongdoing was relevant to any issues before this Court, this Court nevertheless *sua sponte* raised the question whether Debtor was proposing its Plan in good faith. See Order (dkt. 241) Ex. A at pp. 1-3.

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

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

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

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added, capitalization and boldface in original).

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

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

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

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

[Order Denying Stay Motion at pp. 5–7.]

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The tentative ruling is that a reasonable observer apprised of this Court's analysis would **not** conclude that this Court is biased or prejudiced against Ms. Klausen.

(C) This Court's issuance of an order advising Ms. Klausen of her potential exposure to substantial sanctions, and providing her an additional opportunity to submit any evidence in her defense

In connection with a motion filed by Debtor seeking substantial monetary sanctions against Ms. Klausen and her counsel (dkt. 210, the "Sanctions Motion"), this Court issued and caused to be served upon Ms. Klausen an order (I) informing her that she face significant monetary exposure and (II) providing her an additional opportunity (after her initial deadline already had passed) to file her own written declaration responding to the Sanctions Motion so that, for example, she could provide any admissible evidence that she lacked what appeared to be the willful bad faith intent described above. See dkt. 226 (the "Order Providing Notice of Sanctions Exposure"). Through counsel, Ms. Klausen now asserts that issuance of the Order Providing Notice of Sanctions Exposure somehow demonstrates that this Court is biased against her.

Additional context regarding the Order Providing Notice of Sanctions Exposure is set forth in the Order Denying Stay Motion (see pp. 7–8 of that order) and will not be restated herein. The tentative ruling is that no reasonable observer would conclude that issuance of the Order Providing Notice of Sanctions Exposure demonstrates partiality toward Debtor.

(D) Alleged personal friendship between Judge Bason and Mr. Berger

There is no evidence submitted in support of Ms. Klausen's assertions about any personal friendship between Judge Bason and Mr. Berger. Nor is there any such friendship, let alone any favoritism.

In actuality, Judge Bason has only the same professional interactions with Mr. Berger as with many members of the bankruptcy bar whom he occasionally meets at conferences and with whom he exchanges pleasantries. Judge Bason does not recall ever having met with Mr. Berger outside of such professional contexts.

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(iii) Disqualification under 28 U.S.C. 455(b)

Under 28 U.S.C. 455(b), any judge who “has a personal bias or prejudice concerning a party” must disqualify himself. Relying upon the same arguments advanced in support of her contention that disqualification is mandated under 28 U.S.C. 455(a), Ms. Klausen contends that disqualification is likewise mandated under 28 U.S.C. 455(b).

Having determined that no reasonable impartial observer would conclude that this Court is biased against Ms. Klausen, this Court has little difficulty in determining that Ms. Klausen has not made the much more difficult showing of demonstrating grounds for disqualification under 28 U.S.C. 455(b). The tentative ruling is that disqualification under 28 U.S.C. 455(b) is not required.

(b) Ms. Klausen’s motion for attorney fees (dkt. 292), Debtor’s opposition (dkt. 310)

(i) Background

On 10/11/23, this Court entered an order determining that Ms. Klausen held an allowed unsecured claim of \$142,762.04 (the “Claim”). See dkt. 145 (the “Claim Allowance Order”). In fixing the amount of the Claim, this Court held that “Ms. Klausen is entitled to claim contractual attorney fees billed post-petition,” but only with respect to fees falling within the contractual language of a pre-petition Judgment Payoff and Payment Agreement (the “Payment Agreement”) between Ms. Klausen and Debtor, and only to the extent that Ms. Klausen “is the ‘prevailing’ party on each matter for which fees are sought.” Tentative Ruling for 9/12/23 (dkt. 292-3 at PDF p. 24).

On 3/20/24, this Court entered an order imposing compensatory sanctions against Ms. Klausen and her counsel, Roger E. Naghash, jointly and severally, in the amount of \$53,646.84 (dkt. 268, the “Sanctions Order”). This Court determined that sanctions were warranted to compensate Debtor for the costs of responding to “a long history of frivolous objections by Ms. Klausen.” Sanctions Order at p. 5. As this Court explained, at first these frivolous objections “appeared to be mere mistakes or possible inadvertence,” but “as time went on a pattern emerged” demonstrating that

from the outset of this bankruptcy case [Ms. Klausen, through] Mr. Naghash[,] has been [**willfully** abusing the judicial process and otherwise conducting litigation in a **bad faith** attempt **to cause unnecessary delay, needlessly increase the cost of**

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litigation, and harass Debtor. [Tentative Ruling (Ex. A to Order continuing hearing, dkt. 226, p. 13 (emphasis added).]

This Court ruled that subject to certain conditions and exceptions, the sanctions would be payable by reducing the distributions that Ms. Klausen would be entitled to receive under Debtor's Plan on account her Claim.

(ii) Current issues

Ms. Klausen's appeal of the Sanctions Order is currently pending. Ms. Klausen now seeks an order increasing her Claim by \$112,527.44. The requested increase is based upon attorney fees incurred by Ms. Klausen in connection with Debtor's bankruptcy case from 8/23/23 to 3/26/24. See dkt. 292 at Ex. C and D (billing statements showing dates that fees were incurred).

In the Claim Allowance Order, this Court warned Ms. Klausen that she could not heedlessly increase the amount of her Claim simply by aggressively litigating every matter arising in Debtor's bankruptcy case:

Most creditors determine that in bankruptcy cases it is not productive to engage in "scorched earth" litigation because that tactic is usually throwing good money after bad. Rather, most creditors choose their battles.

Whether or not Ms. Klausen decides to do the same, her attorney fee clause will limit her recovery of attorney fees. She will only receive compensation for her attorney fees if (A) she prevails and (B) her attorney fees are "necessary to enforce" her Judgment Payoff and Payment Agreement with Debtor. [Claim Allowance Order at p. 6.]

The tentative ruling is that almost none of the fees currently sought by Ms. Klausen fall within the scope of the attorney fee clause, and those that do are duplicative of prior work and therefore do not justify additional fees. In particular, the only remaining relevant issue for a substantial period of time has been feasibility, and Ms. Klausen has already billed more than enough time on that matter. These issues are explained in more detail below.

First, a significant portion of the fees sought arise in connection with litigation activity for which Ms. Klausen and her counsel have been sanctioned. It goes without saying that Ms. Klausen is not the prevailing party with respect to such activity. True, Ms. Klausen has appealed the Sanctions Order, and therefore the possibility remains that at some point in

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future, Ms. Klausen might emerge as the prevailing party with respect to the matters for which she was sanctioned. But that could occur only if Ms. Klausen succeeding in overcoming at least two obstacles: (A) Ms. Klausen would have to obtain an order reversing this Court's award of sanctions and (B) Ms. Klausen would have to obtain a determination that the underlying activity for which she was sanctioned was itself necessary to enforce the Payoff Agreement.

Obtaining this second determination would be especially difficult, because as this Court has explained previously, Debtor's Plan proposes to pay Ms. Klausen 100% of her Claim. That means that, for the period in question, only those fees reasonably incurred to conduct a good-faith examination of the feasibility of the Plan were necessary to enforce the Payoff Agreement.

For all of these reasons, the tentative ruling is to deny in full Ms. Klausen's motion for attorney fees. In addition, there are alternative reasons to deny that motion.

(iii) Alternatively, additional fees are not warranted under the lodestar method

Alternatively, this Court's detailed review of the actual time entries do not reflect compensable services. This Court has previously ruled that "[t]aking into account the experience, skill, and reputation of Ms. Klausen's counsel," an hourly rate of \$380 is reasonable. Claim Allowance Order at p. 9. But, in light of subsequent events, it is clear that the "skill" of Mr. Naghash is far less than what would warrant \$380 per hour (let alone his current charges of \$495 per hour). Likewise, although billing attorney Nicole B. Naghash has not appeared in court, this Court is not persuaded that her services warrant her charge of \$380 per hour.

For example, despite the fact that this Court has repeatedly pointed out to Mr. Naghash that he must provide actual evidence, he continues to fail to provide such evidence, as illustrated by the extensive discussion above. He has never provided any authenticated, filed copy of the transcript on which he seeks to rely, and he has never filed any declaration from Ms. Klausen herself refuting the apparent evidence that she has engaged in bad faith and willful misconduct in her litigation tactics, as set forth above.

In fact, this Court has bent over backwards to provide Mr. Naghash with clear explanations of the defects in his arguments and his lack of

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evidence, and to provide him with opportunities to cure those deficiencies. Of course, he did not need to agree with this Court, but (A) any competent counsel would do their own research (if any were needed) and discover that this Court has been correct (e.g., proper declarations are essential) and, alternatively, (B) even if this Court were wrong on such issues (which it is not), any capable counsel would "humor" this Court by filing a declaration of his client that attempts to refute evidence of bad faith, declarations authenticating transcripts, etc.

For all of these reasons, this Court is reluctantly persuaded that events subsequent to its prior fee order have shown that \$380 per hour is not a reasonable rate for Mr. Naghash's services. Based on the present record, this Court has to conclude that his "skill" (one of the considerations in determining an appropriate hourly rate) does not warrant anything remotely approaching his hourly rate.

Therefore, supposing for the sake of discussion that any fees could be awarded on the present motion, it would be inappropriate to increase Ms. Klausen's allowed claim based on such fees when, in fact, the prior award of fees probably should be decreased to account for what has now been revealed about Mr. Naghash's lack of skill. In other words, at the very least there should be no net increase in her claim, so the current motion to award more attorney fees must be denied.

(iv) Conclusion as to Ms. Klausen's motion to allow additional attorney fees as part of her claim

Ms. Klausen has not established that she is entitled to any increase in her claim on account of her latest attorney fees. First, she has not established that she is the "prevailing" party - to the contrary, on a range of issues this Court has rejected her arguments and sometimes sanctioned her. Second, and alternatively, she has not established that her attorney fees are "necessary to enforce" her Judgment Payoff and Payment Agreement with Debtor - to the contrary, her attorney fees have been unnecessary and, at best, duplicative of prior work for which this Court has already awarded some of her requested attorney fees. Third, supposing for the sake of discussion that any of the current attorney fees related to matters on which Ms. Klausen could be said to be the "prevailing" party (which they do not) and that they were "necessary to enforce" her prepetition judgment (which they were not), even then any such fees would be more than offset by what now turns out to

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have been too large a "benefit of the doubt" previously applied by this Court in supposing that the "skill" of Mr. Naghash warranted a rate of \$380 per hour.

This Court has provided Ms. Klausen ample warnings regarding the perils of her aggressive litigation strategy. It would be perverse to allow Ms. Klausen to benefit from disregarding those warnings by entertaining any additional requests for attorney fees based upon a continuing course of conduct that this Court has already found to be unreasonable.

(c) Continued confirmation hearing (dkt. 90, 124, 136, 176, 178, 183, 208, 215, 218, 318)

This Court cannot confirm a plan unless it determines that "[c]onfirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan." 11 U.S.C. 1129(a)(11). The purpose of this "feasibility requirement" is "to prevent confirmation of visionary schemes which promise creditors and equity security holders more under a proposed plan than the debtor can possibly attain after confirmation." *In re Pizza of Hawaii, Inc.*, 761 F.2d 1374, 1382 (9th Cir. 1985).

This Court has previously expressed concerns as to whether Debtor's gross revenue, as reflected in its Monthly Operating Reports, is sufficient to fund the Plan. (In assessing feasibility, this Court focuses on gross revenue—as opposed to other measures of business performance such as net income, operating income, or some other financial metric—because Debtor's MORs indicate that Debtor's costs are primarily fixed, rather than variable. The presence of significant fixed costs in Debtor's operations means that the primary factor in Debtor's ability to achieve profitability will be whether Debtor can consistently generate sales above a certain threshold.)

The following summarizes Debtor's monthly revenue throughout the course of this case:

May 2023 (dkt. 53)—\$0
June 2023 (dkt. 83)—\$19,590
July 2023 (dkt. 106)—\$35,928
August 2023 (dkt. 131)—\$25,500
September 2023 (dkt. 151)—\$21,465
October 2023 (dkt. 169)—\$40,134

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November 2023 (dkt. 184)—\$18,507
December 2023 (dkt. 217)—\$23,388
January 2024 (dkt. 220)—\$73,928
February 2024 (dkt. 274)—\$27,706
March 2024 (dkt. 312)—\$57,314

The MORs appear to show a trending increase in sales beginning in 2024. However, it is too early to tell whether this trend is sustainable. The tentative ruling is to continue this confirmation hearing again (see part “(2)(e)” of this tentative ruling, below). In addition, the tentative ruling is that at that continued hearing the sole remaining issue will be whether the MORs undermine the recent evidence that Debtor’s Plan is feasible, and no additional briefing or evidence will be permitted prior to that hearing.

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

- (a) Bar date: 7/18/23 per General Order 20-01 and notice (dkt. 16).
- (b) Procedures Order: dkt. 5 (timely served, dkt. 12)
- (c) Plan/Disclosure Statement (dkt. 90): See part “(1)(a)(i)” of this tentative ruling, above.
- (d) Continued status conference: 5/7/24 at 1:00 p.m., concurrent with other matters. No written status report required.
- (e) Continued confirmation hearing: 7/30/24 at 1:00 p.m.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Energy Plus Solar Inc.

Represented By
Michael Jay Berger

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:24-10528 Roger Adolfo Ortiz

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

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/24:

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 Subchapter V Plan (dkt. 64)

Debtor is directed to clarify what the Effective Date will be. The Plan (dkt. 64, p. 5, section 8.02) states that the Plan will be effective the first business day after 14 days after entry of the confirmation order "*subject to closing the sale of the Haynes Street property.*" (Emphasis in original.) Does this mean that, even after the 14 day period, the Plan will not become effective unless and until the closing of a sale of the Haynes Street property? Is there any deadline for accomplishing such sale?

The parties should be prepared to address whether this Court should set a **deadline of 5/7/24** for Debtor to lodge a proposed order, substantially in the form posted on Judge Bason's portion of the Court's website (at www.cacb.uscourts.gov), setting a combined hearing on the adequacy of Debtor's disclosures and confirmation of the Plan, and a confirmation hearing for **8/27/24 at 1:00 p.m.**

(b) Post-petition payments made on Debtor's behalf to Sullivan Wright Gizer & McRae LLP

On 4/25/24, Sullivan Wright Gizer & McRae LLP ("Special Litigation Counsel"), which represents Debtor in a matter pending before the United

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States District Court for the Central District of California, disclosed that it had received a \$10,000 post-petition payment, made on Debtor's behalf by Mario Medina and/or Unete Healthcare Associates LLC. Dkt. 67.

Special Litigation Counsel should be prepared to address why it has not submitted an employment application. Debtor should be prepared to address why the payment (which was made on 3/14/24) was not disclosed in Debtor's Budget Motion (dkt. 29) (which was filed on 2/2/24).

(2) Dates/procedures. This Subchapter V case was filed on 1/24/24.

(a) Bar date: 4/3/24 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. 18).

(b) Procedures Order: dkt. 10 (timely served, dkt. 21)

(c) Plan/Disclosure Statement: See part "(1)(a)" above.

(d) Continued status conference: 7/9/24 at 1:00 p.m., *brief* status report due 6/25/24.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Roger Adolfo Ortiz

Represented By
Lewis R Landau

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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2:23-18579 Clinical Edify

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#12.00 Cont'd hrg re: Motion in Chapter 11 case for order approving a budget for the use of the debtor's cash and postpetition income
fr. 1/23/24, 2/20/24

Docket 39

Tentative Ruling:

Tentative Ruling for 4/30/24:

Please see the tentative ruling for the status conference (Calendar No. 13, 4/30/24 at 1:00 p.m.).

Tentative Ruling for 2/20/24:

Please see the tentative ruling for the status conference (Calendar No. 29, 2/20/24 at 1:00 p.m.).

Tentative Ruling for 2/6/24:

Please see the tentative ruling for the status conference (Calendar No. 8, 2/6/24 at 1:00 p.m.).

Tentative Ruling for 1/23/24:

Please see the tentative ruling for the status conference (Calendar No. 10, 1/23/24 at 1:00 p.m.).

Party Information

Debtor(s):

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Represented By
Steven R Fox

Movant(s):

Clinical Edify

Represented By
Steven R Fox

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2:23-18579 Clinical Edify

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#13.00 Cont'd status conference re: Chapter 11 case
fr. 1/2/24, 1/23/24, 2/6/24, 2/20/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/24:

Continue as set forth below. Appearances are not required on 4/30/24. (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) Source of retainer paid to Debtor's counsel

This Court has reviewed the Declaration of Steven R. Fox (dkt. 96, pp. 2–5), the Declaration of Roger Ortiz in his capacity as the principal of third-party funder (“Funder”) Unete Healthcare Associates, LLC dba Pronto Wellness (“Unete”) (dkt. 96, pp. 6–9), and the Declaration of Roger Ortiz in his capacity as principal of Debtor (dkt. 96, pp. 10–13) (collectively, the “Declarations”). The tentative ruling is that the Declarations have adequately addressed the concerns raised by this Court at the 2/20/24 status conference regarding required third-party funder disclosures.

An order authorizing Debtor to employ Fox Law Corporation as its general bankruptcy counsel was entered before the existence of a third-party funder was brought to this Court's attention. Therefore, no further action regarding third-party funder issues is required at this time.

(b) Interim Order on Debtor's Budget Motion (dkt. 57)

This continued hearing on Debtor's Budget Motion was scheduled to

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allow this Court to evaluate the appropriateness of Mr. Ortiz's salary in view of Debtor's performance as reflected in its Monthly Operating Reports (the "MORs").

Debtor has filed a motion to dismiss this case, which is set to be heard on 5/14/24. The tentative ruling is to continue the Budget Motion to be heard concurrently with the Motion to Dismiss, with the expectation that it will be unnecessary to rule upon the appropriateness of Mr. Ortiz's salary if the case is dismissed.

(2) Dates/procedures. This case was filed on 12/27/23.

- (a) Bar date: 3/1/24 (Order Setting Bar Date (dkt. 63) timely served, dkt. 77)
- (b) Procedures Order: dkt. 3 (timely served, dkt. 25)
- (c) Plan/Disclosure Statement: TBD
- (d) Continued status conference: 5/14/24 at 1:00 p.m., concurrent with other matters. No written status report required.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Clinical Edify

Represented By
Steven R Fox

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2:24-10870 1415 Garvey LLC

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#14.00 [CASE DISMISSED ON 4/3/2024]

Cont'd hrg re: Motion for relief from stay [NA]
fr. 4/9/24

RICHARDSON C. GRISWOLD
vs
DEBTOR

Docket 29

Tentative Ruling:

Tentative Ruling for 4/30/24:

Please see the tentative ruling for the status conference (Calendar No. 15, 4/30/24 at 1:00 p.m.).

Tentative Ruling for 4/9/24:

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

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2:24-10870 1415 Garvey LLC

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#15.00 [CASE DISMISSED ON 4/3/2024]

Cont'd Status conference re: Chapter 11 case
fr. 3/5/24, 4/2/24, 4/9/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/24:

Deny the R/S Motion for failure to prosecute, and conduct no further status conferences in this dismissed case. 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

(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)

At the hearing on 4/9/24, Movant was advised that at this continued hearing, the R/S Motion would be denied as moot and/or dismissed for lack of prosecution, unless Movant met certain deadlines for serving the motion papers and notice of this continued hearing on parties not previously served. Movant has not served the R/S Motion or notice of this hearing on the parties not previously served, thereby electing not to proceed with the motion.

The tentative ruling is to deny the R/S Motion for lack of prosecution.

Proposed order: After the hearing date this Court will prepare an order denying the R/S Motion.

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Chapter 11

(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: N/A

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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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

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Debtor(s):

1415 Garvey LLC

Represented By
Robert M Yaspan

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2:20-15954 John Martin Kennedy

Chapter 11

#16.00 Cont'd hrg re: Motion For Entry of An Order (1) Approving Agreement and Professional Fee Arrangement; and (2) For Final Decree And Closing Chapter 11 Case fr. 12/19/23

Docket 458

Tentative Ruling:

Tentative Ruling for 4/30/24:

Please see the tentative ruling for the status conference (Calendar No. 17, 4/30/24 at 1:00 p.m.).

Tentative Ruling for 12/19/23:

Please see the tentative ruling for the status conference (Calendar No. 10, 12/19/23 at 1:00 p.m.).

Party Information

Debtor(s):

John Martin Kennedy

Represented By

Sandford L. Frey

Dennette A Mulvaney

Movant(s):

John Martin Kennedy

Represented By

Sandford L. Frey

Dennette A Mulvaney

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2:20-15954 John Martin Kennedy

Chapter 11

#17.00 Cont'd Status Conference re: Post Confirmation
fr. 7/14/20, 7/28/20, 8/18/20, 9/15/20, 9/29/20,
10/27/20, 11/10/20, 12/1/20, 12/8/20, 12/22/20,
01/26/21, 3/23/21, 4/6/21, 4/27/21, 5/4/21, 6/15/21,
8/3/21, 8/17/21, 9/28/21, 12/14/21, 2/15/22, 5/10/22,
8/9/22, 11/8/22, 2/7/23, 6/13/23, 10/17/23, 12/19/23

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/24:

Continue as set forth below. Appearances are not required on 4/30/24. (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 approval of settlement and entry of final decree and order closing case (dkt. 458, the "Final Decree Motion"), Opposition of Yunuen Campos ("Ms. Campos") (dkt. 461), Debtor's reply (dkt. 462), Order granting in part and continuing in part Final Decree Motion (dkt. 464), Eighth Post-Confirmation Status Report (dkt. 467)

The tentative ruling is to continue the Final Decree Motion and post-confirmation status conference as set forth in part "(2)," below, with the expectation that if Debtor continues making the required payments to Ms. Campos and to Leech Tishman Fuscaldo & Lampl, Inc., a Final Decree will be issued in connection with the continued hearing. (This Court's objective is to provide Debtor the opportunity to obtain entry of a Final Decree and the closing of the case before any UST quarterly fees for 2025 accrue. To the

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CONT...

John Martin Kennedy

Chapter 11

extent that the date selected is inconsistent with that objective, the parties should contest this tentative ruling.)

(2) Deadlines/dates

This case was filed on 6/30/20, and Debtor's plan was confirmed on 4/27/21 (dkt. 352). The tentative ruling is (A) to continue the Final Decree Motion and post-confirmation status conference to 12/10/24 at 1:00 p.m. and (B) to set a deadline of 12/3/24 for Debtor to file a status report.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

John Martin Kennedy

Represented By

Sandford L. Frey

Dennette A Mulvaney

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2:23-16758 Clark Edward Parker

Chapter 11

#18.00 Cont'd hrg re: Motion to Extend Exclusivity Period for
Filing a Chapter 11 Plan and Disclosure Statement
fr. 3/5/24, 03/12/24

Docket 70

***** VACATED *** REASON: This matter has been continued to 05/07/24
at 1:00 p.m. per parties' stipulation**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Clark Edward Parker

Represented By
Leslie A Cohen

Movant(s):

Clark Edward Parker

Represented By
Leslie A Cohen
Leslie A Cohen

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2:23-16758 Clark Edward Parker

Chapter 11

#19.00 Cont'd hrg re: Motion to Appoint a Chapter 11 Trustee
fr. 3/12/24

Docket 74

***** VACATED *** REASON: This matter has been continued to 05/07/24
at 1:00 p.m. per parties' stipulation**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Clark Edward Parker

Represented By
Leslie A Cohen

Movant(s):

California Department of Education

Represented By
Matthew C. Heyn

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2:23-16758 Clark Edward Parker

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#20.00 Cont'd Status Conference re: Chapter 11 Case
fr. 11/14/23, 11/28/23, 12/5/23, 12/19/23, 3/5/24,
3/12/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/24:

Continue as set forth below. Appearances are not required on 4/30/24. (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 documents and records in this bankruptcy case and has no issues to raise *sua sponte* at this time.

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

- (a) Bar date: 1/5/24 (dkt. 34) (timely served, dkt. 39)
- (b) Procedures Order: dkt. 6 (timely served, dkt. 10)
- (c) Plan/Disclosure Statement: TBD.
- (d) Continued status conference: 5/7/24 at 1:00 p.m., concurrent with other matters. No written status report required.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Clark Edward Parker

Represented By

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Clark Edward Parker

Leslie A Cohen

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2:22-15290 Ana M Ahmad

Chapter 11

#1.00 Hrg re: Application for Payment of
Final Fees and/or Expenses
[Thomas B. Ure, attorney for debtor]

Docket 118

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2,
4/30/24 at 2:00 p.m.).

Party Information

Debtor(s):

Ana M Ahmad

Represented By
Thomas B Ure

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2:22-15290 Ana M Ahmad

Chapter 11

#2.00 Status Conference re: Post confirmation
fr. 10/25/22, 12/20/22, 1/3/23, 2/7/23, 3/7/23, 4/25/23,
6/27/23, 8/15/23, 9/5/23, 9/19/23, 10/3/23, 11/14/23,
11/28/23, 2/6/24

Docket 6

Tentative Ruling:

Tentative Ruling for 4/30/24:

Grant the final fee application of Debtor's counsel and maintain the previously-ordered date for the post-confirmation status conference, as set forth below. Appearances are not required on 4/30/24. (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) Final fee application of Debtor's general bankruptcy counsel (dkt. 118), Notice of final fee application (dkt. 119), No opposition on file

Allow \$43,380.00 in fees and \$578.89 in expenses, for a total award of \$43,958.89, on a final basis; and authorize and direct payment of the full amounts allowed, to the extent not previously paid.

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)).

(2) Dates/procedures. This case was filed on 9/29/22.

(a) Bar date: 1/13/23 (dkt. 23) (timely served, dkt. 27)

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

(c) AmPlan/AmDisclosure Statement (dkt. 85, 93): Plan confirmed
2/16/24, dkt. 108.

(d) Post-Confirmation status conference: 6/25/24 at 1:00 p.m.
Post-confirmation status report due 6/11/24.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Ana M Ahmad

Represented By
Thomas B Ure

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2:24-12614 Boisson Inc.

Chapter 11

#3.00 Hrg re: Motion To Reject Unexpired Real Property Leases

Docket 19

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 5, 4/30/24 at 1:00 p.m.).

Party Information

Debtor(s):

Boisson Inc.

Represented By
Ron Bender
Todd M Arnold

Movant(s):

Boisson Inc.

Represented By
Ron Bender
Todd M Arnold

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

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2:24-12614 Boisson Inc.

Chapter 11

#4.00 Hrg re: Motion For Entry Of An Order Authorizing Debtor
To Provide Adequate Assurance Of Future Payment To
Utility Companies Pursuant To 11 U.S.C. § 366

Docket 21

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 5,
4/30/24 at 1:00 p.m.).

Party Information

Debtor(s):

Boisson Inc.

Represented By
Ron Bender
Todd M Arnold

Movant(s):

Boisson Inc.

Represented By
Ron Bender
Todd M Arnold

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

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2:00 PM

2:24-12614 Boisson Inc.

Chapter 11

#5.00 Cont'd Status Conference re: Chapter 11 Case
fr. 4/9/24

Docket 1

Tentative Ruling:

Tentative Ruling for 4/30/24:

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.

Proposed orders: Unless otherwise ordered, Debtor is directed to lodge proposed orders on each of the following matters via LOU within 7 days after the hearing date and, as to the lease rejection motion and the Resolution employment application, attach a copy of this tentative ruling, thereby incorporating it as this Court's actual ruling. See LBR 9021-1(b)(1)(B).

(1) Current issues

(a) Utility motion (dkt. 21), No opposition on file
Grant on a final basis.

(b) Lease rejection motion (dkt. 19), No opposition on file

The written lease agreements pertaining to the eight unexpired nonresidential real property leases that Debtor seeks authorization to reject were not attached to the motion, so this Court was unable to verify that the lessors were served at the addresses designated for notice purposes in the leases. Most of the lessors were properly served through their registered agent for service of process. However, with respect to the following lessors,

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this Court was **not** able to verify that service was effected upon the registered agent for service of process:

- 1) La Metro 3, LP (per this Court's own research the address for registered agent appears to be "Fred F. Mashian, 12100 Wilshire Blvd. Ste. 245, Los Angeles, CA 90025")
- 2) Merrick Park LLC (per this Court's own research the address for registered agent appears to be "Corporation service Company, 1201 Hays Street, Tallahassee, FL 32301")

Unless Debtor can establish that La Metro 3 LP ("LA Metro") and Merrick Park LLC ("Merrick Park") were served at the address designated for notice purposes in their respective leases, or received actual notice of the Lease Rejection Motion, the tentative ruling is (A) to continue the hearing as to these two lessors for proper service to **5/14/24 at 1:00 p.m.**, (B) to set a **deadline of 5/2/24** for Debtor to serve the Lease Rejection Motion upon LA Metro and Merrick Park, with a notice of the continued hearing and deadline for their response, and (C) to set a **deadline of 5/9/24** for LA Metro and Merrick Park to file any opposition to the Lease Rejection Motion (replies, if any, may be presented orally at the hearing).

With respect to the other six lessors, the tentative ruling is to grant the Lease Rejection Motion. This Court notes that there are no issues with respect to retroactive rejection because Debtor proposes that rejection take effect only after possession is returned to each lessor. *See In re At Home Corp.*, 392 F.3d 1064, 1065 (9th Cir. 2004) (retroactive rejection justified only under "exceptional circumstances").

In addition, the tentative ruling is that it is appropriate to enter separate orders with respect to each lease, so that the (possible) continuance with respect to the two above-referenced leases does not delay the finality of the orders regarding the other leases, and alternatively so that, if there were to be any motion for reconsideration, appeal, or other proceedings with respect to one lease, that would delay or otherwise interfere with the finality of this Court's orders with respect to the other leases. In other words, the tentative ruling is for this Court to enter a separate order under Rule 54(b) (Fed. R. Civ. P., incorporated by Rule 9001(7) and 9014(c), Fed. R. Bankr. P.), based on an express determination that "there is no just reason for delay" in the entry of final orders for each lease.

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(c) Application to employ Resolution Financial Advisors (the "Resolution") (dkt. 45, the "Resolution Employment Application"), Application for Order Shortening Time (dkt. 46), Order setting hearing on shortened notice (dkt. 47), Notice of hearing (dkt. 49), Proof of Service (dkt. 50–51)

Grant, subject to the usual conditions for employment of professionals set forth in the "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) (search for "327").

Resolution has disclosed that Ryan Small, a professional at the firm, is the son-in-law of Ron Bender, a member of Debtor's proposed general bankruptcy counsel. Resolution Employment Application at ¶ 26. Debtor represents that the foregoing relationship was not a factor in selecting Resolution as Debtor's proposed financial advisor and sales agent. *Id.* The tentative ruling is that notwithstanding the foregoing relationship, Resolution is "disinterested" for purposes of 11 U.S.C. 101(14).

The Resolution Employment Application is not supported by a Statement of Disinterestedness (LBR Form F 2014-1), which is required by Judge Bason's posted procedures (available at <https://www.cacb.uscourts.gov/>). Subject to the submission of a properly completed and executed Statement of Disinterestedness, the tentative ruling is to grant the Resolution Employment Application.

Note: The judge prefers that local form F 2014-1 not repeat the employment application – instead simply say "see application" or the like (reasons: proposed professionals frequently do not track the language of Rule 2014, so the judge requires use of the form so that someone verifies the elements of that rule under penalty of perjury, and so the court staff does not have to do a line-by-line comparison with each element of the Rule).

(d) Application to employ Levene, Neale, Bender, Yoo & Golubchik LLP as Debtor's general bankruptcy counsel (dkt. 37, the "Attorney Employment Application")

The Attorney Employment Application is not on for hearing today, but proposed counsel is advised that its employment application must also be supported by a Statement of Disinterestedness (see part "(1)(c)," above).

(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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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): .

(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 file, dkt. 42).

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Boisson Inc.

Represented By
Ron Bender
Todd M Arnold

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2:24-12614 Boisson Inc.

Chapter 11

#6.00 Hrg re: Stipulation Between Debtor and Pentire Drinks Entitites
re: Return of Stock in Exchange for Fulfillment of Existing Orders
and Trade Terms Going Forward

Docket 31

***** VACATED *** REASON: Stipulation withdrawn (dkt. 41)**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Boisson Inc.

Represented By
Ron Bender
Todd M Arnold

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

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2:24-12614 Boisson Inc.

Chapter 11

#7.00 Hrg re: Application for Chapter 11 Debtor to Employ Resolution
Financial Advisors LLC as Financial Advisor And Sales Agent
Pursuant To 11 U.S.C. §§ 327(a), 328, 330, and 331

Docket 45

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 5,
4/30/24 at 1:00 p.m.).

Party Information

Debtor(s):

Boisson Inc.

Represented By
Ron Bender
Todd M Arnold

Trustee(s):

Caroline Renee Djang (TR)

Pro Se