

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

Thursday, July 17, 2025

Hearing Room 1545

8:00 AM
2:00-000000

Chapter

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

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

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 251 2562

Password: 601707

Meeting URL: <https://cacb.zoomgov.com/j/1602512562>

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

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

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

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

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

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

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

Thursday, July 17, 2025

Hearing Room 1545

8:00 AM

CONT...

Chapter

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

Docket 0

Tentative Ruling:

- NONE LISTED -

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

Thursday, July 17, 2025

Hearing Room 1545

8:30 AM

2:24-19410 Gabriel Anthony Bear Bustillos

Chapter 13

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

Docket 42

***** VACATED *** REASON: Voluntarily dismissed (dkt. 59).**

Tentative Ruling:

Party Information

Debtor(s):

Gabriel Anthony Bear Bustillos

Represented By
Michael E Clark
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, July 17, 2025

Hearing Room 1545

8:30 AM

2:24-18309 Gregory Deon Randolph

Chapter 13

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

Docket 41

Tentative Ruling:

Appearances required, absent either (1) an agreement with the parties to further continue this matter or (2) withdrawal of the motion. There is no tentative ruling, but the parties should be prepared to address the issues raised by Debtor (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):

Gregory Deon Randolph

Represented By
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, July 17, 2025

Hearing Room 1545

8:30 AM

2:23-16137 Alex Oropeza and Virginia Marie Oropeza

Chapter 13

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

Docket 52

***** VACATED *** REASON: Voluntarily dismissed (dkt. 62).**

Tentative Ruling:

Party Information

Debtor(s):

Alex Oropeza

Represented By
Michael E Clark
Barry E Borowitz

Joint Debtor(s):

Virginia Marie Oropeza

Represented By
Michael E Clark
Barry E Borowitz

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, July 17, 2025

Hearing Room 1545

8:30 AM

2:21-15743 Andrew Morales

Chapter 13

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

Docket 95

Tentative Ruling:

Grant per Trustee's amended comments (dkt. 104). Appearances are not required. (If you wish to contest the tentative ruling, see the Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov, then search for "tentative rulings.")

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

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

Party Information

Debtor(s):

Andrew Morales

Represented By
Christopher J Langley
Michael Smith

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, July 17, 2025

Hearing Room 1545

8:30 AM

2:24-20312 Barbara Morrison Grant

Chapter 13

#5.00 Hrg re: Objection to Claim Number 4
by Claimant Spring Oaks Capital SPV, LLC.

Docket 40

Tentative Ruling:

Continue to 8/7/25 at 8:30 a.m. to address the following issues. Appearances are not required on 7/17/25. (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.

Reason(s) for continuance:

(a) Lack of cost/benefit analysis. The posted Procedures of Judge Bason (available at www.cacb.uscourts.gov) provide:

§ 502: claim objections & cost/benefit analysis. When objecting to claims, be sure to include an analysis of why the costs of preparing and litigating the claim objection (administrative expenses) do not exceed the anticipated benefits (reductions in claims). For example, if the claim at issue is a dischargeable nonpriority claim, and the anticipated dividend is not 100%, then (a) the attorney fees incurred in prosecuting an objection probably will exceed the benefit to the bankruptcy estate/creditors, (b) Debtor typically is harmed by replacing a (dischargeable) general unsecured claim with an administrative expense, and (c) only the lawyer benefits (at the expense of both creditors and Debtor). See *In re Barba* (Case No. 2:21-bk-18466-NB), dkt. 50.

No later than 7 days after the date of this hearing the movant must file either:

(1) a supplemental declaration explaining why the attorney fees for this

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

Thursday, July 17, 2025

Hearing Room 1545

8:30 AM

CONT... Barbara Morrison Grant

Chapter 13

objection are justified (including supporting evidence, such as a copy of the plan showing the projected dividend to the claimant, and a calculation comparing that projected dividend against the attorney fees related to this claim objection), or

(2) a withdrawal of the claim objection.

(b) No fees on this matter, absent specific authorization. Counsel is directed not to charge any fees on this matter (including all past, present and future work related to this claim objection), and to return any fees received on this matter, unless and until this Court expressly finds: "Counsel has provided a cost/benefit analysis that is sufficient for purposes of the Posted Procedures of Judge Bason regarding claim objections." It is counsel's responsibility to include the quoted phrase, if warranted, in the proposed order on this claim objection.

This Court does not have the capacity to monitor all fee applications to assure compliance with the foregoing limitation on fees. But if counsel is found to have disregarded this limitation then this Court may impose sanctions.

Party Information

Debtor(s):

Barbara Morrison Grant

Represented By
Kevin Tang

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, July 17, 2025

Hearing Room 1545

8:30 AM

2:23-18156 Rose Mary Basurto

Chapter 13

#6.00 Status conference re: Untimely claim request

Docket 33

Tentative Ruling:

Appearances required.

There is no tentative ruling but the parties are directed to address whether this Court should take any further action at this time with respect to Movant's "Request to Allow Proof of Claim" (dkt. 32) beyond the relief provided in this Court's Order (dkt. 33) deeming the papers as a proof of claim, denying without prejudice Movant's request to deem its claim timely, and setting this hearing.

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):

Rose Mary Basurto

Represented By
Onyinye N Anyama

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, July 17, 2025

Hearing Room 1545

9:30 AM

2:00-00000

Chapter

- #1.00** The 9:30 a.m. and 11:00 a.m. Chapter 13 calendars are managed by the Chapter 13 Trustee, not this Court. In the afternoon before the hearing please visit the Chapter 13 Trustee's website (www.latrustee.com) under "Trustee Recommendations" to see if your case is scheduled for hearing and what the Chapter 13 Trustee recommends. Note: Because the Trustee and other parties frequently revise their positions based on new information, the Trustee Recommendations will not be uploaded until the afternoon before the hearing.

Docket 0

Tentative Ruling:

- NONE LISTED -

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

Thursday, July 17, 2025

Hearing Room 1545

11:00 AM

2:00-00000

Chapter

- #1.00** The 9:30 a.m. and 11:00 a.m. Chapter 13 calendars are managed by the Chapter 13 Trustee, not this Court. In the afternoon before the hearing please visit the Chapter 13 Trustee's website (www.latrustee.com) under "Trustee Recommendations" to see if your case is scheduled for hearing and what the Chapter 13 Trustee recommends. Note: Because the Trustee and other parties frequently revise their positions based on new information, the Trustee Recommendations will not be uploaded until the afternoon before the hearing.

Docket 0

Tentative Ruling:

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

Thursday, July 17, 2025

Hearing Room 1545

11:00 AM

2:20-13990 Sahara Khatoon

Chapter 13

#2.00 Hrg re: Creditor Deutsche Bank National Trust Company as Indenture Trustee for Terwin Mortgage Trust 2006-12SL's asset-backed securities, series 2006-12-SL's failure to timely respond to trustee's notice of final cure mortgage payment and motion for order of determination of final cure of mortgage payment

Docket 63

Tentative Ruling:

Grant the motion, deem Proof of Claim 2-1 amended to reflect a secured claim of \$40,829.50 and deem the claim fully satisfied.

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

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

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

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

Party Information

Debtor(s):

Sahara Khatoon

Represented By
James C Shields

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, July 17, 2025

Hearing Room 1545

11:00 AM

CONT... Sahara Khatoon

Chapter 13

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

Thursday, July 17, 2025

Hearing Room 1545

11:00 AM

2:22-16895 Carlys Franklin Bays

Chapter 13

#3.00 Cont'd hrg re: Wilmington Trust, N.A.'s request
for entry of default under adequate protection
order
fr. 6/12/25

Docket 97

Tentative Ruling:

Tentative Ruling for 7/17/25:

Continue to 9/11/25 at 11:00 a.m., which is the next chapter 13 day after 8/7/25, in view of Debtor's possible appeal of the denial of her requested loan modification within 30 days of such denial, and Secured Creditor's latest status report. See Order (dkt. 99) *and* Status Report (dkt. 104).

Tentative Ruling for 6/12/25:

Appearances required. There is no tentative ruling, but the parties should be prepared to address the issues set forth in the 4/11/25 order setting this hearing (dkt. 99, the "Order"), including (a) whether the alleged arrears have been brought current and (b) whether this Court should (1) modify or condition the automatic stay such that the stay is terminated but Secured Creditor may not conduct any foreclosure sale sooner than 120 days after entry of a written order granting that relief, so as to provide Debtor with an opportunity to sell or refinance the property (see Order (dkt. 99) p. 4:21–25) and (2) grant *in rem* relief for two years from the date of entry of a written order granting that relief, so that no other bankruptcy case could cause any further hindrance or delay to Secured Creditor's exercise of its rights with respect to the property (see Order (dkt. 99) p. 4:26–5:2).

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

Party Information

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

Thursday, July 17, 2025

Hearing Room 1545

11:00 AM

CONT... Carlys Franklin Bays

Chapter 13

Debtor(s):

Carlys Franklin Bays

Represented By
Onyinye N Anyama

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Thursday, July 17, 2025

Hearing Room 1545

1:00 PM

2:24-18171 Hays Tabernacle CME Church

Chapter 11

#1.00 Combined Hrg re: Final Approval of Disclosures and Plan Confirmation

Docket 1

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2, 7/17/25 at 1:00 p.m.).

Party Information

Debtor(s):

Hays Tabernacle CME Church

Represented By
Lewis R Landau

Trustee(s):

Mark M Sharf (TR)

Pro Se

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

Thursday, July 17, 2025

Hearing Room 1545

1:00 PM

2:24-18171 Hays Tabernacle CME Church

Chapter 11

#2.00 Cont'd Status conference re: Chapter 11 case
fr. 4/8/25, 4/22/25, 6/24/25

Docket 1

Tentative Ruling:

Tentative Ruling for 7/17/25:

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) Background

Debtor, a church with historic roots that is located in the Watts neighborhood of Los Angeles, seeks confirmation of its Subchapter V Plan of Reorganization (dkt. 98, the "Plan"). A key component of the Plan is the sale of property located at 1407 E. Kramer Drive, Carson, CA 90746 (the "Kramer Property"), which Debtor previously used as a parsonage. The hearing to confirm Debtor's Plan (the "Confirmation Hearing") has been scheduled to take place concurrently with the hearing on Debtor's motion to approve the sale of the Kramer Property (dkt. 131–32, 134, & 136–37, the "Sale Motion").

In addition to the Kramer Property, Debtor also owns several adjacent parcels of real property – located at 10121 S. Central Ave., 10207 S. Central Ave., 10203 S. Central Ave., and 1143/1149 E. 102d St., Los Angeles, CA – which Debtor operates as a church (the "Church Property"). (The Church Property consists of a commercial building that Debtor uses to conduct worship services and an adjacent parking lot.)

Evergreen Advantage, LLC ("Evergreen") asserts a secured claim against the Church Property, in the amount of approximately \$2,587,622.91, plus attorney fees, costs of collection, and interest (the "Evergreen Claim").

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

Thursday, July 17, 2025

Hearing Room 1545

1:00 PM

CONT... Hays Tabernacle CME Church

Chapter 11

Evergreen Opp. (dkt. 138) p. 4:13–17. Debtor has commenced an action against Evergreen in the Superior Court of the State of California for the County of Los Angeles (the "State Court") challenging the validity of the Evergreen claim. Plan (dkt. 98) Ex. E (the "State Court Litigation").

Debtor's plan hinges upon a sale of the Kramer Property, which Debtor projects will generate net sale proceeds of approximately \$853,315.00. Issa Decl. (dkt. 144) ¶ 6 (p. 15:7–14). Debtor proposes to reserve \$266,136.00 from the net sale proceeds on account of a secured claim asserted against the Kramer Property by Donnie Burks, which Debtor disputes. Issa Decl. (dkt. 144) ¶ 6 (p. 15:7–14). After funding this \$266,136.00 reserve, Debtor projects that \$587,179.00 of the net sale proceeds will remain available to fund the Plan. Issa Decl. (dkt. 144) ¶ 6 (p. 15:7–14). Debtor also represents that it has received "a Plan funding commitment from the Christian Methodist Church for up to \$125,000.00 to fund any operating or Plan requirements over the Plan term" Plan (dkt. 98) art. 7, ¶ 2 (p. 5).

Pending resolution of Debtor's challenge to the validity of the Evergreen Claim, Debtor's Plan proposes to make interest-only payments to Evergreen of \$12,500.00 per month for 36 months (calculated by paying 6.2% interest on the \$2,445,201.54 amount set forth in Evergreen's proof of claim). Issa Decl. (dkt. 144) ¶¶ 11 & 14 (p. 16:15–16 & 17:13–16); Plan (dkt. 98) art. 7 ¶ 8 (p. 5); Reply (dkt. 144) p. 5:19–25. J. Michael Issa, Debtor's valuation expert, testifies that the contemplated interest payments are "consistent with the current market terms for church real estate loans." Issa Decl. (dkt. 144) ¶ 14 (p. 17:13–18). These interest-only payments would be funded from the net proceeds of the sale of the Kramer Property and the contribution from Christian Methodist Church. Issa Decl. (dkt. 144) ¶ 18(a) (p. 19:4–7). The Plan provides that any amount remaining on the Evergreen Claim after the 36 months of interest-only payments will be satisfied through a balloon payment funded "from additional contributions" or "refinancing or sale" of the Church Property. Plan (dkt. 98) art. 7 ¶ 8 (p. 5).

This Court first addresses the Sale Motion because the Plan cannot be implemented absent the net proceeds from the sale of the Kramer Property.

(b) Sale motion (dkt. 131, 137); Order Shortening Time (dkt. 134, "OST"); Limited Objection of Donnie Burks (dkt. 146)

Sustain the objection. The tentative ruling is that Burks is correct that, under 11 U.S.C. 506(b), interest at 8% per annum must be paid on the full

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

Thursday, July 17, 2025

Hearing Room 1545

1:00 PM

CONT... Hays Tabernacle CME Church

Chapter 11

principal dollar amount of its oversecured claim (if eventually that claim is allowed), and therefore any disputed claims reserve would have to provide for ongoing interest at 8% for what could be years of future litigation.

This Court is not aware of any grounds on which to override the contractual rate of interest outside of a confirmed plan (which can effectively provide for a novation with a new interest rate). See 11 U.S.C. 1129(b)(2)(A)(i)(II), incorporated by 11 U.S.C. 1191(c)(1). (Of course, even under a confirmed plan, any new interest rate is only effective prospectively, not during the pendency of the bankruptcy case prior to confirmation. See *In re Beltway One Dev. Group, LLC*, 547 B.R. 819, 826-31 (9th Cir. BAP 2016).)

The tentative ruling is to deny the Sale Motion but continue the hearing to address whether Debtor will pursue other alternatives. Such alternatives might include a proposed written or oral amendment to the Sale Motion - e.g., along the lines proposed by Burks (dkt. 146) (increased monthly payments to the disputed claims reserve, or an increased disputed claims reserve out of the sale of the Kramer Property) - or instead file an amendment to Debtor's existing proposed Plan (dkt. 98) or a separate Plan dealing solely with Burks (see below) or some other alternative.

Proposed order(s): Unless otherwise ordered, Movant is directed to lodge proposed order(s) on the matter(s) addressed here 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.

(i) This Court anticipates that Debtor is likely to propose the same sale through a plan instead of a sale motion

If this Court adheres to the foregoing tentative ruling to deny the Sale Motion (as currently proposed) then this Court anticipates that Debtor probably will propose a plan that would reduce Burks' interest rate (a "Burks Plan"). This appears likely because Debtor might be able to obtain confirmation of a plan that proposes a lower interest rate, because Burks would have almost zero risk of nonpayment if Debtor establishes a disputed claims reserve that is funded in cash, in a segregated bank account, equal to 110% (or more) of Burks' current claim (as Debtor apparently contemplates). Of course, this Court emphasizes that it is not prejudging any issues – the only point is that it seems likely that Debtor will react to any ruling sustaining

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

Thursday, July 17, 2025

Hearing Room 1545

1:00 PM

CONT... Hays Tabernacle CME Church

Chapter 11

Burks' objection to the Sale Motion by proposing a Burks Plan. *See generally In re North Valley Mall, LLC*, 432 B.R. 825, 830-36 (Bankr. C.D. Cal. 2010) (discussing cramdown interest rates, focusing on the risks to the claimant).

Note 1: This Court recognizes that it is generally more expensive and time consuming for a debtor to address claims by seeking confirmation of a proposed plan instead of approval of a sale motion. But in this case the expense might be warranted because a relatively minor reduction in interest would make a difference of tens of thousands of dollars if the parties' disputes were to be litigated for several years, as Burks projects. *See Burks Obj.* (dkt. 146) p. 2:16–18 (projecting 3 to 5 years). In addition, as noted below, there are procedures to expedite consideration of any proposed plan. Therefore, again, this Court anticipates that Debtor will seek to recast its Sale Motion in the form of a proposed Burks Plan that would reduce the interest rate that must be paid out of the disputed claims reserve in the event that Burks' claim is eventually allowed.

(ii) The parties are directed to address what procedures, if any, this Court should establish in connection with any proposed Burks Plan, or any amendment to Debtor's existing proposed Plan (dkt. 98), or any other alternatives

To save time at the hearing, this Court notes the following procedural issues in connection with any proposed Burks Plan or other alternatives. The tentative ruling is that it is appropriate to address these procedural issues both as part of any ruling on denial of the Sale Motion (to clarify the scope of any such denial) and as part of the Status Conference being held contemporaneous with the Sale Motion. *See generally* 11 U.S.C. 105(d) and *especially* 105(d)(2)(v) & (vi) (court directed to further the expeditious and economical resolution of bankruptcy case, including through status conferences and orders relating to confirmation), Rule 1001(a) (Fed. R. Bankr. P.) (rules must be construed, administered, and employed to secure the just, speedy, and inexpensive determination of every case and proceeding).

One alternative is that Debtor could amend the existing proposed Plan (dkt. 98) to add a provision dealing with the Burks claim, thereby transforming the existing proposed Plan into a Burks Plan. In that event, one issue would

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

Thursday, July 17, 2025

Hearing Room 1545

1:00 PM

CONT... Hays Tabernacle CME Church

Chapter 11

be whether re-solicitation of votes would be required. See Rule 3019(a) (Fed. R. Bankr. P.). The tentative ruling is that no re-solicitation would be required because no other class would be adversely affected by any adjustment in the proposed treatment of the Burks claim.

One potential problem with amending the existing proposed Plan to deal with the Burks claim is potential delay because the Burks issues could become entangled with the Evergreen objections to confirmation. But the Bankruptcy Code contemplates that one proposed Plan can "be followed by ... further financial reorganization" 11 U.S.C. 1129(a)(11) (emphasis added) (incorporated by 11 U.S.C. 1191(b)). Therefore, Debtor could propose a Burks Plan to deal with the Burks claim and proceed separately with its existing proposed Plan (dkt. 98) (or an amendment thereof) to deal with all other claims (including Evergreen).

In any event (regardless of whether Debtor proposes two plans or one), the tentative ruling is that, absent an agreement between Debtor and Burks, an evidentiary hearing will be required in order to determine (x) the proper dollar amount of Burk's (disputed) claim for purposes of any proposed Plan (e.g., as of 7/17/25 with a daily adjustment for every day thereafter) and (y) the appropriate cramdown rate of interest. The parties are directed to address whether this Court should set any evidentiary hearing and related procedures.

More generally, the parties are directed to address any other relevant procedural issues at the hearing. For example, the parties might address whether this Court should issue a procedural order establishing any deadlines for Debtor to file and serve a Burks Plan or an amendment to its existing proposed Plan (dkt. 98), a deadline for any objections and any reply, and a continued hearing. Alternatively, instead of setting any deadlines at this current hearing it might be appropriate to provide a continuance and direct the parties to meet and confer about whether they can agree on the procedures or substance related to the Burks claim.

The tentative ruling is to adopt the latter procedure and deny the Sale Motion as currently proposed but continue the hearing on the Sale Motion to address any proposed amendment to it, with that continued hearing set for the same date and time as the continued Status Conference (see part "(2)(d)" of this Tentative Ruling, below). Meanwhile, the tentative ruling is to direct the parties to meet and confer about a possible resolution of Burks' limited objection.

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

Thursday, July 17, 2025

Hearing Room 1545

1:00 PM

CONT...

Hays Tabernacle CME Church

Chapter 11

Note 2: There are some ambiguities in the Sale Motion (dkt. 131) (and in Debtor's existing Plan, dkt. 98). It is unclear how the 110% disputed claims reserve will be held: will it be held in cash in the escrow indefinitely (the escrow agent might object, or might charge a lot to hold the funds) or in a segregated bank account (with some sort of lockbox arrangement), potentially for several years until the parties' disputes are resolved? Those details need not necessarily be addressed at this hearing if they can be more efficiently addressed in an amendment to the Sale Motion, or a proposed Burks Plan, or a proposed amendment to Debtor's existing proposed Plan (dkt. 98), or via some other mechanism. The point is only that these ambiguities will need to be clarified eventually.

(c) Debtor's proposed Plan (dkt. 98); Objections by Evergreen Advantage, LLC ("Evergreen") (dkt. 138, 139); Ballot Summary (dkt. 143); Debtor's response (dkt. 144-45)

(i) Cramdown standards

The requirements for confirmation of a Subchapter V plan are set forth in 11 U.S.C. 1191, which generally incorporates with modifications 11 U.S.C. 1129(a)-(b). A nonconsensual plan nevertheless may be confirmed if "the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan." 11 U.S.C. 1191(b).

(A) Unfair discrimination

A plan unfairly discriminates if similar claims are treated differently without a reasonable basis for the disparate treatment. See, e.g., *In re Acequia, Inc.*, 787 F.2d 1352, 1364 (9th Cir. 1986) ("The Collier treatise states that this provision requires that a plan 'allocate[] value to the class in a manner consistent with the treatment afforded to other classes with similar legal claims against the debtor'" (citation omitted)).

(B) Fair and equitable

"[T]he condition that a plan be fair and equitable with respect ... to a class of secured claims" includes the requirement that "the plan meets the requirements of section 1129(b)(2)(A)." 11 U.S.C. 1191(c)(1). Under 11 U.S.C. 1129(b)(2)(A), the "fair and equitable" requirement includes the following requirement:

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

Thursday, July 17, 2025

Hearing Room 1545

1:00 PM

CONT...

Hays Tabernacle CME Church

Chapter 11

- (i)
 - (I) that the holders of such claims retain the liens securing such claims, whether the property subject to such liens is retained by the debtor or transferred to another entity, to the extent of the allowed amount of such claims; and
 - (II) that each holder of a claim of such class receive on account of such claim deferred cash payments totaling at least the allowed amount of such claim, of a value, as of the effective date of the plan, of at least the value of such holder's interest in the estate's interest in such property;
- (ii) for the sale, subject to section 363(k) of this title, of any property that is subject to the liens securing such claims, free and clear of such liens, with such liens to attach to the proceeds of such sale, and the treatment of such liens on proceeds under clause (i) or (iii) of this subparagraph; or
- (iii) for the realization by such holders of the indubitable equivalent of such claims. [11 U.S.C. 1129(b)(2)(A).]

Section 1191(b) specifies additional requirements that are necessary, but not sufficient, to satisfy the “fair and equitable” test. (As one court explained in, the statute uses the term “includes” to make clear that the specific requirements delineated therein are only the “minimal standards [that] plans must meet,” and that the statute “is not to be interpreted as requiring that every plan not prohibited be approved.” *Matter of D & F Const. Inc.*, 865 F.2d 673, 675 (5th Cir. 1989).) Those additional requirements are as follows:

- (2) As of the effective date of the plan--
 - (A) the plan provides that all of the projected disposable income of the debtor to be received in the 3-year period, or such longer period not to exceed 5 years as the court may fix, beginning on the date that the first payment is due under the plan will be applied to make payments under the plan; or
 - (B) the value of the property to be distributed under the plan in the 3-year period, or such longer period not to

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

Thursday, July 17, 2025

Hearing Room 1545

1:00 PM

CONT...

Hays Tabernacle CME Church

Chapter 11

exceed 5 years as the court may fix, beginning on the date on which the first distribution is due under the plan is not less than the projected disposable income of the debtor.

(3)

(A) The debtor will be able to make all payments under the plan; or

(B)

(i) there is a reasonable likelihood that the debtor will be able to make all payments under the plan; and

(ii) the plan provides appropriate remedies, which may include the liquidation of nonexempt assets, to protect the holders of claims or interests in the event that the payments are not made. [11 U.S.C. 1191(c)(2)–(3).]

(ii) "Good faith" and allegedly "unfair discrimination" objections: overrule in part

The tentative ruling is that the "good faith" inquiry is narrow. The authorities cited by Debtor are far more on point about the scope of the "good faith" inquiry than Evergreen's citations. As Debtor correctly notes, the Court of Appeals for the Ninth Circuit (the "Ninth Circuit") has held that the statute "directs courts to look only to the proposal of a plan, not the terms of the plan." *Garvin v. Cook Investments NW, SPNWX, LLC*, 922 F.3d 1031, 1035 (9th Cir. 2019) (emphasis added, citations omitted).

Note 3: *Garvin* also stated that "[c]ases directing courts to look to the 'totality of the circumstances' to determine whether a plan was proposed in good faith do not change the analysis here," and courts must still "determine whether the plan achieves a result consistent with the objectives and purposes of the Code." *Id.* at 1036 n. 3 (citations omitted; emphasis added). In this Court's view, *Garvin* is best understood as refining but not changing the analysis. That is, the primary focus of the "good faith" inquiry must be upon whether the plan "was lawfully proposed," *Garvin*, 922 F.3d. 1031, 1036. But in conducting that inquiry, this Court need not disregard other considerations – including, for example, whether the Plan

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

Thursday, July 17, 2025

Hearing Room 1545

1:00 PM

CONT...

Hays Tabernacle CME Church

Chapter 11

achieves results consistent with the objectives and purposes of the Code.

The tentative ruling is that Evergreen has not made a sufficient showing that the filing of this bankruptcy case was lacking in good faith, for two reasons. (A) Debtor is a charitable/religious institution, and Evergreen has not shown any way that Debtor could have posted a bond or paid Evergreen without liquidating some of the assets that it uses for its charitable/religious activities, so Debtor had a legitimate need for bankruptcy relief. (B) Although Evergreen emphasizes that it is in the business of short term and high interest loans, it took the risk when it made the loan of a future bankruptcy case by Debtor, including the possibility that the loan repayment terms would be adjusted as permitted by the Bankruptcy Code.

Similarly, the tentative ruling is that Evergreen has not shown that it is unfair to provide for payment of (undisputed and small) claims immediately upon the effective date of the proposed Plan while deferring payments on the (much larger, disputed) claim of Evergreen until after final resolution of that claim, and thereafter for some months so that Debtor has some time to pay any such allowed claim through a refinance, a sale, or other means, without unduly disrupting Debtor's charitable/religious functions. See, e.g., *In re Barakat*, 99 F.3d 1520, 1524–25 (9th Cir. 1996) (permitting separate classification where supported by a legitimate business or economic justification).

On the other hand, Debtor has not responded to Evergreen's allegation that Debtor has allowed the State Court litigation to languish during this bankruptcy case, including that Debtor has not filed a motion for leave to file its proposed Fifth Amended Complaint. See Evergreen Obj. (dkt. 138) p. 7:10-12. Debtor is directed to address that issue at the hearing.

(iii) Feasibility and "appropriate remedies" objection: overrule

On the one hand, it is true that there are some weaknesses in Debtor's evidence of feasibility. Debtor's cash flow has not been shown to be as reliable as it might be, and Debtor provides insufficient evidence of "back stop" funding by the Ninth Episcopal District Christian Methodist Episcopal Church, Inc. because this Court does not interpret Bishop Hames' declaration as a contractual or otherwise binding and enforceable commitment to fund the full dollar amount that might be needed (up to \$125,000.00). See Decl. (dkt. 144) p. 13.

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

Thursday, July 17, 2025

Hearing Room 1545

1:00 PM

CONT...

Hays Tabernacle CME Church

Chapter 11

On the other hand, the tentative ruling is that Debtor's net proceeds from the sale of the Kramer Property (well over \$500,000.00) plus Debtor's ability in future to refinance or sell the collateral already pledged to Evergreen, are more than sufficient evidence of feasibility. See, e.g., Liquidation Analysis (Plan, dkt. 98, Ex. B, at Bates p. 25) (based on Debtor's sworn schedules etc.).

Because of this more than sufficient evidence that Debtor "will" be able to make all payments under the plan (11 U.S.C. 1191(c)(3)(A)), the tentative ruling is that Debtor is not required to provide specific remedies such as liquidation of its assets (11 U.S.C. 1191(c)(3)(B)). The tentative ruling is that this is particularly appropriate in view of Debtor's charitable/religious mission, and the disruption if not destruction of that mission if liquidation were to be the draconian result of any default under the Plan. In addition, the tentative ruling is that it would be inappropriate to lock Debtor into any specific remedy, such as liquidation, in view of the uncertain future of interest rates and hence Debtor's ability to refinance its debt to Evergreen (if that debt is eventually allowed), as well as the uncertain future regarding any sale of the Church Property, and all other unknowns. In sum, the tentative ruling is that Debtor will be able to make all payments under the Plan, and that even if Debtor were to default under the Plan Evergreen is adequately protected, and it would be inappropriate to lock Debtor into specific remedies in the event of such a default.

(iv) Failure to provide proper calculations for present value of lien (11 U.S.C. 1191(c)(1)): sustain in part

The Plan contemplates that Evergreen has a secured claim of roughly \$2.45 million (Plan section 2.04, dkt. 98 p. 2), and apparently contemplates an interest rate of 6.2% (see Issa Decl., dkt. 144, p. 17:14-15) (although this Court has not found that rate stated in the Plan), apparently resulting in estimated payments of \$12,500.00 per month if the claim were to be allowed in full and were to be amortized on a straight line basis. See Plan (dkt. 98) p. 5, Article 7, section 8. The parties disagree whether these provisions satisfy the "present value" requirement in 11 U.S.C. 1191(c)(1) (incorporating 11 U.S.C. 1129(b)(2)(A)).

Evergreen objects that its claim is much higher when postpetition default interest is taken into account (closer to \$2.6 million), not to mention attorney fees and any other costs and charges. See Evergreen Obj. (dkt.

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

Thursday, July 17, 2025

Hearing Room 1545

1:00 PM

CONT... Hays Tabernacle CME Church

Chapter 11

138) pp. 4:28-5:7 & p. 13:8-13. Debtor counters by objecting to Evergreen's evidence of this dollar amount (dkt. 145) but, although the tentative ruling is to sustain that objection, the tentative ruling is also that this Court can take into account, as argument by Evergreen, that Debtor has not provided any backup for its own calculations, and that, under 11 U.S.C. 506(b) and decisions of higher courts, Evergreen's potential claim must include default interest during the pendency of this bankruptcy case prior to any new interest rate under any confirmed Plan. See, e.g., *Gen. Elec. Cap. Corp. v. Future Media Prods., Inc.*, 547 F.3d 956, 961 (9th Cir. 2008) (citing 4 *Collier on Bankruptcy*, ¶ 506.04[2][b][iii] (15th Ed.1996) ("The bankruptcy court should apply a presumption of allowability for the contracted for default rate, 'provided that the rate is not unenforceable under applicable nonbankruptcy law.'"); *Beltway One*, *supra*, 547 B.R. 819, 826-31.

The tentative ruling is that an evidentiary hearing will be required (absent an agreement of the parties) in order to determine (A) the proper dollar amount of Evergreen's (disputed) claim for purposes of any proposed Plan (e.g., as of 7/17/25 with a daily adjustment for every day thereafter) and (B) the appropriate cramdown rate of interest. The parties are directed to address whether this Court should set any evidentiary hearing and related procedures.

Alternatively, instead of setting any deadlines and evidentiary hearing at this current hearing it might be appropriate to provide a continuance and direct the parties to meet and confer about whether they can agree on the procedures or substance related to the Evergreen claim. The tentative ruling is to adopt the latter procedure and continue the hearing on confirmation of the Plan to address any proposed amendment to it, with a continued hearing on the same date and time as the continued Status Conference set forth below (see part "(2)(d)" of this Tentative Ruling, below). Meanwhile, the tentative ruling is to direct the parties to meet and confer about a possible resolution of the Evergreen objections.

(2) Dates/procedures. This case was filed on 10/6/24 and reassigned to Judge Bason on 3/3/25 (dkt. 65).

- (a) Bar date: 3/14/25 (Bar Date Order (dkt. 60) timely served, dkt. 59)
- (b) Procedures Order: dkt. 67 (served on 3/11/25, dkt. 79 pp. 15–16)
- (c) Plan/Disclosure Statement: timely filed on 5/29/25 (dkt. 129).
- (d) Continued status conference: 8/19/25 at 1:00 p.m. No written

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

Thursday, July 17, 2025

Hearing Room 1545

1:00 PM

CONT... **Hays Tabernacle CME Church**
status report is required.

Chapter 11

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Hays Tabernacle CME Church

Represented By
Lewis R Landau

Trustee(s):

Mark M Sharf (TR)

Pro Se

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

Thursday, July 17, 2025

Hearing Room 1545

1:00 PM

2:24-18171 Hays Tabernacle CME Church

Chapter 11

#3.00 Hrg re: Motion for order authorizing sale of
1407 E. Kramer Drive, Carson, CA 90746

Docket 131

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 2,
7/17/25 at 1:00 p.m.).

Party Information

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Hays Tabernacle CME Church

Represented By
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Trustee(s):

Mark M Sharf (TR)

Pro Se