

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

Tuesday, November 14, 2023

Hearing Room 1545

9:00 AM
2:00-00000

Chapter

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

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

ZoomGov Instructions for all matters on today's calendar:

Meeting ID: 160 377 9958

Password: 209690

Meeting URL: <https://cacb.zoomgov.com/j/1603779958>

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

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

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

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

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

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

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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 form of address, etc.

Docket 0

Tentative Ruling:

NOTE: For purposes of the deadline to notify opposing counsel/parties of an intent to contest tentative rulings (1/2 the time between the time of posting and the hearing time), all Tentative Rulings except for calendar #21 on the 1:00 p.m. calendar (*In re Weber*) and ## 8-9 on the 2:00 p.m. calendar (*In re Sabadash*) were first posted shortly before:

4:06 p.m. on 11/9/23.

The *Weber* and *Sabadash* tentative rulings were posted at the time noted on the automatic time stamp below.

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10:00 AM

2:21-16503 Daniel Christopher Bravo and Michele Marie Bravo

Chapter 13

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

ALLIED FIRST BANK, SB dba Servbank
vs
DEBTOR

Docket 62

*** VACATED *** REASON: Order approving stip to cont'd rfs...Cont'd
to 1/9/2024 at 10:00 a.m. [dkt. 66]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniel Christopher Bravo

Represented By
Steven A Alpert

Joint Debtor(s):

Michele Marie Bravo

Represented By
Steven A Alpert

Movant(s):

Allied First Bank, SB dba Servbank

Represented By
Kirsten Martinez

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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Hearing Room 1545

10:00 AM

2:23-14528 Brian D Witzer

Chapter 7

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

NEVADA FUNDING, LLC
vs
DEBTOR

Docket 58

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. 80).

In addition, Debtor argues that Movant failed to properly serve the motion papers on the trustee, trustee's attorney, counsel for Debtor, and the secured creditors affected by the motion (dkt. 80, p. 2:5-8), but it appears that everyone except for secured creditor Amicus Capital Group, LLC ("Amicus") received electronic notice via NEF. The parties are directed to address whether the hearing should be continued for service on Amicus.

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):

Brian D Witzer

Represented By
David S Hagen
Michael S Kogan

Movant(s):

Nevada Funding, LLC, a Nevada

Represented By

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CONT... Brian D Witzer

Edward T Weber

Chapter 7

Trustee(s):

Sam S Leslie (TR)

Represented By
Jeremy Faith

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10:00 AM

2:23-13678 Anna Maria Macias

Chapter 13

#3.00 Case Dismissed on 11/13/23

Hrg re: Motion for relief from stay [RP]

US BANK TRUST NATIONAL ASSOCIATION
vs
DEBTOR

Docket 32

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).

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CONT... Anna Maria Macias

Chapter 13

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):

Anna Maria Macias

Represented By
Jaime A Cuevas Jr.

Movant(s):

US Bank Trust National Association,

Represented By
Jennifer C Wong

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:23-13678 Anna Maria Macias

Chapter 13

#4.00 Case Dismissed on 11/13/23

Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/15/23, 10/17/23

PAC FIN, LLC
vs
DEBTOR

Docket 18

Tentative Ruling:

Tentative Ruling for 11/14/23:

Appearances required.

At the hearing on 10/17/23 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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

Tentative Ruling for 10/17/23:

Appearances required.

At the hearing on 8/15/23 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For

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CONT... Anna Maria Macias

Chapter 13

ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

Tentative Ruling for 8/15/23:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current, (b) whether they will agree to the terms of an adequate protection order (see Debtor's response, dkt. 21), and/or (c) whether the automatic stay should be terminated immediately (see Reply, dkt. 22).

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):

Anna Maria Macias

Represented By
Jaime A Cuevas Jr.

Movant(s):

Pac Fin LLC

Represented By
David I Brownstein

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:23-16269 Lynnelle Jackson

Chapter 7

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

FINANCIAL SERVICES VEHICLE TRUST
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... **Lynnelle Jackson**
(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):

Lynnelle Jackson	Pro Se
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Movant(s):

Financial Services Vehicle Trust	Represented By Cheryl A Skigin
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Trustee(s):

Peter J Mastan (TR)	Pro Se
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10:00 AM

2:23-16455 Rachel Cooper

Chapter 13

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

LATIJERA VILLAS
vs
DEBTOR

Docket 13

Tentative Ruling:

Grant in part and deny in part as set forth below.

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

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

Movant did not request waiver of the 14-day stay provided by FRBP

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CONT... Rachel Cooper

Chapter 13

4001(a)(3); therefore, the stay imposed by FRBP 4001(a)(3) shall apply to the order granting the Motion.

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 for lack of sufficient cause shown: there is no evidence of the type typically required for such relief, such as multiple bankruptcy filings or unauthorized transfers combined with a scheme to delay, hinder or defraud creditors.

Party Information

Debtor(s):

Rachel Cooper

Pro Se

Movant(s):

Maryam Zaghi

Represented By
Ryan Jackman

La Tijera Villas

Represented By
Ryan Jackman

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:23-16516 Milton Parker

Chapter 13

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

SECRETARY OF HOUSING AND
URBAN DEVELOPMENT
vs
DEBTOR

Docket 10

Tentative Ruling:

Grant in part and deny in part as set forth below.

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

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

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

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

Shortened time: The motion papers state that they were served on shortened time (dkt. 10, p. 2), pursuant to the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) but the proof of service filed in support of the motion (*id.*, PDF p. 24) states that the motion papers were served on

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CONT... Milton Parker

Chapter 13

10/19/23, which is 26 days' notice, so the motion papers were served sufficiently in advance of the hearing to follow the regular procedures. See LBR 4001-1(c)(1) & 9013-1(d)(2). Put differently, Movant should not have indicated that the motion was being heard on shortened time. In future, Movant's counsel is cautioned not to proceed on shortened time unless regular notice is not possible.

The automatic stay does not apply - but not for the reasons argued in the motion papers

The tentative ruling is to deny the request for an order confirming that no stay arose in the first instance in this case. Movant has not established an exception to the automatic stay under 11 U.S.C. 362(b) or (c) because, although the motion references 11 U.S.C. 362(b)(22) and (23), the elements of those sections have not been established (e.g., a prepetition judgment for possession).

The tentative ruling is to confirm that the automatic stay no longer applies because this case has been dismissed, which terminates the automatic stay. See 11 U.S.C. 349(b)(3) & 362(c).

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

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

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

When a motion seeks the same relief on multiple alternative grounds, all of those grounds usually should be ruled on because a tentative or final ruling on any one ground might be reversed or altered later on. For example, movants often seek a ruling that the automatic stay does not prevent them from pursuing their remedies both (i) because the stay does not apply (e.g., after dismissal of the bankruptcy case, per 11 U.S.C. §§ 349(b)(3), 362(c)) and alternatively (ii) because relief from the stay is appropriate (under 11 U.S.C. § 362(d)). If the first ground later turns out to be reversed or

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CONT...

Milton Parker

Chapter 13

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).

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):

Milton Parker

Pro Se

Movant(s):

SECRETARY OF HOUSING AND

Represented By
John E Bouzane

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CONT... Milton Parker

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Trustee(s):

Kathy A Dockery (TR)

Pro Se

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2:19-23517 Blanca Estela Rubalcava

Chapter 13

#8.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 5/16/23, 07/18/23, 9/19/23

THE BANK OF NEW YORK MELLON
VS
DEBTOR

Docket 94

Tentative Ruling:

Tentative Ruling for 11/14/23:

Appearances required.

At the hearing on 9/19/23 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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

Tentative Ruling for 9/19/23:

Appearances required.

This matter was continued to today by stipulation of the parties and an order thereon. See dkt. 97 & 98. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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

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CONT... **Blanca Estela Rubalcava**
posted tentative rulings.

Chapter 13

Tentative Ruling for 7/18/23:

Appearances required.

At the hearing on 5/16/23 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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

Tentative Ruling for 5/16/23:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see Debtor's response, dkt. 96).

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):

Blanca Estela Rubalcava

Represented By
Lionel E Giron

Movant(s):

The Bank of New York Mellon FKA

Represented By
Kirsten Martinez

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CONT... Blanca Estela Rubalcava

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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10:00 AM

2:22-11953 Maria De Jesus Garibay

Chapter 13

#9.00 Cont'd hrg re: Motion for relief from stay [RP]
fr.09/05/23, 10/3/23

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 44

Tentative Ruling:

Tentative Ruling for 11/14/23:

Appearances required.

At the hearing on 10/3/23 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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

Tentative Ruling for 10/3/23:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see Debtor's response, dkt. 48 & Stipulation/Order continuing hearing, dkt. 50 & 52).

Note: Debtor's response include several illegible pages. See Resp. (dkt. 48) at PDF pp. 23, 25, 27. It appears that Debtor might have mistakenly scanned both sides of single-sided papers in Ex. B to the Response, but perhaps the pages are not blank and Debtor's filed Response is incomplete. Debtor's

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CONT... Maria De Jesus Garibay

Chapter 13

counsel is cautioned to be careful about submitting blank pages, and is directed to clarify at the hearing whether there is any missing text.

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 De Jesus Garibay

Represented By
Cynthia Grande

Movant(s):

U.S. Bank National Association, not

Represented By
Erica T Loftis Pacheco
Marisol A Nagata
Kelli M Brown

Trustee(s):

Kathy A Dockery (TR)

Pro Se

**United States Bankruptcy Court
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2:22-15246 Zaida Araceli Lopez Montes

Chapter 13

#10.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/15/23, 10/3/23

U.S. BANK NATIONAL ASSOC
vs
DEBTOR

Docket 38

Tentative Ruling:

Tentative Ruling for 11/14/23:

Appearances required.

At the hearing on 10/3/23 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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

Tentative Ruling for 10/3/23:

Appearances required.

At the hearing on 8/15/23 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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

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

Tuesday, November 14, 2023

Hearing Room 1545

10:00 AM

CONT... Zaida Araceli Lopez Montes

Chapter 13

Tentative Ruling for 8/15/23:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see Debtor's response, dkt. 40).

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):

Zaida Araceli Lopez Montes

Represented By
Travis M. Poteat

Movant(s):

U.S. Bank National Association

Represented By
Dane W Exnowski
Jennifer C Wong

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, November 14, 2023

Hearing Room 1545

10:00 AM

2:23-10804 Troy Lamar Johnson and Aziza Adia Johnson

Chapter 13

#11.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 06/27/23, 7/18/23, 8/15/23, 10/17/23

CITIMORTGAGE, INC.
vs
DEBTOR

Docket 34

Tentative Ruling:

Tentative Ruling for 11/14/23:

Appearances required.

At the hearing on 10/17/23 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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

Tentative Ruling for 10/17/23:

Appearances required.

At the hearing on 8/15/23 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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

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

Tuesday, November 14, 2023

Hearing Room 1545

10:00 AM

CONT... Troy Lamar Johnson and Aziza Adia Johnson

Chapter 13

Tentative Ruling for 8/15/23:

Appearances required.

At the hearing on 7/18/23 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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

Tentative Ruling for 7/18/23:

Appearances required. There is no tentative ruling, but the parties should be prepared to address (a) whether the alleged arrears have been brought current and/or (b) whether they will agree to the terms of an adequate protection order (see Debtor's response, dkt. 36).

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):

Troy Lamar Johnson

Represented By
Daniela P Romero

Joint Debtor(s):

Aziza Adia Johnson

Represented By
Daniela P Romero

Movant(s):

CitiMortgage, Inc.

Represented By

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
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Tuesday, November 14, 2023

Hearing Room 1545

10:00 AM

CONT... Troy Lamar Johnson and Aziza Adia Johnson
Jennifer C Wong

Chapter 13

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, November 14, 2023

Hearing Room 1545

10:00 AM

2:23-16239 Rosa Isela Salinas

Chapter 7

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

JG BARRANCA INVESTMENTS LLC
vs
DEBTOR

Docket 10

Tentative Ruling:

Grant in part and deny in part as set forth below.

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

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

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

Key documents reviewed (in addition to motion papers): Debtor's response (dkt. 12) and Movant's reply (dkt. 13)

The automatic stay applies

Deny the request for an order confirming that no stay is in effect. Movant has not established an exception to the automatic stay under 11 U.S.C. 362(b) (22) because no prepetition judgment for possession has been entered (as a result of the filing of the petition, no unlawful detainer trial has taken place). See Reply at p. 2:6–7.

Termination

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
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Tuesday, November 14, 2023

Hearing Room 1545

10:00 AM

CONT...

Rosa Isela Salinas

Chapter 7

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) (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 for lack of sufficient cause shown: there is no evidence of the type typically required for such relief, such as multiple bankruptcy filings or unauthorized transfers combined with a scheme to delay, hinder or defraud creditors.

Party Information

Debtor(s):

Rosa Isela Salinas

Represented By
Peter M Lively

Movant(s):

JG Barranca Investments LLC

Represented By
Gary A Starre

Trustee(s):

Carolyn A Dye (TR)

Pro Se

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

Tuesday, November 14, 2023

Hearing Room 1545

10:00 AM

CONT... Rosa Isela Salinas

Chapter 7

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

Tuesday, November 14, 2023

Hearing Room 1545

10:00 AM

2:23-11247 Edmund Lincoln Anderson

Chapter 13

#13.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/3/23, 10/17/23

THE BANK OF NEW YORK MELLON
VS
DEBTOR

Docket 75

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

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

Movant(s):

The Bank of New York Mellon, f/k/a

Represented By
Chad L Butler

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, November 14, 2023

Hearing Room 1545

10:00 AM

2:23-11247 Edmund Lincoln Anderson

Chapter 13

#14.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 6/13/23, 6/27/23, 8/8/23, 9/19/23, 10/17/23

U.S. BANK NATIONAL ASSOCIATION
vs
DEBTOR

Docket 43

Tentative Ruling:

Tentative Ruling for 11/14/23:

Appearances required.

At the hearing on 10/17/23 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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

Tentative Ruling for 10/17/23:

Appearances required.

At the hearing on 9/19/23 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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

**United States Bankruptcy Court
Central District of California
Los Angeles
Neil Bason, Presiding
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Tuesday, November 14, 2023

Hearing Room 1545

10:00 AM

CONT... Edmund Lincoln Anderson

Chapter 13

Tentative Ruling for 9/19/23:

Appearances required.

At the hearing on 8/8/23 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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

Tentative Ruling for 8/8/23:

Appearances required.

At the hearing on 6/27/23 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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

Tentative Ruling for 6/27/23:

Appearances required.

At the hearing on 6/13/23 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

If you are making an appearance, you may do so (1) in person in the courtroom, unless the Court has been closed (check the Court's website for public notices), (2) via ZoomGov video, or (3) via ZoomGov telephone. For

**United States Bankruptcy Court
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Tuesday, November 14, 2023

Hearing Room 1545

10:00 AM

CONT... Edmund Lincoln Anderson

Chapter 13

ZoomGov instructions for all matters on calendar, please see page 1 of the posted tentative rulings.

Tentative Ruling for 6/13/23:

Grant.

Proposed order(s): Unless otherwise ordered, Movant is directed to lodge proposed order(s) on the foregoing matter(s) via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)) and attach a copy of this tentative ruling, thereby incorporating it as this Court's final 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): Debtor's opposition (dkt. 51), no reply on file

Analysis:

Debtor has not addressed Movant's evidence that Debtor is not the borrower on the loan. In particular, Debtor has not established that Debtor can use any of the powers of the Bankruptcy Code to cure defaults under a mortgage to which Debtor is not a party. See *generally In re Bousheri* (Case No. 2:15-bk-11345-NB, dkt. 79) (analyzing non-borrower's inability to modify lender's rights against co-borrower and *in rem* rights against property).

Alternatively, assuming for the sake of discussion that Debtor could have some power to do so, Debtor has not established that Movant's "cause" for prospective and *in rem* relief is sufficiently offset by the hypothetical possibility that Debtor could obtain an order granting relief as against Movant. In other words, Movant has established *prima facie* "cause" for prospective and "*in rem*" relief from the automatic stay, and Debtor has not presented

**United States Bankruptcy Court
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Hearing Room 1545

10:00 AM

CONT... Edmund Lincoln Anderson

Chapter 13

evidence and argument sufficient to overcome Movant's *prima facie* showing.

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).

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.

The tentative ruling is that Movant has made a *prima facie* showing that relief is appropriate under 11 U.S.C. 362(d)(4) and Debtor has not sufficiently rebutted that presumption. Debtor argues that he had legitimate non-bankruptcy reasons to be a 50% owner with his mother and intends to address the arrears through a plan of reorganization. Opposition (dkt. 51), pp. 6:3-6 & 7:4-8. But the tentative ruling is that it is not a legitimate use of the bankruptcy system to impede Movant's collection efforts without the ability to cure Movant's default and Debtor has not articulated any legal basis or cited any authority addressing how he could cure Movant's default.

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

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

CONT... Edmund Lincoln Anderson
sufficient evidence and notice.

Chapter 13

Effective date of relief

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

Co-debtor stay

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

Party Information

Debtor(s):

Edmund Lincoln Anderson

Represented By
Stella A Havkin

Movant(s):

U.S. BANK NATIONAL

Represented By
Kelli M Brown
Michelle R Ghidotti
Marisol A Nagata

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, November 14, 2023

Hearing Room 1545

10:00 AM

2:23-15595 Guadalupe Becerra

Chapter 13

#15.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 10/31/23

ROGER ANDERSON, TRUSTEE OF THE RWA
TRUST DATED 3/14/2014
VS
DEBTOR

Docket 18

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

Tentative Ruling:

Party Information

Debtor(s):

Guadalupe Becerra

Represented By
Kevin Tang

Movant(s):

Roger Anderson, Trustee of the RWA

Represented By
Arnold L Graff

Trustee(s):

Kathy A Dockery (TR)

Pro Se

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

Tuesday, November 14, 2023

Hearing Room 1545

10:00 AM

2:23-15039 B&O Express Inc

Chapter 7

#16.00 Cont'd hrg re: Motion for relief from stay [UD]
fr. 10/3/23, 10/17/23, 10/31/23

300 WEST ARTESIA L.P.
vs
DEBTOR

Docket 26

Tentative Ruling:

Tentative Ruling for 11/14/23:
Appearances required.

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

Key documents reviewed (in addition to motion papers): Interim order granting relief from the automatic stay (the "Interim R/S Order," dkt. 42), Order partially denying motion to dismiss Chapter 7 case (dkt. 50), Notice of continued hearing (dkt. 51), Proof of service of notice of continued hearing (dkt. 52)

Background

On 10/18/23, this Court entered an interim order partially granting the motion for relief from the automatic stay brought by 300 West Artesia L.P. (the "Interim R/S Order," dkt. 42). The Interim R/S Order granted "in rem" relief as to Debtor and any other person except for Jupiter Warehouse and Distribution, Inc. ("Jupiter"), and was entered based on Debtor's lack of opposition to the relief granted therein. See dkt. 41, p. 2:11–14 ("As to relief from the automatic stay to proceed with the unlawful detainer action for possession of Debtor's prior business premises, Debtor does not oppose that part of the requested relief because Debtor is no longer in possession of or

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Central District of California
Los Angeles
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Tuesday, November 14, 2023

Hearing Room 1545

10:00 AM

CONT... B&O Express Inc

Chapter 7

occupying the premises"); see also Audio Record of 10/17/23 Hearing (on file with the Clerk of the Court) (Debtor's confirmation that it did not oppose "in rem" relief). As set forth in this Court's adopted rulings for 10/31/23, 10/17/23, and 10/3/23 (reproduced below), this matter has been continued as a result of Movant's failure to properly serve Jupiter.

Service upon Jupiter may have been deficient

The proof of service filed on 11/2/23 states that Jupiter was served via personal service at two different locations, but does not contain any attestation showing that the individual or individuals upon whom the documents were served were officers, managing general agents, or other persons authorized to accept service on behalf of Jupiter. See dkt. 51 at p. 5. The proof of service filed on 11/3/23 suffers from a similar defect: it shows that Jupiter was served by U.S. mail; however, the service was not to the attention of an officer or managing general agent, as required by Rule 7004(b)(3) (Fed. R. Bankr. P.). This Court's adopted ruling of 10/17/23 specifically advised Movant that service on Jupiter by U.S. mail must at a minimum comply with Rule 7004(b)(3).

Movant's counsel is directed to appear to address whether the individual or individuals whom Movant personally served were authorized to accept service on Jupiter's behalf.

Relief notwithstanding future bankruptcy cases

If Movant can establish to this Court's satisfaction that Jupiter received sufficient notice to satisfy due process, this Court is prepared to grant the following relief as to Jupiter 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

**United States Bankruptcy Court
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10:00 AM

CONT...

B&O Express Inc

Chapter 7

enforcement by the Sheriff or other authorized legal authority.

The granting of the foregoing "in rem" relief as to Jupiter is based upon the lack of any opposition thereto; the tentative ruling is that in granting such relief, this Court is **not** making a finding that Debtor was involved in a scheme to delay, hinder, or defraud creditors similar to the type of scheme described in 11 U.S.C. 362(d)(4). As this Court stated at the 10/17/23 hearing, Debtor's willingness to consent to "in rem" relief suggests that Debtor was **not** involved in a scheme to delay, hinder, or defraud creditors.

Tentative Ruling for 10/31/23:

Appearances required.

This Court's adopted ruling for 10/17/23 (copied below) directed Movant to file an amended proof of service on Jupiter reflecting service of *both* (A) notice of the continued hearing and (B) a copy of the underlying motion papers. The amended proof of service filed by Movant on 10/18/23 (dkt. 44) attests that the motion papers were personally served upon "Ernie 'Doe,' who confirmed he is the manager and authorized to accept [service]," dkt. 44 at ¶ 2; however, the amended proof of service contains no indication that the papers served upon Ernie "Doe" included *notice* of this continued hearing. Similarly, the amended proof of service filed by Movant on 10/19/23 (dkt. 45)—which attests that the underlying motion papers were served upon Jupiter by first-class mail—does not specify whether *notice* of this continued hearing was provided. Movant's counsel is directed to appear to clarify whether the papers that were served provided Jupiter with notice of this continued 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.

Tentative Ruling for 10/17/23:

Continue to 10/31/23 at 10:00 a.m. with a **deadline of 10/18/23** to file proof that Jupiter Warehouse and Distribution Inc. ("Jupiter") has *itself* been served with (1) notice of the continued hearing and (2) a copy of the underlying

**United States Bankruptcy Court
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10:00 AM

CONT... **B&O Express Inc**

Chapter 7

motion papers. Appearances are not required on 10/17/23. (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.")

Reasons:

Service on certain attorneys, who purportedly represent Jupiter in some capacity (per POS, dkt. 36), is not sufficient. See *In re Villar*, 317 B.R. 88 (9th Cir. BAP 2004). As explained in *Villar*, an attorney's representation of a client in nonbankruptcy matters does not mean the attorney is also representing the same client in bankruptcy matters.

There is no showing that Mr. York and the other attorneys on Movant's proof of service (POS, dkt. 36, p. 3) have made an appearance on behalf of Jupiter, or have agreed to accept service for Jupiter. Nor is there any proof that they have agreed to accept service via email.

True, one of the listed attorneys has filed a request for copies of documents. See dkt. 18. But that generic request does not identify any client, let alone constitute an appearance on behalf of that client. See *id.* (request for notice by attorney, but *not* an appearance for any client).

Note: Any service via U.S. mail must comply with Rule 7004(b)(3) (Fed. R. Bankr. P.) as stated in the tentative ruling for 10/3/23 (reproduced in full below). Per the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov):

Non-individuals generally must be served "Attn: Officer or Managing/General Agent" or a similar phrase (Rule 7004(b)(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.

Tentative Ruling for 10/3/23:

Grant in part and continue in part to 10/17/23 at 10:00 a.m., as set forth below. Appearances are not required on 10/3/23. (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.")

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Hearing Room 1545

10:00 AM

CONT...

B&O Express Inc

Chapter 7

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).

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

Key documents reviewed (in addition to motion papers): Debtor's response (dkt. 31); Movant's Reply (dkt. 34).

Service on Debtor is deficient

Movant's proof of service (dkt. 26, PDF p. 11) does not show service on 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.). Nevertheless, because it appears Debtor has received actual notice in time to file responsive papers (dkt. 31), the tentative ruling is not to continue the hearing for service on Debtor in accordance with those rules.

It appears that the automatic stay applies

The tentative ruling is to deny Movant's request for an order confirming that no stay is in effect because, although Movant checked the local form box seeking that relief (dkt. 26, p. 5), Movant does not explain why it believes that no stay applies.

Additionally and alternatively, Movant has presented conflicting evidence. Movant attaches a copy of a prepetition default judgment entered

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CONT...

B&O Express Inc

Chapter 7

against Debtor (dkt. 26, PDF pp. 164-166), but also attaches a pleading filed in the nonbankruptcy action after the petition date that states that it will be seeking relief from the automatic stay to proceed in that action. *Id.* at PDF p. 169:9-10. On this record, it is unclear whether the default judgment was final and enforceable prior to this bankruptcy filing, or whether Debtor might have some alternative basis to assert a residual interest beyond a mere possessory interest, due to some entitlement to relief from forfeiture or for other reasons. Nor has Movant presented any evidence establishing that it obtained a writ of possession from the State Court. Accordingly, Movant has not established that Debtor has no cognizable interest at all in the property. *Compare, e.g., 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).

For all of the foregoing reasons, the tentative ruling is that Movant has not established that no stay applies. A separate question is whether Movant is entitled to relief from the automatic stay. The tentative ruling is that such relief is warranted as set forth below.

Termination

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

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

Relief notwithstanding future bankruptcy cases

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 service on the persons who executed the documents through which the movant asserts its interest in the property (*i.e.*, the original lessee(s)). 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: Jupiter Warehouse and Distribution Inc. (if service is via U.S. mail, it must at a

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CONT... B&O Express Inc
minimum comply with Rule 7004(b)(3), Fed. R. Bankr. P.).

Chapter 7

Effective date of relief

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

Party Information

Debtor(s):

B&O Express Inc

Represented By
Joon M Khang

Movant(s):

300 West Artesia L.P.

Represented By
Roger F Friedman
Gerard M Mooney

Trustee(s):

Rosendo Gonzalez (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, November 14, 2023

Hearing Room 1545

10:00 AM

2:23-16941 Oscar Humberto Parada

Chapter 13

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

ROBERT L LEDNER
vs
DEBTOR

Docket 9

Tentative Ruling:

Grant in part and continue in part to 11/28/23 at 10:00 a.m., as set forth below. Appearances are not required on 11/14/23. (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.")

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).

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)

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10:00 AM

CONT... Oscar Humberto Parada

Chapter 13

Movant asserts that the automatic stay is not in effect, but has not shown that this is so

Movant asserts that the automatic stay is not in effect. See R/S Motion (dkt. 9) p. 5, para. 4. Movant does not explain why, but the R/S Motion does list two prior bankruptcy cases that were dismissed recently (*id.*, p. 9), and normally that means the automatic stay does not go into effect unless this Court orders it to apply after notice and a hearing. See 11 U.S.C. 362(c)(4) and (j).

In this instance, however, one of Debtor's two prior cases (#2:23-bk-16475-WB) was dismissed on 10/23/23 at 2:07 p.m. (see *id.*, dkt. 13), which is after this case was filed, on 10/23/23 at 12:31 p.m., so the elements of section 362(c)(4) do not apply. In addition, although the automatic stay might expire after 30 days under 11 U.S.C. 362(c)(3), based on Debtor's other prior bankruptcy case (#1:23-bk-10487-MB, dismissed 5/5/23), that 30-day period has not yet expired (the petition in this case was filed on 10/23/23, so the 30-day period does not expire until 11/22/23).

Nevertheless, for the reasons set forth below, the tentative ruling is to grant relief from the automatic stay.

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)(3).

Relief notwithstanding future bankruptcy cases

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 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

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CONT... **Oscar Humberto Parada** **Chapter 13**

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: Arthur Boyadzhan (who should be served at both the property address and the "borrower's notice address" set forth in the loan documents: PO Box 1111, Glendale, CA 91226, see dkt. 9, PDF p. 20).

Party Information

Debtor(s):

Oscar Humberto Parada	Pro Se
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Movant(s):

Robert L Ledner	Represented By Eric A Mitnick
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Trustee(s):

Kathy A Dockery (TR)	Pro Se
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**United States Bankruptcy Court
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Tuesday, November 14, 2023

Hearing Room 1545

10:00 AM

2:23-16758 Clark Edward Parker

Chapter 11

#18.00 Status Conference re: Chapter 11 Case

Docket 1

Tentative Ruling:

Appearances required by counsel for Debtor and by Debtor(s) themselves.

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) Budget motion

The posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) Section VII.G provide that budget motions are mandatory in all chapter 11 cases. If Debtor has not filed a budget motion by the time of the hearing, the tentative ruling is to set a **deadline of 11/27/23** to file and serve a budget motion.

(b) Deadline to file plan and disclosure statement

Debtor's status report (dkt. 17, p. 5) proposes a deadline of 12/31/24 to file a plan and disclosure statement, but does not explain why Debtor needs so long to propose a plan. Debtor should be prepared to address this at the hearing.

(c) Application to employ Leslie Cohen Law, PC (dkt. 21, "Employment Application")

This matter is not on for calendar today, but this Court notes two issues. First, the Employment Application (dkt. 21, p. 2:3-4) states that Debtor made the Subchapter V election, but this Court presumes that the reference to Subchapter V is in error because Debtor did not make that election in his petition. See dkt. 1, p. 4. If Debtor intended to make that election he should amend his petition papers to reflect that. This Court

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CONT... **Clark Edward Parker**

Chapter 11

makes no determinations regarding whether Debtor is eligible to be a Subchapter V debtor at this time.

Second, the employment application states:

There is currently no third-party payor in this case and, if one should arise, the Firm will confer with the Office of the US Trustee and disclose the terms of the financial arrangement. [Empl. App. (dkt. 21), p. 3:14-16 (emphasis added).]

Mere disclosure is inadequate. Any proposed funding by a third party (a "Funder") will require prior approval by this Court, after notice and a hearing, as stated in the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov).

(d) Status report of California Department of Education

This Court has reviewed the status report filed by the California Department of Education ("CalDOE," dkt. 26). The tentative ruling is to agree with CalDOE that, notwithstanding Debtor's request in its status report that this Court order mandatory mediation (dkt. 17, p. 2, item A.2.), this Court will not do so at this time in view of the prior two unsuccessful mediations. See CalDOE Rpt. (dkt. 26) p. 2:21-23.

Beyond that, the tentative ruling is for this Court not to take any additional action at this time based on the assertions made by CalDOE in its status report, or based on the exhibits thereto. This Court's reasoning is that there is no specific request for relief properly before this Court at this time. But all rights are reserved for CalDOE to file whatever papers it deems appropriate.

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

(a) Bar date: 1/5/24 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

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

(c) Plan/Disclosure Statement: See above. (DO NOT SERVE - except on the U.S. Trustee). See Procedures Order.

(d) Continued status conference: 11/28/23 at 1:00 p.m., concurrent with other matters. No written status report is required.

Party Information

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10:00 AM

CONT... Clark Edward Parker

Chapter 11

Debtor(s):

Clark Edward Parker

Represented By
Leslie A Cohen

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

2:22-15160 Juan Eligio Magallon

Chapter 7

#1.00 Hrg re: Trustee's final report and account;
Application for fees and expenses
[Peter J Mastan Chapter 7 Trustee]

Docket 31

Tentative Ruling:

Approve the final report and allow \$259.94 in fees and \$16.68 in expenses, for a total award of \$276.62, and authorize and direct payment of the full amounts allowed. 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: Unless otherwise ordered, Applicant is directed to lodge a proposed order on the foregoing matter 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.

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):

Juan Eligio Magallon

Represented By
Raymond Perez

Trustee(s):

Peter J Mastan (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, November 14, 2023

Hearing Room 1545

11:00 AM

2:21-14452 Monique Y. Griswold

Chapter 7

#2.00 Hrg re: Trustee's final report and account;
Application for fees and expenses
[David M Goodrich, Ch 7 Trustee]

Docket 47

Tentative Ruling:

Approve the final report and allow \$1,125.00 in fees and \$0.00 in expenses, for a total award of \$1,125.00, and authorize and direct no payment at this time, as proposed by the Trustee. Dkt. 47, PDF p. 10. 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: Unless otherwise ordered, Applicant is directed to lodge a proposed order on the foregoing matter 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.

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):

Monique Y. Griswold

Represented By
Michael Salanick

Trustee(s):

David M Goodrich (TR)

Pro Se

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

11:00 AM

2:21-14452 Monique Y. Griswold

Chapter 7

#3.00 Hrg re: Application for payment of
Final Fees and/or Expenses
[Gokal Law Group, Inc., Attorney for Tr.]

Docket 46

Tentative Ruling:

Allow \$2,170.00 in fees and \$8.80 in expenses, for a total award of \$2,178.80, and authorize and direct payment of the full amounts allowed. 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: Unless otherwise ordered, Applicant is directed to lodge a proposed order on the foregoing matter 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.

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):

Monique Y. Griswold

Represented By
Michael Salanick

Movant(s):

Gokal Law Group, Inc.

Represented By
Alison S Gokal

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11:00 AM

CONT... Monique Y. Griswold

Chapter 7

Trustee(s):

David M Goodrich (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

2:23-13187 Vista Studios, LLC

Chapter 7

#4.00 Hrg re: Motion for Order Approving Stipulation
of the Parties for Relief from the Automatic Stay

Docket 67

Tentative Ruling:

Grant motion and approve stipulation between the Chapter 7 Trustee and City National Bank, N.A. ("Bank") lifting the automatic stay to permit Bank to take possession of funds securing letters of creditor issued in favor of Debtor. 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: Unless otherwise ordered, Movant is directed to lodge proposed order(s) on the foregoing matter(s) via LOU within 7 days after the hearing date (per LBR 9021-1(b)(1)(B)).

If you 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):

Vista Studios, LLC

Represented By
David B Golubchik

Movant(s):

City National Bank

Represented By
Byron B Mauss

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CONT... Vista Studios, LLC

Chapter 7

Trustee(s):

Rosendo Gonzalez (TR)

Represented By
Rosendo Gonzalez

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Hearing Room 1545

11:00 AM

2:23-14722 Flor Marina Caridad

Chapter 7

#5.00 Hrg re: Motion for fine and/or disgorgement of fees
against bankruptcy petition preparer Judith Valenzuela

Docket 18

***** VACATED *** REASON: Resolved by stipulation (dkt. 24) and order
thereon**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Flor Marina Caridad

Pro Se

Movant(s):

United States Trustee (LA)

Represented By
Ron Maroko

Trustee(s):

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 1545

11:00 AM

2:23-16328 Dionne LaBostrie

Chapter 7

#6.00 Hrg re: Request for dismissal of bankruptcy case

Docket 12

Tentative Ruling:

Grant Debtor's motion to dismiss this 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."). After the hearing this Court will prepare the order.

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

Key documents reviewed (in addition to motion papers): Order setting hearing (dkt. 13), Notice to creditors (dkt. 15 & 16), no opposition on file

Party Information

Debtor(s):

Dionne LaBostrie	Pro Se
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Movant(s):

Dionne LaBostrie	Pro Se
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Trustee(s):

Carolyn A Dye (TR)	Pro Se
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**United States Bankruptcy Court
Central District of California
Los Angeles
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Tuesday, November 14, 2023

Hearing Room 1545

11:00 AM

2:23-14807 Dolores Anabell Zamora and Brian Pablo Zamora

Chapter 7

#7.00 Order to show cause re: (1) Directing debtors' counsel Oscar R. Swinton to appear and show cause why this court should not impose sanctions

Docket 33

Tentative Ruling:

There is no tentative ruling but as set forth in this Court's order (dkt. 33) both Debtors and Debtors' counsel are directed to appear at this hearing.
Appearances required.

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

Party Information

Debtor(s):

Dolores Anabell Zamora

Represented By
Oscar R Swinton

Joint Debtor(s):

Brian Pablo Zamora

Represented By
Oscar R Swinton

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
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Tuesday, November 14, 2023

Hearing Room 1545

11:00 AM

2:23-14807 Dolores Anabell Zamora and Brian Pablo Zamora

Chapter 7

#8.00 Cont'd hrg re: Reaffirmation Agreement
[Ford Motor Credit Company LLC (2021 Ford Ranger)]
fr. 10/17/23

Docket 14

Tentative Ruling:

Tentative Ruling for 11/14/23:

There is no tentative ruling but as set forth in this Court's order (dkt. 33) both Debtors and Debtors' counsel are directed to appear at this hearing.
Appearances required.

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

Tentative Ruling for 10/17/23:

There is no tentative ruling but as set forth in this Court's order (dkt. 30) both Debtor and Debtor's counsel are directed to appear at this hearing.
Appearances required.

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

Party Information

Debtor(s):

Dolores Anabell Zamora

Represented By
Oscar R Swinton

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11:00 AM

CONT... Dolores Anabell Zamora and Brian Pablo Zamora

Chapter 7

Joint Debtor(s):

Brian Pablo Zamora

Represented By
Oscar R Swinton

Trustee(s):

Carolyn A Dye (TR)

Pro Se

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11:00 AM

2:23-14807 Dolores Anabell Zamora and Brian Pablo Zamora

Chapter 7

#9.00 Cont'd hrg re: Reaffirmation Agreement
[Hyundai Capital America DBA Hyundai Motor Finance]
fr. 10/17/23

Docket 29

Tentative Ruling:

Tentative Ruling for 11/14/23:

There is no tentative ruling but as set forth in this Court's order (dkt. 33) both Debtors and Debtors' counsel are directed to appear at this hearing.
Appearances required.

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

Tentative Ruling for 10/17/23:

There is no tentative ruling but as set forth in this Court's order (dkt. 30) both Debtor and Debtor's counsel are directed to appear at this hearing.
Appearances required.

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

Party Information

Debtor(s):

Dolores Anabell Zamora

Represented By
Oscar R Swinton

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11:00 AM

CONT... Dolores Anabell Zamora and Brian Pablo Zamora

Chapter 7

Joint Debtor(s):

Brian Pablo Zamora

Represented By
Oscar R Swinton

Trustee(s):

Carolyn A Dye (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Los Angeles
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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

#10.00 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

Docket 1

Tentative Ruling:

Tentative Ruling for 11/14/23:

Continue to 1/23/24 at 11:00 a.m. for the parties to take all steps necessary to carry out the terms of the their settlement (see 2:20-bk-10046-NB, dkt. 130 & 133), subject to being vacated if this proceeding is dismissed prior to the continued hearing. Appearances are not required on 11/14/23. (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

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

Tuesday, November 14, 2023

Hearing Room 1545

11:00 AM

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
Central District of California
Los Angeles
Neil Bason, Presiding
Courtroom 1545 Calendar**

Tuesday, November 14, 2023

Hearing Room 1545

11:00 AM

2:22-12110 Angel J Garcia

Chapter 7

Adv#: 2:22-01140 C.R. Laurence Co., Inc. v. Garcia

#11.00 Cont'd Status Conference re: Complaint to Determine Non-Dischargeability of Debt Pursuant to 11 U.S.C. Section 523(a)(6) fr. 9/20/22, 10/25/22, 11/15/22, 1/24/23, 3/7/23, 3/21/23, 5/16/23, 7/18/23

Docket 1

*** VACATED *** REASON: Order approving joint stip and amended scheduling order. Cont'd status conference to 11/28/23 at 11:00 a.m. [dkt. 54]

Tentative Ruling:

Party Information

Debtor(s):

Angel J Garcia

Represented By
Ivette Teran
Ryan A Witthans
Jeffrey B Smith

Defendant(s):

Angel J Garcia

Represented By
Ivette Teran
Ryan A Witthans
Jennifer C Hayes

Plaintiff(s):

C.R. Laurence Co., Inc.

Represented By
Ali M Mojdehi
Allison Rego
Shawna L Ballard
Patrick Robert Colsher

Trustee(s):

Sam S Leslie (TR)

Pro Se

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

Tuesday, November 14, 2023

Hearing Room 1545

11:00 AM

2:22-16660 Silva Agasyan

Chapter 7

Adv#: 2:23-01084 Menchaca Chapter 7 Trustee v. Madrid Equipment Rental, Inc. et al

#12.00 Cont'd Status Conference re: Trustee's Complaint (1) For Determination of Priority, Validity and Amount of Liens; (2) To Use the Strong Arm Power of the Trustee to Avoid Inchoate Security Interests; (3-9) to Avoid Preferential and Fraudulent Transfers; (10) For Recovery and Assignment of Avoided Transfers; (11) For Declaratory Relief; (12) To Quiet Title; (13) To Remove Cloud on Title; (14) For an Accounting; (15) For Injunctive Relief
fr. 4/25/23, 6/27/23, 10/3/23

Docket 1

*** VACATED *** **REASON: Order dismissing adversary proceeding entered 10/31/23.**

Tentative Ruling:

Party Information

Debtor(s):

Silva Agasyan

Represented By
Stella A Havkin

Defendant(s):

Madrid Equipment Rental, Inc.

Pro Se

Henrik Agasyan

Represented By
Christian T Kim

Schweitzer Law Partners, APC

Represented By
Leslie R Horowitz

Plaintiff(s):

John Menchaca Chapter 7 Trustee

Represented By
Wesley H Avery

Trustee(s):

John J Menchaca (TR)

Represented By
Wesley H Avery

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

Tuesday, November 14, 2023

Hearing Room 1545

11:00 AM

CONT... Silva Agasyan

Chapter 7

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

2:23-16844 Red Roof Inc.

Chapter 11

#1.00 Status conference re: Chapter 11 case

Docket 1

Tentative Ruling:

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

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

(1) Current issues

(a) Tardy status report

Debtor's status report was due 10/31/23 (see Order, dkt. 9, p. 2:7-10) but it was not filed until 11/5/23. See dkt. 19. Debtor is cautioned in future to meet applicable deadlines.

(b) Employment application(s)

If Debtor has not filed an application to employ bankruptcy counsel and other professionals (if any) by the time of this hearing the tentative ruling is to set a **deadline of 11/21/23** for Debtor to do so.

(2) Dates/procedures. This case was filed on 10/19/23.

(a) Bar date: 1/12/24 (DO NOT SERVE notice yet - court will prepare an order after the status conference).

(b) Procedures Order: dkt. 9 (timely served, dkt. 15)

(c) Plan/Disclosure Statement: file by 1/17/24 (DO NOT SERVE - except on the U.S. Trustee). See Procedures Order.

(d) Continued status conference: 11/28/23 at 1:00 p.m., concurrent with other matters. No written status report is required.

Party Information

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

CONT... Red Roof Inc.

Chapter 11

Debtor(s):

Red Roof Inc.

Represented By
Kevin Tang

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

2:23-16758 Clark Edward Parker

Chapter 11

#2.00 Status Conference re: Chapter 11 Case

Docket 1

***** VACATED *** REASON: This matter was heard during the 10:00 a.m.
time frame.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Clark Edward Parker

Represented By
Leslie A Cohen

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

2:23-13307 Seyed Mustafa Maghloubi

Chapter 11

#3.00 Hrg re: Motion by creditor for appointment of a Chapter 11 trustee or Chief Restructuring Officer (CRO) for debtor's estate and businesses

Docket 45

***** VACATED *** REASON: Order approving stipulated dismissal of motion entered 11/8/23**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Seyed Mustafa Maghloubi

Pro Se

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

2:23-13307 Seyed Mustafa Maghloubi

Chapter 11

#4.00 Status conference re: Chapter 11 case

Docket 1

Tentative Ruling:

Appearances required by counsel for Debtor (if any) and Debtor.

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

(1) Current issues

(a) Debtor's failure to comply with the Procedures Order (dkt. 32) and with reporting requirements imposed by the United States Trustee (the "UST")

On 10/13/23, this Court entered a Procedures Order (dkt. 32) imposing various requirements upon Debtor. There is no indication that Debtor has fulfilled any of the requirements set forth in the Procedures Order.

Debtor has not filed a proof of service establishing that he served the Procedures Order upon creditors, as required by ¶ 1 of that order. Debtor has not filed a case status report, as required by ¶ 3 of the Procedures Order.

This Court recognizes that this case was commenced as an involuntary petition. But, to the extent Debtor wished to object to becoming subject to the various obligations imposed upon individuals who are proceeding in bankruptcy, he had an opportunity to do so by contesting the allegations of the involuntary petition. Having chosen not to avail himself of that opportunity, Debtor is now a debtor-in-possession responsible for complying with the obligations imposed by the Bankruptcy Code, including orders issued by this Court.

Debtor's apparent failure to comply with any UST reporting requirements is also of significant concern. See *generally* UST Motion to Dismiss, Convert, or Direct the Appointment of a Chapter 11 Trustee (dkt. 42) (the "UST Motion to Dismiss"). Debtor is cautioned that the continued failure to comply with this Court's orders and with the reporting requirements

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

CONT... Seyed Mustafa Maghloubi

Chapter 11

promulgated by the UST may result in various adverse consequences, including possible sanctions.

(b) Claims bar date and other Chapter 11 deadlines

The tentative ruling is (A) to refrain from setting any deadlines pertaining to plan confirmation, such as a claims bar date and a deadline to file and serve a plan and disclosure statement, until after the UST Motion to Dismiss has been adjudicated and (B) to set a continued Status Conference concurrent with the hearing on the UST Motion to Dismiss (see Section "2(d)," below).

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

(a) Bar date: TBD

(b) Procedures Order: dkt. 32 (not served)

(c) Plan/Disclosure Statement: TBD

(d) Continued status conference: 11/28/23 at 1:00 p.m., concurrent with UST Motion to Dismiss. Status report due 11/21/23.

Party Information

Debtor(s):

Seyed Mustafa Maghloubi

Pro Se

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

2:22-11471 Cherry Man Industries, Inc.

Chapter 11

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

#5.00 Status conference re: Complaint (1) Avoidance Of Preferential Transfers [11 U.S.C. § 547]; (2) Avoidance Of Actual Fraudulent Transfers [11 U.S.C. § 548(A)(1)(A)]; (3) Avoidance Of Constructive Fraudulent Transfers [11 U.S.C. § 548(A)(1)(B)]; (4) Recovery Of Avoided Transfers [11 U.S.C. § 550]; and (5) Disallowance Of Claims [11 U.S.C. §502]

Docket 1

***** VACATED *** REASON: Order approving stip to cont'd status conference 12/19/23 at 1:00 p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cherry Man Industries, Inc.

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

Defendant(s):

Patricia Barraza

Pro Se

Plaintiff(s):

Bankruptcy Estate Of Cherry Man

Represented By
David B Golubchik

Trustee(s):

Hamid R. Rafatjoo (TR)

Represented By
Hamid R Rafatjoo
Krikor J Meshefejian
David B Golubchik

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

CONT...

Cherry Man Industries, Inc.

Jonathan Gottlieb

Chapter 11

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

2:22-11471 Cherry Man Industries, Inc.

Chapter 11

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

Docket 1

***** VACATED *** REASON: Cont'd to 1/23/24@1:00p.m.**

Tentative Ruling:

Party Information

Debtor(s):

Cherry Man Industries, Inc.

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

Trustee(s):

Hamid R. Rafatjoo (TR)

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

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

2:23-16108 337 6th Ave, LLC

Chapter 11

#7.00 Cont'd Status Conference re: Chapter 11 case
fr. 10/17/23

Docket 1

Tentative Ruling:

Tentative Ruling for 11/14/23:

Continue as set forth below. Appearances are not required on 11/14/23. (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 to employ Thomas B. Ure as general bankruptcy counsel (dkt. 21) and statement of disinterestedness (dkt. 22)

This is not on calendar today because it has been served on negative notice pursuant to Local Bankruptcy Rule 9013-1(o), but this Court notes that Debtor's proposed counsel's retainer was paid by Debtor's managing member, FMB Consulting, LLC ("FMB Consulting") and/or FMB Consulting's managing member, Ilan Kenig. Dkt. 21, pp. 7 & 11. Per the "Posted Procedures of Judge Bason" (available at www.cacb.uscourts.gov):

Retainer paid by third party. Declarations and/or briefs generally are required to address the ethical concerns involved whenever a retainer is paid by a third party. See Cal. Rule of Prof'l Conduct 1.8.6; *In re 9469 Beverly Crest, LLC* (Case No. 2:19-bk-20000-NB, dkt. 44).

The tentative ruling is to set a **deadline of 11/21/23** for such declarations and/or briefs to be filed and served on the U.S. Trustee.

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

CONT... 337 6th Ave, LLC

Chapter 11

- (2) Dates/procedures. This case was filed on 9/19/23.
- (a) Bar date: 11/30/23 (dkt. 16) (timely served, dkt. 17).
 - (b) Procedures Order: dkt. 3 (timely served, dkt. 6)
 - (c) Plan/Disclosure Statement: file by 12/18/23 (DO NOT SERVE - except on the U.S. Trustee). See Procedures Order.
 - (d) Continued status conference: 12/5/23 at 1:00 p.m. No written status report is required.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

337 6th Ave, LLC

Represented By
Thomas B Ure

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

2:23-11695 2202 East Anderson Street, LLC

Chapter 11

#8.00 Cont'd Status Conference re: Chapter 11 Case
fr. 4/25/23, 5/4/23, 5/12/23, 5/22/23, 5/30/23,
6/27/23, 7/18/23, 8/8/23, 9/12/23, 9/19/23,
10/3/23

Docket 1

Tentative Ruling:

Tentative Ruling for 11/14/23:

Continue this Status Conference to 12/19/23 at 2:00 p.m. and continue matters scheduled for hearing on 11/28/23 to the date of the continued Status Conference, so that certain service deficiencies can be corrected, all as set forth below. Appearances are not required on 11/14/23. (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: Chapter 11 Trustee's Report (dkt. 169), her motion for a structured dismissal (the "Structured Dismissal Motion," dkt. 179), and Fee applications filed by the estate's professionals (dkt. 172-74, 176-77, & 182-83)

The Chapter 11 Trustee (the "Trustee") has noticed a hearing on her Structured Dismissal Motion for 11/28/23 at 1:00 p.m. Pursuant to Rule 2002(a)(4) (Fed. R. Bank. P.), "all creditors" must receive no fewer than 21 days' notice of a motion to dismiss a Chapter 11 case. The Structured Dismissal Motion was served only on those creditors who receive electronic notice via the Notice of Electronic Filing system, rather than all creditors.

This Court is not aware of grounds to overlook the service defect given that the dividend proposed in the Structured Dismissal Motion will not pay the

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

CONT... 2202 East Anderson Street, LLC

Chapter 11

allowed claims of general unsecured creditors in full. The tentative ruling is (x) to continue the hearing on the Structured Dismissal Motion from 11/28/23 at 1:00 p.m. to the date of the continued Status Conference set forth above, and (y) to direct the Trustee to provide notice of the continued hearing to all creditors and file a proof of service so indicating by no later than **11/21/23**.

The estate's professionals have filed fee applications which have been set for hearing on 11/28/23 at 2:00 p.m. (collectively, the "Fee Applications"). The tentative ruling is (x) to continue the hearing on the Fee Applications to the date of the continued Status Conference set forth above, and (y) to direct the Trustee's general bankruptcy counsel to provide notice of the continued hearing to all creditors and file a proof of service so indicating by no later than **11/21/23**.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

2202 East Anderson Street, LLC

Represented By
Raymond H. Aver

Trustee(s):

Carolyn A Dye (TR)

Represented By
James A Dumas Jr
Christian T Kim

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

2:22-16991 Fallah Nasser Alfallah

Chapter 11

#9.00 Cont'd Status Conference re: Chapter 11 Case
fr. 1/21/23, 3/21/23, 4/4/23, 5/16/23, 6/27/23,
7/11/23, 8/8/23, 9/19/23, 10/3/23, 10/5/23

Docket 1

Tentative Ruling:

Tentative Ruling for 11/14/23:

Appearances required.

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

(1) Current issues

(a) Missing status report

The adopted ruling for 10/5/23 directed Debtor to file a status report by 10/31/23 but no report has been filed. Why not? Debtor should be prepared to update this Court on the status of any sale efforts.

In addition, this Court notes that this is not the first time Debtor has failed to comply with this Court's deadline to file a status report. See, e.g., adopted ruling for 9/19/23. Debtor's counsel is cautioned not to continue missing deadlines set by this Court or this Court may impose sanctions or other adverse consequences.

(2) Dates/procedures. This case was filed on 12/26/22.

(a) Bar date: 3/31/23 (dkt. 30) (timely served, dkt. 35)

(b) Procedures Order: dkt. 9 (timely served, dkt. 18)

(c) Plan/Disclosure Statement: TBD.

(d) Continued status conference: 1/2/24 at 1:00 p.m. *Brief* written status report due 12/19/23.

Tentative Ruling for 10/5/23:

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

CONT... Fallah Nasser Alfallah
Appearances required.

Chapter 11

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 second application to employ real estate brokers (the "Second Employment Application") (to be filed no later than 10/4/23 at 3:00 p.m.)

At the status conference on 10/3/23, this Court granted Debtor's oral motion to set on shortened notice a hearing on an anticipated application to employ real estate brokers. (This Court previously granted Debtor's application to employ a real estate broker, but that broker's listing agreement expired on 10/1/23.)

There is no tentative ruling but if the application is filed then this will also be a hearing on that Second Employment Application. The parties are directed to be prepared to discuss the merits of that application.

(2) Dates/procedures. This case was filed on 12/26/22.

(a) Bar date: 3/31/23 (dkt. 30) (timely served, dkt. 35)

(b) Procedures Order: dkt. 9 (timely served, dkt. 18)

(c) Plan/Disclosure Statement: TBD.

(d) Continued status conference: 11/14/23 at 1:00 p.m. *Brief* written status report due 10/31/23.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Fallah Nasser Alfallah

Represented By
Derrick Talerico

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

2:22-15290 Ana M Ahmad

Chapter 11

#10.00 Cont'd hrg re: Motion for relief from stay [RP]
fr. 8/15/23, 9/5/23, 9/19/23, 10/3/23

AJAX MORTGAGE LOAN TRUST 2021-G
VS
DEBTOR .

Docket 62

***** VACATED *** REASON: Order approving stip resolving RFS and
plan treatment entered 10/20/23**

Tentative Ruling:

Party Information

Debtor(s):

Ana M Ahmad

Represented By
Thomas B Ure

Movant(s):

Ajax Mortgage Loan Trust 2021-G,

Represented By
Joshua L Scheer

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

2:22-15290 Ana M Ahmad

Chapter 11

#11.00 Cont'd Status Conference re: Chapter 11 Case
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

Docket 6

Tentative Ruling:

Tentative Ruling for 11/14/23:
Appearances required.

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

(1) Current issues

(a) Chapter 11 plan and disclosure statement

Debtor is directed to address whether this Court should set a deadline for Debtor to file (but NOT SERVE on anyone except the U.S. Trustee) a plan and disclosure statement at this time.

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

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

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

(c) Plan/Disclosure Statement: See above.

(d) Continued status conference: 1/9/24 at 1:00 p.m. No written status report required.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

CONT... Ana M Ahmad

Chapter 11

Debtor(s):

Ana M Ahmad

Represented By
Thomas B Ure

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

2:23-13086 The Amadeus Trust under Declaration of Trust of Ja

Chapter 11

#12.00 Cont'd hrg re: U.S. Bank Trust, N.A., as trustee for LSF9 Master Participation Trust's Motion to Dismiss Chapter 11 Case, or in the alternative Motion to Appoint a Ch. 11 Trustee fr. 9/19/23, 10/3/23, 10/17/23, 10/31/23

Docket 51

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 13, 11/14/23 at 1:00 p.m.).

Party Information

Debtor(s):

The Amadeus Trust under

Represented By
Jeffrey I Golden
Christopher A, Minier

Movant(s):

U.S. Bank Trust, N.A., as Trustee for

Represented By
Christopher M McDermott

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

Tuesday, November 14, 2023

Hearing Room 1545

1:00 PM

2:23-13086 The Amadeus Trust under Declaration of Trust of Ja

Chapter 11

#13.00 Cont'd Status Conference re: Chapter 11 Case
fr. 6/13/23, 8/8/23, 9/12/23, 10/3/23, 10/17/23,
10/31/23

Docket 1

Tentative Ruling:

Continue all matters on calendar as set forth below. Appearances are not required on 11/14/23. (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 to dismiss case of U.S. Bank Trust ("Bank") (dkt. 51, "MTD") & request for judicial notice (dkt. 52, "RJN"), Opposition of Debtor (dkt. 61), Response of the Association of Apartment Owners of Wailea Beach Villas ("Owners Association") (dkt. 62) & RJN (dkt. 63), Stipulation to continue hearing on MTD (dkt. 64) and Order thereon (dkt. 66), Reply of Bank (dkt. 81), Reply of Owners Association (dkt. 82), Stipulations/orders continuing hearings (dkt. 86, 90, 102, 104)

Continue this matter to be current with the continued status conference (see below) and set a **deadline of 11/21/23** for Movant to file and serve a notice of the continued hearing on the U.S. Trustee and all creditors.

(2) Dates/procedures. This case was filed on 5/18/23.

- (a) Bar date: 8/11/23 (dkt. 26) (timely served, dkt. 27)
- (b) Procedures Order: dkt. 5 (timely served, dkt. 12)

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CONT... **The Amadeus Trust under Declaration of Trust of Ja** **Chapter 11**
(c) Plan/Disclosure Statement: TBD
(d) Continued status conference: 12/19/23 at 1:00 p.m., concurrent
with other matters. No written status report required.

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

The Amadeus Trust under

Represented By
Jeffrey I Golden
Christopher A, Minier

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2:23-12863 Energy Plus Solar Inc.

Chapter 11

#14.00 Cont'd hrg re: Creditor's Diane L.Klausen's application for examination and production of documents, pursuant to FRBP 2004 fr. 9/12/23, 10/3/23

Docket 94

Tentative Ruling:

Tentative Ruling for 11/14/23:

Please see the tentative ruling for the status conference (Calendar No. 16, 11/14/23 at 1:00 p.m.).

[PRIOR TENTATIVE RULING(S) OMITTED]

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

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2:23-12863 Energy Plus Solar Inc.

Chapter 11

#15.00 Cont'd hrg re: Insider Compensation
fr. 7/11/23, 8/15/23, 9/12/23, 10/3/23

Docket 46

Tentative Ruling:

Tentative Ruling for 11/14/23:

Please see the tentative ruling for the status conference (Calendar No. 16, 11/14/23 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

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2:23-12863 Energy Plus Solar Inc.

Chapter 11

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

Docket 1

Tentative Ruling:

Tentative Ruling for 11/14/23:

Appearances required.

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(1) Current issues

(a) Ms. Klausen's objections (dkt. 137) to Debtor's August 2023 Monthly Operating Report ("MOR," dkt. 131) are without merit

At the prior Status Conference, this Court warned Ms. Klausen's counsel of the risks associated with excessively litigating nearly every single matter in Debtor's bankruptcy case. Ms. Klausen's objections to Debtor's August 2023 MOR (dkt. 137) are a further example of the unproductive litigation of which this Court has previously warned.

As a procedural matter, any request for relief is supposed to be via motion (in appropriate circumstances, by an application), and any opposition or objection can only be made to another party's motion (or other proper request for relief). See *generally* Rule 9013 (Fed. R. Bankr. P.). Instead Ms. Klausen has filed purported "Objections and Oppositions" to Debtor's MOR. The tentative ruling is to overrule her oppositions/objections on this procedural ground.

Alternatively, the tentative ruling is to overrule them on the merits. The objections demonstrate that Ms. Klausen lacks an understanding of business and accounting practices, particularly in bankruptcy cases.

For example, Ms. Klausen objects to Debtor's use of accrual-based accounting (as opposed to cash-based accounting) for its August 2023 MOR.

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See MOR (8/23, dkt. 131); *and see also* MOR (9/23, dkt. 151). Ms. Klausen contends that the "fictional accrual basis, is based on [a] book of fictional business that may or may NOT exist," and that the "accrual basis does NOT give true [a] true and accurate [indication of the] financial condition of the Debtor, which renders the purported Profit and Loss statement, inaccurate and misleading." Dkt. 137 at 2:4–5.

Ms. Klausen fails to address the facts that (i) the Office of the United States Trustee determines what form of MOR is required (cash-based, accrual-based, or a combination), (ii) the form already includes substantial cash-based accounting information, and (iii) accrual-based accounting can be *more* accurate than cash accounting in many instances. Indeed, accrual-based accounting forms the cornerstone of the Generally Accepted Accounting Principles ("GAAP") that the vast majority of publicly-traded companies in the United States use in financial statements filed with the Securities and Exchange Commission ("SEC").

Similarly, Ms. Klausen appears to believe that cash accounting, combined with every customer paying in cash, is incompatible with having any accounts receivable. See Obj. (dkt. 137) p. 2:12-19. But, to illustrate, work can be performed in month 1, with payment *in cash* due in month 2 (and actual cash payment might not be made until month 3).

In addition, Ms. Klausen makes a bare assertion that Debtor's income used to be substantially higher, but (although this Court suspects that she might be correct) she fails to provide any actual *evidence* of that allegation, let alone evidence to support her assertion that Debtor might be hiding income. See Obj. (dkt. 137) p. 2:21-26.

True, this Court would be concerned if there were any actual evidence of such diversion of income. In addition, this Court would be concerned if there were any actual evidence that Debtor has been artificially decreasing income (*e.g.*, so as to appear to have an artificially low ability to pay creditors, and thereby possibly obtain confirmation of a Plan that provides for an artificially low dividend).

But it is not this Court's proper role to undertake such an investigation in the present circumstances. That is generally up to creditors or other parties in interest. In other words, it is up to Ms. Klausen to provide actual evidence, not for this Court to ferret out any such evidence that might be lurking somewhere in the record, or available upon discovery.

The tentative ruling is to issue an order (x) overruling Ms. Klausen's

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CONT... Energy Plus Solar Inc.

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request to strike the August 2023 MOR and (y) denying Ms. Klausen's request for issuance of an order requiring Debtor to file a revised August 2023 MOR. The tentative ruling is to direct Debtor to lodge that proposed order.

(b) Ms. Klausen's application for Rule 2004 examination (dkt. 94), Debtor's opposition (dkt. 96), Order setting hearing (dkt. 97), Reply of Ms. Klausen (dkt. 109)

This Court previously has expressed on the record its views that (i) debtors in bankruptcy generally must provide comprehensive disclosures (bankruptcy has been analogized to a "fish bowl" in terms of the amount of transparency required) and (ii) regardless whether Rule 2004 or more traditional discovery rules apply, Debtor probably needs to provide many of the documents and much of the information requested by Ms. Klausen, although some of Ms. Klausen's requests might be overly burdensome. This Court previously has directed the parties must meet and confer regarding discovery.

The tentative ruling is that if the parties have not resolved their differences then this will hear brief oral argument and then make oral rulings. This Court anticipates directing counsel for Ms. Klausen to lodge a proposed order, after meeting and conferring with Debtor's counsel about the form of that order, and subject to this Court holding any proposed order lodged by Ms. Klausen for two business days during which time Debtor can lodge any competing form of proposed order.

(c) Ms. Klausen's objection to Debtor's notice of setting/increasing insider compensation for Mr. Eric Wedell (dkt. 17), Debtor's reply (dkt. 34), Ms. Klausen unauthorized sur-reply (dkt. 36) (previously ordered stricken), Interim orders approving insider compensation (dkt. 76, 105, 130, & 143)

At an earlier status conference, this Court was persuaded to permit insider compensation to be set at the levels proposed by Debtor, subject to assessing whether Debtor's actual income (as reflected in its MORS) appeared to support that level of compensation. This Court is troubled that Debtor's financial performance might not support any substantial salaries (compare six month projections (dkt. 38) with actual performance (dkt. 53, 83, 106, 131, & 151)). Of particular concern is the delta between Debtor's projected and actual financial performance for the month of August 2023. Debtor had projected revenues of \$70,000 and gross profit of \$50,000 for that

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

Chapter 11

month; actual revenue was \$21,465 and actual gross profit was \$13,615.

Debtor is directed to address why gross revenues and net profits are so much lower than projected and/or historical figures, and the prospects for turning around its financial performance. Nevertheless, recognizing the disruption that bankruptcy can cause, *and that insider compensation has been voluntarily limited*, the tentative ruling is to direct Debtor to lodge a proposed *final* order continuing to authorize interim compensation, on the same terms as set forth in the latest interim order (dkt. 143), through the date of any order either confirming or denying confirmation of any future proposed Plan.

(d) Ms. Klausen's objection to Debtor's notice of setting/increasing insider compensation for Ms. Adelyne Wedell (dkt. 40), Debtor's response (dkt. 61), Interim orders (dkt. 77, 104, 129, & 144)

Same as above.

(e) Debtor's failure to serve Plan and Disclosure Statement

On 10/18/23, this Court entered an order fixing 11/7/23 as the deadline for Debtor to file and serve a Plan and Disclosure Statement. Dkt. 124. That same order set a combined hearing on final approval of disclosures and plan confirmation for 12/19/23 at 1:00 p.m. *See id.*

As of the preparation of this tentative ruling, no Plan or Disclosure Statement has been filed, and Debtor has not obtained an extension of the deadline. Debtor is directed to address this issue at the hearing.

If Debtor has not met the deadlines previously ordered, and/or if Debtor is not prepared to go forward with an attempted confirmation of its Plan at this time, this Court anticipates directing Debtor to lodge a proposed order either (i) setting a new deadline for Debtor to file (but NOT SERVE) a Plan and Disclosure Statement and a new hearing date or alternatively (ii) vacating the current deadlines and hearing date, subject to setting new deadlines and new Plan-related hearing(s) in future.

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

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CONT... Energy Plus Solar Inc.

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- (2) Dates/procedures. This Subchapter V case was filed on 5/9/23.
- (a) Bar date: 7/18/23 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. 16).
 - (b) Procedures Order: dkt. 5 (timely served, dkt. 12)
 - (c) Plan/Disclosure Statement (dkt. 90): see above.
 - (d) Continued status conference: 12/19/23 at 1:00 p.m., concurrent with other matters. No written status report required.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Energy Plus Solar Inc.

Represented By
Michael Jay Berger

Trustee(s):

John-Patrick McGinnis Fritz (TR)

Pro Se

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2:23-11397 Michael R Totaro

Chapter 11

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

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

Docket 1

Tentative Ruling:

Tentative Ruling for 11/14/23:

Please see the tentative ruling for the status conference in the bankruptcy case in chief (Calendar No. 18, 11/14/23 at 1:00 p.m.).

[PRIOR TENTATIVE RULING(S) OMITTED]

Party Information

Debtor(s):

Michael R Totaro

Represented By
Andy C Warshaw

Defendant(s):

Seyed Mostafa Maghloubi

Represented By
Tony Forberg

Nelly Maghloubi

Represented By
Tony Forberg

Plaintiff(s):

Michael R Totaro

Represented By
Andy C Warshaw

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2:23-11397 Michael R Totaro

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#18.00 Cont'd Status Conference re: Chapter 11 case
fr. 3/21/23, 4/4/23, 4/28/23, 5/16/23, 6/13/23,
7/18/23, 8/15/23, 10/17/23

Docket 1

Tentative Ruling:

Tentative Ruling for 11/14/23:

Continue the Status Conference to 11/28/23 at 1:00 p.m., concurrent with the hearing on the UST's Motion to Dismiss filed in Mr. Maghloubi's Chapter 11 case (Case No. 2:23-bk-13307-NB), all as set forth below. Appearances are not required on 11/14/23. (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: NA

This Status Conference was originally scheduled to take place concurrently with Mr. Totaro's motion for the appointment of a CRO (the "CRO Motion") in Mr. Maghloubi's Chapter 11 case (Case No. 2:23-bk-13307-NB). This Court has approved a stipulated dismissal of the CRO Motion. Dkt. 55, Case No. 2:23-bk-13307-NB. The UST has filed a Motion to Dismiss Mr. Maghloubi's Chapter 11 case, which is scheduled for hearing at the date and time set forth above. The tentative ruling is to continue this Status Conference to be heard concurrently with the hearing on the Motion to Dismiss in Mr. Maghloubi's case.

Mr. Totaro failed to file a Status Report by 11/7/23, as ordered at the prior Status Conference. Mr. Totaro is cautioned that the continued failure to adhere to this Court's orders may result in adverse consequences. A written

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CONT... Michael R Totaro
status report is due by 11/21/23.

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[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Michael R Totaro

Represented By
Andy C Warshaw

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2:23-12137 Vistam, Inc.

Chapter 11

#19.00 Cont'd hrg re: Motion For An Order To Show Cause Re Contempt Pursuant To Section 105 Why Baltazar Tamayo And/Or Selwyn Whitehead Should Not Be Compelled To Return \$25,000 In Estate Property Paid And Received In Violation Of The Automatic Stay And Pay Such Sum To The Subchapter V Trustee In Partial Satisfaction Of His Allowed Fee Award And For Attorney's Fees Incurred In Bringing This Motion
fr. 10/31/23

Docket 129

Tentative Ruling:

Tentative Ruling for 11/14/23:

Appearances required.

At the hearing on 10/31/23 this Court was persuaded to continue this matter to today. There is no tentative ruling but the parties should be prepared to address the current status of this matter, and whether this Court should set any briefing schedules, any hearings, or any other procedures.

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

Tentative Ruling for 10/31/23:

Grant the motion and issue the order to show cause ("OSC") as set forth below. Appearances required.

Key documents reviewed (in addition to the Motion for issuance of an Order to Show Cause Re: Contempt filed by the Subchapter V Trustee (dkt. 129, the "Contempt Motion"): Notice of Contempt Motion (dkt. 130); Opposition to Contempt Motion (dkt. 132); Reply (dkt. 133)

This contested matter involves a \$25,000.00 retainer received prepetition by proposed general bankruptcy counsel for Debtor, the Law

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Offices of Selwyn D. Whitehead ("Whitehead Offices"). After Debtor's application to employ proposed counsel was denied, the retainer was "returned" not to Debtor but to Debtor's principal, Baltazar R. Tamayo, Jr., the Debtor's Vice President of Field Operations ("Mr. Tamayo").

The Subchapter V Trustee, M. Douglas Flahaut (the "SubV Trustee") asserts that this \$25,000.00 transfer violated the automatic stay, and he requests that this Court issue an order to show cause ("OSC") why Mr. Tamayo and Ms. Whitehead should not be held in civil contempt, ordered to return the \$25,000.00 to Debtor, and held liable for compensatory sanctions for reasonable attorney fees in bringing this motion.

The tentative ruling is to grant the motion, issue the OSC pursuant to 11 U.S.C. 105(a), and set associated deadlines and a hearing on the OSC.

(1) Background

Debtor filed its voluntary petition under Subchapter V of Chapter 11 on 4/10/23. On 6/2/23, this Court entered an order denying Debtor's application to employ Whitehead Offices (dkt. 89). On 6/14/23, this Court entered an order dismissing the case with a 180-day refiling bar (dkt. 93, the "Dismissal Order").

The Dismissal Order provides that "this Court RETAINS JURISDICTION to the maximum extent permitted by law, as provided by LBR 1017-2(f), specifically including as to matters referenced in the Trustee's status report (dkt. 91) and on the record at the hearing" (emphasis in original). No party in interest has disputed that this Court has jurisdiction over the present contested matter, and the tentative ruling is that this Court has jurisdiction.

On 8/9/23, this Court entered an order (x) awarding the Subchapter V Trustee (the "SubV Trustee") \$25,568.00 in fees and (y) directing Debtor "to immediately pay to ArentFox Schiff [the SubV Trustee's law firm] the amounts allowed herein." Fee Order (dkt. 127) at ¶ 5(c)&(f). But, despite having "made multiple demands for payment" upon Debtor, the SubV Trustee has not received payment of its fees. SubV Trustee Decl. (dkt. 130, pp. 7–9) at ¶ 13.

(2) Possible lack of any cognizable opposition

The SubV Trustee points out that the only opposition papers state on their face that they were filed by Debtor, not by Mr. Tamayo or by Ms.

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CONT... Vistam, Inc.

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Whitehead. He argues that Debtor probably lacks standing to oppose a motion not directed at Debtor, for reovery of funds that would help Debtor pay what it owes, but in any event Debtor cannot appear without counsel and Ms. Whitehead emphasizes that she was barred from representing Debtor. See Reply (dkt. 133) p. 2:11-17, pp. 3:15-4:18, and nn. 1-3.

The tentative ruling is that, although the SubV Trustee is probably correct that, technically, no opposition has been filed by Mr. Tamayo or Ms. Whitehead, the issuance of an OSC is too serious a business not to (a) accept correction of what appears to be a simple error and (b) deem the Opposition as having been filed on behalf of Mr. Tamayo and Ms. Whitehead (and on behalf of Whitehead Offices and Debtor, too, if she actually does now represent Debtor for this purpose). As one court has explained:

Obtaining an order to show cause requires a demonstration of facts that, if not rebutted, could be sufficient to warrant an order of contempt. Courts should be cautious when authorizing contempt proceedings. Orders to show cause should not issue merely because someone requests one.

Contempt is serious business that nobody takes lightly. The mere existence of an order to show cause suggests that the court has made a preliminary determination that an order of contempt is a realistic possibility. [*In re Costa*, 172 B.R. 954, 963 (Bankr. E.D. Cal. 1994).]

The condition, though, for deeming the Opposition to be filed on behalf of Mr. Tamayo and Ms. Whitehead (and, possibly, also on behalf of the Whitehead Offices and Debtor) is that (A) Ms. Whitehead must confirm at the hearing the identity of each person who wishes this Court to deem them as having joined in the Opposition papers and (B) she must file a written declaration **no later than two days after this hearing** confirming those facts.

Alternatively, if Ms. Whitehead does not make such a representation or does not timely file such declaration as to any persons, the tentative ruling is to rule that such persons have waived and forfeited any opposition to the Motion. As for Debtor itself (the actual filer of the Opposition), the tentative ruling is that (x) on the one hand, this Court is not prepared to rule that Debtor lacks standing, because at least arguably it has an interest in determining which of its debts to pay and how to pay those debts (*i.e.*, should Debtor pay its debt to the SubV Trustee out of the funds transferred by Ms. Whitehead, or should Debtor use those funds to pay other debts?), but (y) on the other

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hand, Debtor's opposition arguments are unpersuasive for the reasons set forth below.

(3) The \$25,000.00 transfer warrants issuance of the OSC

On 6/16/23, Ms. Whitehead filed a declaration stating that on 5/30/23, she "returned" the "full \$25,000 Advance of Fee Retainer" not to Debtor but to Mr. Tamayo, because he was the source of those funds. Whitehead Decl. (dkt. 95) at ¶ 2. The SubV Trustee asserts that, after the funds had been provided as a retainer, those funds belonged to Debtor. Alternatively, he argues that Debtor had at least an interest in the funds. Either way, he asserts that transferring those funds to Mr. Tamayo violated the automatic stay.

The tentative ruling is to agree with the SubV Trustee that the estate has at least a claim to the funds, and the transfer of the funds apparently interfered with that claim and violated the automatic stay. That is sufficient cause to issue the requested OSC.

But, as discussed below, the facts are somewhat opaque, and the legal obligations also are not entirely clear. All rights are reserved to seek clarification of the facts and the law, including any request for an evidentiary hearing if one is necessary, pursuant to the deadlines and procedures set forth below.

(4) Despite the muddled facts, the transfer of \$25,000.00 by Ms. Whitehead to Mr. Tamayo probably violated the automatic stay and her obligation to turn over property of the estate

Mr. Tamayo and Ms. Whitehead have provided inconsistent explanations about whether the \$25,000.00 provided by Mr. Tamayo was a loan, an equity contribution, or something else. See Reply (dkt. 133) pp. 2:18-3:12, pp. 4:22-7:4, and Ex. 1 (transcript of 341(a) meeting) at Bates pp. 23-24. Unless and until this Court conducts an evidentiary hearing/trial on those issues, the facts are somewhat unclear.

But the tentative ruling is that under any scenario there is cause to issue the OSC. True, this Court assumes for purposes of discussion that Mr. Tamayo expressly or tacitly intended to have any remainder of the \$25,000.00 returned to him if those funds were not used by the Whitehead Firm (although his inconsistent testimony makes that far from clear). This Court also assumes for purposes of this discussion that keeping such a

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residual interest in a retainer would be permissible, even when dealing with an insolvent entity, outside of bankruptcy. See *generally* California Ethics Opinion No. 2013-187, available at <https://www.calbar.ca.gov/Portals/0/documents/ethics/Opinions/CAL%202013-187%20%2803-08-13%29.pdf>, last checked on 10/25/23).

Nevertheless, the tentative ruling for purposes of issuing the OSC is that any such arrangement probably is not permissible within a bankruptcy case, at least without full disclosure and approval by this Bankruptcy Court. In addition, any unilateral transfer of funds without bankruptcy court approval probably would undermine the ability of this Bankruptcy Court to follow Congress' mandates that this Court determine issues involving employment and compensation of counsel and any property interests asserted by the estate, including who should receive a return of any funds not used by counsel. See, e.g., 11 U.S.C. 329(b) (bankruptcy court determines who receives any retainer or other prepetition compensation to attorney that exceeds the reasonable value of services). In addition, any failure to turn over funds in which the estate has an interest probably would violate 11 U.S.C. 542.

In other words, for multiple independent reasons Debtor had at least a claim to an interest in the funds, and the transfer of those funds by Ms. Whitehead to Mr. Tamayo adversely affected that claim, by making the factual situation and legal analysis more complex and by adding obstacles to any recovery of such funds. The tentative ruling is that this probably violates the automatic stay, so there is cause to issue the requested OSC. See, e.g., 11 U.S.C. 362(a)(3) (staying "any act" to obtain possession "of property of the estate or of property from the estate or to exercise control over property of the estate") and (a)(6) (staying "any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the [bankruptcy] case").

(5) All rights are reserved to assert defenses for past acts; but that does not excuse any future violation of the Bankruptcy Code or this Court's orders

Although the Opposition does not expressly say so, this Court recognizes that even if there were a violation of the automatic stay (11 U.S.C. 362(a)), that might not warrant a contempt sanction if the purported contemnors had an "objectively reasonable basis" for concluding that they did not violate the automatic stay. See *Taggart v. Lorenzen*, 204 L. Ed. 2d 129,

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139 S. Ct. 1795, 1799 (2019) ("civil contempt may be appropriate if there is no objectively reasonable basis for concluding that the ... conduct might be lawful").

Ms. Whitehead implicates this defense when she declares that she believed that she was required to return the \$25,000.00 to Mr. Tamayo pursuant to Rules 1.15 and 1.16 of the California Rules of Professional Conduct. Whitehead Decl. (dkt. 132-2) at pp. 4–6. (One problem with this argument is that Ms. Whitehead appears to be conflating obligations to *clients* with any obligations to a *funder*; but this Court need not address that problem at this stage.)

All rights are reserved to assert any such defense consistent with the deadlines set forth below to respond to the OSC. But, to be clear, it is one thing to assert reasonable grounds for doubt why Mr. Tamayo *might* have been entitled to the \$25,000.00, and it is another thing to act unilaterally by going ahead and actually making the transfer of \$25,000.00 as a form of "self help," without prior notice and an opportunity to object and seek a hearing and an order of this Court resolving any dispute.

In addition, any reasonable ground for doubt about whether any *past* acts were prohibited might not be a defense to sanctions for any *ongoing* failure to turn over the \$25,000.00. To be clear, this Court has not determined whether turnover is or is not actually required (and deciding any turnover issues might require a complaint, under Rule 7001(1), (7) & (9)). But the Bankruptcy Code might already require turnover of the \$25,000.00 (under 11 U.S.C. 542 and 550), or this Court might order such turnover in future, and the point is that any defenses for *past* acts or omissions might not apply as to any *ongoing or future* acts or omissions.

Again, all rights are reserved for the parties to address these issues.

(6) Additional cause to issue OSC

This Court notes that the apparent confusion about the retainer, and whether any funds were to be returned to Mr. Tamayo, might have been unnecessary if Ms. Whitehead and Mr. Tamayo had responded adequately to this Court's repeated warnings that they needed to clarify the funding issues, and address them in accordance with the posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov). See, e.g., Order (dkt. 99) p. 2:13-28 (incorporating prior order by reference). Their failure to address these issues appears to have caused substantial harm to the bankruptcy

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CONT...

Vistam, Inc.

Chapter 11

estate, by leading Ms. Whitehead and Mr. Tamayo to act unilaterally, without any court order, and by requiring the SubV Trustee to commence this contested matter to attempt to recover funds so that he can be paid. These are additional grounds for the OSC.

(7) OSC procedures

The tentative ruling is to set a **deadline of 11/7/23** for the SubV Trustee to file and serve a supplemental declaration setting forth his daily time records supporting his requested fees for prosecuting this Motion. In addition, the tentative ruling is to issue an OSC directing Mr. Tamayo and Ms. Whitehead to show cause, **no later than 11/14/23**, why they should not be subjected to a compensatory civil contempt sanction of **\$25,000.00** (the amount of the retainer returned to him by Ms. Whitehead on 5/30/23), plus compensatory sanctions payable to the SubV Trustee for his fees and expenses in connection with this Motion, with any such compensatory obligations to be joint and several.

In addition, the tentative ruling is that Mr. Tamayo and Ms. Whitehead must show cause by the same deadline why they should not be subject to daily coercive contempt sanctions for every day they fail to turn over the \$25,000.00. The tentative ruling is that any opposition or reply to the OSC should address, on at least a preliminary basis, the appropriate dollar amount of any compensatory sanction and any coercive sanction, and that the presumptive starting point for any coercive sanction should be **\$100 per day**.

The dollar amount of any coercive sanction will be subject to adjustment based upon Mr. Tamayo's and Ms. Whitehead's financial resources, the duration of any non-compliance with this Court's orders, and any other appropriate considerations. See *F.T.C. v. Affordable Media*, 179 F.3d 1228, 1241 (9th Cir. 1999) (explaining that "the party asserting the impossibility defense must show 'categorically and in detail' why he is unable to comply").

The tentative ruling is to set a **reply deadline of 11/28/23**, and to set a hearing on the OSC for **12/5/23 at 1:00 p.m.**

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

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Vistam, Inc.

Chapter 11

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.

Party Information

Debtor(s):

Vistam, Inc.

Represented By
Selwyn Whitehead

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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2:23-12137 Vistam, Inc.

Chapter 11

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

Docket 1

Tentative Ruling:

Tentative Ruling for 11/14/23:

Appearances required.

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

(1) Current issues

(a) Motion for issuance of an Order to Show Cause ["OSC"] Re: Contempt filed by the Subchapter V Trustee (dkt. 129, the "Contempt Motion"), Notice of Contempt Motion (dkt. 130), Opposition to Contempt Motion (dkt. 132); Reply (dkt. 133)

At the hearing on 10/31/23 this Court was persuaded to continue this matter to today. As set forth in the tentative ruling for Cal. No. 19, 11/14/23 at 1:00 p.m., 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.

(2) Dates/deadlines

This case was dismissed on 6/14/23 with a 180-day bar to being a debtor in bankruptcy. Dkt. 93. This Court will determine whether a continued Status Conference is necessary based on the update to be provided by the parties.

Tentative Ruling for 10/31/23:

Appearances required.

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Chapter 11

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 issuance of an Order to Show Cause ["OSC"] Re: Contempt filed by the Subchapter V Trustee (dkt. 129, the "Contempt Motion"), Notice of Contempt Motion (dkt. 130), Opposition to Contempt Motion (dkt. 132); Reply (dkt. 133)

Grant, and issue an OSC (as set forth in the tentative ruling for calendar no. 8, 10/31/23 at 1:00 p.m.).

(2) Dates/deadlines

This case was dismissed on 6/14/23 with a 180-day bar to being a debtor in bankruptcy. Dkt. 93. The tentative ruling is to set a continued Status Conference contemporaneous with the hearing on the OSC (see the tentative ruling for calendar no. 8, 10/31/23 at 1:00 p.m.).

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

Debtor(s):

Vistam, Inc.

Represented By
Selwyn Whitehead

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

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2:23-16484 Charles Weber

Chapter 11

#21.00 Cont'd status conference re: Chapter 11 case
fr. 10/31/23, 10/31/23

Docket 1

Tentative Ruling:

Tentative Ruling for 11/14/23:

Appearances required by Debtor's counsel.

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

Based upon a telephone call placed to chambers, it is this Court's understanding that Debtor, who filed the Chapter 11 petition commencing this case *pro se*, has now retained counsel. 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.

(2) Dates/procedures. This Subchapter V case was filed on 10/4/23.

- (a) Bar date: 12/13/23 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. 13).
- (b) Procedures Order: dkt. 7 (no proof of service filed)
- (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: TBD

Tentative Ruling for 10/31/23:

Appearances required by Debtor himself.

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CONT... Charles Weber

Chapter 11

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) Service of order setting principal status conference

This Court's order setting principal status conference and setting various procedures (the "Procedures Order," dkt. 7) required Debtor to serve that order on all parties in interest and file a proof of service at least 14 days before the principal status conference. As of the preparation of this tentative ruling, there is no proof of service on file. Debtor should be prepared to address whether he served the Procedures Order as required.

If not, the tentative ruling is to direct Debtor to file and serve a Notice, with a copy of the Procedures Order attached as an exhibit, informing all parties in interest that "Debtor failed to serve the Procedures Order on all parties in interest as directed by the Bankruptcy Court, which may have prejudiced some parties. The Bankruptcy Court has directed Debtor to serve this Notice, with a copy of the Procedures Order, on all parties in interest, both to inform all parties of the procedures in the Procedures Order and so that any party who was prejudiced by the lack of earlier service has an opportunity to seek any appropriate relief."

In addition, Debtor is cautioned that failure to comply with this Court's orders may result in adverse consequences.

(b) Missing status report

The Procedures Order also directed that at least fourteen days before the principal status conference Debtor must (i) file a status report on local form F 2015-3.1.SUBV.STATUS.RPT, (ii) serve it on all parties in on all parties in interest, and (iii) file a proof of service. As of the preparation of this tentative ruling Debtor has not complied.

(c) Budget motion and other "First-day" motions

The posted "Procedures of Judge Bason" (available at www.cacb.uscourts.gov) state that all chapter 11 debtors are required to file a

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budget motion. In addition, Debtor is directed to address whether any other typical so-called "first-day" motion(s) might be required or appropriate.

(d) New deadline

The tentative ruling is to set a new **deadline of 11/7/23** for Debtor to file and serve (i) the Procedures Order and the notice set forth above, (ii) the missing Status Report, and (iii) a budget motion, to be self-calendared for a hearing on 11/28/23 at 1:00 p.m.

(e) Possible dismissal, dismissal with a bar, conversion to chapter 7, or other remedies?

This Court notes that the United States Trustee has filed a motion (dkt. 18) to dismiss or convert this case or for other remedies. In addition, this Court has concerns because (i) in this Court's experience, debtors who are not represented by experienced bankruptcy counsel have little to no chance of successfully confirming a chapter 11 plan of reorganization and (ii) Debtor's failure to comply with this Court's orders and deadlines and representation that he cannot afford to retain bankruptcy counsel appear to indicate that this chapter 11 case may be unrealistic.

(2) Dates/procedures. This Subchapter V case was filed on 10/4/23.

- (a) Bar date: 12/13/23 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. 13).
- (b) Procedures Order: dkt. 7 (no proof of service filed)
- (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: 11/14/23 at 1:00 p.m.

Party Information

Debtor(s):

Charles Weber

Pro Se

Trustee(s):

Susan K Seflin (TR)

Pro Se

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2:00 PM

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

Chapter 7

#1.00 Cont'd hrg re: Motion For Approval Of Compromise Of Controversy
With Leesem, Newstat & Tooson LLP Pursuant To Rule 9019
Of The Federal Rules Of Bankruptcy Procedure
fr. 10/31/23

Docket 717

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 6,
11/14/23 at 2:00 p.m.).

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael S Kogan

Movant(s):

Timothy Yoo (TR)

Represented By
Monica Y Kim

Trustee(s):

Timothy Yoo (TR)

Represented By
Monica Y Kim

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

Chapter 7

#2.00 Cont'd hrg re: Motion for Summary Judgment/Partial Summary Judgment
as to the Purported Lien Claim of Law Offices of Brian D. Witzer
fr. 10/31/23

Docket 675

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 6,
11/14/23 at 2:00 p.m.).

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael S Kogan

Trustee(s):

Timothy Yoo (TR)

Represented By
Monica Y Kim

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

Chapter 7

#3.00 Cont'd hrg re: Motion For Order Disallowing Claim
fr. 9/12/23, 10/5/23, 10/31/23

Docket 655

Tentative Ruling:

Please see the tentative ruling for the status conference (Calendar No. 6,
11/14/23 at 2:00 p.m.).

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael S Kogan

Trustee(s):

Timothy Yoo (TR)

Represented By
Monica Y Kim

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

Chapter 7

#4.00 Cont'd hrg re: Motion For Approval Of Compromise Of Controversy
With Sepulveda Sanchez Law, Pc Pursuant To Rule 9019 Of
The Federal Rules Of Bankruptcy Procedure
fr. 10/3/23, 10/31/23

Docket 683

Tentative Ruling:

Tentative Ruling for 11/14/23:

Please see the tentative ruling for the status conference (Calendar No. 6,
11/14/23 at 2:00 p.m.).

Tentative Ruling for 10/3/23:

Continue to 10/31/23 at 2:00 p.m. for the reasons stated in the adopted ruling
for 9/19/23. See dkt. 702, at PDF pp. 9-10, Section (1)(g). Appearances are
not required on 10/3/23. (If you wish to contest the tentative ruling, see the
Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov,
then search for "tentative rulings.")

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

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael S Kogan

Trustee(s):

Timothy Yoo (TR)

Represented By
Monica Y Kim

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

Chapter 7

#5.00 Cont'd hrg re: Motion For Approval Of Compromise Of Controversy
With Law Offices Of Kenneth Melrose Pursuant To Rule 9019
Of The Federal Rules Of Bankruptcy Procedure
fr. 10/3/23, 10/31/23

Docket 685

Tentative Ruling:

Tentative Ruling for 11/14/23:

Please see the tentative ruling for the status conference (Calendar No. 6,
11/14/23 at 2:00 p.m.).

Tentative Ruling for 10/3/23:

Continue to 10/31/23 at 2:00 p.m. for the reasons stated in the adopted ruling
for 9/19/23. See dkt. 702, at PDF pp. 9-10, Section (1)(g). Appearances are
not required on 10/3/23. (If you wish to contest the tentative ruling, see the
Posted Procedures of Judge Bason, available at www.cacb.uscourts.gov,
then search for "tentative rulings.")

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

Party Information

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael S Kogan

Trustee(s):

Timothy Yoo (TR)

Represented By
Monica Y Kim

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

Chapter 7

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

Docket 1

Tentative Ruling:

Tentative Ruling for 11/14/23:

Grant the three Rule 9019 Motions filed by the Chapter 7 Trustee, 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) Chapter 7 Trustee's motion to approve compromise with Sepulveda Sanchez Law (dkt. 683), Notice of motion (dkt. 684), Trustee's motion to approve compromise with Law Offices of Kenneth Melrose (dkt. 685), Notice of motion (dkt. 686), Nathaniel Howard's opposition to Trustee's motions to approve compromises with Sepulveda Sanchez Law and the Law Offices of Kenneth Melrose (dkt. 700), Trustee's motion to approve compromise with Leesem, Newstat & Tooson LLP (dkt. 717), Order granting motion to disqualify Steven Zelig of Bay Cities Law Group, Inc. as counsel for Nathaniel Howard (the "Zelig Disqualification Order," dkt. 737)

Before this Court are three motions brought by the Chapter 7 Trustee (the "Trustee") to approve compromises between the estate and three law

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firms (collectively, the "Rule 9019 Motions," dkt. 684–86 & 717). The Rule 9019 Motions seeking approval of settlements between the estate and Sepulveda Sanchez Law ("Sanchez Law") and the Law Offices of Kenneth Melrose ("Melrose Law") are opposed by Nathaniel Howard; Mr. Howard's opposition papers were filed by Steven Zelig. On 10/24/23, this Court entered an order disqualifying Mr. Zelig from representing Mr. Howard in this bankruptcy case (the "Zelig Disqualification Order," dkt. 737).

Notwithstanding the Zelig Disqualification Order, it is still appropriate for this Court to consider the papers filed by Mr. Zelig on Mr. Howard's behalf, because those papers were filed before Mr. Zelig was disqualified. Mr. Howard has **not** filed any papers opposing the Trustee's motion for approval of a compromise with Leesem, Newstat & Tooson LLP ("Leesem LLP").

Debtor is a law firm that was founded by Brian D. Witzer, who was the primary attorney at the firm before he resigned effective as of December 1, 2022. All three settlements pertain to personal injury lawsuits involving plaintiffs who were at one time represented by Debtor. After Mr. Witzer resigned from Debtor, Trustee and Mr. Witzer sent plaintiffs correspondence informing them that they were required to retain new counsel.

In each of the personal injury lawsuits that are the subject of the Rule 9019 Motions, plaintiffs retained new counsel who ultimately achieved favorable results on their behalf. Trustee asserts that under a *quantum meruit* theory, Debtor's estate is entitled to a portion of the contingency fees owed in connection with those favorable results. The proposed settlements provide for a division of the contingency attorney fees between Debtor's estate and the successor law firms who achieved the favorable results. In the proposed settlement with Sanchez Law, the estate will receive \$114,140.40 out of a total contingency fee of \$295,250.00, see dkt. 683 at p. 5; in the proposed settlement with Melrose Law, the estate will receive \$37,630.14 out of a total contingency fee of \$120,000.00, see dkt. 686 at pp. 2–3; and in the proposed settlement with Leesem LLP, the estate will receive \$90,000.00 out of a total contingency fee of \$211,000.00, see dkt. 717 at p. 2–3 (all figures include both attorney fees and expenses).

In the typical opposition to a Rule 9019 Motion, the opposing party would object to the settlement amount as too low and contend that Trustee had not obtained the best possible deal for the estate. Here, by contrast, Mr. Howard opposes the Rule 9019 Motions out of a concern that this Court's approval of the settlements will validate the *quantum meruit* theory that

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Trustee has advanced in support of Trustee's opposition to Mr. Howard's proof of claim. The logical implication of Mr. Howard's argument is not that the settlement amounts are too low, but that the settlement amounts are too high because they are predicated upon a legal theory which Mr. Howard disputes.

Mr. Howard's concerns are easily assuaged. In approving the settlements, this Court makes no determination as to the merits of Trustee's *quantum meruit* theory. In determining the fairness, reasonableness, and adequacy of a proposed settlement under Bankruptcy Rule 9019(a) (Fed. R. Bankr. P.), this Court must consider:

- (a) the probability of success in litigation;
- (b) the difficulties, if any, to be encountered in the matter of collection;
- (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and
- (d) the paramount interest of the creditors and a proper deference to their reasonable views on the premises.

[*In re A&C Properties*, 784 F.2d 1377, 1381 (9th Cir. 1986)].

"Each factor need not be treated in a vacuum; rather, the factors should be considered as a whole to determine whether the settlement compares favorably with the expected rewards of litigation." *In re Western Funding Inc.*, 550 B.R. 841, 851 (9th Cir. BAP 2016). "[C]ompromises are favored in bankruptcy, and the decision of the bankruptcy judge to approve or disapprove the compromise of the parties rests in the sound discretion of the bankruptcy judge." *In re Sassalos*, 160 B.R. 646, 653 (D. Or. 1993). In approving a settlement, the Court must "canvass the issues and see whether the settlement falls below the lowest point in the range of reasonableness." *In re W.T. Grant Co.*, 699 F.2d 599, 608 (2d Cir. 1983) (internal quotation marks omitted).

Contrary to Mr. Howard's fears, approval of the settlements does not amount to a finding that Trustee's *quantum meruit* theory is valid; nor does approval prevent Mr. Howard from objecting to Trustee's theory in future litigation regarding the allowability of Mr. Howard's proof of claim. Instead, approval means only that this Court has determined that on the whole, the settlements are beneficial to the estate and do not "fall[] below the lowest point in the range of reasonableness," *In re W.T. Grant Co.*, 699 F.2d 599,

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The tentative ruling is that the proposed settlements easily satisfy that standard. The settlements will result in a substantial cash infusion into the estate and will avoid costly litigation. For these reasons, the tentative ruling is to overrule Mr. Howard's opposition and to approve the settlements. Once again, to be very clear, this ruling in no way constitutes a finding as to the merits of Trustee's *quantum meruit* theory and does not preclude Mr. Howard from challenging that theory in litigation regarding the allowability of his proof of claim.

Proposed orders on Rule 9019 Motions: Unless otherwise ordered, Trustee is directed to lodge proposed orders granting the Rule 9019 Motions 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) Trustee's motion/objection to Mr. Howard's claim (the "Howard Claim Objection," dkt. 655), Scheduling Order on Howard Claim Objection (dkt. 701), Mr. Howard's Motion for Partial Summary Judgement (the "Howard MSJ," dkt. 675, 676), Scheduling Order on Howard MSJ (dkt. 702), Status Reports of Mr. Howard (dkt. 654, 659, 696) and Trustee (dkt. 653, 673)

On 9/26/23, this Court entered (x) an order staying the Howard Claim Objection pending further order of the Court, see dkt. 701 and (y) an order staying the Howard MSJ pending further order of the Court, see dkt. 702.

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.

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

(a) Continued status conference: The date of a continued status conference will be determined based upon update to be provided by the parties with respect to the Howard Claim Objection and the Howard MSJ.

[PRIOR TENTATIVE RULINGS OMITTED]

Party Information

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Courtroom 1545 Calendar**

Tuesday, November 14, 2023

Hearing Room 1545

2:00 PM

CONT... Law Offices of Brian D. Witzer

Chapter 7

Debtor(s):

Law Offices of Brian D. Witzer

Represented By
Michael S Kogan

Trustee(s):

Timothy Yoo (TR)

Represented By
Monica Y Kim

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

Tuesday, November 14, 2023

Hearing Room 1545

2:00 PM

2:22-14320 Golden Sphinx Limited

Chapter 15

#7.00 Status conference

Docket 116

Tentative Ruling:

Appearances required. This is both (1) a status conference and (2) a hearing on the motion for recognition in the related case of *In re Sabadash* (Case No. 2:23-bk-15574-NB, formerly -WB). Due to an internal error, the calendar does not reflect the motion, but as set forth in this Court's order entered in this case (dkt. 116, p. 2:6-15), the parties' stipulation in the *Sabadash* case (dkt. 39), and this Court's forthcoming order thereon (not yet on the docket), this Court will address the merits of the recognition motion at 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):

Golden Sphinx Limited

Represented By
Michael Zorkin
Kyle Ortiz

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

Tuesday, November 14, 2023

Hearing Room 1545

2:00 PM

2:23-15574 Aleksandr Vitalievich Sabadash

Chapter 15

#8.00 Hrg re: Application for Recognition of Foreign Main Proceeding, or in the Alternative, for Recognition of Foreign Nonmain Proceeding and Certain Related Relief

Docket 2

Tentative Ruling:

Appearances required. This matter has now (11/13/23) been added to this calendar (originally this matter was inadvertently omitted from this calendar, as noted in the tentative ruling for the related *Golden Sphinx* matter, calendar no. 7 on 11/14/23 at 2:00 p.m.).

This Court anticipates making oral tentative rulings at the start of the hearing, and then hearing oral argument and making final rulings.

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

Party Information

Debtor(s):

Aleksandr Vitalievich Sabadash

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

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

Tuesday, November 14, 2023

Hearing Room 1545

2:00 PM

2:23-15574 Aleksandr Vitalievich Sabadash

Chapter 15

#9.00 Status conference re: Recognition of a Foreign Proceeding

Docket 1

Tentative Ruling:

Appearances required. This matter has now (11/13/23) been added to this calendar (originally this matter was inadvertently omitted from this calendar, as noted in the tentative ruling for the related *Golden Sphinx* matter, calendar no. 7 on 11/14/23 at 2:00 p.m.).

This Court anticipates making oral tentative rulings at the start of the hearing, and then hearing oral argument and making final rulings.

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

Party Information

Debtor(s):

Aleksandr Vitalievich Sabadash

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