

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6: -

Chapter 0

#0.00 Judge Reyes Bordeaux will hold hearings in person and remotely via Zoom.gov.

In person Appearance Policies

Parties may appear in person for hearings at United States Bankruptcy Court located at 3420 Twelfth Street, Riverside, CA 92501 in Courtroom 303. Parties appearing in person must wear face masks, practice social distancing, and comply with all applicable guidelines of the United States Bankruptcy Court, Central District of California, and any additional requirements required under California State Law at the time of the hearing. Please note that Judge Reyes Bordeaux will not be wearing a mask.

Remote Appearance Policies

Parties may also appear remotely for hearings using ZoomGov, which permits parties to appear by video or by telephone. Hearing participants and members of the public may use ZoomGov free of charge to connect to hearings before Judge Reyes Bordeaux. Video and audio connection information for hearing(s) on this calendar is listed below.

Individuals may use a personal computer (equipped with camera, microphone and speaker), or a mobile device (such as an iPhone) to appear by ZoomGov video and ZoomGov audio. Individuals may also use a telephone to appear by ZoomGov audio only (standard telephone charges may apply). A Zoom or ZoomGov account is not necessary to connect to the hearings and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

A Zoom or ZoomGov account is not necessary to participate in the hearings and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and will constitute its official record.

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM
CONT...

Chapter 0

Video/audio web address: <https://cacb.zoomgov.com/j/1605518548>

ZoomGov Meeting ID Number: 160 551 8548

Meeting Passcode: 3032023

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Reyes Bordeaux by ZoomGov, please see the information entitled "Procedures for Video & Telephonic Appearances" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-magdalena-reyes-bordeaux> under the tab "Phone/Video Appearances."

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:23-14225 Michael Jacobs and Gwendolen Jacobs

Chapter 7

#1.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2017 Maserati Ghibli

MOVANT: CONSUMERS CREDIT UNION

EH___

Docket 13

Tentative Ruling:

11/2/2023

Service is proper and no opposition has been filed.

Motion is GRANTED under 11 U.S.C. § 362(d)(1) and (d)(2). The 14-day period specified in FRBP 4001(a)(3) is waived.

Appearances WAIVED. Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date [per LBR 9021-1(b)(1)(B)]. If oral or written opposition is presented at the hearing, the hearing may be continued.

If you wish to be heard on this matter, you can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

| |
|--------------------------|
| Party Information |
|--------------------------|

Debtor(s):

Michael Jacobs

Represented By
William J Howell

Joint Debtor(s):

Gwendolen Jacobs

Represented By
William J Howell

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... Michael Jacobs and Gwendolen Jacobs

Chapter 7

Movant(s):

Consumers Credit Union

Represented By
Diana Torres-Brito

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:23-13680 Johnnie M Mims Simmons

Chapter 7

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2021 Dodge Durango GT Plus Sport Utility 4D

MOVANT: CAPITAL ONE AUTO FINANCE

EH____

Docket 11

Tentative Ruling:

11/2/2023

Appearances are REQUIRED on 11/2/2023. You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

| |
|--------------------------|
| Party Information |
|--------------------------|

Debtor(s):

Johnnie M Mims Simmons

Pro Se

Movant(s):

Capital One Auto Finance, a division

Represented By
Cheryl A Skigin

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:23-10887 Brandi A. Zane

Chapter 13

#3.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 4285 North Coronado Place, San Bernardino, CA 92407

MOVANT: PENNYMAC LOAN SERVICES, LLC

EH____

Docket 37

Tentative Ruling:

11/2/2023

Appearances are REQUIRED on 11/2/2023. You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

| |
|--------------------------|
| Party Information |
|--------------------------|

Debtor(s):

Brandi A. Zane

Represented By
Michael Smith

Movant(s):

PennyMac Loan Services, LLC, and

Represented By
Christina J Khil

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:23-13892 Carole Jenkins

Chapter 13

#4.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 11429 Via Rio, Loma Linda, CA 92354

EH____.

Docket 25

Tentative Ruling:

11/2/2023

The Court's tentative is to grant in part and deny in part.

Movant's request under 11 U.S.C. § 362(d)(1) is GRANTED. Request for binding and effective relief for 180 days is GRANTED. The 14-day period specified in FRBP 4001(a)(3) is waived.

Movant's request for relief from the co-debtor stay under 1301 is DENIED as proof of service does not show that a co-debtor was served. Movant's request for relief under 362(b)(22) and/or 362(b)(23) is denied as no grounds for such relief were alleged.

Service is proper and no opposition has been filed.

Appearances REQUIRED due to shortened notice. Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date [per LBR 9021-1(b)(1) (B)]. If oral or written opposition is presented at the hearing, the hearing may be continued.

If you wish to be heard on this matter, you can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... Carole Jenkins

Chapter 13

Debtor(s):

Carole Jenkins

Pro Se

Movant(s):

Ryan & Dyonne Strilaeff

Represented By
William E Windham

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:23-14548 David James Galvan

Chapter 7

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 24375 Jackson Ave., Unite 207I, Murrieta, CA 92562

MOVANT: ARBORS AT CALIFORNIA OAKS PROPERTY OWNERS LLC

EH____

Docket 10

Tentative Ruling:

11/2/2023

Service is proper and no opposition has been filed.

Motion is GRANTED under 11 U.S.C. § 362(d)(1) and (d)(2). The 14-day period specified in FRBP 4001(a)(3) is waived.

Appearances REQUIRED due to shortened notice. Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date [per LBR 9021-1(b)(1) (B)]. If oral or written opposition is presented at the hearing, the hearing may be continued.

If you wish to be heard on this matter, you can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

| |
|--------------------------|
| Party Information |
|--------------------------|

Debtor(s):

David James Galvan

Pro Se

Movant(s):

Arbors at California Oaks Property

Represented By
R Gibson Pagter Jr.

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... David James Galvan

Chapter 7

Trustee(s):

Lynda T. Bui (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:22-14853 Kelly Ann Paskiewicz

Chapter 13

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 14257 E Sage St, Victorville, CA 92395

MOVANT: WELLS FARGO BANK, N.A.

EH___

Docket 33

*** VACATED *** REASON: RESCHEDULED FOR 12/7/23 AT 11:00 A.M.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kelly Ann Paskiewicz

Represented By
Anthony B Vigil

Movant(s):

WELLS FARGO BANK, N.A.

Represented By
Joseph C Delmotte

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:22-13196 Thomas Anthony Martin and Nelly Marissa Decena-Martin Chapter 13

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 29792 Sea Breeze Way, Menifee, CA 92584

MOVANT: MIDFIRST BANK

EH____

Docket 66

Tentative Ruling:

11/2/2023

The Court's tentative ruling is to continue hearing until 12/14/23 at 11:00 a.m. since a loan modification is pending.

Parties to discuss:

1. Progress of loan modification
2. Terms of loan modification

Appearances are REQUIRED on 11/2/2023. You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

| |
|--------------------------|
| Party Information |
|--------------------------|

Debtor(s):

Thomas Anthony Martin

Represented By
Rabin Pournazarian

Joint Debtor(s):

Nelly Marissa Decena-Martin

Represented By
Rabin Pournazarian

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... Thomas Anthony Martin and Nelly Marissa Decena-Martin

Chapter 13

Movant(s):

MidFirst Bank

Represented By
Darlene C Vigil

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:22-14383 Kimberley Dawn Alvarez

Chapter 13

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 7686 Sierra Ave, Fontana, CA 92336

MOVANT: LAKEVIEW LOAN SERVICING, LLC

EH____

Docket 47

Tentative Ruling:

11/2/2023

The Court's tentative ruling is to grant relief requested under § 362(d)(1), §1301 as to co-debtor, and waiver of FRBP 4001(a)(3) stay.

Appearances WAIVED. Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date [per LBR 9021-1(b)(1)(B)]. If oral or written opposition is presented at the hearing, the hearing may be continued.

You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

| |
|--------------------------|
| Party Information |
|--------------------------|

Debtor(s):

Kimberley Dawn Alvarez

Represented By
Kevin Tang

Movant(s):

Lakeview Loan Servicing, LLC

Represented By
Chad L Butler

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:19-19251 Adam Brian Britt and Kenya Lashawn Britt

Chapter 13

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 3046 Statice Ct, Hemet, CA 92545

MOVANT: NATIONSTAR MORTGAGE LLC

EH____

Docket 84

***** VACATED *** REASON: STIPULATED ORDER ENTERED 11/2/23**

Tentative Ruling:

11/2/2023

The Court's tentative is to grant relief requested under § 362(d)(1) and waiver of FRBP 4001(a)(3) stay.

Appearances WAIVED. Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date [per LBR 9021-1(b)(1)(B)]. If oral or written opposition is presented at the hearing, the hearing may be continued.

You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

| |
|--------------------------|
| Party Information |
|--------------------------|

Debtor(s):

Adam Brian Britt

Represented By
Matthew D. Resnik

Joint Debtor(s):

Kenya Lashawn Britt

Represented By
Matthew D. Resnik

Movant(s):

Lakeview Loan Servicing, LLC

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... Adam Brian Britt and Kenya Lashawn Britt

Chapter 13

Darlene C Vigil
Dane W Exnowski
Joseph C Delmotte
Merdaud Jafarnia
Jennifer C Wong

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:20-17201 Ertun Reshat and Hale Reshat

Chapter 13

#10.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 32042 Cabernet PI, Wildomar, CA 92595

MOVANT: SELENE FINANCE LP

From: 9/7/23, 9/14/23

EH___

Docket 69

***** VACATED *** REASON: STIPULATED ORDER ENTERED 9/26/23**

Tentative Ruling:

- NONE LISTED -

| |
|--------------------------|
| Party Information |
|--------------------------|

Debtor(s):

Ertun Reshat

Represented By
April Roberts

Joint Debtor(s):

Hale Reshat

Represented By
April Roberts

Movant(s):

U.S. Bank Trust National

Represented By
Theron S Covey
Fanny Zhang Wan

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:23-11632 George Alex Martinez and Arlene Frances Martinez

Chapter 13

#11.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 43170 Wall Street, Unit E, Hemet, CA, 92544 Under 11 U.S.C. § 362.

MOVANT: WILMINGTON TRUST, NATIONAL ASSOCIATION

From: 9/28/23

EH__

Docket 40

***** VACATED *** REASON: STIPULATED ORDER ENTERED 10/11/23**

Tentative Ruling:

- NONE LISTED -

| |
|--------------------------|
| Party Information |
|--------------------------|

Debtor(s):

George Alex Martinez

Represented By
Rabin Pournazarian

Joint Debtor(s):

Arlene Frances Martinez

Represented By
Rabin Pournazarian

Movant(s):

WILMINGTON TRUST,

Represented By
Dane W Exnowski

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:20-11063 Luis Fernando Narvaez Escoto

Chapter 13

#12.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 25714 Spring Street, Perris, CA 92570

MOVANT: JESUS MOYA AND MARYLOU MOYA

From: 7/27/23, 8/24/23, 9/7/23, 9/14/23, 10/05/23

EH__

Docket 87

***** VACATED *** REASON: Resolved per APO (ECF doc. 117) - hm**

Tentative Ruling:

- NONE LISTED -

| |
|--------------------------|
| Party Information |
|--------------------------|

Debtor(s):

Luis Fernando Narvaez Escoto

Represented By
Todd L Turoci

Movant(s):

Jesus Moya

Represented By
Lazaro E Fernandez

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:23-13231 Latasha Paschal

Chapter 13

#13.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations UNLAWFUL DETAINER RE: 1265 Kendall Dr. #4614, San Bernardino, CA 92407

MOVANT: LIDO CONDOMINIUMS LLC

From: 8/24/23, 9/29/23, 10/5/23

Also #

EH__

Docket 8

Tentative Ruling:

Appearances are REQUIRED on 11/2/2023. You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

Latasha Paschal

Pro Se

Movant(s):

LIDO CONDOMINIUMS, LLC

Represented By
Scott Andrews

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... Latasha Paschal

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:20-13225 Eric Jennings, Sr. and Tish Jennings

Chapter 13

#14.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 15028 Grays Peak Ave., Fontana, CA 92336

MOVANT: HSBC BANK USA, NATIONAL ASSOCIATION

From: 10/5/23

EH__

Docket 42

***** VACATED *** REASON: STIPULATED ORDER ENTERED
10/27/23**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eric Jennings Sr.

Represented By
Julie J Villalobos

Joint Debtor(s):

Tish Jennings

Represented By
Julie J Villalobos

Movant(s):

HSBC BANK USA, NATIONAL

Represented By
Joseph C Delmotte
Sean C Ferry
Fanny Zhang Wan

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:23-13158 Kirk Sean Dean and Regina Ivette Bush-Dean

Chapter 7

#15.00 CONT Motion to Convert Case From Chapter 7 to 11

From: 10/17/23

Also # 16 & 17

EH____

Docket 41

Tentative Ruling:

11/2/2023

The Court tentative ruling is to GRANT Debtors' Motion to Convert case from Chapter 7 to 11.

Appearances are REQUIRED. You can appear at the hearing in person or remotely.
For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.

Update for Continued Hearing:

On October 17, 2023, Debtor's counsel, counsel for Chapter 7 Trustee (Ch. 7 Trustee), counsel for the Office of United States Trustee (UST), and counsel for two creditors appeared at the originally scheduled hearing on the instant motion.

UST expressed concerns that Debtors' proposed conversion to Chapter 11 was not feasible especially because they believed that Debtors' strategy in Chapter 11 depended largely on being successful in Medkiff Appeal. UST also expressed concerns regarding Ch. 7 Trustee's allegations of misconduct in using funds in bank accounts, which are property of the Estate, while in a chapter 7.

At the hearing, the Court also heard argument about whether the photographs of the Pomona Property, taken on October 10, 2023, by Ch.7 Trustee's real estate agent Clarence Yoshikane (the "Photo Supplement" ECF doc. 67) should not be considered

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... Kirk Sean Dean and Regina Ivette Bush-Dean Chapter 7

by the Court or admitted into evidence. Ch.7 Trustee explained that Mr. Yoshikane's took dozens of pictures of the interior and exterior of the four units at the Pomona Property during his visit. Trustee then submitted the Declaration of Mr. Yoshikane and the Photo Supplemental, to the Court and argued that, based on Mr. Yoshikane's experience and observations, Mr. Yoshikane concluded that the Pomona Property was in need of immediate maintenance and repair, and that it was likely legally uninhabitable (i.e. a tenant should not be obligated to pay rent under those conditions).

On October 16, 2023, Debtors filed their Objection to the Photo Supplement, ECF doc. 69, arguing that the Photo Supplement should not be admitted because:

- (1) they did not have sufficient opportunity before the 10/17/23 hearing to respond;
- (2) the Photo Supplement was not sufficiently authenticated under FRE 901 because the declaration was from Mr. Yoshikane but he stated that either he or his partner Jennifer Toyama took the pictures; and
- (3) the Photo Supplement is more prejudicial than probative under FRE 403.

The Court continued the October 16th hearing to November 2, 2023, to permit Debtors sufficient time to review and respond to the Picture Supplement. Trustee's counsel reserved argument for the continued hearing.

On October 26, 2023, Debtors filed a supplemental declaration of Kirk Dean ("Dean Supplement"), ECF doc. 73, in which he describes different pictures of the Pomona Property attached to the Dean Supplement, as well as the issues of managing and maintaining the Pomona Property that Debtors had encountered during the COVID restrictions that inhibited their relations with tenants. *Dean Supplement*, ¶¶ 15-19.

Debtor Kirk Dean also explains that there is a process for a landlord, like Debtor, to raise their rents. Debtor contends that the city of Pomona has an arbitration process for landlords like Debtors to raise their rents above the mandated 4% annual increase, which he believes is about a 60-to-90-day process. *Id.* at ¶ 21. Debtor believes that success in arbitration will eliminate the negative cash flow as the objective is to allow the landlords to make a reasonable return, while also allowing the tenants to continue

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... Kirk Sean Dean and Regina Ivette Bush-Dean Chapter 7

renting their units at one half of the market rate at \$1,650.00 a month for the two 2-bedroom units and \$1,350.00 for the two 1-bedroom units, a substantial discount that maintains their tenancy at below market. *Id.* Accordingly, Debtors believe this change alone will immediately improve rental earning potential to \$6,000.00 per month. *Id.*

On October 26, 2023, Debtors also filed a supplemental declaration of Jose A. Pinzon, appraiser ("Pinzon Supplement," ECF doc. 74,), in which he explains his \$900,000 appraisal of the Pomona Property. Debtors also filed a supplemental declaration of Angel Duarte ("Duarte Supplement," ECF doc. 75), a handyman who claims to have 20 years' experience in fixing and making improvements of residential real property, who estimates the cost of repairing one of the four units at 717 Center St., as \$3,850 (inclusive of labor and materials).

On October 31, 2023, Ch. 7 Trustee filed a response, collectively, regarding the three supplemental declarations. ECF doc. 77. In the response, Trustee argues that the appraisal of the Pomona Property attached to the Pinzon Declaration is not relevant to the Motion to Convert, insofar as the value of the Pomona Property is not necessarily at issue.

As to the Duarte Supplement, Trustee argues that the scope of the work appears significant and would appear to disrupt the tenant's ability to use that unit during the two-week period of construction, even though Debtors likely intend to charge rent during this period. Ch. 7 Trustee also notes that there is no explanation provided for why Debtors have declined to order this work at any point in the past, or why it cannot proceed now, other than Debtors are unwilling to pay using their non-Estate assets.

Evidentiary Issues regarding the Photo Supplement and the Pinzon Supplement

Debtors objected to the Court's consideration of the Photo Supplement. Debtors contend that the Photo Supplement was not sufficiently authenticated under FRE 901 because the declaration was from Mr. Yoshikane stated that either he or his partner Toyama took the pictures. Debtors asserted in their Objection to the Photo Supplement that it appeared that only one out of two individuals, Mr. Yoshikane or Ms. Toyama, took photographs filed a declaration of "personal knowledge." *Debtors'*

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... **Kirk Sean Dean and Regina Ivette Bush-Dean** Chapter 7

Objection to Supplement in Support of Chapter 7 Trustee's Opposition, ¶ 1, ECF doc. 69. Debtors' argument was that there was no identification as to who took which photograph, Mr. Yoshikane or Ms. Toyama, from the description of "some photographs" in connection with who has testified. *See Declaration of Yoshikane in Support of Photo Supplement*, ¶¶ 5 and 6, ECF 67. Moreover, Debtors assert that the Photo Supplement is more prejudicial than probative under FRE 403.

To satisfy the requirement of authenticating or identifying an item of evidence under Federal Rule of Evidence 901(a), the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is. In Mr. Yoshikane's declaration accompanying the Photo Supplement, he stated that either he or his partner Jennifer Toyama took the pictures included in the Photo Supplement. However, it is clear from Mr. Yoshikane's declaration that he was present when the pictures were taken and that he can testify to how and when the photos were taken, and of what the substance of the pictures show. Under FRE 901, that is all that is required for authentication.

Debtor Kirk Dean correctly notes in his declaration that Ch. 7 Trustee included only selected pictures of a selected area of the Pomona Property, which may or may not present to the Court an accurate assessment of the total conditions impacting the Property. Debtor contends that regulatory restrictions from COVID that prevented access, prohibitions on eviction, and strict rent control have impacted their ability to maintain the Pomona Property.

While the Court finds that admitting the Photo Supplement and considering it as part of the record is appropriate, the evidentiary weight the Photo Supplement will be afforded by the Court must also be evaluated in light of all the evidence presented. Because the photos were "*some*" of the photographs taken by Yoshikane and Toyama, this evidence must be viewed and weighed against the photos taken by the appraiser Pinzon. As such, the Photo Supplement submitted for the Court's consideration is perhaps not as strong as Trustee argues.

Trustee then contends that the Court cannot admit the appraisal report conducted by Pinzon because, to the extent that the appraisal report is to be used as expert evidence of the value of the Pomona Property, it must be excluded under the *Daubert* standard. *See Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 597 (1993).

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... **Kirk Sean Dean and Regina Ivette Bush-Dean**

Chapter 7

"Complex factual inquiries such as valuation require the trial judge to evaluate a number of facts: whether an expert appraiser's experience and testimony entitle his opinion to more or less weight; whether an alleged comparable sale fairly approximate the subject property's market value; and the overall cogency of each expert's analysis." *Ebben v. Commissioner*, 783 F.2d 906, 909 (9th Cir. 1986).

Here, where Trustee admits that an appraisal of the Pomona Property is not relevant to the Motion insofar as the value of the Pomona Property is not necessarily at issue, the Court will consider the appraisal attached to the Pinzon Supplement not as expert testimony, but for authenticating the photographs attached to the Appraisal. *See Chapter 7 Trustee's Response to Debtors' Supplement Regarding Motion to Convert To Chapter 11*, 10:17-18, ECF doc. 77. Even though Trustee argues that Pinzon only inspected half of the units, the photos selected by Yoshikane and Toyama to include in the Photo Supplemental also presented photos of only a portion of the Pomona Property.

Debtors' contend that their initial noncompliance with turnover and information requests were solely due to their previous counsel's lack of communication with Trustee and prior counsel's failures to properly inform Debtors about which chapter under Title 11 would be best suited for their situation. In Ch. 7 Trustee's Response to Debtor's Supplemental Declarations, Ch. 7 Trustee again points to Debtors' noncompliance ***that predated Debtors' substitution of new counsel***. Instead of specifically addressing if Debtors' have continued with a pattern of non-compliance with performance, Ch. 7 Trustee alleges Debtors only began to repair the Pomona Property after Trustee brought the circumstances to the Court's attention.

Debtors, for their part, note that they are prevented from using estate property to maintain upkeep because they now know that they are prevented from doing so as Chapter 7 Debtors. Debtors have demonstrated that they are working to remediate the issues at the Pomona Property, and that if the case is converted, they will be able to use estate property to maintain the Pomona Property, under the reporting requirements of Chapter 11. Notably, Debtors have also explained that if the Medkiff Appeal is not successful, the Pomona Property can be sold under the supervision of the Bankruptcy Court, with the proceeds used to fund the reorganization of their debts, including the judgment debt to Medkiff.

Considering the initial arguments and the Supplemental Declarations, the Court finds

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... Kirk Sean Dean and Regina Ivette Bush-Dean Chapter 7

that Ch. 7 Trustee has not met his burden, by preponderance of the evidence, to show that cause exists to establish that Debtors have acted in bad faith such that they are ineligible to be debtors in possession. Accordingly, the Court's tentative ruling is to grant Debtors' Motion to Convert case from Chapter 7 to 11.

Procedural Background (from 10/17 hr'g)

Purchase of Pool Care Business

In July of 2007, Kirk Dean ("Mr. Dean") and Regina Bush-Dean ("Mrs. Dean," collectively with Mr. Dean, "Debtors"), and a partner George Tillis ("Tillis") purchased a pool care business from Michael Medkiff ("Medkiff"). *Trustee Opposition to Motion to Convert*, ECF doc. 59, Ex. 1, p. 33.

As part of the pool care business purchase, Debtors consented to recordation of a third-in-priority trust deed against their residence. *Id.* Trustee states that Debtors had been regularly making payments. Medkiff took the position that Debtors were jointly and severally liable for the debts of the partnership with Tillis, and therefore were required to pay off the entire debt before Medkiff would consent to satisfaction of his secured deed of trust.

State Court Actions

On October 26, 2017, Mr. Dean filed a complaint against Great American Pool Care Partnership, and Medkiff, in San Bernardino County Superior Court ("SBSC") for declaratory relief that Debtors were only liable for their one-half portion of the debt, and that Debtors were not liable for Tillis's portion ("Medkiff Action").

On February 14, 2018, an answer and a cross-complaint was filed against Debtors individually and in their capacity as the trustees of the Dean Family Trust dated December 8, 2011 ("Dean Trust") in the Medkiff Action.

After a three-day bench trial from June 29, 2021, through July 1, 2021, Debtors were unsuccessful in their affirmative claims, and they also lost on the cross-complaint. On May 24, 2022, the SBSC entered judgment in the Medkiff Action against Debtors in the amount of \$773,968.10, plus costs and fees ("Medkiff Judgment"). *Trustee*

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... Kirk Sean Dean and Regina Ivette Bush-Dean
Opposition to Motion to Convert, Dkt. no. 59, Ex. 1, p. 27-29.

Chapter 7

Tillis Bankruptcy Filing and Discharge

A sister-state judgment was entered against Tillis in favor of Great American Pool Care, LLC on September 27, 2013, for Tillis' breach of contract. Tillis then filed bankruptcy on December 20, 2013, a no-asset bankruptcy case (2:13-bk-39791-TD), and received a discharge.

Appeal of State Court Action

On April 27, 2022, Debtors filed a notice of appeal with respect to the Medkiff Judgment ("Medkiff Appeal"). On May 16, 2023, Debtors, filed their opening brief. In the brief, Debtors argued that the court erred in entering the Medkiff Judgment by incorrectly interpreting the plain language of the pool business purchase contract. However, Debtors did not obtain a stay of enforcement on the Medkiff Judgment. On June 15, 2023, Mr. Medkiff recorded a notice of trustee's sale against Debtors' residence at 13633 Smokestone Street, Rancho Cucamonga, CA 91739 ("Residence"). *Trustee Opposition to Motion to Convert*, Dkt. No. 59, Ex. 2. The trustee's sale was scheduled for July 24, 2023.

Bankruptcy Case

Debtors filed chapter 7 bankruptcy case on July 19, 2023, five days before the scheduled foreclosure. Debtors filed their schedules and statements concurrently with the petition (the "Original Schedules"). *Trustee Opposition to Motion to Convert*, Dkt. No. 59, Ex. 3.

On August 22, 2023, Trustee transmitted a turnover demand letter ("August Demand Letter") to Debtors, requesting that they immediately turn over all non-exempt assets and various financial documents. *Trustee Opposition to Motion to Convert*, Dkt. No. 59, Ex. 5.

On September 18, 2023, as Docket No. 36, Debtors filed amended Schedules A/B, C, D, 2 G, H, I, and J, an amended Statement of Financial Affairs, and an amended

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... **Kirk Sean Dean and Regina Ivette Bush-Dean** Chapter 7

Statement of Intention (the "Amended Schedules"). *Trustee Opposition to Motion to Convert*, Dkt. No. 59, Ex. 4.

Debtors scheduled an interest in three real properties:

(1) **Chicago Property**

Debtors, through a wholly-owned Delaware limited liability company called 6711 Chappel, LLC, own multi-family residential real property located at 6711 S. Chappel Ave., Chicago, IL 60649 ("Chicago Property") with a current value of \$575,000. The Chicago Property is believed to have eight rental units and is located in what Trustee characterizes as "an undesirable part of the city." Debtors' amended schedules list the membership interest in 6711 Chappel, LLC as an asset of the Estate, but do not list the Chicago Property because the entity 6711 Chappel, LLC owns it.

(2) **Pomona Property**

Debtors have a title interest in a four-unit rental real property located at 717-723 W. Center St., Pomona, CA 91768 ("Pomona Property," and together with the Chicago Property, the "Rental Properties") with a current scheduled value of \$900,000. According to Debtors' Original Schedules, they own only a one-half interest in the Pomona Property. *Trustee Opposition to Motion to Convert*, Ex. 3 at 54.

However, in Debtors' amended Schedule A/B, Debtors disclosed a 100% interest in this Property after Trustee furnished a copy of the grant deed reflecting Mr. Dean as the sole owner. *Id.*, Ex. 4 at 110.

(3) **Rancho Cucamonga Property**

Debtors have an interest in the real property located at 13633 Smokestone St., Rancho Cucamonga, CA 91739 (defined above as the "**Residence**," and collectively with the Rental Properties, the "Properties") with a scheduled value of \$1,050,000. Trustee is informed that the Residence may be over encumbered (assuming that Medkiff's claim is secured in the adjudicated amount of approximately \$770,000 plus additional consequential damages) and is also potentially subject to an automatic homestead exemption by Debtors.

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... Kirk Sean Dean and Regina Ivette Bush-Dean

Chapter 7

On September 26, 2023, as Dkt. No. 49, Trustee filed a motion to abandon the Residence and the Medkiff Appeal ("Residence & State Court Appeal Abandonment Motion").

Debtors' original Schedules I and J disclosed \$2,000 of combined monthly income and \$16,899 of monthly expenses, yielding a **negative monthly net income of \$14,889**. *Trustee Opposition to Motion to Convert*, Dkt. No. 59, Ex. 3 at 51. In Debtors' amended Schedules I and J, they disclosed \$17,650 of combined monthly income and \$14,582.92 of monthly expenses, yielding a **positive monthly net income of \$3,067.08**. *Trustee Opposition to Motion to Convert*, Dkt. No. 59, Ex. 4 at 129. Debtors' amended Schedule I provides additional information about the income derived from the Rental Properties. *See Trustee Opposition to Motion to Convert*, p. 6-7; Ex. 4.

On August 22, 2023, Trustee transmitted a turnover demand letter ("Demand Letter") to Debtors, requesting immediate turnover of financial information and non-exempt assets. *See Trustee Opposition to Motion to Convert*, p. 7; Ex. 5.

Motions to Convert Case

First Motion to Convert Case from Chapter 7 to Chapter 13

On August 28, 2023, as Docket No. 20, Debtors filed a form "Motion to Convert Case Under 11 U.S.C. §§ 706(a) or 1112(a)" ("Original Motion to Convert") requesting conversion from a Chapter 7 to Chapter 13, which was opposed by Trustee.

On September 6, 2023, Debtors executed a *Substitution of Attorney* form, replacing the original counsel Vernon Ellicott with the current counsel, Alla Tenina. Thereafter, on September 11, 2023, Debtors, through their new counsel voluntarily dismissed their Original Motion to Convert. Dkt. No. 30 and 31.

On September 12, 2023, Trustee filed a *Motion for Order Extending Time to Assume*

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... **Kirk Sean Dean and Regina Ivette Bush-Dean** **Chapter 7**
or Reject Executory Contracts and Unexpired Leases and Ordering Debtors to Turn Over Copies of 16 Lease Agreements ("Motion to Extend"). Dkt. No. 32.

Current Motion to Convert Case from Chapter 7 to Chapter 11

On September 20, 2023, Debtors filed this *Motion to Convert Case*, requesting conversion to Chapter 11. ECF doc. 41. On September 26, 2023, Trustee filed a *Motion to Abandon Residence and State Court Appeal*. Dkt. No. 49.

On October 3, 2023, Trustee filed his Opposition to the Motion to Convert. Trustee asserts that, to date, Debtors have not turned over any property to the Estate and have not been forthcoming with Trustee about their financial information. Instead, Trustee and Debtors have negotiated a stipulation for turnover, in the event that the Motion is denied. *See* Dkt. No. 31.

On October 5, 2023, creditor Great American Pool Care filed a *Joinder to Chapter 7 Trustees Opposition To Debtors Motion To Convert Case To Chapter 11*, Dkt. No. 60.

Legal Standard

11 U.S.C. § 706(a)

Under § 706(a), a "debtor may convert a case under this chapter to a case under chapter 11, 12, or 13 of this title at any time, if the case has not been converted under section 1112, 1208, or 1307 of this title." Moreover, Section 706(a) sets forth that "any waiver of the right to convert a case under this subsection is unenforceable."

The Supreme Court has found, however, that a chapter 7 debtor can forfeit their right to convert the case to chapter 13 where debtor engaged in *bad-faith* conduct which would warrant dismissal or re-conversion of the chapter 13 case. *Marrama v. Citizens Bank of Massachusetts*, 549 U.S. 365, 373-74 (2007). (emphasis added) The court, however, warned that such action should only be taken by the court in the case of an "atypical litigant," or alternatively stated, *in "extraordinary circumstances."* *Id.* at 375 (emphasis added); *See Id.* at n. 11.

The court in *Marrama* found a bankruptcy court's authority under § 105(a) was sufficiently broad to deny a motion to convert under section 706 where the conversion

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... **Kirk Sean Dean and Regina Ivette Bush-Dean** Chapter 7

would "merely postpone the allowance of equivalent relief and may provide debtor with an opportunity to take action prejudicial to creditors." *Id.* In *Marrama*, the debtor engaged in pre-petition bad faith conduct by making misleading or inaccurate statements within his schedules, failed to disclose a pre-petition transfer of real property, attempted to obtain homestead exemption on rental property and failed to disclose an anticipated tax refund. *Id.*

In *In re Levesque*, the Bankruptcy Appellate Panel applied the *Marrama* standard as to a motion to convert from chapter 7 to chapter 11, rather than to chapter 13, because "the language of § 706(a) applies the same whether the chosen chapter for conversion is chapter 11 or chapter 13." *In re Levesque*, 473 B.R. 331, 339 (B.A.P. 9th Cir. 2012), *see also Daughtrey v. Rivera (In re Daughtrey)*, 896 F.3d 1255 (11th Cir. 2018); *In re Miller*, 496 B.R. 469 (Bankr. E.D. Tenn. 2013) (conversion permitted because debtor's actions were not egregious); *In re 10 Bears at Chiloquin, Inc.*, 2007 Bankr. LEXIS 1997 (Bankr. D. Or. June 6, 2007).

Also, under Section 706(d), "a case may not be converted to a case under another chapter of this title unless the debtor be a debtor under such chapter." Accordingly, if "cause" exists to convert a hypothetical chapter 11 case under § 1112(b) to chapter 7, the chapter 7 debtor seeking to convert to chapter 11 would be ineligible to do this within the meaning of § 706(d). *See Marrama v. Citizens Bank of Massachusetts*, 549 U.S. 365, 374-75 (2007).

"Cause" to convert or dismiss a chapter 11 case includes the factors expressly listed in § 1112(b)(4), or if the debtor has engaged in "bad faith" conduct. *See Marrama*, 549 U.S. at 373-74; *Marsch v. Marsch (In re Marsch)*, 36 F.3d 825, 828 (9th Cir. 1994) (chapter 11 case, holding that filing a bankruptcy petition in bad faith constitutes cause for dismissal); *St. Paul Self Storage Ltd. P'ship v. Port Auth. of St. Paul (In re St. Paul Self Storage Ltd. P'ship)*, 185 B.R. 580, 582 (B.A.P. 9th Cir.1995) (same).

Legal Analysis

*The Marrama Standard Applies to Motions to Convert a Case
from Chapter 7 to Chapter 11*

Here, there is a dispute as to the application of § 706(a), as interpreted by *Marrama*, in

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... **Kirk Sean Dean and Regina Ivette Bush-Dean**

Chapter 7

this case. Debtors point to the Ninth Circuit Court of Appeal decision in *In re Nichols*, to support their position that the Court cannot consider equitable considerations, such as the *Marrama* bad faith standard, on a debtor's motion to convert to chapter 11. *Motion to Convert*, p.7.

In *In re Nichols*, the Ninth Circuit held that a bankruptcy court is prohibited from invoking equitable considerations to contravene § 1307(b)'s express language conferring upon Chapter 13 debtors an absolute right to dismiss their case. *In re Nichols*, 10 F.4th 956, 964 (9th Cir. 2021). Recognizing that its application of the *Marrama* "bad faith" standard to its decision in *In re Rossen*, 545 F.3d 764, was overruled by the Supreme Court in *Law v. Siegal*, 571 U.S. 415, the Ninth Circuit explained:

The holding of *Rosson* cannot stand absent the premise, ostensibly articulated in *Marrama*, that a bankruptcy court's equitable powers under § 105(a) can limit express language contained elsewhere in the Bankruptcy Code. [citations omitted] *Law*, however, clearly rejected such reasoning. *See* 571 U.S. at 426. In fact, *Law* explicitly rejected the sweeping interpretation of *Marrama* that we embraced in *Rosson*. *See id.* *Rosson* and *Law* are thus irreconcilable, such that *Rosson* has been effectively overruled.

In re Nichols, 10 F.4th 956, 961 (9th Cir. 2021).

The Ninth Circuit further explained that "§ 1307(b)'s text confers upon the debtor an absolute right to dismiss a Chapter 13 bankruptcy case, subject to the single exception noted expressly in the statute itself." *Id.* at 964. It is Debtors' position that the decision in *In re Nichols* with respect to dismissals under §1307(b) equally applies to the present request for conversion under 11 U.S.C. § 706(a). Debtors' reliance on *In re Nichols* to support their argument for conversion is misplaced.

The statutory language that the B.A.P. in *Nichols* relied on was § 1307(b), which states, in pertinent part, "On request of the debtor at any time, if the case has not been converted under section 706, 1112, or 1208 of this title, the court **shall** dismiss a case under this chapter." 11 U.S.C. § 1307(b)(emphasis added). In *Law v. Siegal*, the

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... Kirk Sean Dean and Regina Ivette Bush-Dean Chapter 7

Supreme Court ruled that a bankruptcy court could not use equitable powers under § 105(a) to limit express language contained elsewhere in the Bankruptcy Code. *In re Nichols*, 10 F.4th 956, 961 (9th Cir. 2021), *citing Law v. Siegal*, 571 U.S. 426 (2014).

The language of § 706(a), on the other hand, does not contain the express language of § 1307(b). Instead, under § 706(a), a "debtor *may* convert a case under this chapter to a case under chapter 11, 12, or 13 of this title at any time, if the case has not been converted under section 1112, 1208, or 1307 of this title." 11 U.S.C. § 706(a) (emphasis added). Thus, the use of "may" instead of "shall" in the applicable statute means the Court has discretion to employ equitable considerations—as guided by *Marrama*—to motions to convert to Chapter 11. Although Debtors argue that the cases relied upon by Trustee to support denial of conversion are unpublished and merely persuasive, the published decision of the Bankruptcy Appellate Panel in *In re Levesque*, 473 B.R. 331 (B.A.P. 9th Cir. 2012) is instructive and on point.

In *Levesque*, debtors filed a chapter 7 petition but did not disclose their interest in a prepetition claim for damages stemming from a vehicle accident. *In re Levesque*, 473 B.R. 331, 333 (B.A.P. 9th Cir. 2012). Debtors in *Levesque* received their discharge and the chapter 7 case was closed. *Id.* Within the next few weeks after the bankruptcy case was closed, the debtors retained a law firm to file a lawsuit pursue recovery of damages. *Id.* at 334. After being questioned by the defendant's counsel about why the claim for damages was not listed in their bankruptcy, over a year after their chapter 7 case was closed, the debtors, through new counsel, filed two motions, one to reopen the case and one to convert the chapter 7 to chapter 11. *Id.* In their motions, debtors disclosed the vehicle damages claim to the bankruptcy court for the first time. *Id.*

The trustee in *Levesque* joined the motion to reopen their bankruptcy case but opposed the debtors motion to convert it to chapter 11. *Id.* Following argument, the bankruptcy court, citing the *Marrama* decision, granted the debtors' motion to reopen their bankruptcy case, but denied their motion to convert to chapter 11. *Id.* The B.A.P., in holding that the bankruptcy court did not abuse its discretion when it denied conversion, explained that the record before the bankruptcy court "amply supported" the findings that the Levesques "didn't tell the truth and certainly signed things under oath and under penalty of perjury that were not true." *Id.* at 340.

For the reasons stated above, the Court finds that the *Marrama* standard applies to

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... **Kirk Sean Dean and Regina Ivette Bush-Dean**

Chapter 7

motions to convert a case from Chapter 7 to Chapter 11 under § 706(a).

Whether Cause Exists under § 1112(b)(4) to Deny Conversion

Marrama establishes the Court may deny a motion to convert to Chapter 11 if objecting parties establish "cause" as described by § 1112(b)(4). If "cause" exists to convert a hypothetical chapter 11 case under § 1112(b), the chapter 7 debtor seeking to convert to chapter 11 is ineligible for relief under that chapter within the meaning of § 706(d). Cause includes gross mismanagement of the estate, and gross mismanagement of the debtor's affairs pre-petition. *In re 10 Bears at Chiloquin, Inc.*, 2007 WL 1673538, at *3 (Bankr. D. Or. June 6, 2007).

Under § 1112(b), courts have dismissed cases filed for a variety of tactical reasons unrelated to reorganization. While the case law refers to these dismissals as dismissals for "**bad faith**" filing, it is probably more accurate in light of the precise language of § 1112(b) to call them dismissals "for cause." *In re Marsch*, 36 F.3d 825, 828 (9th Cir. 1994). (emphasis added)

"Good faith is lacking only when the debtor's actions are a **clear abuse of the bankruptcy process**...Good faith depends on an amalgam of factors, not a specific fact or facts. *In re Rosenblum*, 608 B.R. 529, 537 (Bankr.D.Nev. 2019) (emphasis added), citing *Margitan v. Hanna (In re Hanna)*, 2018 Bankr. LEXIS 1146, 2018 WL 1770960, at *5 (B.A.P. 9th Cir. Apr. 13, 2018). The court may consider a number of factors when determining bad faith, including but not limited to:

- 1) The debtor has only one asset, such as a tract of undeveloped or developed real property;
- 2) The secured creditors' lien encumbers this tract;
- 3) There are generally no employees except for the principals;
- 4) There is little or no cash flow, and no available sources of income to sustain a plan of reorganization or to make adequate protection payments;
- 5) There are few, if any, unsecured creditors whose claims are relatively small;
- 6) The property has usually been posted for foreclosure because of arrearages on the debt and the debtor has been unsuccessful in defending actions against the foreclosure in

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... Kirk Sean Dean and Regina Ivette Bush-Dean

Chapter 7

state

court;

7) There are allegations of wrongdoing by the debtor or its principals;

8) The debtor is afflicted with the "new debtor syndrome" in which a one-asset entity has

been created or revitalized on the eve of foreclosure to isolate the insolvent property and

its creditors; and

9) Bankruptcy offers the only possibility of forestalling loss of the property.

In re Arnold, 806 F.2d 937 (9th Cir. 1986), citing *Little Creek Dev. Co. v. Commonwealth Mortg. Co. (In re Little Creek Dev. Co.)*, 779 F.2d 1068 (5th Cir. 1986)).

The debtor seeking conversion under § 706(a) has the initial burden to show:

(1) there has been no prior conversion in the case,

(2) the debtor is eligible for relief under 11 U.S.C. § 109, and

(3) conversion is to achieve a purpose permitted under the proposed chapter.

6 *Collier on Bankruptcy* P 706.03, note 2 (16th 2023), citing *In re Gordon*, 2015 5 Bankr.LEXIS 3162, at *4 (Bankr. M.D. Tenn. Sept. 17, 2015).

The burden then shifts to the objecting party to establish "cause" by a preponderance of the evidence. *Id.* Then, the burden shifts back to the debtor to prove either the existence of "unusual circumstances" or that there is a "reasonable likelihood a plan will be confirmed and that any deficiencies in the case are reasonably justified and will be cured within a reasonable period of time." *Id.*

Whether Debtors' conduct demonstrates bad faith such that they are ineligible for Chapter 11 relief

Debtor's arguments in support of conversion

In support of their argument for conversion, Debtors assert that they are eligible to be Chapter 11 debtors under § 109, as this case has not been previously converted and

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT...

Kirk Sean Dean and Regina Ivette Bush-Dean

Chapter 7

that they are operating in good faith. Debtors explain their lack of compliance with initially disclosing all assets by stating that their former counsel provided them with very limited or no information prior to commencement of this case on what chapters are available under the Bankruptcy Code. In Mr. Dean's declaration, he explains that they were not aware and previous counsel had not explained to them the significance of filing for chapter 7 instead of the other available chapters, having non-exempted assets in chapter 7 case and the role of the chapter 7 trustee. Decl. of Kirk Dean In Support Of Motion to Convert, Dkt. no. 41, ¶ 10; 12; and 15. While Debtors state they intend to fully comply and cooperate with Trustee in this chapter 7 case, they believe a planned reorganization should produce the most effective way for the maximum amount of return on creditors' claims and preservation of Debtors' businesses' going concern.

Debtors' new counsel prepared amended schedules, including Schedules "I" and "J," that Debtors assert now accurately describe Debtors' income and expenses on the date of the order for relief. *Amended Schedules*, Dkt. no. 36, Sept. 18, 2023. According to Debtors' updated information on the Amended Schedules, Debtors' estimated monthly disposable income is \$3,067.08. *Id.* Debtors also contend that they are expecting increase in income in the next couple of months.

Trustee's opposition to conversion

Trustee argues that Debtors have engaged in bad faith such that they are ineligible to be Chapter debtors. Despite receiving Trustee's turnover demands, Trustee asserts that Debtors have refused to turn any property over, and are using property of the Estate, in that postpetition bank statements for prepetition accounts show that they have spent "thousands" of dollars of Estate funds. Trustee contends that he has not obtained copies of statements from Debtors' other accounts, including their retirement accounts, and therefore cannot report whether Debtors have also used the funds from those accounts without authorization.

Trustee further contends that the Rental Properties are losing thousands of dollars per year, because current revenues do not exceed expenses, as corroborated by Debtors' tax returns. Trustee alleges that Debtors have refused to have the Rental Properties liquidated by Trustee to preserve their value.

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... Kirk Sean Dean and Regina Ivette Bush-Dean

Chapter 7

Trustee also asserts that Debtors have misrepresented facts regarding their assets, including omitting assets from their schedules and misrepresenting values. For example, Trustee points to Debtors Amended Schedules, on which he believes that Debtors removed significant valuable assets from being listed, including a fully unencumbered \$25,000 truck. Further, Trustee contends that Debtors' d.b.a., 1 Stop Pool Pros #4, is not disclosed as a source of income for Debtors, despite being stated as currently operating in Debtors' SOFA. See *Trustee Opposition to Motion to Convert*, Ex. 4, pg. 137.

Because Debtors have refused to cooperate with Trustee's turnover requests and have attempted omit significant assets from their schedules, Trustee maintains that Debtors cannot be entrusted with the debtor-in-possession management of any assets in a chapter 11 case.

Debtors' reply to Trustee's Opposition

Debtors reply to Trustee's Opposition asserts that since they retained their new bankruptcy counsel, their counsel has been in regular contact with Trustee to comply with his requests for information. The August Demand Letter required Debtors to comply within 7 days from the date of the letter, August 22, 2023. Debtors maintain that they did not learn about the August Demand Letter right away and, when they did learn of it from their former counsel, he informed them a Motion to Convert would be filed "shortly."

Debtors state that their counsel did not receive a copy of the August Demand Letter until September 9, 2023. Thereafter, Debtors' counsel describes the extensive conversations she had with Trustee on or about September 11, 2023.

Since then, Debtors argue that their counsel has addressed numerous of Trustee's demands, while maintaining continuing communications with the Trustee. See *Debtor's Reply In Support Of Conversion*, Dkt. No. 65, 6:10-18, describing the thirteen different items provided to Trustee in response to the August Demand Letter. Over the course of communications, Debtors maintain that their new counsel has attempted to assured Trustee of Debtors' commitment to comply with each turnover demand regarding "property of the estate." As an example, Debtors explain that they did not "omit" an unencumbered 2016 GMC Sierra with an originally scheduled value

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... **Kirk Sean Dean and Regina Ivette Bush-Dean**

Chapter 7

of \$25,000. It is Debtor's position that the vehicle by itself is not a property of this estate and the Elan Group Unlimited entity was listed on amended Schedule B.

Debtors contend that they provided to Trustee the pink slip to the vehicle, which is in the name of Elan Group Unlimited, and not Debtors, as the owner. *Debtors' Reply ISO Conversion*, Ex. D. With respect to the GMC Sierra, Debtors note that their counsel and Trustee expressly discussed the GMC Sierra and the parties represented that "Debtors and Trustee are in the process of determining the appropriateness of turnover of the Truck." *See* Stipulation to Suspend Turnover of Property pending the Disposition of Debtors' Motion to Convert Case from Chapter 7 to 11, ECF doc. 52.

Debtors maintain they were *genuinely confused* on what was the proper course of action after getting notice of the August Demand Letter. Without proper guidance from their former counsel, Debtors retained different counsel as soon as possible (after the Labor Day holiday). Debtors believe that the three stipulations executed between themselves and Trustee further demonstrate their commitment to complying with the rules and requirements as debtors: (1) regarding dismissal the original motion to convert by the former counsel and refile; (2) extending the hearing date on Trustee's Motion to extend assumption/rejection of lease to the date of hearing on Motion to Convert the case; and (3) agreement to suspend turn over activities to the date that is fourteen days after entry of an order denying the Conversion Motion and order of stay pending appeal, if any.

Trustee points out that Debtors' duties as Chapter 11 debtors in possession would include timely filing monthly operating reports. *Trustee Opposition to Motion to Convert*, p. 20. Trustee questions how Debtors could be expected to file monthly operating reports in Chapter 11 when they could not even comply with his requests for their financial information. *Id.* Further, Trustee's characterization of Debtors' lack of compliance with their duties as chapter 7 debtors is a demonstration of "credibility issues" that may affect the veracity of Debtors' chapter 11 monthly operating reports, if filed. *Id.*

Debtors' argument here seems to be that their initial noncompliance with turnover and information requests were solely due to their previous counsel's lack of communication with Trustee and his failures to properly inform his clients about which chapter under Title 11 would be best suited for their situation. Trustee does not

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... Kirk Sean Dean and Regina Ivette Bush-Dean Chapter 7

specifically address if/how Debtors' compliance with performance of their duties as chapter 7 debtors has changed with the retention of Debtors' new counsel.

Whether Debtors' have sufficient cash flow to sustain a plan of reorganization

Debtor contends that conversion to chapter 11 will allow them to continue to prosecute their appeal of the Medkiff Judgment because conversion would allow Debtors to continue to pursue their appeal as debtors-in-possession, with the stay preventing enforcement of the Medkiff Judgment by way of foreclosure of the Rancho Cucamonga property. If successful, Debtors believe that \$237,559.81 or more in non-exempt equity in the Rancho Cucamonga Property. A successful appeal would also reduce the total amount of unsecured claims by currently listed disputed debt of \$773,968.00 Hence, the total of unsecured debt will be reduced to estimated \$376,007.40.

Trustee contends in Opposition that the reduction of any liens on the property, if the Appeal is successful, would only bring Debtors' homestead exemption rights into play, to attach to any new equity. Rather than incur administrative expenses primarily or even exclusively for the benefit of Debtors, Trustee proposes to abandon both the residence and the related appeal, so that Debtors could control those assets. Instead, Trustee notes that the remainder of the assets have significant value for the benefit of creditors that he can realize.

Debtors disagree that Trustee will generate more in returns for the creditors than in chapter 11. Debtors note they would have the same non-exempt properties as the Trustee, but if Trustee is charged with management of the Rental Properties, it would require employment of various professionals, diminishing the value that can be realized for creditors. Debtors maintain that the costs would be significantly lower if Debtors are the ones providing services. In addition to this layer of administrative expense, there will be soaring legal and chapter 7 trustee's costs— most of which would not occur—if the case is converted to chapter 11.

Whether Debtors' Filing of this Case was a Substitute for an Appeals Bond

Several bankruptcy courts have held that a debtor may use a Chapter 11 petition to avoid posting an appeal bond if satisfaction of the judgment would severely disrupt

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... **Kirk Sean Dean and Regina Ivette Bush-Dean**

Chapter 7

the debtor's business. A petition filed for this purpose doesn't comport with the objectives of the bankruptcy laws, however, if the debtor can satisfy the judgment with nonbusiness assets. *Marsch v. Marsch (In re Marsch)*, 36 F.3d 825, 828-829 (9th Cir. 1994), citing *In re Harvey*, 101 Bankr. 250, 252 (Bankr. D. Nev. 1989); *In re Holm*, 75 Bankr. 86, 87 (Bankr. N.D. Cal. 1987).

Debtors characterize the appeal as "in its final stage" as only Appellee's responding brief is left before the final adjudication. Debtors argue that their ultimate goals were to get protection afforded by the Bankruptcy Code, obtain a *status quo* during the pendency of the case, and repay the creditors in an organized fashion. Debtors argue that they were not provided with a proper guidance on the type of the most suitable chapter for their situation. Debtors maintain that this bankruptcy is not "mere litigation tactic," the goal is redistribution of income and assets to pay creditors.

In *In re Marsch*, the bankruptcy court found that the debtor's Chapter 11 petition was filed **solely to delay** collection of the restitution judgment and to avoid posting an appeal bond. *Marsch v. Marsch (In re Marsch)*, 36 F.3d 825, 829 (9th Cir. 1994) (emphasis added). While Debtors did benefit from the automatic stay to prevent enforcement of the Medkiff Judgment, there is no evidence the Chapter 7 filing was **solely** to delay collection or avoid posting an appeals bond.

Irrespective of whether Debtors are successful on appeal or not, if this case is converted then a plan can be proposed to pay creditors in an orderly fashion under Code's statutory scheme. While the Plan may be funded from Debtors earned disposable income, if Mr. Dean obtains employment in the near future, as is his plan, it appears that Debtors contemplate selling some of their non-exempt properties to pay their creditors. This result would allow Debtors to satisfy the Medkiff Judgment and pay other creditors of the Estate, while Debtors' home would be protected from foreclosure.

Conclusion

For the reasons stated above, Trustee has not met his burden, by preponderance of the evidence, to show that cause exists to establish that Debtors have acted in bad faith such that they are ineligible to be debtors in possession.

Party Information

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... Kirk Sean Dean and Regina Ivette Bush-Dean

Chapter 7

Debtor(s):

Kirk Sean Dean

Represented By
Alla Tenina

Joint Debtor(s):

Regina Ivette Bush-Dean

Represented By
Alla Tenina

Movant(s):

Kirk Sean Dean

Represented By
Alla Tenina

Regina Ivette Bush-Dean

Represented By
Alla Tenina

Trustee(s):

Robert Whitmore (TR)

Represented By
Tinho Mang
Richard A Marshack
Bradford Barnhardt

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:23-13158 Kirk Sean Dean and Regina Ivette Bush-Dean

Chapter 7

#16.00 CONT Chapter 7 Trustee's Motion to Abandon Residence and State Court Appeal

From: 10/17/23

Also # 15 & 17

EH___

Docket 49

Tentative Ruling:

Appearances are REQUIRED on 11/2/2023. You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

Kirk Sean Dean

Represented By
Alla Tenina

Joint Debtor(s):

Regina Ivette Bush-Dean

Represented By
Alla Tenina

Movant(s):

Robert Whitmore (TR)

Represented By
Tinho Mang

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... Kirk Sean Dean and Regina Ivette Bush-Dean

Chapter 7

Richard A Marshack
Bradford Barnhardt

Trustee(s):

Robert Whitmore (TR)

Represented By
Tinho Mang
Richard A Marshack
Bradford Barnhardt

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:23-13158 Kirk Sean Dean and Regina Ivette Bush-Dean

Chapter 7

#17.00 CONT Chapter 7 Trustee's Motion for Order extending time to assume or reject executory contracts and unexpired leases, and ordering debtors to turn over copies of lease, argeements

From: 10/3/23, 10/17/23

Also # 15 & 16

EH ____

Docket 32

Tentative Ruling:

Appearances are REQUIRED on 11/2/2023. You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

Kirk Sean Dean

Represented By
Alla Tenina

Joint Debtor(s):

Regina Ivette Bush-Dean

Represented By
Alla Tenina

Movant(s):

Robert Whitmore (TR)

Represented By

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT...

Kirk Sean Dean and Regina Ivette Bush-Dean

Chapter 7

Tinho Mang
Richard A Marshack
Bradford Barnhardt

Trustee(s):

Robert Whitmore (TR)

Represented By
Tinho Mang
Richard A Marshack
Bradford Barnhardt

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:23-12105 Real Vision Foods, LLC

Chapter 11

#18.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: Equipment

MOVANT: GROUNDED FOODS CO.

From: 8/24/23, 9/28/23

Also #19 & 20

EH__

Docket 35

Tentative Ruling:

Having reviewed the Status Report, filed by Debtor on 10/30/23, as ECF doc. 109, this matter will be **mooted** by dismissal of this Subchapter V case.

Appearances WAIVED on 11/2/2023. If oral opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Real Vision Foods, LLC

Represented By
David B Shemano

Movant(s):

Grounded Foods Co.

Represented By
Michael Jay Berger

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:23-12105 Real Vision Foods, LLC

Chapter 11

#19.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: Equipment

MOVANT: BLACK SHEEP FOODS INC

From: 8/24/23, 09/28/23

Also #18 & 20

EH__

Docket 46

Tentative Ruling:

Having reviewed the Status Report, filed by Debtor on 10/30/23, as ECF doc. 109, this matter will be **mooted** by dismissal of this Subchapter V case.

Appearances WAIVED on 11/2/2023. If oral opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Real Vision Foods, LLC

Represented By
David B Shemano

Movant(s):

Black Sheep Foods Inc.

Represented By
Michael Jay Berger

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:23-12105 Real Vision Foods, LLC

Chapter 11

#20.00 CONT Scheduling And Case Management Conference

From: 6/29/23, 8/10/23, 9/28/23

Also #18 & 19

EH__

Docket 13

Tentative Ruling:

Appearances are REQUIRED on 11/2/23. You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

Real Vision Foods, LLC

Represented By
David B Shemano

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

6:23-14751 Rosalie Celaya Castro

Chapter 13

#21.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate: 2010 Dodge Caravan & 8504 Moreland Avenue South West, Lakewood, WA 98498

MOVANT: ROSALIE CASTRO

EH ____

Docket 16

Tentative Ruling:

11/2/2023

The Court's tentative ruling is to GRANT the Motion.

Appearances REQUIRED due to shortened time. Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date [per LBR 9021-1(b)(1) (B)]. If oral or written opposition is presented at the hearing, the hearing may be continued.

If you wish to be heard on this matter, you can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

| |
|--------------------------|
| Party Information |
|--------------------------|

Debtor(s):

Rosalie Celaya Castro

Represented By
Rabin Pournazarian

Movant(s):

Rosalie Celaya Castro

Represented By
Rabin Pournazarian

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

11:00 AM

CONT... Rosalie Celaya Castro

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

6:23-14297 GF SERVICES I LLC

Chapter 11

#1.00 Scheduling and Case Management Conference

EH__

Docket 11

Tentative Ruling:

Appearances are REQUIRED on 11/2/23. You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

GF SERVICES I LLC

Represented By
Yoon O Ham

Trustee(s):

Mark M Sharf (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

6:23-14710 Frontline Machining, LLC

Chapter 11

#2.00 Scheduling and Case Management Conference

EH__

Docket 6

Tentative Ruling:

Appearances are REQUIRED on 11/2/23. You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

Frontline Machining, LLC

Represented By
Andrew S Bisom

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

6:22-13926 Edward James Singelyn

Chapter 11

#3.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 18240 Blue Gum, Lake Elsinore, CA 92530 .

MOVANT: PNC BANK NATIONAL ASSOCIATION

From: 8/10/23, 9/28/23, 10/5/23

Also #4

EH__

Docket 71

Tentative Ruling:

Appearances are REQUIRED on 11/2/23. You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

Edward James Singelyn

Represented By
Richard Lynn Barrett
Bruce Babcock

Movant(s):

PNC Bank, National Association

Represented By
Jennifer C Wong

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

6:22-13926 Edward James Singelyn

Chapter 11

#4.00 CONT Scheduling and Case Management Conference

From: 2/23/23, 3/30/23, 4/6/23, 5/4/23, 6/1/23, 7/20/23, 7/27/23, 10/5/23

Also #3

EH__

Docket 37

Tentative Ruling:

Appearances are REQUIRED on 11/2/23. You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

Edward James Singelyn

Represented By
Richard Lynn Barrett
Bruce Babcock

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

6:23-12229 AAA Tree Service LLC

Chapter 11

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2022 Ford F250 Super Duty Crew Cab XL Pickup 4D 8 ft . **VIN:1FT8W2BT4NEF57430**

MOVANT: ALLY BANK

Also # 6 thru 14

EH__

Docket 137

Tentative Ruling:

Appearances are REQUIRED on 11/2/23.

Parties to update Court on the status of an adequate protection agreement.

You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

AAA Tree Service LLC

Represented By
Robert P Goe
Charity J Manee
Andrew K Alper
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

CONT... AAA Tree Service LLC

Chapter 11

Movant(s):

Ally Bank

Represented By
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

6:23-12229 AAA Tree Service LLC

Chapter 11

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2020 Ford F250 Super Duty Crew Cab XL Pickup 4D 8 ft . **VIN: 1FT7W2BTXLED03133**

MOVANT: ALLY BANK

Also #5 & 7 thru 14

EH__

Docket 145

Tentative Ruling:

Appearances are REQUIRED on 11/2/23.

Parties to update Court on the status of an adequate protection agreement.

You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

AAA Tree Service LLC

Represented By
Robert P Goe
Charity J Manee
Andrew K Alper
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

CONT... AAA Tree Service LLC

Chapter 11

Movant(s):

Ally Bank

Represented By
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

6:23-12229 AAA Tree Service LLC

Chapter 11

#7.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 Ford F250 Super Duty Crew Cab XL Pickup 4D 8 ft . **VIN: 1FT7W2BT9KEF24138**

MOVANT: ALLY BANK

Also #5 & 6 and 8 thru 14

EH__

Docket 147

Tentative Ruling:

Appearances are REQUIRED on 11/2/23.

Parties to update Court on the status of an adequate protection agreement.

You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

AAA Tree Service LLC

Represented By
Robert P Goe
Charity J Manee
Andrew K Alper
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

CONT... AAA Tree Service LLC

Chapter 11

Movant(s):

AAA Tree Service LLC

Represented By
Robert P Goe
Charity J Manee
Andrew K Alper
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

6:23-12229 AAA Tree Service LLC

Chapter 11

#8.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2020 Ford F250 Super Duty Crew Cab XL Pickup 4D 8 ft . **VIN: 1FT7W2BT1LED03134**

MOVANT: ALLY BANK

Also # 5 thru 7 & # 9 thru 14

EH__

Docket 150

Tentative Ruling:

Appearances are REQUIRED on 11/2/23.

Parties to update Court on the status of an adequate protection agreement.

You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

AAA Tree Service LLC

Represented By
Robert P Goe
Charity J Manee
Andrew K Alper
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

CONT... AAA Tree Service LLC

Chapter 11

Movant(s):

Ally Bank

Represented By
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

6:23-12229 AAA Tree Service LLC

Chapter 11

#9.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 Ford F250 Super Duty Crew Cab XL Pickup 4D 8 ft . **VIN: 1FT7W2BT0KEF24139**

MOVANT: ALLY BANK

Also # 5 thru 8 & # 10 thru 14

EH__

Docket 152

Tentative Ruling:

Appearances are REQUIRED on 11/2/23.

Parties to update Court on the status of an adequate protection agreement.

You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

AAA Tree Service LLC

Represented By
Robert P Goe
Charity J Manee
Andrew K Alper
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

CONT... AAA Tree Service LLC

Chapter 11

Movant(s):

Ally Bank

Represented By
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

6:23-12229 AAA Tree Service LLC

Chapter 11

#10.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2020 Sennebogen Model 728 M, and (2) 2021 Sennebogen Model 728E

MOVANT: VOLVO FINANCIAL SERVICES

Also: # 5 thru 9 & # 11 thru 14

EH____

Docket 186

Tentative Ruling:

11/2/2023

Service is proper and no opposition has been filed.

The Court's tentative is to GRANT Movant's Motion under 11 U.S.C. § 362(d)(1) and (d)(2). The 14-day period specified in FRBP 4001(a)(3) is waived.

Appearances WAIVED. Movant is directed to lodge a proposed order via LOU within 7 days after the hearing date [per LBR 9021-1(b)(1)(B)]. If oral or written opposition is presented at the hearing, the hearing may be continued.

If you wish to be heard on this matter, you can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

AAA Tree Service LLC

Represented By
Robert P Goe
Charity J Manee
Andrew K Alper
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

CONT... AAA Tree Service LLC

Chapter 11

Movant(s):

Volvo Financial Services, a division

Represented By
Andrew K Alper

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

6:23-12229 AAA Tree Service LLC

Chapter 11

#11.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2022 Ford F250 Super Duty Crew Cab XL Pickup 4D 8 ft . **VIN: 1FT8W2BT9NEF41188**

MOVANT: ALLY BANK

Also # 5 thru 10 & # 12 thru 14

From: 8/31/23

EH__

Docket 101

Tentative Ruling:

Appearances are REQUIRED on 11/2/23.

Parties to update Court on the status of an adequate protection agreement.

You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

AAA Tree Service LLC

Represented By
Robert P Goe
Charity J Manee
Andrew K Alper
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

CONT... AAA Tree Service LLC

Chapter 11

Movant(s):

Ally Bank

Represented By
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

6:23-12229 AAA Tree Service LLC

Chapter 11

#12.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2022 Ford F250 Super Duty Crew Cab XL Pickup 4D 8 ft . **VIN: 1FT8W2BT5NEF41186**

MOVANT: ALLY BANK

Also # 5 thru 11 & # 13 & 14

From: 8/31/23

EH__

Docket 103

Tentative Ruling:

Appearances are REQUIRED on 11/2/23.

Parties to update Court on the status of an adequate protection agreement.

You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

AAA Tree Service LLC

Represented By
Robert P Goe
Charity J Manee
Andrew K Alper
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

CONT... AAA Tree Service LLC

Chapter 11

Movant(s):

Ally Bank

Represented By
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

6:23-12229 AAA Tree Service LLC

Chapter 11

#13.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2022 Ford F250 Super Duty Crew Cab XL Pickup 4D 8 ft . **VIN: 1FT8W2BT7NEF41187**

MOVANT: ALLY BANK

From: 8/31/23

Also # 5 thru 12 & # 14

EH__

Docket 105

Tentative Ruling:

Appearances are REQUIRED on 11/2/23.

Parties to update Court on the status of an adequate protection agreement.

You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

AAA Tree Service LLC

Represented By
Robert P Goe
Charity J Manee
Andrew K Alper
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

CONT... AAA Tree Service LLC

Chapter 11

Movant(s):

Ally Bank

Represented By
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

6:23-12229 AAA Tree Service LLC

Chapter 11

#14.00 CONT Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2022 Ford F250 Super Duty Crew Cab XL Pickup 4D 8 ft **VIN: 1FT8W2BT1NEF41184**

MOVANT: ALLY BANK

Also # 5 thru 13

From: 8/31/23

EH__

Docket 110

Tentative Ruling:

Appearances are REQUIRED on 11/2/23.

Parties to update Court on the status of an adequate protection agreement.

You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

AAA Tree Service LLC

Represented By
Robert P Goe
Charity J Manee
Andrew K Alper
Cheryl A Skigin

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Thursday, November 2, 2023

Hearing Room 303

2:00 PM

CONT... AAA Tree Service LLC

Chapter 11

Movant(s):

Ally Bank

Represented By
Cheryl A Skigin