

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Wednesday, January 10, 2024

Hearing Room 201

10:00 AM

9: -

Chapter

#0.00

PLEASE TAKE NOTE:

**THE 11:00 A.M. REAFFIRMATION HEARING CALENDAR
WILL BE IN-PERSON ONLY.**

**THE ZOOM INSTRUCTIONS APPLY TO 10:00 A.M. AND 2:00 P.M.
CALENDARS ONLY.**

Unless ordered otherwise, appearances for matters may be made in-person **in Courtroom 201 at 1415 State Street, Santa Barbara, California, 93101**, by video through ZoomGov, or by telephone through ZoomGov. If appearing through ZoomGov, parties in interest may connect to the video and audio feeds, free of charge, using the connection information provided below. Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device. Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

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Neither a Zoom nor a ZoomGov account is necessary to participate, and no preregistration is required. The audio portion of each hearing will be recorded electronically by the Court and that recording will constitute its official record. Recording, retransmitting, photographing, or imaging Court proceedings by any means is strictly prohibited.

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
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Hearing Room 201

10:00 AM

9:16-11351 Sonia M. Fino-Duran

Chapter 7

Adv#: 9:16-01091 Merchants Acquisition Group v. Fino-Duran

#1.00 Motion Notice of Hearing on Claim of Exemption Filed by Plaintiff Merchants Acquisition Group (Snyder, Richard)

Docket 31

Tentative Ruling:

January 10, 2024

Appearances required.

Party Information

Debtor(s):

Sonia M. Fino-Duran

Represented By
Bryan Diaz

Defendant(s):

Sonia M. Fino-Duran

Pro Se

Movant(s):

Merchants Acquisition Group

Represented By
Richard W Snyder

Plaintiff(s):

Merchants Acquisition Group

Represented By
Richard W Snyder

Trustee(s):

Jeremy W. Faith (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Hearing Room 201

10:00 AM

9:21-10020 Core Scientific North America, Inc.

Chapter 7

Adv#: 9:22-01033 Faith v. Core Scientific North America, Inc. et al

#2.00 CONT'D Status Hearing

RE: [1] Adversary case 9:22-ap-01033. Complaint by Jeremy W. Faith against Core Scientific North America, Inc., Core Scientific Creations Ltd., Coreva Health Science LLC, Damian Delfino, Craig Bluth, Cassie Inglis. (\$350.00 Fee Charge To Estate). -- Complaint for: (1) Breach of Fiduciary Duty; (2) Aiding and Abetting Breach of Fiduciary Duty; (3) Avoidance of Fraudulent Transfers with Actual Intent [11 U.S.C. § 544(b)]; (4) Avoidance of Fraudulent Transfers with Actual Intent [11 U.S.C. § 548(a)(1)(A)]; (5) Avoidance of Constructively Fraudulent Transfers [11 U.S.C. § 548(a)(1)(B)]; (6) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (7) Avoidance of Unauthorized Postpetition Transfers [11 U.S.C. § 549]; (8) Recovery and Preservation of Avoided Transfers; (9) Conversion; (10) Intentional Interference with Prospective Economic Advantage; (11) Negligent Interference with Prospective Economic Advantage; (12) Accounting; and (13) Substantive Consolidation Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)), (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))), (12 (Recovery of money/property - 547 preference)), (14 (Recovery of money/property - other)), (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Yamamoto, Dylan)

FR. 10-6-22, 12-14-22, 6-14-23, 9-27-23

Docket 1

Tentative Ruling:

January 10, 2024

Appearances required.

On October 2, 2023, the Court entered that *Order Approving Stipulation to Stay Litigation Deadlines* to allow the parties time to resolve the matter. See Docket No. 49. Now, more than three (3) months on, the matter remains pending. The Court is inclined to set the matter for trial. The parties should meet and confer regarding

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CONT... **Core Scientific North America, Inc.**
litigation dates.

Chapter 7

December 14, 2022

No appearances required.

On December 5, 2022, the Court entered that *Order Assigning Matter to Mediation Program and Appointing Mediator and Alternate Mediator*. In reviewing the *Joint Status Report*, it appears that the parties are (1) conducting discovery, set to conclude by April 2023, and (2) attending mediation on or before February 28, 2023. *See* Docket No. 18, pp. 3-4.

The Court continues the status conference to June 14, 2023, at 10:00 a.m.

October 6, 2022

Appearances required.

The Court has reviewed the *Joint Status Report*. *See* Docket No. 13. The Court will set the following dates and deadlines:

- (1) Discovery cutoff is April 1, 2023, by which date discovery must be completed, including receiving responses to discovery requests;
- (2) The last day to have pretrial motions heard is May 17, 2023, at 10:00 a.m. (motions must be filed in time for any such motions to be heard on this date pursuant to this Court's Local Rules and/or the Federal Rules of Bankruptcy Procedure);
- (3) A joint pre-trial order must be filed on or before June 1, 2023;
- (4) A pre-trial conference is scheduled for June 14, 2023, at 10:00 a.m.; and
- (5) Trial is scheduled to begin on June 20, 2023, at 10:00 a.m.

Party Information

Debtor(s):

Core Scientific North America, Inc.

Represented By

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Hearing Room 201

10:00 AM

CONT... Core Scientific North America, Inc.

Chapter 7

Brent D George

Defendant(s):

Core Scientific North America, Inc.	Pro Se
Core Scientific Creations Ltd.	Pro Se
Coreva Health Science LLC	Pro Se
Damian Delfino	Pro Se
Craig Bluth	Pro Se
Cassie Inglis	Pro Se

Plaintiff(s):

Jeremy W. Faith	Represented By Dylan J Yamamoto
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Trustee(s):

Jeremy W. Faith (TR)	Represented By Aram Ordubegian Annie Y Stoops Dylan J Yamamoto
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**United States Bankruptcy Court
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10:00 AM

9:21-10020 Core Scientific North America, Inc.

Chapter 7

Adv#: 9:22-01033 Faith v. Core Scientific North America, Inc. et al

#3.00 PRE-TRIAL CONFERENCE

RE: [1] Adversary case 9:22-ap-01033. Complaint by Jeremy W. Faith against Core Scientific North America, Inc., Core Scientific Creations Ltd., Coreva Health Science LLC, Damian Delfino, Craig Bluth, Cassie Inglis. (\$350.00 Fee Charge To Estate). -- Complaint for: (1) Breach of Fiduciary Duty; (2) Aiding and Abetting Breach of Fiduciary Duty; (3) Avoidance of Fraudulent Transfers with Actual Intent [11 U.S.C. § 544(b)]; (4) Avoidance of Fraudulent Transfers with Actual Intent [11 U.S.C. § 548(a)(1)(A)]; (5) Avoidance of Constructively Fraudulent Transfers [11 U.S.C. § 548(a)(1)(B)]; (6) Avoidance of Preferential Transfers [11 U.S.C. § 547]; (7) Avoidance of Unauthorized Postpetition Transfers [11 U.S.C. § 549]; (8) Recovery and Preservation of Avoided Transfers; (9) Conversion; (10) Intentional Interference with Prospective Economic Advantage; (11) Negligent Interference with Prospective Economic Advantage; (12) Accounting; and (13) Substantive Consolidation Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)), (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))), (12 (Recovery of money/property - 547 preference)), (14 (Recovery of money/property - other)), (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Yamamoto, Dylan)

FR. 6-14-23, 9-27-23

Docket 1

Tentative Ruling:

January 10, 2024

See Item No. 2.

October 6, 2022

Appearances required.

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CONT... Core Scientific North America, Inc. Chapter 7

The Court has reviewed the *Joint Status Report*. See Docket No. 13. The Court will set the following dates and deadlines:

- (1) Discovery cutoff is April 1, 2023, by which date discovery must be completed, including receiving responses to discovery requests;
- (2) The last day to have pretrial motions heard is May 17, 2023, at 10:00 a.m. (motions must be filed in time for any such motions to be heard on this date pursuant to this Court's Local Rules and/or the Federal Rules of Bankruptcy Procedure);
- (3) A joint pre-trial order must be filed on or before June 1, 2023;
- (4) A pre-trial conference is scheduled for June 14, 2023, at 10:00 a.m.; and
- (5) Trial is scheduled to begin on June 20, 2023, at 10:00 a.m.

Party Information

Debtor(s):

Core Scientific North America, Inc.	Represented By Brent D George
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Defendant(s):

Core Scientific North America, Inc.	Pro Se
Core Scientific Creations Ltd.	Pro Se
Coreva Health Science LLC	Pro Se
Damian Delfino	Pro Se
Craig Bluth	Pro Se
Cassie Inglis	Pro Se

Plaintiff(s):

Jeremy W. Faith	Represented By Dylan J Yamamoto
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CONT... Core Scientific North America, Inc.

Chapter 7

Trustee(s):

Jeremy W. Faith (TR)

Represented By

Aram Ordubegian

Annie Y Stoops

Dylan J Yamamoto

**United States Bankruptcy Court
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Wednesday, January 10, 2024

Hearing Room 201

10:00 AM

9:22-10134 Codie Place

Chapter 7

Adv#: 9:23-01010 McBeth v. Davis, III

#4.00 Pre-Trial Conference
RE: [1] Adversary case 9:23-ap-01010. Complaint by Sandra McBeth against Richard M. Davis, III. (\$350.00 Fee Charge To Estate). Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)), (21 (Validity, priority or extent of lien or other interest in property)), (31 (Approval of sale of property of estate and of a co-owner - 363(h))) (Beall, William)

Docket 1

***** VACATED *** REASON: Stipulated order entered 1-2-24. Hearing vacated.**

Tentative Ruling:

January 10, 2024

Appearances waived.

The Court has approved in part that *Stipulation and Request that Court Vacate Trial Date and Pretrial Conference and Set Status Conference*, continuing and converting the pre-trial conference to a status conference for February 21, 2024, at 10:00 a.m.

Party Information

Debtor(s):

Codie Place

Represented By
Karen L Grant

Defendant(s):

Richard M. Davis, III

Represented By
Felicita A Torres

Plaintiff(s):

Sandra McBeth

Represented By
William C Beall

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CONT... Codie Place

Chapter 7

Trustee(s):

Sandra McBeth (TR)

Represented By
William C Beall

**United States Bankruptcy Court
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10:00 AM

9:22-10278 James E Goldstein

Chapter 11

Adv#: 9:22-01059 Goldstein v. California Department of Tax and Fee Administration

#5.00 CONT'D Status Hearing
RE: [1] Adversary case 9:22-ap-01059. Complaint by James E Goldstein against California Department of Tax and Fee Administration. (\$350.00 Fee Charge To Estate). COMPLAINT TO 1) DETERMINE AMOUNT OF TAXES OWED TO THE CDTFA PURSUANT TO BANKRUPTCY CODE 505(A); 2) DETERMINE AMOUNT OF THE CLAIM OF THE CDTFA; 3) DETERMINE THE CLASSIFICATION OF THE CDTFA'S CLAIM, AND 4) DETERMINE THE DISCHARGEABILITY OF THE CDTFA'S CLAIM Nature of Suit: (66 (Dischargeability - 523(a)(1),(14),(14A) priority tax claims)), (65 (Dischargeability - other)) (Nelson, Lisa)

FR. 1-11-23, 3-22-23, 4-19-23, 9-26-23, 10-25-23, 11-8-23

Docket 1

***** VACATED *** REASON: Stipulated order continuing status conference to February 21, 2024 at 10:00 AM was entered on 12/27/23.**

Tentative Ruling:

September 26, 2023

Appearances waived.

The Court has reviewed the *Joint Status Report*. See Docket No. 27. The Court continues the status conference to October 25, 2023, at 10:00 a.m., the date of the pretrial conference. All other litigation dates, as modified by that *Order Extending Scheduling Order Deadlines* remain.

April 19, 2023

Appearances required.

March 22, 2023

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10:00 AM

**CONT... James E Goldstein
Appearances required.**

Chapter 11

The Court sets a discovery cutoff of July 31, 2023. Any dispositive motions are to be heard on or before September 27, 2023, at 10:00 a.m. An in-person pretrial conference shall take place on October 25, 2023, at 10:00 a.m. A pretrial stipulation and proposed order shall be filed on or before October 10, 2023, and conforming to this Court's Local Rule 7016-1(b). The parties are to meet and confer regarding a trial date. As the trial will take place in-person, schedules of witnesses that will need to travel should be thought through. The Court is tentatively scheduling the trial for the week of November 20, 2023.

January 11, 2023

No appearance required.

The Court will continue the status conference to March 22, 2023, at 10:00 a.m.

Party Information

Debtor(s):

James E Goldstein

Represented By
Michael G Spector
Vicki L Schennum

Defendant(s):

California Department of Tax and

Pro Se

Plaintiff(s):

James E Goldstein

Represented By
Lisa Nelson

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10:00 AM

9:22-10278 James E Goldstein

Chapter 11

Adv#: 9:22-01059 Goldstein v. California Department of Tax and Fee Administratio

#6.00 Pre-Trial Conference
RE: [1] Adversary case 9:22-ap-01059. Complaint by James E Goldstein against California Department of Tax and Fee Administration. (\$350.00 Fee Charge To Estate). COMPLAINT TO 1) DETERMINE AMOUNT OF TAXES OWED TO THE CDTFA PURSUANT TO BANKRUPTCY CODE 505(A); 2) DETERMINE AMOUNT OF THE CLAIM OF THE CDTFA; 3) DETERMINE THE CLASSIFICATION OF THE CDTFA'S CLAIM, AND 4) DETERMINE THE DISCHARGEABILITY OF THE CDTFA'S CLAIM Nature of Suit: (66 (Dischargeability - 523(a)(1),(14),(14A) priority tax claims)), (65 (Dischargeability - other)) (Nelson, Lisa)

FR. 10-25-23, 11-8-23

Docket 1

***** VACATED *** REASON: Order vacating Pre-Trial Conference was entered on 12/27/23.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

James E Goldstein

Represented By
Michael G Spector
Vicki L Schennum

Defendant(s):

California Department of Tax and

Represented By
Jennifer T Henderson
Ryan D. Zick

Plaintiff(s):

James E Goldstein

Represented By
Lisa Nelson

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10:00 AM

9:22-10379 Gift Theory, Inc.

Chapter 7

Adv#: 9:23-01024 Sandra K. McBeth, Chapter 7 Trustee v. American Express National Bank

#7.00 CONT'D Status Hearing

RE: [1] Adversary case 9:23-ap-01024. Complaint by Sandra K. McBeth, Chapter 7 Trustee against American Express National Bank. (\$350.00 Fee Charge To Estate). Complaint For: (1) Avoidance And Recovery Of Fraudulent Conveyances [11 U.S.C. §§ 544, 548, 550(a), And 551; Cal. Civ. Code § 3439 Et Seq.]; And (2) Avoidance And Recovery Of Preference Payments [11 U.S.C. §§ 547, 550(a), And 551]; And (3) Disallowance Of Any Claims Held By Defendant [11 U.S.C. § 502(d)] Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)), (12 (Recovery of money/property - 547 preference)) (Page, Zachary)

FR. 8-23-23, 10-25-23, 11-22-23

Docket 1

Tentative Ruling:

January 10, 2024

Appearances waived.

On December 21, 2023, the Trustee filed that *Motion for an Order Approving Settlement Pursuant to Bankruptcy Rule 9019(a)* (the "Motion"). See Docket No. 77. The Motion, if approved, resolves this adversary proceeding. The Court will continue the status conference to February 7, 2024, at 10:00 a.m.

November 22, 2023

Appearances waived.

The Court has reviewed that *Notice of Settlement and Stipulation to Continue Status Conference*. See Docket No. 15. The status conference is continued to January 10, 2024, at 10:00 a.m.

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**CONT... Gift Theory, Inc.
August 23, 2023**

Chapter 7

In-person appearances required.

The Complaint for: (1) Avoidance and Recovery of Fraudulent Conveyances [11 U.S.C. §§ 544, 548, 550(a), and 551; Cal Civ. Code § 3439 et seq.]; and (2) Avoidance and Recovery of Preference Payments [11 U.S.C. §§ 547, 550(a), and 551]; and (3) Disallowance of Any Claims Held by Defendant [11 U.S.C. § 502(d)] (the "Complaint") was filed on June 27, 2023. See Docket No. 1.

The Summons and Notice of Status Conference in Adversary Proceeding was issued on June 27, 2023. See Docket No. 2-1. Pursuant to Fed. R. Bankr. P. 7004(e), "service made under [Rule 4\(e\)](#), [\(g\)](#), [\(h\)\(1\)](#), [\(i\)](#), or [\(j\)\(2\) F.R.Civ.P.](#) shall be by delivery of the summons and complaint within 7 days after the summons is issued. If service is by any authorized form of mail, the summons and complaint shall be deposited in the mail within 7 days after the summons is issued. If a summons is not timely delivered or mailed, another summons shall be issued and served." Now, August 20, 2023, nearly two (2) months after the Summons was issued, there is no proof of service that the Court can locate regarding timely service of the Summons.

Pursuant to those Adversary Proceeding Status Conference Procedures (the "Procedures"), "[a] joint status report prepared using Local Form F 7016-1.STATUS.REPORT must be filed fourteen (14) days before each status conference. The plaintiff must attach a copy of the Local Form F 7016-1.STATUS.REPORT to these Adversary Proceeding Status Conference Procedures as Exhibit A. Failure to file a joint status report may result in the imposition of monetary sanctions and/or the status conference being continued. 3. If a party does not cooperate in the preparation of a joint status report, the other party should follow the procedure set forth in this Court's Local Bankruptcy Rule 7016-1(a) (3) for filing a unilateral status report." See Docket No. 2, p. 1. The Court cannot locate any status report as required by the Procedures.

This Case is dismissed for the failure to prosecute, and the failure to follow the requirements of the Procedures.

Party Information

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CONT... Gift Theory, Inc.

Chapter 7

Debtor(s):

Gift Theory, Inc.

Represented By
William E. Winfield

Defendant(s):

American Express National Bank

Pro Se

Plaintiff(s):

Sandra K. McBeth, Chapter 7

Represented By
Beth Ann R. Young
Zachary Page

Trustee(s):

Sandra McBeth (TR)

Represented By
Timothy J Yoo
Todd M Arnold
Carmela Pagay

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10:00 AM

9:22-10379 Gift Theory, Inc.

Chapter 7

Adv#: 9:23-01027 Sandra K. McBeth, Chapter 7 Trustee v. Discover Financial Services, Inc.

#8.00 CONT'D Status Hearing
RE: [1] Adversary case 9:23-ap-01027. Complaint by Sandra K. McBeth, Chapter 7 Trustee against Discover Financial Services, Inc.. (\$350.00 Fee Charge To Estate). Complaint For: (1) Avoidance And Recovery Of Preference Payments [11 U.S.C. §§ 547, 550(a), And 551] Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Page, Zachary)

FR. 8-23-23, 10-11-23

Docket 1

Tentative Ruling:

January 10, 2024

In-person appearances required.

Pursuant to that *Scheduling Order*, the status conference was continued to January 10, 2024, at 10:00 a.m. See Docket No. 17, p. 2, line 7. Pursuant to this Court's *Adversary Proceeding Status Conference Procedures*, "[a] joint status report prepared using Local Form F_7016-1.STATUS.REPORT must be filed fourteen (14) days before each status conference." See Docket No. 2, p. 1. Pursuant to this Court's Local Rule 7016-1(a)(2), "[u]nless otherwise ordered by the court, at least 14 days before the date set for each status conference the parties are required to file a joint status report using mandatory court form F_7016-1.STATUS.REPORT []."

The Court finds no status report for this status conference as required by this Court's Rules and Procedures.

October 11, 2023

Appearances required.

The Court has reviewed the *Joint Status Report*. See Docket No. 16. The Court

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CONT... Gift Theory, Inc.

Chapter 7

intends on adopting the following litigation schedule:

- November 3, 2023 – Last day to amend pleadings
- Continued status conference – January 10, 2024, at 10:00 a.m.
- April 1, 2024- Last day to complete discovery, including receipt of responses
- May 22, 2024, at 10:00 a.m. – Last day to have pre-trial motion heard
- Pre-Trial Hearing – July 10, 2024, at 10:00 a.m.
- Trial – July 25, 2024, at 9:00 a.m.

A pre-trial stipulation and proposed order shall be filed so that it is timely received by the Court in conformance with this Court's Local Rule 7016-1(b). Plaintiff to upload a scheduling order within 7 days.

Regarding mediation, the Court will inquire with the parties about whether (1) discovery should be completed before the matter is mediated, and (2) the parties seek to utilize the Court's mediation panel, or use a private service.

Party Information

Debtor(s):

Gift Theory, Inc.

Represented By
William E. Winfield

Defendant(s):

Discover Financial Services, Inc.

Pro Se

Plaintiff(s):

Sandra K. McBeth, Chapter 7

Represented By
Beth Ann R. Young
Zachary Page

Trustee(s):

Sandra McBeth (TR)

Represented By
Timothy J Yoo

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CONT...

Gift Theory, Inc.

Todd M Arnold
Carmela Pagay

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10:00 AM

9:22-10379 Gift Theory, Inc.

Chapter 7

Adv#: 9:23-01032 Sandra K. McBeth, Chapter 7 Trustee v. Microsoft Corporation

#9.00 CONT'D Status Hearing
RE: [1] Adversary case 9:23-ap-01032. Complaint by Sandra K. McBeth, Chapter 7 Trustee against Microsoft Corporation. (\$350.00 Fee Charge To Estate). Complaint For: (1) Avoidance And Recovery Of Preference Payments [11 U.S.C. §§ 544, 547, 550(a), And 551; Cal. Civ. Code § 3439 Et Seq.] Nature of Suit: (12 (Recovery of money/property - 547 preference)) (Page, Zachary)

FR. 8-23-23, 10-25-23, 11-22-23

Docket 1

***** VACATED *** REASON: Stipulated order dismissing the case was entered on Januray 5, 2024.**

Tentative Ruling:

January 10, 2024

In-person appearances required.

The Court continued the status conference from November 22, 2023 to January 10, 2024, at 10:00 a.m. *See* Docket Entry Dated November 22, 2023. Pursuant to this Court's *Adversary Proceeding Status Conference Procedures*, "[a] joint status report prepared using Local Form F_7016-1.STATUS.REPORT must be filed fourteen (14) days before each status conference." *See* Docket No. 5, p. 1. Pursuant to this Court's Local Rule 7016-1(a)(2), "[u]nless otherwise ordered by the court, at least 14 days before the date set for each status conference the parties are required to file a joint status report using mandatory court form F_7016-1.STATUS.REPORT []."

The Court finds no status report for this status conference as required by this Court's Rules and Procedures. This is the second time in this case that the parties have failed to inform this Court of the status of a matter prior to a status conference in compliance with this Court's Rules and Procedures.

November 22, 2023

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**CONT... Gift Theory, Inc.
Appearances waived.**

Chapter 7

The Court has reviewed the *Second Stipulation to Continue Status Conference*. See Docket No. 15. The Court continues the status conference to January 10, 2024, at 10:00 a.m. If an order has not been entered settling the matter by the next status conference, the Court will set the matter for trial.

August 23, 2023

In-person appearances required.

The *Complaint for: (1) Avoidance and Recovery of Fraudulent Conveyances [11 U.S.C. §§ 544, 548, 550(a), and 551; Cal Civ. Code § 3439 et seq.]* (the "Complaint") was filed on June 27, 2023. See Docket No. 1.

The *Summons and Notice of Status Conference in Adversary Proceeding* was issued on June 27, 2023. See Docket No. 2-1. Pursuant to Fed. R. Bankr. P. 7004(e), "service made under [Rule 4\(e\)](#), [\(g\)](#), [\(h\)\(1\)](#), [\(i\)](#), or [\(j\)\(2\) F.R.Civ.P.](#) shall be by delivery of the summons and complaint within 7 days after the summons is issued. If service is by any authorized form of mail, the summons and complaint shall be deposited in the mail within 7 days after the summons is issued. If a summons is not timely delivered or mailed, another summons shall be issued and served." Now, August 20, 2023, nearly two (2) months after the Summons was issued, there is no proof of service that the Court can locate regarding timely service of the Summons.

Pursuant to those *Adversary Proceeding Status Conference Procedures* (the "Procedures"), "[a] joint status report prepared using Local Form F 7016-1.STATUS.REPORT must be filed fourteen (14) days before each status conference. The plaintiff must attach a copy of the Local Form F 7016-1.STATUS.REPORT to these Adversary Proceeding Status Conference Procedures as Exhibit A. Failure to file a joint status report may result in the imposition of monetary sanctions and/or the status conference being continued. 3. If a party does not cooperate in the preparation of a joint status report, the other party should follow the procedure set forth in this Court's Local Bankruptcy Rule 7016-1(a) (3) for filing a unilateral status report." See Docket No. 2, p. 1. The Court cannot locate any status report as required by the Procedures.

This Case is dismissed for the failure to prosecute, and the failure to follow the

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CONT... **Gift Theory, Inc.**
requirements of the Procedures.

Chapter 7

Party Information

Debtor(s):

Gift Theory, Inc.

Represented By
William E. Winfield

Defendant(s):

Microsoft Corporation

Pro Se

Plaintiff(s):

Sandra K. McBeth, Chapter 7

Represented By
Beth Ann R. Young
Zachary Page

Trustee(s):

Sandra McBeth (TR)

Represented By
Timothy J Yoo
Todd M Arnold
Carmela Pagay

**United States Bankruptcy Court
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Wednesday, January 10, 2024

Hearing Room 201

10:00 AM

9:22-10697 Shadrach Teah Dargbe

Chapter 7

Adv#: 9:22-01065 WAWANESA GENERAL INSURANCE COMPANY, a California C v.

#10.00 CONT'D Hearing
RE: [33] Motion for Default Judgment (and [41] Amended Motion); Filed by
Plaintiff WAWANESA GENERAL INSURANCE COMPANY, a California
Corporation

FR. 11-8-23

Docket 33

Tentative Ruling:

January 10, 2024

Appearances required.

November 8, 2023

In-person appearance required.

The Motion is denied without prejudice. Movant to lodge a conforming order within 7 days.

Background

On September 6, 2022, Shadrach Teah Dargbe ("Dargbe") filed a voluntary petition under Chapter 13 of the Bankruptcy Code. *See* Case No. 9:22-bk-10697-RC (the "Main Case"), Docket No. 1. On November 9, 2022, the Court entered that *Notice That the Case Has Been Converted to Chapter 7 From Chapter 13 and of Related Requirements* [11 U.S.C. § 1307(a)]. *See id.* at Docket No. 23.

On December 14, 2022, Wawanesa General Insurance Company ("Wawanesa") filed that *Adversary Complaint for Determination of the Dischargeability of a Judgment Debt Pursuant to 11 U.S.C. § 523(a)(2)(A)* (the "Complaint") against Dargbe. *See* Case No. 9: 23-ap-01065 (the "Adversary Case"), Docket No. 1.

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CONT... Shadrach Teah Dargbe

Chapter 7

On June 28, 2023, the Court's Clerk entered that *Notice that Clerk has Entered Default Against Defendant(s) Under Local Bankruptcy Rule 7055-1(a)*. See *id.* at Docket No. 21.

On October 18, 2023, Wawanesa filed *Plaintiff's Motion for Default Judgment Under LBR 7055-1* (the "Motion"). See *id.* at Docket No. 33.

Notice and Service

Pursuant to this Court's Local Rule 7055-1(b)(1)(E), notice of a motion for default judgment must be served on the defaulting party.

On October 18, 2023, Wawanesa filed that *Notice of Motion for Plaintiff's Motion for Default Judgment Under LBR 7055-1* (the "Motion"), seeking a judgment on the Complaint against Dargbe. See Docket No. 33. The Motion was served on Dargbe via U.S. Mail on October 18, 2023. Notice of the Motion was proper.

Analysis

Pursuant to Fed. R. Civ. P. 55(b), which applies in adversary proceedings pursuant to Fed. R. Bankr. P. 7055, governs default judgments. "Default judgments are not mandatory." *In re Fuentes*, 474 B.R. 497, 501. "Under Rule 7055, the Court may require proof or necessary facts to support a valid cause of action." *Id.* "If such facts are lacking, the Court may not enter the judgment." *Id.* (citing *Peerless Indus., Inc. v. Herrin Illinois Café, Inc.*, 593 F.Supp. 1339, 1341 (E.D. Mo. 1984)). "Bankruptcy courts have broad discretion in considering whether a default judgment is warranted in dischargeability actions." *Id.* at 502 (citing *In re Beltran*, 182 B.R. 820, 823 (9th Cir. BAP 1995); *In re Villegas*, 132 B.R. 742, 746 (9th Cir. BAP 1991)). "Notably, this discretion is often exercised when the plaintiff's complaint has questionably pleaded § 523(a)(2)(A) allegations." *Id.*

Wawanesa alleges through the Complaint that Dargbe held a Wawanesa automobile insurance policy from July 14, 2017, to Jan 14, 2018, which provided liability coverage to Dargbe and his 2017 Toyota Corolla (the "Policy"). See Adversary Case, Docket No. 1, p. 2. Wawanesa further alleges that Dargbe was involved in a rear end accident on or about August 31, 2017 with Seda Vardanyan ("Vardanyan") and her husband Hrachya Khachatryan ("Khachatryan," and together with Vardanyan, the "Plaintiffs"). On July 20, 2018, Vardanyan filed a small claims suit seeking the

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CONT... Shadrach Teah Dargbe

Chapter 7

maximum allowable award of \$10,000 (the "Lawsuit"). *Id.*; *see also* Docket No. 33, p. 43-47. Wawanesa alleges that on the day of trial in the Lawsuit, October 19, 2018, Wawanesa representative David Burch ("Burch") appeared in court to monitor the trial. *Id.* at p. 3. Wawanesa alleges Dargbe told Burch that, among other details, he was not the driver of his car when the accident occurred. *Id.* The Complaint further alleges that Dargbe testified under oath at the trial that he was driving behind the Plaintiffs' vehicle, could not stop in time and rear-ended said vehicle. *Id.* Wawanesa further alleges that Vardanyan testified under oath that the aforementioned vehicle was rear ended by Dargbe, that she was the driver, and that she was injured and received medical treatment. *Id.* The state court then awarded judgment in Vardanyan's favor and against Dargbe for the principle amount of \$7,000 and costs of \$129.39 for a total of \$7,129.39. *Id.*, *See also* Docket No. 33, pp. 52-53.

Through the Complaint, Wawanesa alleges that Dargbe intentionally engaged in false pretenses, false representations, or actual fraud when he submitted a claim for auto insurance coverage regarding the auto accident with the Plaintiffs, and when he later testified under penalty of perjury in the Lawsuit that he was the at-fault driver of a rear-end auto accident. As noted *supra*, Wawanesa alleges that Dargbe informed Burch that the auto accident was in-fact staged. Thus, Wawanesa alleges that it justifiably relied on Dargbe's statements as his insurer for auto accidents under the Policy and Dargbe caused it resulting damages of a judgment debt by means of intentional false pretenses, false representations or actual fraud. *Id.* at pp. 4-5. Wawanesa seeks declaratory relief that it owes no coverage to Dargbe under the Policy and an order staying enforcement of the judgment from the Lawsuit. The Complaint further seeks a judicial determination from this court that Dargbe's judgment, which Wawanesa has otherwise insured, is excepted from Dargbe's discharge pursuant to 11 U.S.C. § 523(a)(2)(A). *Id.*

To prevail on a claim under 11 U.S.C. § 523(a)(2)(A), a creditor must demonstrate five elements by a preponderance of the evidence: "(1) the debtor made . . . representations; (2) at the time he knew they were false; (3) that he made them with the intention and purpose of deceiving the creditor; (4) that the creditor relied on such representations; [and] (5) the creditor sustained the alleged loss and damage as the proximate result of the misrepresentations having been made." *Sabban v. Sabban (In re Sabban)*, 600 F.3d 1219, 1222 (9th Cir. 2010) (citations omitted); accord, *Williams*

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CONT... Shadrach Teah Dargbe

Chapter 7

v. Sato (In re Sato), 512 B.R. 241, 247 (Bankr. C.D. Cal. 2014).

Filed with the Motion is that *Declaration of Eduardo Contreras* (the "Contreras Declaration"). See Adversary Case, Docket No. 33, pp. 10-14. Contreras declares what Dargbe told Burch during the Lawsuit proceedings regarding the alleged staged auto accident. See *id.* at p. 2, lines 20-24. Contreras does not establish that he was present for the conversation, or even that Burch told him personally about the conversation Burch had with Dargbe. Contreras has not established that he has personal knowledge of what Dargbe stated during the Lawsuit. As this is the sole evidence provided to support the Motion, the Motion must be denied.

The Motion is denied without prejudice, Wawanesa to lodge a conforming order within 7 days.

Party Information

Debtor(s):

Shadrach Teah Dargbe

Represented By
Kevin T Simon

Defendant(s):

Shadrach Teah Dargbe

Pro Se

Movant(s):

WAWANESA GENERAL

Represented By
Eduardo Contreras

Plaintiff(s):

WAWANESA GENERAL

Represented By
Eduardo Contreras

Trustee(s):

Sandra McBeth (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, January 10, 2024

Hearing Room 201

10:00 AM

9:22-10760 Frank de Windt

Chapter 7

Adv#: 9:23-01062 McBeth v. de Windt et al

#11.00 Status Hearing

RE: [1] Adversary case 9:23-ap-01062. Complaint by Sandra McBeth against Peter de Windt, Frank, Jr. De Windt. (\$350.00 Fee Charge To Estate). Nature of Suit: (13 (Recovery of money/property - 548 fraudulent transfer)), (14 (Recovery of money/property - other)) (Beall, William)

Docket 1

***** VACATED *** REASON: Hearing continued to February 21, 2023 at
10:00 AM.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank de Windt

Represented By
Larry D Webb

Defendant(s):

Peter de Windt

Pro Se

Frank De Windt Jr.

Pro Se

Joint Debtor(s):

Stephanie de Windt

Represented By
Larry D Webb

Plaintiff(s):

Sandra McBeth

Represented By
William C Beall

Trustee(s):

Sandra McBeth (TR)

Represented By
William C Beall

**United States Bankruptcy Court
Central District of California
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Wednesday, January 10, 2024

Hearing Room 201

10:00 AM

9:23-10174 Jonathan Alan Stein

Chapter 7

#12.00 CONT'D Hearing

RE: [65] Motion to Approve Compromise Under Rule 9019 Chapter 7 Trustee's Motion to Approve Compromise with Gabrielino-Tongva Tribe with Proof of Service (Masud, Laila)

FR. 7-25-23, 9-12-23, 9-26-23, 11-21-23, 12-13-23

Docket 65

Tentative Ruling:

January 10, 2024

Appearances waived. This matter is continued to January 24, 2024, at 10:00 a.m.

December 13, 2023

Appearances waived.

This matter is continued to January 10, 2024, at 10:00 a.m.

November 21, 2023

Appearances waived.

This matter is continued to December 13, 2023, at 2:00 p.m.

September 26, 2023

Appearances required.

On July 3, 2023, Jerry Namba, the duly appointed Chapter 7 Trustee filed *Chapter 7 Trustee's Motion to Approve Compromise with Gabrielino-Tongva Tribe Including Partial Subordination and Release of Claims* (the "9019 Motion"). See Docket No. 65. On July 7, 2023, former counsel to Jonathan Alan Stein (the "Debtor"), Levene,

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Wednesday, January 10, 2024

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CONT...

Jonathan Alan Stein

Chapter 7

Neale, Bender, Yoo & Golubchik L.L.P. ("LNBYG"), filed that *Substitution of Attorney*. See Docket No. 69. On July 10, 2023, LNBYG filed that *Motion of Levene, Neale, Bender, Yoo & Golubchik L.L.P. to Withdraw as Counsel*. See Docket No. 73. On July 11, 2023, LNBYG, on behalf of the Debtor, filed *Debtor's Opposition to Trustee's Motion to Approve Compromise, Etc.* (the "Opposition"). See Docket No. 76. On July 13, 2023, the Court entered that *Order Granting Motion of Levene, Bender, Yoo & Golubchik L.L.P. to Withdraw as Counsel*. See Docket No. 82.

The Court held a hearing on the 9019 Motion on July 25, 2023, continuing the hearing on the 9019 Motion to September 12, 2023, and allowing further briefing. See Docket No. 94.

On August 14, 2023, Law Offices of David B. Lally ("Lally") filed on behalf of the Debtor that *Initial Complaint by Debtor Jonathan Stein and Demand for Jury Trial* (the "Adversary Complaint"). See Docket No. 110. The Adversary Complaint alleges, *inter alia*, that the Gabrielino-Tongva Tribe and their attorneys have violated the automatic stay.

On August 22, 2023, Lally filed that *Notice of Association of Counsel in Chapter 7 Case*, informing the Court and parties-in-interest of Lally's association in this Case as counsel to the Debtor, although the Debtor "will be [sic] still be counsel of record as well for himself in this case." See Docket No. 113.

On August 30, 2023, Lally, on behalf of the Debtor, executed that *Stipulation to (1) Continue Hearing Date on Trustee's Motion to Approve Compromise; and (2) Extend Debtor's Deadline to File Supplemental Brief or Further Opposition to Trustee's Motion to Approve Compromise*. See Docket No. 117.

On September 5, 2023, prior to the September 19, 2023 deadline to file any further oppositions to briefs filed in support of the 9019 Motion, Lally filed that *Motion to Withdraw as the Attorney of Record for Debtor Jonathan Stein, and Declaration of David B. Lally, Esq. in Support*. See Docket No. 120.

On September 11, 2023, Lally on behalf of the Debtor filed that *Notice of Withdrawal and Dismissal Without Prejudice of Initial Complaint Filed by Debtor/Plaintiff* (the "Motion to Withdraw") related to the Adversary Complaint. See Case No. 9:23-ap-01054-RC, Docket No. 9. On September 11, 2023, Lally on behalf of the Debtor

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10:00 AM

CONT... Jonathan Alan Stein Chapter 7

filed that *Notice of Withdrawal of Answer to Complaint*, related to that *Complaint for Determination that Debt is Excepted from Discharge Under 11 U.S.C. § 523, and Denial of Discharge Under 11 U.S.C. § 727*. See Case No. 9:23-ap-01023-RC, Docket No. 17. The *Declaration of David B. Lally, Esq., in Support of Order Granting Motion to Withdraw as the Attorney of Record for Defendant* provides that "in the Superior Court, [the Debtor] has been deemed a vexatious litigant." See *id.* at Docket No. 18, p. 7, lines 22-23. Lally further attests that the order deeming the Debtor a vexatious litigant is unclear in terms of whether it applies in the State Court case, or to any case, "including this Chapter 7 case and two pending Adversary Proceedings." *Id.* at lines 23-25. Lally attests that it is his "belief that the Vexatious Litigant Order applies only in the Superior Court case," but "it appears that [the Debtor] takes a different view, unbeknownst to [Lally] until now." *Id.* at lines 25-27.

The Court has several questions. First, and most importantly, who currently represents the Debtor? A concern of the Court is that the Debtor has been left without counsel to file any further pleadings in response to the 9019 Motion. Second, is Lally informing the Court that the Debtor believes that the vexatious litigant order entered against the Debtor by the State Court applies in his bankruptcy case and each of the adversary proceedings filed in his bankruptcy case through collateral estoppel grounds?

July 25, 2023

Appearances required.

Party Information

Debtor(s):

Jonathan Alan Stein

Represented By
Jonathan Stein

Movant(s):

Jerry Namba (TR)

Represented By
Laila Masud
Sarah Rose Hasselberger

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CONT... Jonathan Alan Stein

Chapter 7

Trustee(s):

Jerry Namba (TR)

Represented By
Laila Masud
Sarah Rose Hasselberger

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Wednesday, January 10, 2024

Hearing Room 201

10:00 AM

9:23-10174 Jonathan Alan Stein

Chapter 7

Adv#: 9:23-01054 Stein v. Manasserian et al

#13.00 CONT'D Status Hearing

RE: [1] Adversary case 9:23-ap-01054. Complaint by Jonathan Alan Stein against Armen Manasserian, Paul Young, Chora, Young and Manasserian LLP, Sandonne Goad, Gabrielino-Tongva Tribe. (\$350.00 Fee Charge To Estate). Complaint For Declaratory Relief, Violations of the Stay, Violation of the Anti-Alienation Clauses of the ERISA Act, Dissolve Preliminary Injunction on ERISA Plan Assets, Assault, Intentional Infliction of Physical Harm and Emotional Distress, Wilful Misconduct, Elder Abuse Act Violations, Malicious Prosecution, Abuse of Process, Intentional Interference with Contract, and Negligence Nature of Suit: (91 (Declaratory judgment)),(02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))), (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))), (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy)))(Lally, David)

FR. 10-11-23, 10-25-23, 12-13-23

Docket 1

Tentative Ruling:

January 10, 2024

This adversary proceeding has been dismissed. The status conference is vacated.

December 13, 2023

Appearances waived.

This matter is continued to January 10, 2024, at 10:00 a.m.

October 25, 2023

Appearances required.

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Wednesday, January 10, 2024

Hearing Room 201

10:00 AM

CONT... Jonathan Alan Stein

Chapter 7

October 11, 2023

Appearances required.

Party Information

Debtor(s):

Jonathan Alan Stein

Represented By
Jonathan Stein

Defendant(s):

Armen Manasserian

Pro Se

Paul Young

Pro Se

Chora, Young and Manasserian LLP

Pro Se

Sandonne Goad

Pro Se

Gabrielino-Tongva Tribe

Pro Se

DOES 1-10

Pro Se

Plaintiff(s):

Jonathan Alan Stein

Represented By
David B Lally

Trustee(s):

Jerry Namba (TR)

Represented By
Laila Masud

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Wednesday, January 10, 2024

Hearing Room 201

10:00 AM

9:23-10319 Carrie Leigh Sorokin

Chapter 7

Adv#: 9:23-01035 Sorokin v. U.S. Department of Education et al

#14.00 Status Hearing
RE: [21] Amended Complaint ; First Amended Complaint to Determine Debt Dischargeable by William E. Winfield on behalf of Carrie Leigh Sorokin against NELNET STUDENT LOAN GRANTOR TRUST 2021-A, U.S. Department of Education. (RE: related document(s)1 Adversary case 9:23-ap-01035. Complaint by Carrie Leigh Sorokin against U.S. Department of Education, Aidvantage, Nelnet Servicing, LLD. (\$350.00 Fee Not Required). Nature of Suit: (63 (Dischargeability - 523(a)(8), student loan)) filed by Plaintiff Carrie Leigh Sorokin). (Winfield, William)

Docket 21

***** VACATED *** REASON: Stipulated order entered continuing hearing to March 6, 2024 at 10:00 AM.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Carrie Leigh Sorokin

Represented By
William E. Winfield

Defendant(s):

U.S. Department of Education

Represented By
Elan S Levey

NELNET STUDENT LOAN

Pro Se

Plaintiff(s):

Carrie Leigh Sorokin

Represented By
William E. Winfield

Trustee(s):

Sandra McBeth (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, January 10, 2024

Hearing Room 201

10:00 AM

9:23-10574 Maria N Sedgwick

Chapter 7

Adv#: 9:23-01061 Sedgwick v. UNITED STATES DEPARTMENT OF EDUCATION

#15.00 Status Hearing

RE: [1] Adversary case 9:23-ap-01061. Complaint by Maria N Sedgwick against CLAIMS FILING UNIT UNITED STATES DEPARTMENT OF EDUCATION. (\$350.00 Fee Not Required). (Attachments: # 1 Supplement Case Cover Sheet) Nature of Suit: (63 (Dischargeability - 523(a)(8), student loan)) (Gautschi, Chris)

Docket 1

***** VACATED *** REASON: Stipulated order entered 11-22-23. Hearing continued to May 8, 2024, at 10:00am.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maria N Sedgwick

Represented By
Greg M Mazza

Defendant(s):

CLAIMS FILING UNIT UNITED

Pro Se

Plaintiff(s):

Maria N Sedgwick

Represented By
Chris Gautschi

Trustee(s):

Sandra McBeth (TR)

Pro Se

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Wednesday, January 10, 2024

Hearing Room 201

11:00 AM

9:23-10842 Jonathan Avila

Chapter 7

#16.00 Reaffirmation Hearing Date Set RE: [13] Pro se Reaffirmation Agreement Between Debtor and American Honda Finance Corporation

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jonathan Avila

Pro Se

Trustee(s):

Jeremy W. Faith (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, January 10, 2024

Hearing Room 201

11:00 AM

9:23-10893 Selina L. Garcia and Mary Ann Cabrera

Chapter 7

#17.00 Reaffirmation Hearing Date SetRE: [13] Reaffirmation Agreement Between Debtor and
Ent Credit Union [Re: 2019 Nissan Rogue] Modified on 12/18/2023 (ES9).

Docket 13

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Selina L. Garcia

Represented By
Bryan Diaz

Joint Debtor(s):

Mary Ann Cabrera

Represented By
Bryan Diaz

Trustee(s):

Jeremy W. Faith (TR)

Pro Se

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Wednesday, January 10, 2024

Hearing Room 201

11:00 AM

9:23-10893 Selina L. Garcia and Mary Ann Cabrera

Chapter 7

#18.00 Reaffirmation Hearing Date SetRE: [14] Reaffirmation Agreement Between Debtor and
Ent Credit Union

Docket 14

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Selina L. Garcia

Represented By
Bryan Diaz

Joint Debtor(s):

Mary Ann Cabrera

Represented By
Bryan Diaz

Trustee(s):

Jeremy W. Faith (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Wednesday, January 10, 2024

Hearing Room 201

11:00 AM

9:23-10901 Jennifer Marie Hernandez

Chapter 7

#19.00 Reaffirmation Hearing Date SetRE: [10] Reaffirmation Agreement Between Debtor and Bank of America, N.A.

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jennifer Marie Hernandez

Represented By
Daniel A Higson

Trustee(s):

Jeremy W. Faith (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, January 10, 2024

Hearing Room 201

11:00 AM

9:23-10904 Adrian Reyes, Jr. and Martha Reyes

Chapter 7

#20.00 Reaffirmation Hearing Date Set RE: [11] Pro se Reaffirmation Agreement Between
Debtor and Toyota Motor Credit Corporation

Docket 11

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Adrian Reyes Jr.

Represented By
Daniel A Higson

Joint Debtor(s):

Martha Reyes

Represented By
Daniel A Higson

Trustee(s):

Jeremy W. Faith (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, January 10, 2024

Hearing Room 201

11:00 AM

9:23-10917 Crystal Nicole Martinez

Chapter 7

#21.00 Reaffirmation Hearing Date SetRE: [10] Pro se Reaffirmation Agreement Between
Debtor and COASTHILLS CREDIT UNION

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Crystal Nicole Martinez

Pro Se

Trustee(s):

Jerry Namba (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, January 10, 2024

Hearing Room 201

11:00 AM

9:23-10944 Yanira Macias

Chapter 7

#22.00 Reaffirmation Hearing Date SetRE: [10] Pro se Reaffirmation Agreement Between Debtor and Santander Consumer USA Inc.

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Yanira Macias

Represented By
Daniel A Higson

Trustee(s):

Jeremy W. Faith (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, January 10, 2024

Hearing Room 201

11:00 AM

9:23-10947 Rachelle Noelle Avila

Chapter 7

#23.00 Reaffirmation Hearing Date Set
RE: [12] Pro se Reaffirmation Agreement Between Debtor and Capital One Auto Finance, a division of Capital One, N.A.

Docket 12

***** VACATED *** REASON: Rescheduled to February 7, 2024, at 11:00 a.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rachelle Noelle Avila

Represented By
Daniel A Higson

Trustee(s):

Jeremy W. Faith (TR)

Pro Se

United States Bankruptcy Court
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Northern Division
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Wednesday, January 10, 2024

Hearing Room 201

11:00 AM

9:23-10950 Lorena Mayra Ortiz

Chapter 7

#24.00 Reaffirmation Hearing Date SetRE: [7] Pro se Reaffirmation Agreement Between Debtor and Toyota Motor Credit Corporation

Docket 7

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Lorena Mayra Ortiz

Represented By
Michael B Clayton

Trustee(s):

Sandra McBeth (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Wednesday, January 10, 2024

Hearing Room 201

11:00 AM

9:23-10963 Jose Angel Robledo

Chapter 7

#25.00 Reaffirmation Hearing Date SetRE: [10] Reaffirmation Agreement Between Debtor and
Financial Partners Credit Union

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Angel Robledo

Represented By
Daniel A Higson

Trustee(s):

Jerry Namba (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Wednesday, January 10, 2024

Hearing Room 201

11:00 AM

9:23-10989 Jennifer Louise Minchik

Chapter 7

#26.00 Reaffirmation Hearing Date SetRE: [14] Reaffirmation Agreement Between Debtor and
Tower Federal Credit Union

Docket 14

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jennifer Louise Minchik

Represented By
D Justin Harelik

Trustee(s):

Jeremy W. Faith (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Wednesday, January 10, 2024

Hearing Room 201

11:00 AM

9:23-10994 Susan Marie Wilson

Chapter 7

#27.00 Reaffirmation Hearing Date SetRE: [11] Reaffirmation Agreement Between Debtor and
TD Bank, N.A. (2019 Chevrolet Equinox)

Docket 11

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Susan Marie Wilson

Represented By
Leslie A Tos

Trustee(s):

Jerry Namba (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Wednesday, January 10, 2024

Hearing Room 201

11:00 AM

9:23-11030 Sergio Meza and Nancy Carolina Meza

Chapter 7

**#28.00 CONT'D Hearing RE: [12] Reaffirmation Agreement Between Debtor and
 Driveway Finance Corporation**

FR. 12-13-23

Docket 12

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Sergio Meza

Represented By
Stephen Parry

Joint Debtor(s):

Nancy Carolina Meza

Represented By
Stephen Parry

Trustee(s):

Jerry Namba (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Wednesday, January 10, 2024

Hearing Room 201

11:00 AM

9:23-11033 Claudio Epifanio Huerta and Hilda Hernandez De Huerta

Chapter 7

#29.00 Reaffirmation Hearing Date SetRE: [9] Pro se Reaffirmation Agreement Between Debtor and OneMain

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Claudio Epifanio Huerta

Represented By
R Grace Rodriguez

Joint Debtor(s):

Hilda Hernandez De Huerta

Represented By
R Grace Rodriguez

Trustee(s):

Sandra McBeth (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Wednesday, January 10, 2024

Hearing Room 201

11:00 AM

9:23-11035 Juan C. Arellano

Chapter 7

#30.00 Reaffirmation Hearing Date Set RE: [9] Reaffirmation Agreement Between Debtor and Coasthills Credit Union

Docket 9

Tentative Ruling:

January 10, 2024

No appearance required.

No court approval of the reaffirmation agreement is required. *See In re Ong*, 461 B.R. 559 (9th Cir. BAP 2011).

Party Information

Debtor(s):

Juan C. Arellano

Represented By
Susan Salehi

Trustee(s):

Jerry Namba (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Wednesday, January 10, 2024

Hearing Room 201

11:00 AM

9:23-11037 Generosa Howell

Chapter 7

#31.00 Reaffirmation Hearing Date Set RE: [19] Reaffirmation Agreement Between Debtor and Nissan Motor Acceptance Company LLC fka Nissan Motor Acceptance Corporation

Docket 19

Tentative Ruling:

January 10, 2024

No appearance required.

No court approval of the reaffirmation agreement is required. *See In re Ong*, 461 B.R. 559 (9th Cir. BAP 2011).

Party Information

Debtor(s):

Generosa Howell

Represented By
Roy M Holland

Trustee(s):

Sandra McBeth (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Wednesday, January 10, 2024

Hearing Room 201

11:00 AM

9:23-11053 Edgar Munoz

Chapter 7

#32.00 Reaffirmation Hearing Date SetRE: [11] Pro se Reaffirmation Agreement Between Debtor and TD Bank, N.A., successor in interest to TD Auto Finance LLC (2020 Tesla Model 3)

Docket 11

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Edgar Munoz

Represented By
Daniel A Higson

Trustee(s):

Jeremy W. Faith (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Wednesday, January 10, 2024

Hearing Room 201

11:00 AM

9:23-11099 Salvador Bustos

Chapter 7

#33.00 Reaffirmation Hearing Date Set RE: [9] Pro se Reaffirmation Agreement Between Debtor and American Honda Finance Corporation

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Salvador Bustos

Pro Se

Trustee(s):

Jerry Namba (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Wednesday, January 10, 2024

Hearing Room 201

2:00 PM

9:22-10622 Alcaraz Catering, Inc.

Chapter 11

#34.00 CONT'D Hearing
RE: ORDER TO SHOW CAUSE WHY BANKRUPTCY CASE SHOULD NOT BE
DISMISSED OR CONVERTED

FR. 10-10-23, 12-12-23

Docket 215

Tentative Ruling:

January 10, 2024

Appearances required.

The Court is here on its *Order to Show Cause Why Bankruptcy Case Should Not be Dismissed or Converted* (the "OSC"). See Docket No. 215. The Court's primary concern in issuing the OSC was Alcaraz Catering, Inc.'s (the "Debtor") adherence to the terms of that *Second Amended Plan of Reorganization for Small Business Under Chapter 11* (the "Plan"). Certain payments are to be made to creditors under the Plan. See Docket No. 121, pp. 2-5. For instance, Class 3, comprised of claims of general unsecured non-priority creditors, are to be paid in full via *pro-rata* payments over sixty (60) months from the effective date of the Plan. See *id.* at p. 5. The Court counts five (5) general unsecured, non-priority claims: (1) City of Oxnard in the amount of \$60,000; (2) American Express in the amount of \$99.00; (3) American Express in the amount of \$4,721.50; (4) American Express in the amount of \$13,293.99; and (5) SoCal Gas in the amount of \$3,368.63. There is a total of \$81,483.12 in allowed general unsecured non-priority claims. Divided by sixty (60) months, the monthly payments total \$1,358.05. On a monthly basis, the payments would be: (1) \$999.52 to City of Oxnard; (2) \$1.36 to American Express; (3) \$78.77 to American Express; (4) \$221.36 to American Express; and (5) \$55.68 to SoCal Gas. The effective date was May 23, 2023, so, as of December 31, 2023, seven (7) payments were to be made to general unsecured non-priority claims under the terms of the Plan. This means, the total payments to general unsecured creditors as of December 31, 2023 would be: (1) \$6,996.64 to City of Oxnard; (2) \$9.52 to American Express; (3) \$551.39 to American Express; (4) \$1,549.52 to American Express; and

**United States Bankruptcy Court
Central District of California
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Wednesday, January 10, 2024

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CONT... Alcaraz Catering, Inc.

Chapter 11

(5) \$389.76 to SoCal Gas.

According to the Debtor, as of December 31, 2023, City of Oxnard was paid \$3,795.67 in November 2023, the \$99 claim of American Express has been paid in full, the \$4,721.50 claim of American Express has been paid \$708.00, the \$13,293.99 claim of American Express has been paid \$1,993.36, and SoCal Gas has been paid \$3,183.06. *See* Docket No. 233, *Declaration of Antonio Alcaraz in Support of Status Conference for Chapter 11 Case, Exhibit B*. Even if the Court combined all of the American Express claims, the total authorized to be paid under the terms of the Plan through December 31, 2023 was \$2,110.43. The total the Debtor actually paid was \$2,800.36. City of Oxnard was owed payments for June, July, August, September, October, November and December 2023, totaling \$6,996.64. It was paid once in November 2023 in the amount of \$3,795.67. *See id.* SoCal Gas was paid nearly the entire amount of its claim, while City of Oxnard was paid substantially less than the required monthly payments under the Plan. The Debtor has since the effective date been in violation of the terms of the Plan based on the payments being made to Class 3 creditors. As the Court noted at the prior hearing on the OSC, it seems as if the Debtor's principal has simply decided to pay claims as he sees fit, no matter the terms of the Plan. Even the proposed monthly payments moving forward are incorrect. *See id.* It is as if the Debtor was never provided the total amount of allowed claims, and a spreadsheet listing those claims, divided by sixty (60).

The Debtor's secured creditor, 2958 Oxnard, LLC ("Oxnard"), asserts that the Debtor has not fully made the Plan payments on its claim, the property taxes on the Debtor's real property have not been paid, and the Debtor has failed to provide proof of insurance to Oxnard, despite demands to do so. *See* Docket No. 234, *Reply of Secured Creditor 2958 Oxnard, LLC to Declaration of Antonio Alcaraz re Continued Status Conference and Order to Show Cause for Dismissal or Conversion*, p. 3, lines 20-24.

Pursuant to 11 U.S.C. § 1112(b)(1), "[e]xcept as provided in paragraph (2) and subsection (c), on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause..." "A bankruptcy court is empowered to convert or dismiss a Chapter 11 case sua sponte." *In re YBA Nineteen, LLC*, 505 B.R. 289, 302 (Bankr. S.D. Cal. 2014)

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Central District of California
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CONT... Alcaraz Catering, Inc. Chapter 11

(citing 11 U.S.C. § 105(a) and *In re Rosson*, 545 F.3d 764, 771 n.8 (9th Cir. 2008)).

As set forth in 11 U.S.C. § 1112(b)(4)(N), "[f]or purposes of this subsection, the term 'cause' includes [] material default by the debtor with respect to a confirmed plan." The Ninth Circuit has held that "failing to make required plan payments can be a material default of the plan, even if the debtor has made payments for an extended period before the default or taken other significant steps to perform the plan." *In re Baroni*, 36 F.4th 958, 967 (9th Cir. 2022)(citing *In re Greenfield Drive Storage Park*, 207 B.R. 913, 916 (9th Cir. BAP 1997) and *In re Warren*, 2015 WL 3407244 *3-5 (9th Cir. BAP 2016)).

Pursuant to 11 U.S.C. § 1112(b)(4)(B), "'cause' includes [] gross mismanagement of the estate." As set forth in 11 U.S.C. § 1112(b)(4)(I), "'cause' includes [] failure timely to pay taxes owed after the date of the order for relief..."

Here, the Debtor is in material default of the provisions of the Plan. Unsecured creditors, at least one of the secured creditors, and property taxes are not being timely paid, or are being paid outside the terms of the Plan. There exists cause to dismiss this case, or to convert the case to Chapter 7.

According to the Debtor's liquidation analysis, there exists sufficient equity in the Debtor's assets in a liquidation scenario to pay all creditors in full, and for there to be a dividend to the Debtor's equity holders. *See* Docket No. 121, *Exhibit B*. The Court lacks confidence that dismissal of the case will result in the Debtor repaying all creditors. The Court finds that conversion of the case to Chapter 7 will result in a liquidation of the estate's assets faster and with more transparency than leaving the Debtor to its own devices. The Court is therefore inclined to convert this case to Chapter 7 to allow the Debtor's assets to be liquidated and a distribution made to creditors.

December 12, 2023

Appearances required.

The Court has reviewed that *Declaration of Antonio Alcaraz in Support of Status Conference for Chapter 11 Case* (the "Declaration"). *See* Docket No. 228. The Court

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Central District of California
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CONT...

Alcaraz Catering, Inc.

Chapter 11

is confused. The Debtor has a number of general unsecured non-priority creditors. Among those are American Express, SoCal Gas, and the City of Oxnard. The City of Oxnard has a general unsecured claim in the amount of \$60,000. *See* Docket No. 1, *Schedule E/F*, p. 1. American Express filed three (3) separate claims, Claim No. 2 (\$99.00), Claim No. 3 (\$4,721.50) and Claim No. 4 (\$13,293.99). The Declaration provides that "[t]he smallest American Express bill of \$99.00 for account 2001 was paid, so now there will just be two bills due to American Express." *See* Docket No. 228, p. 2, lines 19-20. "City of Oxnard: was paid \$3,795.67." *Id.* at lines 25-26. The payment schedule attached to the Declaration is difficult to decipher.

While not wholly clear, it seems to the Court that the Debtor is paying unsecured claim as it sees fit, rather than on a *pro rata* basis. Unsecured claims are to "be paid over the Plan period of 60-months in equal installments commencing on the effective date." *See* Docket No. 149, p. 5. The Court will inquire with the Debtor as to whether unsecured claims are being paid in equal installments, *pari passu*, and whether the payments on those claims are all up to date.

October 10, 2023

Appearances required.

Background

On April 4, 2023, Alcaraz Catering, Inc. (the "Debtor") filed its *Third Amended Plan of Reorganization for Small Business Under Chapter 11* (the "Plan."). *See* Docket No. 149. The Plan provided an estimated amount of \$20,000 that would be owing to the SubChapter V Trustee, and that such amount would be paid on the effective date of the Plan. *See id.* at p. 6. The effective date was defined as "the first business day following the date that is 15 days after the entry of the confirmation order." *See id.* Class 2c of the Plan related to a claim of Alicia Jimenez, which claim was to be paid in monthly installments of \$2,766.04. *See id.* at pp. 4-5. As to the Debtor's counsel, the Plan required payments of approved fees over 24 months, or \$2,437.50 per month based on estimated fees of \$70,000. *See id.* at p. 6. On May 8, 2023, the Court entered *Findings of Fact, Conclusions of Law, and Order Confirming Debtor's Third*

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CONT... Alcaraz Catering, Inc.

Chapter 11

Amended Chapter 11 Plan of Reorganization. See Docket No. 175. The effective date of the Plan was therefore May 23, 2023.

On July 26, 2023, the Court entered that *Order Granting Application for Payment of: Final Fees and/or Expenses (11 U.S.C. § 330)*, approving fees in the amount of \$22,369.50 and expenses of \$86.26 for Susan Sefflin, SubChapter V Trustee (the "SubV Trustee"). See Docket No. 204. On June 28, 2023, the Court entered that *Order on Application for Payment of: Final Fees and/or Expenses (11 U.S.C. § 330)*, approving fees in the amount of \$23,685 and expenses of \$12.00 for Beall & Burkhardt, APC ("B&B"). See Docket No. 197.

On September 11, 2023, 2958 Oxnard, LLC ("Oxnard") filed that *Reply of Secured Creditor 2958 Oxnard, LLC to Status Report Filed on Behalf of Debtor.* See Docket No. 212. Oxnard made the Court aware that it had informed the Debtor that the Debtor had failed "to make the full payments required under the Loans and [failed] to remit the SBA payment due as of April 1, 2023," was in "default under the Loans" as of July 31, 2023," and "defaulted [on the] business property tax lien in the amount of \$13,911.81." See *id.* at p. 2, lines 9-16.

On September 15, 2023, due to the Debtor's default under its obligations under the Plan to Oxnard, the SubV Trustee, B&B, and taxing authorities, the Court entered that *Order to Show Cause Why Bankruptcy Case Should Not be Dismissed or Converted.* See Docket No. 215.

On September 26, 2023, the Debtor filed that *Declaration of Antonio Alcaraz* (the "Alcaraz Declaration"). See Docket No. 218. Through the Alcaraz Declaration, Antonio Alcaraz, the Debtor's president, attested that the Debtor has made payments to Oxnard, but was "unable to collect enough funds to pay the other creditors from the Chapter 11 case." See *id.* at p. 2, lines 9-10. Antonio Alcaraz attested that his niece is selling her home to make the Debtor's plan payments. See *id.* at lines 15-25. Antonio Alcaraz attested to the fact that "[t]he estimated cost to bring the case current will be \$99,699.21 as of October 31, 2023." See *id.* at p. 4, lines 6-9. This appears to be in addition to "attorney fees and costs of approximately \$100,000." See *id.* at lines 18-19.

On September 29, 2023, secured creditor Alicia Jimenez filed *Secured Creditor Alicia Jimenez's Response to the Court Order to Show Cause Why Bankruptcy Case Should*

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Wednesday, January 10, 2024

Hearing Room 201

2:00 PM

CONT... Alcaraz Catering, Inc.

Chapter 11

Not be Dismissed or Converted. See Docket No. 219. Alicia Jimenez requests that the Court not dismiss this case, but rather convert the case to Chapter 7 if the Debtor is unable to meet its obligations under the Plan. See *id.* at pp. 1-2.

On September 29, 2023, the Debtor filed that *Supplemental Declaration of Antonio Alcaraz in Support of Status Conference for Chapter 11 Case* (the "Supplemental Alcaraz Declaration"). See Docket No. 220. Essentially, the Debtor through the Supplemental Alcaraz Declaration requested more time to bring the payments due under the Plan current, perhaps by November 2023. See *id.* at p. 2.

On October 3, 2023, the SubV Trustee filed *Subchapter V Trustee's Response to Court's Order to Show Cause Why Bankruptcy Case Should Not be Dismissed or Converted.* See Docket No. 221.

Analysis

Pursuant to 11 U.S.C. § 1112(b)(1), "on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, for cause unless the court determines that the appointment under section 1104(a) of a trustee or an examiner is in the best interests of creditors and the estate." Section 11 U.S.C. § 1112(b)(4)(N) provides that cause "includes [] material default by the debtor with respect to a confirmed plan." See also *In re Baroni*, 36 F.4th 958, 967 (9th Cir. 2022). The Court may dismiss a case *sua sponte* under 11 U.S.C. § 1112(b). See *In re Starmark Clinics, LP*, 388 B.R. 7298, 735 (Bankr. S.D. Tex. 2008).

On the petition date, the Debtor owned a parcel of real property worth \$7 million. See Docket No. 1, *Schedule A/B: Assets – Real and Personal Property*, p. 4. In a liquidation scenario all creditors are paid in full, and there is a return to equity of more than \$4 million. See Docket No. 149, *Exhibit B*.

The Debtor is unable to pay its effective date payments under the Plan, and Oxnard had to place forced insurance on the Debtor's real property. The Debtor is now nearly five (5) months late on its effective date payments and monthly plan payments to creditors other than Oxnard. There exists cause to convert or dismiss the case, and as 11 U.S.C. § 1112(b) provides that upon a finding of cause the Court "shall" either convert or dismiss the case, the Court will do just that. Given the value of the

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CONT... Alcaraz Catering, Inc. Chapter 11

Debtor's real property, and the claims to be paid, it appears to the Court to be in the best interest of the Debtor's creditors and estate to convert the case to Chapter 7 to allow a trustee to immediately liquidate the Debtor's business and real property.

The Court will hear from parties-in-interest and the Office of the United States Trustee regarding conversion vs. dismissal.

Party Information

Debtor(s):

Alcaraz Catering, Inc.

Represented By
Kenneth H J Henjum
William C Beall

Trustee(s):

Susan K Seflin (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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9:22-10622 Alcaraz Catering, Inc.

Chapter 11

#35.00 CONT'D Hearing RE: Post-Confirmation Status Conference

FR. 9-12-23, 10-10-23, 12-12-23

Docket 181

Tentative Ruling:

January 10, 2024

See calendar item 34.

December 12, 2023

Appearances required.

October 10, 2023

See Matter No. 16.

September 12, 2023

Appearances required.

On May 8, 2023, the Debtor's third amended chapter 11 plan of reorganization (the "Plan") was confirmed. Docket Nos. 149 and 175, respectively. On May 25, 2023, that *Notice of Post Confirmation Status Conference* (the "Notice"), set to be held on September 12, 2023 was filed. Docket No. 181. The Notice indicated that the Debtor must file a Status Report 14 days prior to the Status Conference. *Id.*

On August 29, 2023, the Subchapter V Trustee Susan Seflin (the "Trustee") filed that *Subchapter V Trustee's Post Confirmation Status Report* (the "Trustee's Report"). See Docket No. 210. Through the Trustee's Report, the Trustee indicates that the Debtor has not paid the Trustee's Fees awarded by the Court on July 26, 2023. See *id.* at p. 2, lines 10-19. The Trustee's Report further indicates that, if the Debtor does not

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CONT...

Alcaraz Catering, Inc.

Chapter 11

provide the Trustee with evidence that the Debtor is complying with its Plan obligations, then the Trustee expects that she will confer with the Office of the United States Trustee as to whether a motion to convert the case to chapter 7 is appropriate. *See id.* at lines 20-22.

On August 31, 2023, counsel for the Debtor, Kenneth Henjum ("Henjum"), filed that *Post Confirmation Status Conference: Declaration of Kenneth H.J. Henjum* (the "Henjum Declaration"). *See* Docket No. 211. Through the Henjum Declaration, Henjum attests that he "has lost communication with his client [Debtor].. [o]ver the past six weeks his emails, texts and phone calls have not been returned". *Id.* at p. 1, lines 23-28. Henjum further attests that "the telephone number does not have an active voicemail attached to it..[o]ur office sent a letter via U.S. Mail and it was returned to our office. *Id.* at lines 26-28.

Pursuant to 11 U.S.C. § 1112(b)(4)(N) "on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, for cause..." and cause includes any "material default by the debtor with respect to a confirmed plan." *See also In re Baroni*, 36 F4th 958, 967 (9th Cir. 2022). The "bankruptcy court can convert a case sua sponte under § 105(a) if cause exists to do so." *See In re Kenney G. Enterprises, LLC*, 2014 WL 4100429 *9 (9th Cir. BAP 2014)(internal citations omitted).

The Court will issue an order to show cause why this case should not be converted to Chapter 7 or dismissed for the Debtor's material breach of Article 7 of that *Third Amended Plan of Reorganization for Small Business Under Chapter 11*.

Party Information

Debtor(s):

Alcaraz Catering, Inc.

Represented By
Kenneth H J Henjum
William C Beall

Trustee(s):

Susan K Seflin (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, January 10, 2024

Hearing Room 201

2:00 PM

9:22-10664 Miracle Center Church of Ventura County, Inc

Chapter 11

#36.00 Post-Confirmation Status Conference

FR. 11-22-23

Docket 1

Tentative Ruling:

January 10, 2023

Appearances required.

On November 22, 2023, the Court continued the post confirmation status conference to January 10, 2024. The Court further ordered that the Debtor (1) must file any/all missing operating reports by or before December 1, 2023, (2) must serve a notice of the revisions to the plan and proposed order by or before December 1, 2023, and (3) shall refile the status report by or before December 27, 2023 and re-serve the appropriate parties.

On November 30, 2023 the Debtor filed that *Monthly Operating Report for Small Business Under Chapter 11* for the months of August, September and October 2023. See Docket Nos. 143, 144, and 145, respectively.

On December 4, 2023, that *Notice of Lodgment of Order Confirming Chapter 11 Plan of Reorganization* was filed. See Docket No. 146. The Court entered that *Order Confirming Chapter 11 Plan of Reorganization* on December 19, 2023. See Docket No. 147.

On December 20, 2023, filed that *Monthly Operating Report for Small Business Under Chapter 11* for the month of November 2023. On the same date, the Debtor also filed that *Subchapter V Status Report* (the "Status Report"). See Docket No. 149. However, there is no Proof of Service of Document attached to the Status Report. Thus, it does not appear that the Debtor re-served the Status Report as ordered by the Court.

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Hearing Room 201

2:00 PM

**CONT... Miracle Center Church of Ventura County, Inc
November 22, 2023**

Chapter 11

Debtor to appear in-person.

The Debtor was instructed to file a post-confirmation status report on or before November 8, 2023. *See* Docket No. 136. The Court finds no status report on the docket. The Court is inclined to convert the case to Chapter 7 given the Debtor's failure to inform parties-in-interest and this Court of its progress post-confirmation.

May 31, 2023

Appearances required.

March 8, 2023

Appearances required.

January 10, 2023

Appearances required.

The Court will inquire with the parties about the status of discussions regarding a consensual plan of reorganization. If there is no consensus, the Court will set the plan for a confirmation hearing.

December 6, 2022

Appearances required.

On November 28, 2022, the Debtor filed *Debtor's Chapter 11 Plan of Reorganization* (the "Plan"). *See* Docket No. 77. The Court will inquire about the following:

- (1) Is the plan a consensual plan?
- (2) Have the Debtor, creditors and the SubV Trustee discussed confirmation dates?

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**CONT... Miracle Center Church of Ventura County, Inc
October 26, 2022**

Chapter 11

Appearances required.

The plan is due on or before November 28, 2022. Where is the Debtor in reaching a consensus with its creditors on an exit strategy?

Party Information

Debtor(s):

Miracle Center Church of Ventura

Represented By
John K Rounds

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Hearing Room 201

2:00 PM

9:23-10314 Concrete Solutions & Supply

Chapter 11

#37.00 Hearing
RE: [85] Disclosure Statement Describing Chapter 11 Plan

FR. 11-22-23

Docket 85

***** VACATED *** REASON: Continued to February 21, 2024, at 2:00
p.m.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Concrete Solutions & Supply

Represented By
Steven R Fox

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Wednesday, January 10, 2024

Hearing Room 201

2:00 PM

9:23-10314 Concrete Solutions & Supply

Chapter 11

#38.00 CONT'D Chapter 11 Status Conference

FR. 6-14-23, 9-27-23, 11-22-23

Docket 1

Tentative Ruling:

January 10, 2024

Appearances waived.

The Court will continue the status conference to February 21, 2024, at 2:00 p.m.

September 27, 2023

Appearances required.

The Court has reviewed the second *Status Report*. See Docket No. 79. The Court will inquire with the Office of the United States Trustee regarding the Debtor's compliance with the *Guidelines and Requirements for Chapter 11 Debtors in Possession*. The Court is inclined to continue the status conference to November 21, 2023, at 2:00 p.m.

June 14, 2023

Appearances required.

The Court has reviewed that *Status Report in Response to Order Setting Initial Status Conference*. See Docket No. 58. The Court is inclined to set a claims bar date of August 1, 2023. If the Court does set a bar date, the deadline for the Debtor to provide notice of the bar date will be June 21, 2023 using the Court's Local Form F 3003-1.NOTICE.BARDATE. The Court is inclined to set a deadline for the Debtor to file and serve a disclosure statement and plan, and a notice of hearing on the approval of the disclosure statement, of October 30, 2023. If so, the Court will set a hearing on the approval of the disclosure statement of November 22, 2023, at 2:00 p.m.

Party Information

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Central District of California
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CONT... Concrete Solutions & Supply

Chapter 11

Debtor(s):

Concrete Solutions & Supply

Represented By
Steven R Fox

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Wednesday, January 10, 2024

Hearing Room 201

2:00 PM

9:23-10672 S&W Blue Jay Way, LLC

Chapter 11

#39.00 CONT'D Hearing

RE: [77] Motion Notice of Motion and Motion for Order: (1) Approving Disclosure Statement Describing Debtor's Chapter 11 Liquidating Plan; and (2) Setting Plan Solicitation and Confirmation Procedures and Deadlines

FR. 12-13-23

Docket 77

Tentative Ruling:

January 10, 2024

Appearances required.

December 13, 2023

Appearances required.

Party Information

Debtor(s):

S&W Blue Jay Way, LLC

Represented By
Roye Zur

Movant(s):

S&W Blue Jay Way, LLC

Represented By
Roye Zur

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Wednesday, January 10, 2024

Hearing Room 201

2:00 PM

9:23-10672 S&W Blue Jay Way, LLC

Chapter 11

#40.00 CONT'D STATUS HEARING
Re: [1] Chapter 11 Status Conference - Non-Individual Petition.

FR. 9-27-23, 11-22-23, 12-13-23

Docket 1

Tentative Ruling:

January 10, 2024

Appearances required.

December 13, 2023

Appearances required.

November 22, 2023

Appearances waived.

The Court has reviewed the *Chapter 11 Status Conference Report*. See Docket No. 87. The Court will continue the status conference to December 13, 2023, at 2:00 p.m.

September 27, 2023

Appearances required.

The Court has reviewed the *Chapter 11 Status Conference Report (Initial)*. See Docket No. 56. The Court will inquire with the Office of the United States Trustee regarding the Debtor's compliance with the *Guidelines and Requirements for Chapter 11 Debtors in Possession*. The Court is inclined to continue the status conference to November 21, 2023, at 2:00 p.m.

Party Information

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CONT... S&W Blue Jay Way, LLC

Chapter 11

Debtor(s):

S&W Blue Jay Way, LLC

Represented By
Roye Zur

Movant(s):

S&W Blue Jay Way, LLC

Represented By
Roye Zur

**United States Bankruptcy Court
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Wednesday, January 10, 2024

Hearing Room 201

2:00 PM

9:23-10747 Indie Salon, Inc.

Chapter 11

#41.00 CONT'D Hearing RE: Chapter 11 Status Conference (Subchapter V Case)

FR. 10-11-23, 11-22-23, 12-13-23

Docket 1

Tentative Ruling:

January 10, 2024

Appearances required.

The Court has reviewed the *Declaration of Reed H. Olmstead re: Continued Chapter 11 Status Conference and Subchapter V Status Report*. See Docket No. 32. It appears the parties are working towards a stipulation re dismissal, and that such stipulation shall be filed prior to the status conference.

December 13, 2023

Appearances required.

The Court has reviewed the *Subchapter V Status Report*. See Docket No. 29. It is not clear to the Court whether the Debtor is stating that there is to be no sale of the business, and so the case should be dismissed or converted, or if the Debtor is still seeking a purchaser for the business.

November 22, 2023

Debtor and debtor's counsel to appear in-person.

Pursuant to that *Order Setting Initial Status Conference*, "[n]ot less than fourteen calendar days prior to the date scheduled for every initial or continued status conference, the debtor-in-possession shall file and serve a written status report []," and the "[f]ailure to timely file a status report may result in sanctions including dismissal, conversion, or the appointment of a trustee." See Docket No. 5, p. 3, lines 3-14.

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CONT... Indie Salon, Inc.

Chapter 11

There has been no status conference statement filed for the November 22, 2023 status conference. If no plan is filed by November 21, 2023, the Court will convert or dismiss the case. If a plan is timely filed, the Court will discuss sanctions with the Debtor and counsel for the failure to timely file a status report.

October 11, 2023

Appearances required.

The Court has reviewed the *Subchapter V Status Report*. See Docket No. 14. The Court will inquire with the Debtor about whether it has authorization to use cash collateral. According to the Debtor, the U.S. Small Business Administration "has consented to the Debtor's use of cash collateral pending Court approval of a pending stipulation for use." See *id.* at p. 8. No such stipulation has been filed with the Court.

Party Information

Debtor(s):

Indie Salon, Inc.

Represented By
Reed H Olmstead

**United States Bankruptcy Court
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Wednesday, January 10, 2024

Hearing Room 201

2:00 PM

9:23-11068 Laura Louise Gottlieb

Chapter 11

#42.00 Chapter 11 Status Conference

Docket 1

Tentative Ruling:

January 10, 2024

In-person appearance of debtor required.

Party Information

Debtor(s):

Laura Louise Gottlieb

Pro Se

**United States Bankruptcy Court
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Wednesday, January 10, 2024

Hearing Room 201

2:00 PM

9:23-11095 FGH, LLC

Chapter 11

#43.00 Chapter 11 Status Conference

Docket 1

Tentative Ruling:

January 10, 2024

Appearances required.

The Court has reviewed that *Chapter 11 Status Report*. See Docket No. 14. The Court will inquire with the Office of the United States Trustee regarding the Debtor's compliance with the *Guidelines and Requirements for Chapter 11 Debtors in Possession*. The Court is inclined to continue the status conference to February 21, 2024, at 2:00 p.m., by which time a plan will be filed.

Party Information

Debtor(s):

FGH, LLC

Represented By
William C Beall

**United States Bankruptcy Court
Central District of California
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Wednesday, January 10, 2024

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9:23-11112 Diversified Panels Systems, Inc.

Chapter 11

#44.00 CONT'D Hearing
RE: [3] Notice of Motion and Motion in Individual Ch 11 Case for Order
Authorizing Debtor to Provide Adequate Assurance of Payment to Utility Service
Providers (11 U.S.C. Sec. 366)

FR. 11-29-23, 12-13-23

Docket 3

Tentative Ruling:

January 10, 2024

Appearances required.

December 13, 2023

Appearances required. Debtor's counsel is to appear in-person.

November 29, 2023

Appearances required.

Party Information

Debtor(s):

Diversified Panels Systems, Inc.

Represented By
William E. Winfield

**United States Bankruptcy Court
Central District of California
Northern Division
Ronald A Clifford III, Presiding
Courtroom 201 Calendar**

Wednesday, January 10, 2024

Hearing Room 201

2:00 PM

9:23-11112 Diversified Panels Systems, Inc.

Chapter 11

#45.00 CONT'D Hearing
RE: [4] Motion to Use Cash Collateral

FR. 11-29-23, 12-13-23

Docket 4

Tentative Ruling:

January 10, 2024

Appearances required.

December 13, 2023

Appearances required. The Debtor's counsel is to appear in-person.

The Court has reviewed *Debtor's Augmentation in Support of Emergency Motion for Authority to Use Cash Collateral on an Interim and Final Basis*. See Docket No. 30. The Court's inquiry remains as to the appropriateness of making adequate protection payments to oversecured creditors whose collateral base is projected to improve over the life of the Budget. The Court's questions as to the collateral position of the secured creditors throughout the time of the Debtor's use of cash collateral remain. While a projection of state court counsel's fees are to be determined, the costs of insolvency counsel should be able to be projected.

The Court further notes that the mandatory form F 4001.2.STMT.FINANCE was not filed and served in accordance with this Court's *Order Granting in Part, and Denying in Part Debtor's Emergency Motion for Authority to Use Cash Collateral on an Interim and Final Basis* (the "Order"). See Docket No. 29. The required form was filed on December 1, 2023, instead of November 30, 2023, as required by the Order. See Docket No. 34.

November 29, 2023

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**CONT... Diversified Panels Systems, Inc.
Appearances required.**

Chapter 11

On November 22, 2023, Diversified Panels Systems, Inc. (the "Debtor") filed that *Emergency Motion for Authority To Use Cash Collateral On An Interim and Final Basis* (the "Motion"). See Docket No. 4. In support of the Motion the Debtor filed that *Declaration of Richard Bell in Support of Debtor's First Day Motions* (the "Bell Declaration"). See Docket No. 7. Through the Motion, the Debtor seeks interim, and ultimately final approval for the use of cash collateral.

Local Rule 4001-2(a)

Pursuant to this Court's Local Rule 4001-2(a), "[e]ach motion [] to approve the use of cash collateral [] under 11 U.S.C. §§ 363 or 364 [] must be accompanied by mandatory court-approved form F_4001.2.STMT.FINANCE." As set forth in the aforementioned Local Rule, and as the local form itself provides, "[t]his form is mandatory." See F_4001-2.STMT.FINANCE. The mandatory form was not included with the Motion, and so the Motion therefore fails to comply with this Court's Local Rules.

Adequate Protection

Pursuant to 11 U.S.C. § 1108, "[u]nless the court, on request of a party in interest and after notice and a hearing, orders otherwise, the trustee may operate the debtor's business." As set forth in 11 U.S.C. § 363(c)(1), "[i]f the business of the debtor is authorized to be operated under [11 U.S.C. § 1108] and unless the court orders otherwise, the trustee may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of business without notice or a hearing." Bankruptcy Code Section 363(c)(2) provides that the "trustee may not use, sell, or lease cash collateral under paragraph (1) of this subsection unless (A) each entity that has an interest in such cash collateral consents; or (B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section." Pursuant to 11 U.S.C. § 363(e), "at any time, on request of an entity that has an interest in property used, sold, or leased, or proposed to be used, sold, or leased, by the trustee, the court, with or without a hearing, shall prohibit or condition such use, sale, or lease as is necessary to provide adequate protection of such interest."

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CONT... Diversified Panels Systems, Inc.

Chapter 11

"While the term 'adequate protection' is not defined in the Code, 11 U.S.C. § 361 sets forth three non-exclusive examples of what may constitute adequate protection: 1) periodic cash payments equivalent to decrease in value, 2) an additional or replacement lien on other property, or 3) other relief that provides the indubitable equivalent." *In re Mellor*, 734 F.2d 1396, 1400 (9th Cir. 1984).

The Debtor asserts through the Motion that "[t]he debts owed to secured creditors appear to be fully secured." *See* Docket No. 4, p. 6, lines 24-25. This assertion is based on assets totaling \$12,533,166.79, and secured claims totaling \$1,704,181.32 (\$256,857.42 for Pacific Western Bank, \$517,323.90 for JPMorgan Chase, and \$930,000 for Assn Company). *See id.* at pp. 5-6. The Motion, however, describes secured claims totaling \$13,704,181.30 when the Plan B lien is taken into account. *See id.* at p. 5, lines 13-16. Ergo, the liens of Pacific Western Bank, JPMorgan Chase and Assn Company are oversecured, but Plan B is undersecured based on the asset values of the Debtor as set forth in the Motion.

As Pacific Western Bank, JPMorgan Chase and Assn Company each enjoy an equity cushion by a margin far greater than 20%, the Court fails to appreciate why the Debtor "proposes to continue servicing debt per the contract terms as adequate protection." *See* Motion p. 8, lines 7-10. In the first twelve weeks of the case these payments are forecasted to total \$448,186.53. *See* Docket No. 7, *Exhibit F*, p. 8. Unless the Debtor forecasts a deterioration of the collateral position of these secured creditors, they are all adequately protected by the equity cushions they each enjoy. The Court is therefore disinclined to approve of any post-petition payments to Pacific Western Bank, JPMorgan Chase, or Assn Company under the theory of adequate protection.

Plan B is altogether different, however. Plan B is undersecured. Yet, no adequate protection is provided for Plan B. The Debtor argues that it "disputes [Plan B's] judgment," and will avoid Plan B's judgment lien. The Court will inquire with the Debtor regarding Plan B's collateral position post-petition. The Debtor forecasts that "[n]et cash flow and the value of assets on hand will increase during the initial period," but there is no projected balance sheet to inform the Court of the Debtor's forecasted collateral position of Plan B or any of the other secured creditors.

Material Terms Omitted from the Motion

The Motion lacks many of the material terms that are in the Bell Declaration. First,

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CONT...

Diversified Panels Systems, Inc.

Chapter 11

the Bell Declaration contains a request that the Debtor be able to vary from the budgeted use of cash collateral by 20% for any category, and that it be allowed to exceed the 20% variance upon notice "to the hard money lenders" alone. *See* Docket No. 7, p. 8, lines 21-28. These variance procedures are found nowhere in the Motion.

The Bell Declaration provides that "[i]f Debtor's sales exceed projections, Debtor requests that it be able to apply up to seventy-five percent (75%) of the overage in gross revenues to costs of goods sold in order to complete additional work." *See id.* at p. 9, lines 1-4. Again, this is found nowhere in the Motion.

The Bell Declaration discusses the Debtor's need to "roll forward in the projections unspent expenses." *See id.* at lines 5-10. These carryforwards are not included in the aforementioned 20% variance procedure. *See id.* at lines 11-13. This too is not discussed in the Motion.

As to the use of cash collateral on a final basis, the Bell Declaration discusses the Debtor operating under no budget. *See id.* at p. 8, lines 7-8.

The Court will inquire with the Debtor regarding the approval of a Motion with terms that are not disclosed in the Motion, but rather only in an accompanying declaration.

The Budget

Attached to the Bell Declaration is a 12-week budget. *See* Docket No. 7, *Exhibit F*. The budget includes no monies for legal fees. *See id.* at p. 3. Yet, the Debtor has already "filed a motion for a new trial" in the Plan B litigation, and the Plan B litigation has to date cost the Debtor "millions of dollars in attorney's fees." *See* Docket No. 4, p. 5. Albeit a separate issue, the Court raises here the topic of which law firm will advance the Plan B litigation post-petition.

It is also unclear if "Sales" in the budget include the collection of pre-petition accounts receivable. The Debtor had \$6,490,424.32 in accounts receivable as of November 7, 2023. *See* Docket No. 7, *Exhibit D*. If "Sales" in the budget includes the collection of accounts receivable, the Court is interested in how that affects the secured creditors' collateral base. If "Sales" do not include accounts receivable, the Court will inquire with the Debtor about whether the pre-petition accounts receivable being collected post-petition are accounted for at all in the budget.

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CONT... Diversified Panels Systems, Inc.

Chapter 11

Debtor(s):

Diversified Panels Systems, Inc.

Represented By
William E. Winfield

**United States Bankruptcy Court
Central District of California
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2:00 PM

9:23-11112 Diversified Panels Systems, Inc.

Chapter 11

#46.00 Hearing
RE: [49] Application to Employ Howard D. Fox as Accountant

Docket 49

Tentative Ruling:

January 10, 2024

Appearances required.

Party Information

Debtor(s):

Diversified Panels Systems, Inc.

Represented By
William E. Winfield