

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Robert Kwan, Presiding  
Courtroom 1675 Calendar**

**Tuesday, January 9, 2024**

**Hearing Room 1675**

1:30 PM

**2:00-00000**

**Chapter**

**#0.00**

**PROCEDURES FOR APPEARING FOR, OR ACCESSING,  
COURT HEARINGS IN JUDGE KWAN'S CASES**

**INSTRUCTIONS FOR THE GENERAL PUBLIC AND THE MEDIA: See Special Instructions Below.**

**INSTRUCTIONS FOR PARTIES OFFICIALLY APPEARING ON THEIR MATTERS AT HEARINGS BEFORE JUDGE KWAN AND THEIR COUNSEL:** Judge Kwan conducts non-evidentiary hearings in hybrid format, that is, in person in the courtroom and remotely by video using Zoom for Government (ZoomGov) videoconferencing technology, but only in person in the courtroom for evidentiary hearings, trials and other matters specially set by Judge Kwan. Parties officially appearing on their matters at hearings before Judge Kwan and their counsel may choose to appear in person in the courtroom or remotely on ZoomGov at a hearing on their matters unless otherwise ordered by the court. Judge Kwan's courtroom is located in Courtroom 1675, 16<sup>th</sup> Floor, Roybal Federal Building, 255 East Temple Street, Los Angeles, California 90012. Parties are directed to review Judge Kwan's self-scheduling instructions for calendaring hearings, whether by in-person and/or ZoomGov.

For parties and their counsel officially appearing on their matters using ZoomGov to appear remotely at hearings, video and audio connection information for each hearing will be provided on Judge Kwan's publicly posted hearing calendar on the court's website, which may be viewed online at: <http://ecf-ciao.cacb.uscourts.gov/CiaoPosted/default.aspx>, and then selecting "Judge Kwan" from the tab on the left-hand side of the page.

Parties and their counsel officially appearing on their matters may view and/or listen to hearings before Judge Kwan using ZoomGov free of charge. Individual participants may appear at a hearing by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individual participants may also participate in a hearing by ZoomGov audio only using a telephone (standard telephone charges may apply). Neither a Zoom nor a ZoomGov account are necessary to

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participate in a hearing, and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the court and constitute its official record.

To implement the mandate of the Judicial Conference of the United States that the general public and the media may not access the video feed of a court hearing, only the audio feed (see Special Instructions to the General Public and the Media below), Judge Kwan or court personnel may inquire as to the status of a person accessing ZoomGov as either an official hearing participant or a member of the general public or the media, and the court may place persons attempting access to video feed of a court hearing in a Zoom waiting room for a status inquiry and otherwise restrict a member of the general public or the media to audio access only if accessing the hearing remotely.

**SPECIAL INSTRUCTIONS FOR THE GENERAL PUBLIC AND THE MEDIA:** The Judicial Conference of the United States has now clarified its policy on Cameras in the Courtroom and mandated that the members of the general public (or the Public) and the Media may not observe **by video** any court hearing proceedings unless they are actual parties or counsel with matters before the court in which they have an official interest. However, as an accommodation to the Public and the Media, the Judicial Conference of the United States has also clarified that many court hearing proceedings will still be accessible **by audio**, but that this audio accommodation for the Public and the Media is limited to (1) non-trial hearings; and (2) non-live witness evidentiary hearings.

To be clear, during hearings where no live testimony is being received by the court, the court may permit hearing accessibility remotely by audio, but not video, to the Public and the Media. No trials may ever be accessible remotely by audio to the Public and the Media. The court has the final control regarding remote audio accessibility and may choose to terminate remote audio accessibility at any time, regardless of the type of hearing. These remote audio services are accessible through ZoomGov, and the Public and the Media may utilize the telephone number login, but not the video login, presented by the court on its publicly posted hearing calendar, which may be viewed online at: <http://ecf-ciao.cacb.uscourts.gov/CiaoPosted/default.aspx>, and then selecting "Judge Kwan" from the tab on the left-hand side of the page.

Members of the Public and the Media may always personally attend hearings

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before the court in open court in-person in the courtroom. Judge Kwan's courtroom is located in Courtroom 1675, 16<sup>th</sup> Floor, Roybal Federal Building, 255 East Temple Street, Los Angeles, California 90012.

On hearing days, Judge Kwan's courtroom will remain open during hearings for in-person public and media attendance, so that the courtroom observers will have video and audio access to ZoomGov participants. The court will have video monitors on and viewable within the courtroom for viewing. The parties, including counsel, their clients, and self-represented individual parties, may virtually join the hearing and appear remotely or virtually on ZoomGov.

Members of the general public and the media, however, may only view the hearings in person from the courtroom, which will remain open, or by audio access, as noted above. To implement the mandate of the Judicial Conference of the United States that the general public and the media may not access the video feed of a court hearing, only the audio feed, Judge Kwan or court personnel may inquire as to the status of a person accessing ZoomGov as either an official hearing participant or a member of the general public or the media, and the court may place persons attempting access to video feed of a court hearing in a Zoom waiting room for a status inquiry and otherwise restrict a member of the general public or the media to audio access only if accessing the hearing remotely. Individual members of the public and the media may access a hearing by ZoomGov audio only using a telephone (standard telephone charges may apply). Neither a Zoom nor a ZoomGov account are necessary to access the live audio feed of a hearing, and no pre-registration is required.

**RESTRICTIONS ON LIVE TESTIMONY AT HEARINGS:** No live testimony, however, will be permitted at a hearing by ZoomGov unless specifically authorized by the court either prior to, or during, a hearing. If a party intends to call a witness to testify by remote transmission, the party calling the witness should state such intention in the joint pretrial stipulation filed before the final pretrial conference or file a written application for permission to call a witness by remote means at least 21 days before the evidentiary hearing or as soon as practicable if the evidentiary hearing is set on less than 21 days notice.

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ZoomGov logon information for all matters on today's hearing calendar:

**Video/audio web address: <https://cacb.zoomgov.com/j/1601670455>**

**ZoomGov meeting number: 160 167 0455**

**Password: 916647**

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

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

Zoomgov hearing etiquette: (a) wait until the judge calls on you, so everyone is not talking at once; (b) when you first speak, state your name and, if you are an attorney, whom you represent (do not make your argument until asked to do so); (c) when you make your argument, please pause from time to time so that, for example, the judge can ask a question or anyone else can make an objection; (d) if the judge does not see that you want to speak, or forgets to call on you, please say so when other parties have finished speaking (do not send a "chat" message, which the judge might not see); and (e) please let the judge know if he mispronounces your name or uses the wrong pronoun.

Docket 0

**Tentative Ruling:**

- NONE LISTED -

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**2:18-10170 Min Jeong Min**

**Chapter 7**

Adv#: 2:18-01086 Kosma Tex v. Min

**#1.00** Appearance and Examination re: Enforcement of Judgment

Docket 43

**Tentative Ruling:**

No tentative ruling as of 1/2/24. Appearances are required on 1/9/24.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Min Jeong Min

Represented By  
Young K Chang

**Defendant(s):**

Min Jeong Min

Represented By  
Young K Chang

**Plaintiff(s):**

Kosma Tex

Represented By  
Vahe Khojayan

**Trustee(s):**

Carolyn A Dye (TR)

Pro Se

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**2:20-21080 Orchid Child Productions, LLC**

**Chapter 7**

Adv#: 2:21-01212 WHOSE DOG R U PRODUCTIONS, INC. v. Wolkowitz

**#2.00** Motion for Leave to Amend his Answer and  
Assert Counterclaim

Docket 75

**\*\*\* VACATED \*\*\* REASON: Order continuing matter to 1/16/24 at 1:30  
p.m. ent 12/19/23**

**Tentative Ruling:**

Off calendar. Continued to 1/16/24 at 1:30 p.m. No appearances are  
required on 1/9/24.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Orchid Child Productions, LLC

Represented By  
Sanaz Sarah Bereliani  
David B Lally

**Defendant(s):**

Edward M. Wolkowitz

Represented By  
Carmela Pagay  
Gary E Klausner  
Inge De Bruyn

**Movant(s):**

Edward M. Wolkowitz

Represented By  
Carmela Pagay  
Gary E Klausner  
Inge De Bruyn

**Plaintiff(s):**

WHOSE DOG R U

Represented By  
Leslie A Cohen  
Michael J Plonsker

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**CONT... Orchid Child Productions, LLC**

**Chapter 7**

**Trustee(s):**

Edward M Wolkowitz (TR)

Represented By  
Gary E Klausner  
Carmela Pagay  
Inge De Bruyn

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**2:17-23722 Kody Branch of California, Inc.**

**Chapter 7**

Adv#: 2:19-01466 Avery v. Gia Phu Fashion Garment Co.

**#3.00** Pre Trial Conference re: Complaint for avoidance, recovery,  
and preservation of fraudulent and unauthorized postpetition transfers

fr. 10/6/21, 12/8/21, 1/18/22, 11/15/22, 1/17/23, 3/21/23, 5/23/23, 6/27/23,  
8/15/23, 9/12/23, 11/7/23, 12/12/23

Docket 1

**\*\*\* VACATED \*\*\* REASON: Order continuing matter to 1/30/24 at 2:30  
p.m. ent 1/9/24**

**Tentative Ruling:**

Revised and updated tentative ruling as of 1/8/24. Off calendar. The court on its own motion continues the further pretrial conference to 1/30/24 at 2:30 p.m. by written order to be entered shortly on grounds that the hearing on the related matter of Plaintiff's notice of motion for right to attach order and for issuance of writ of prejudgment attachment is insufficient to meet the statutory requirements of California Code of Civil Procedure Sections 484.040 and 1005(a) and (b). No appearances are required on 1/9/24.

Revised and updated tentative ruling as of 12/6/23. The court has reviewed defendant's status report regarding the status of the applications of its witnesses for visas to appear for trial, stating that the visa applications were filed on 12/1/23 and that the visas will take six months to process. The court requests defendant to explain its six month time estimate as the visas are processed and issued by the U.S. Department of State and the applications have been filed. According to the State Department website, it is now taking only 8 calendar days for a visa interview for a nonimmigrant business visitor visa (B-1 visa) in Ho Chi Minh City. That is, the witnesses having filed their visa applications on 12/1/23 should have a visa interview appointment within 8 calendar days of filing, and decision on the visa applications should be forthcoming shortly thereafter. The documentation requirement for a nonimmigrant business visitor visa application is not onerous as indicated on the State Department's website and should have been met when the visa applications were filed. Thus, the court requires a better explanation from defendant why it estimates six months for processing visas for its witnesses



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**Chapter 7**

as the business purpose of the travel is routine.

Link to State Department visa interview wait times:

<https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/global-visa-wait-times.html>

Link to State Department nonimmigrant visa application documentation requirements:

<https://travel.state.gov/content/travel/en/us-visas/tourism-visit/visitor.html#documentation>

Appearances are required on 12/12/23, but counsel and self-represented parties must appear either in person in the courtroom or remotely through Zoom for Government in accordance with the court's remote appearance instructions.

Prior tentative ruling as of 11/2/23. Having reviewed the joint pretrial stipulation, the court is of the view that it is in proper form and should be approved.

However, the court notes that the parties did not state any evidentiary objections to any of the trial exhibits as required by LBR 7016-1(b)(2)(D), and unless the joint pretrial stipulation is amended, the court will assume that the parties have no objections to the exhibits, and in approving the joint pretrial stipulation, the court will receive all of the exhibits into evidence without objection.

Regarding trial testimony, the court normally requires in a bench trial like this one the submission of direct testimony of nonadverse, cooperative witnesses by trial declarations. See *In re Gergely*, 110 F.3d 1448, 1452 (9th Cir. 1997). It would appear that all of defendant's trial witnesses fall into the category of nonadverse, cooperative witnesses, and the court may require the submission of their direct testimony by declaration. Plaintiff's trial witnesses are adverse, and thus, no direct testimony by declaration would be required. At the pretrial conference, the court will discuss with the parties the

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**Chapter 7**

submission of trial declarations, but notes that there are issues of translation since it appears that the witnesses are not native English speakers as became apparent with the parties' dispute over the submission of declarations from some of these witnesses in opposition to plaintiff's motion for partial summary judgment and with the statement that an interpreter is needed for the testimony of the witnesses at trial. However, since the issues in this case for trial are narrowed by the joint pretrial stipulation to Defendant's defenses, it may be more expedient to dispense with trial declarations and just have the witnesses to testify live.

At the pretrial conference, the court will also discuss with the parties Defendant's request that the witnesses from Vietnam, Dinh Hong and Moc Ly, be allowed to testify remotely on Zoom for Government on grounds that they will need six months time to obtain visas to travel to the United States to testify in person. Plaintiff did not state a position on this request in the joint pretrial statement, though the court notes that both parties are calling the witnesses from Vietnam in their cases-in-chief. In that regard, the court notes Plaintiff did not state whether it will be calling its witnesses to testify in person or on Zoom for Government. In order for the court to allow the witnesses to testify remotely, the court will have to make findings of good cause in compelling circumstances with adequate safeguards in accordance with FRBP 9017 and FRCP 43(a). Defendant should explain the basis for its six month time estimate for visa processing for its witnesses from Vietnam as the time estimate will affect trial scheduling if the witness cannot testify by remote transmission.

Regarding the stated need for an interpreter for the witnesses, the parties should discuss what arrangements that they are making for an interpreter at trial.

Appearances are required on 11/7/23, but counsel and self-represented parties must appear in person or remotely through Zoom for Government in accordance with the court's remote appearance instructions.

Revised tentative ruling as of 9/11/23. No tentative ruling on the merits in light of pending motion for summary judgment. The court will call this matter at the end of the 1:30 p.m. calendar and will advance the related 2:00 p.m.

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hearing on the summary judgment motion if there are no other remaining matters on calendar. Appearances are required on 9/12/23, but counsel and self-represented parties must appear in person or remotely through Zoom for Government in accordance with the court's remote appearance instructions.

Prior tentative ruling. The court has reviewed the parties' joint status report and will set the following pretrial schedule: (1) deadline to file motions to join other parties or to amend the pleadings: 4/30/22; (2) discovery cutoff date: 10/31/22; (3) deadline to file dispositive pretrial motions: 12/31/22; and (3) post-discovery status conference: 11/15/22 at 1:30 p.m. The court will order the matter referred to mediation, and the parties to file a selection of a mediator and an alternate mediator by 6/30/22 and complete mediation by 12/31/22. Plaintiff to lodge a proposed scheduling order within 7 days after the status conference. Appearances are required on 1/18/22, but counsel and self-represented parties must appear through Zoom for Government in accordance with the court's remote appearance instructions.

<b>Party Information</b>
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**Debtor(s):**

Kody Branch of California, Inc.

Represented By  
John-Patrick M Fritz

**Defendant(s):**

Gia Phu Fashion Garment Co.

Pro Se

**Plaintiff(s):**

Wesley H. Avery

Represented By  
David Wood  
D Edward Hays

**Trustee(s):**

Wesley H. Avery

Represented By  
Kristofer R McDonald  
Richard A Marshack  
D Edward Hays

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**Kody Branch of California, Inc.**

David Wood

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**2:17-23722 Kody Branch of California, Inc.**

**Chapter 7**

Adv#: 2:19-01466 Avery et al v. Gia Phu Fashion Garment Co.

**#4.00** Motion for Right to Attach Order and Issuance of  
Writ of Prejudgment Attachment

Docket 112

**\*\*\* VACATED \*\*\* REASON: Order continuing matter to 1/30/24 at 2:30  
p.m. ent 1/9/24**

**Tentative Ruling:**

Revised and updated tentative ruling as of 1/8/24. Off calendar. The court on its own motion continues the hearing to 1/30/24 at 2:30 p.m. by written order to be entered shortly on grounds that Plaintiff's notice of motion is insufficient to meet the statutory requirements of California Code of Civil Procedure Sections 484.040 and 1005(a) and (b). No appearances are required on 1/9/24.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Kody Branch of California, Inc.

Represented By  
John-Patrick M Fritz

**Defendant(s):**

Gia Phu Fashion Garment Co.

Represented By  
Stella A Havkin

**Movant(s):**

Second Generation, Inc.

Represented By  
Ryan Coy

**Plaintiff(s):**

Second Generation, Inc.

Represented By  
Ryan Coy

Wesley H. Avery

Represented By

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David Wood  
D Edward Hays

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
D Edward Hays  
Richard A Marshack  
Kristofer R McDonald  
Jeffrey L Sumpter  
David Wood