

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

**Tuesday, January 30, 2024**

**Hearing Room 1675**

11:00 AM  
**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/1605538567>

**ZoomGov meeting number:** **160 553 8567**

**Password:** **445768**

**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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**2:18-11525 Shahriar Joseph Zargar**

**Chapter 11**

Adv#: 2:18-01144 Shadsirat v. Zargar et al

- #1.00** Status conference re: Complaint  
(1) objecting to dischargeability of debt pursuant to 11 U.S.C. §523(a)(2);  
(2) objecting to dischargeability of debt pursuant to 11 U.S.C. §523(a)(4);  
(3) objecting to dischargeability of debt pursuant to 11 U.S.C. §523(a)(6); and,  
(4) for declaratory relief requesting adjudication of pending state court lawsuits  
  
fr. 6/14/22, 9/13/22, 11/29/22, 3/14/23, 3/28/23, 4/11/23, 5/30/23, 8/22/23,  
10/17/23, 10/24/23, 1/23/24

Docket 1

**Tentative Ruling:**

Updated tentative ruling as of 1/10/24. No tentative ruling on the merits. Appearances are required on 1/30/24, 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 10/19/23. Appearances are required on 10/24/23, 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 10/4/23. The court notes that the matter is on calendar on 10/24/23 on plaintiff's motion for summary judgment. Appearances are required on 10/17/23, 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.

Updated tentative ruling as of 8/10/23. Appearances are required on 8/22/23, 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.

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**CONT... Shahriar Joseph Zargar**

**Chapter 11**

Prior tentative ruling as of 5/24/23. Appearances are required on 5/30/23, 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 4/7/23. The hearing is to discuss the status of the proceedings only. After reviewing the docket, it appears that the court's abstention order of 12/7/18 staying "all applicable deadlines" is still in effect. The court granted plaintiff's abstention motion to allow the state courts to decide the Van Nuys and Los Angeles actions, and the court in this adversary proceeding has conducted status conferences to monitor the state court proceedings. The wording of the abstention order was that all applicable deadlines were stayed, and it appears that the then pending 45 day deadline for plaintiff to file a second amended complaint then due on 12/8/18 was also stayed. The court's review of the docket reflects that there has been no order lifting that stay and restarting the deadline clock for plaintiff to serve and file a second amended complaint. (However, it now appears that the court should issue a formal order lifting the prior stay.) Given the peculiar wording of the abstention order staying deadlines as opposed to proceedings, it does not appear to the court that the stay prevented plaintiff from filing and serving the amended complaint when he did on 2/13/23. The executed summons on the second amended complaint indicates that defendant was served on 2/27/23, and defendant responded by filing and serving his motion to dismiss on 3/21/23 within the 30 day time period for response in the order granting the motion to dismiss. Although a summary judgment motion may be made at any time at least 30 days before the first date set for an evidentiary hearing on the issue for which summary judgment is sought pursuant to FRBP 7056, the court believes that the summary judgment motion should not be heard until the adversary proceeding is at issue resolving defendant's motion to dismiss first since the court and parties need to know what claims are at issue for defendant to meaningfully respond to the summary judgment motion.

The court will discuss setting further proceedings with the parties. The court is of the view that a date for argument on the motion to dismiss should be promptly set. After the pleadings are at issue with the filing of defendant's answer, the court will set a date for hearing on the summary judgment motion.

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**Chapter 11**

Regarding the motion to dismiss, defendant's argument that there is no fiduciary relationship under the federal standard to support a claim under 11 U.S.C. 523(a)(4) appears to be well-taken in the court's tentative view. See Double Bogey, L.P. v. Enea, 794 F.3d 1047 (9th Cir. 2015). However, defendant's argument that the fraud claims to support the 11 U.S.C. 523(a)(2) and (6) claims appear to be hypertechnical in the court's tentative view as the state court in the Van Nuys action described in detail what the conduct was. The conclusiveness of the language in the settlement agreement for the Los Angeles state court action will have to be addressed as there was no express language regarding debt dischargeability. However, the court's tentative views can be discussed at argument on the motion to dismiss.

Appearances are required on 4/11/23, 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 as of 3/22/23. The court notes that plaintiff has filed a motion for summary judgment set for hearing on 4/11/23, but defendants have filed a motion to continue the hearing on plaintiff's motion for summary judgment on 4/11/23 and a motion to dismiss noticed for hearing on 4/18/23. The court will discuss with the parties defendant's continuance motion at the status conference as well as rescheduling the hearing on defendants' motion to dismiss because the Clerk's Office has requested the judges not to conduct hearings during the week of 4/14/23-4/18/23 due to CM/ECF and other software system and security upgrades. See Public Notice 23-004 posted on the court's website on 3/1/23. Otherwise, no tentative ruling on the merits. Appearances are required on 3/28/23, 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 as of 11/22/22. The court notes that this matter is trailing the trial in the contested matters of debtors' objection to amended claim of judgment creditors and judgment creditors' motion to determine secured interest in and turnover of sale proceeds set for further hearing on 12/20/22. No tentative ruling on the merits. Appearances are required on 11/29/22, but counsel and self-represented parties must appear in person or remotely

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**Chapter 11**

through Zoom for Government in accordance with the court's remote appearance instructions.

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

Shahriar Joseph Zargar

Represented By  
Ashley M McDow

**Defendant(s):**

Shahriar Joseph Zargar

Pro Se

Shabnam Mesachi

Pro Se

**Joint Debtor(s):**

Shabnam Mesachi

Represented By  
Ashley M McDow

**Plaintiff(s):**

Behrouz Shadsirat

Represented By  
Rosendo Gonzalez



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**2:18-11525 Shahriar Joseph Zargar**

**Chapter 11**

Adv#: 2:18-01144 Shadsirat v. Zargar et al

**#2.00** Motion for Summary Judgment or in  
alternative Summary Adjudication

fr. 10/24/23; 1/23/24

Docket 90

**Tentative Ruling:**

Updated tentative ruling as of 1/10/24. No tentative ruling on the merits. Appearances are required on 1/30/24, 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 10/23/23. The court notes that the state court's final statement of decision discusses its rulings on plaintiff's claims against defendant at pages 47 to 52. The state court did not find that all of defendant's conduct alleged by plaintiff was actionable fraud, and in finding that some of the action was actionable fraud, the court did not expressly discuss the elements of fraud. Thus, it appears that the state court made implicit findings of the elements of fraud as to some of the alleged misconduct, which this court believes to be identified as meeting the elements of plaintiff's claims under 11 U.S.C. 523(a)(2)(A) and 523(a)(6) based on collateral estoppel. The amount of plaintiff's claims seems to be a matter of res judicata, though the applicable doctrine for the claims under 11 U.S.C. 523(a)(2)(A) and 523(a)(6) would seem to be collateral estoppel. An example of the court's granting of summary judgment on claims under 11 U.S.C. 523(a)(2)(A) and 523(a)(6) based on collateral estoppel and res judicata as to the amount is *Richards v. Bishop* (In re Bishop), Case No. 2:16-bk-16503-RK Chapter 7, Adv. No. 2:16-ap-01383-RK, 2018 WL 1069145 (Bankr. C.D. Cal. Feb. 22, 2018)(statement of of uncontroverted facts and conclusions of law on plaintiffs' motion for summary judgment, which is posted as an opinion on

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**CONT...**      **Shahriar Joseph Zargar**  
the court's website).

**Chapter 11**

Updated tentative ruling as of 10/19/23. As recognized in *Plyam v. Precision Development, LLC* (In re *Plyam*), 530 B.R. 456 (9<sup>th</sup> Cir. BAP 2015), a bankruptcy court may rely upon the issue preclusive effect of an existing state court judgment as the basis for granting summary judgment, but in so doing, the bankruptcy court must apply the forum state's law of issue preclusion. *Id.* at 462. In California, application of issue preclusion requires that: (1) the issue sought to be precluded from relitigation is identical to that decided in a former proceeding; (2) the issue was actually litigated in the former proceeding; (3) the issue was necessarily decided in the former proceeding; (4) the decision in the former proceeding is final and on the merits; and (5) the party against whom preclusion is sought was the same as, or in privity with, the party to the former proceeding. *Id.*, citing *Lucido v. Superior Court*, 51 Cal.3d 335, 341 (1990). In California, additional limitation on issue preclusion must be addressed, that is, courts may give preclusive effect to a judgment only if application of preclusion furthers the public policies underlying the doctrine. *Id.*, citing *Harmon v. Kobrin* (In re *Harmon*), 250 F.3d 1240, 1245 (9<sup>th</sup> Cir. 2001). As the Bankruptcy Appellate Panel further observed in *In re Plyam*, the party asserting preclusion bears the burden of establishing the threshold requirements, that this means providing a record sufficient to reveal the controlling facts and pinpoint the exact issues litigated in the prior action and that ultimately, any reasonable doubt as to what was decided by a prior judgment should be resolved against allowing the issue preclusive effect. *Id.*

It is up to movant to meet this burden in order for the court to grant summary judgment based on issue preclusion, and this must be shown in movant's statement of uncontroverted facts and conclusions of law pursuant to Local Bankruptcy Rule 7056-1 as the court will have to adopt a statement of uncontroverted facts and conclusions of law to support any granting of summary judgment. Movant's statement of uncontroverted facts and conclusions of law does not discuss how the elements of issue preclusion under California law are met with respect to his claims under 11 U.S.C. 523(a)(2)(A) and 523(a)(6). That is, movant must show that the standard of issue preclusion is met as to each element of his claims under 11 U.S.C.

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**Chapter 11**

523(a)(2)(A) and 523(a)(6). The elements of 11 U.S.C. 523(a)(2)(A) and 523(a)(6) are not discussed in movant's statement of uncontroverted facts and conclusions of law, that is, movant has not shown that the findings of state court in the prior action are entitled to issue preclusive effect as to each element of both claims. It is up to the movant to show how these elements of his claims are satisfied as he has the burden of showing that he is entitled to summary judgment under Federal Rule of Bankruptcy Procedure 7056. The stated uncontroverted facts are too conclusory for this court to adopt in determining that there are no genuine issues of material fact regarding the elements of movant's claims in this adversary proceeding. Just saying it was fraud is too conclusory to show that the findings that supported a determination of fraud in the state court support a determination in the adversary proceeding as it has not been shown that the elements of the fraud claim under 11 U.S.C. 523(a)(2)(A) or of the willful injury claim under 11 U.S.C. 523(a)(6) are met. The specific violative conduct that the state court found should be identified in the stated uncontroverted facts, and not just fraud or breach of fiduciary duty in general.

Regarding the evidentiary objections interposed by defendant, the court was inclined to deny them as the operative exhibits are the state court complaint and the decision documents of the state court, the authenticity of which are not in dispute.

The court could either give movant an opportunity to properly support the uncontroverted facts to establish each element of his claims pursuant to Federal Rule of Civil Procedure 56(e)(1) or deny the motion without prejudice for failure to make the required showing as required by Federal Rule of Civil Procedure 56(a).

Appearances are required on 10/24/23, 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.

<b>Party Information</b>
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**CONT... Shahriar Joseph Zargar**

**Chapter 11**

**Debtor(s):**

Shahriar Joseph Zargar

Represented By  
Raymond H. Aver

**Defendant(s):**

Shahriar Joseph Zargar

Represented By  
Raymond H. Aver

Shabnam Mesachi

Represented By  
Raymond H. Aver

**Joint Debtor(s):**

Shabnam Mesachi

Represented By  
Raymond H. Aver

**Movant(s):**

Behrouz Shadsirat

Represented By  
Rosendo Gonzalez

**Plaintiff(s):**

Behrouz Shadsirat

Represented By  
Rosendo Gonzalez

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**2:16-24931 Anthony Roy Martinez**

**Chapter 7**

Adv#: 2:17-01158 Carter et al v. Martinez

**#3.00** Status conference re: Complaint to except debt from discharge for willful and malicious injury and as money obtained under false pretenses; fraud  
[11 U.S.C. § 523 (a)2)(A) & (6)]

fr. 3/22/22, 5/24/22, 8/9/22, 11/29/22, 3/28/23, 5/2/23,  
8/15/23, 10/17/23, 11/14/23

Docket 1

**Tentative Ruling:**

Updated tentative ruling as of 1/26/24. Off calendar. The court has reviewed the parties' joint status report filed on 1/25/24, stating that the trial in defendant's state court criminal case has commenced, but is not yet concluded, and requesting a continuance to a date in March 2024 after the expected conclusion of the criminal trial as the outcome may have an impact on this matter. The court on its own motion continues the status conference on 1/30/24 to 3/26/24 at 1:30 p.m. Counsel for plaintiffs to notify counsel for defendant of the continuance. No appearances are required on 1/30/24.

Prior Revised and updated tentative ruling as of 11/13/23. Off calendar. Having reviewed the joint status report on 11/11/23 reporting that defendant's criminal trial is now set for 12/4/23 and the outcome may affect this matter, the court on its own motion continues the status conference to 1/30/24 at 1:30 p.m. and will issue a written order. No appearances are required on 11/14/23.

Prior tentative ruling as of 10/15/23. Off calendar. Having read the parties' joint status update filed on 10/12/23, the court continues the status conference to 11/14/23 at 1:30 p.m. in light of the continuance of the criminal trial setting hearing to 10/25/23. The court will enter a written order for continuance. No appearances are required on 10/17/23.

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**CONT... Anthony Roy Martinez**

**Chapter 7**

Prior tentative ruling as of 8/9/23. Appearances are required on 8/15/23, 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 5/1/23. Off calendar. Having reviewed the joint status report filed on 5/1/23, the court on its own motion continues the status conference to 8/15/23 at 1:30 p.m. No appearances are required on 5/2/23.

Prior tentative ruling as of 3/27/23. The court has reviewed the joint status report filed on 3/27/23, requesting that the status conference be continued after the preliminary hearing in defendant's state court criminal case scheduled for January 17, 2023, presumably meaning April 20, 2023 which was the date they stated was the new continued date of hth preliminary hearing. Otherwise, no tentative ruling on the merits. Appearances are required on 3/28/23, 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.

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

Anthony Roy Martinez

Represented By  
Christian T Kim

**Defendant(s):**

Anthony Roy Martinez

Pro Se

**Plaintiff(s):**

Lance Carter

Represented By  
Dana M Douglas

Jean Holmes

Represented By  
Dana M Douglas

Carriage Estates LLC

Represented By  
Dana M Douglas

Adamantine Investments LLC

Represented By

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**CONT... Anthony Roy Martinez**

**Chapter 7**

Dana M Douglas

Sterling Holdings LLC

Represented By  
Dana M Douglas

Lance Carter IRA 419990

Pro Se

**Trustee(s):**

Wesley H Avery (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

**#4.00** Status conference re: Complaint for declaratory relief and for  
injunctive, equitable relief relating thereto

fr. 12/13/22, 12/20/22, 1/3/23, 1/24/23, 3/14/23, 6/27/23, 8/22/23,  
9/19/23 11/7/23, 11/14/23

Docket 1

**\*\*\* VACATED \*\*\* REASON: Order continuing S/C to 2/27/24 @ 1:30  
p.m. ent. 1/17/24**

**Tentative Ruling:**

Updated tentative ruling as of 1/17/24. Off calendar. Continued to 2/27/24 at 1:30 p.m. by prior order on the court's own motion. No appearances are required on 1/30/24.

Prior tentative ruling as of 11/7/23. Appearances are required on 11/14/23, 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. Pursuant to the request of counsel for plaintiff to reschedule the hearings in this matter from 2:00 p.m. to 3:00 p.m. due to a schedule conflict of having to appear at 2:00 p.m. before another judge of this court, based on her representation that she has consent of opposing counsel to make this request, the court on its own motion will reschedule the hearings in this matter from 2:00 p.m. to 3:00 p.m. Counsel for plaintiff has been instructed by the court to lodge a proposed order, which has now been approved and entered.

Appearances are required on 11/7/23 at 3:00 p.m. rather than 2:00 p.m. as originally scheduled, 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 as of 9/13/23. As the court recalls, based on the



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

**Chapter 7**

agreement of the parties, the adversary proceeding has been held in abeyance pending a decision of the Bankruptcy Appellate Panel's decision on Whose Dog's appeal of the court's stay relief denial order. Now that the Bankruptcy Appellate Panel rendered its decision on the appeal on 9/7/23, the court should set a date for final argument and decision on Whose Dog's motion to amend. Once the court rules on the motion to amend, the court believes that it should set a pretrial litigation schedule in this adversary proceeding since it is long pending, two years in October.

Prior tentative ruling. The court has reviewed the trustee's unilateral status conference statement on 8/18/23 in which he provided his view on the impact of the recent Supreme Court decision in *Coinbase, Inc. v. Bielski*, 599 U.S. \_\_\_, 143 S.Ct. 1915 (2023). Although the court has now heard from the trustee in writing about the Coinbase case, the court has not had the benefit of the views of Whose Dog in writing how Coinbase applies in this bankruptcy case. Procedurally, the only matter before the court on 8/22/23 is the adversary proceeding in which Whose Dog's motion to amend complaint is pending. The main bankruptcy case and Whose Dog's appeal of the court's order on its stay relief motion are not before the court on 8/22/23, although the parties have agreed to continue the hearings in the adversary proceeding pending the Bankruptcy Appellate Panel's decision on Whose Dog's appeal. As the trustee observes out in his status conference statement, there is no motion for stay pending appeal in the main bankruptcy case for the court to address the issue of whether there should be a stay of bankruptcy proceedings pending Whose Dog's appeal. In his status conference statement, the trustee urges that the court rule that bankruptcy proceedings are not automatically stayed pending Whose Dog's current appeal at the BAP or in any subsequent appeal. It is the court's view that such a ruling would be premature as there is no proper motion with appropriate briefing and argument now before the court for it to address the issue. Appearances are required on 8/22/23, 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 6/26/23. No tentative ruling on the merits. Parties should report on the status of the mediation, their settlement negotiations and the pending appeal of the court's stay relief denial order before the BAP.

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

**Chapter 7**

Appearances are required on 6/27/23, 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 3/8/23. No tentative ruling on the merits. Appearances are required on 3/14/23, 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.

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

**Debtor(s):**

Orchid Child Productions, LLC

Represented By  
Sanaz Sarah Bereliani  
David B Lally

**Defendant(s):**

Edward M. Wolkowitz

Pro Se

**Plaintiff(s):**

WHOSE DOG R U

Represented By  
Leslie A Cohen

**Trustee(s):**

Edward M Wolkowitz (TR)

Represented By  
Gary E Klausner  
Carmela Pagay

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**2:12-16195 David Alan Wilson**

**Chapter 7**

Adv#: 2:12-01317 McKnew, Thomas I. IV et al v. Wilson

**#5.00** Status Conference on Application of Judgment Creditor  
Thomas I. McKnew Iv re: 24352 Santa Clara Avenue,  
Dana Point, CA 92629 & related to OSC

FR. 10/10/23, 10/17/23, 10/31/23, 11/28/23, 12/5/23  
1/16/24

Docket 766

**Tentative Ruling:**

No updated tentative ruling as of 1/17/24. Appearances are required on 1/30/24, 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 posted online on the court's website.

Prior tentative ruling as of 1/9/24. Appearances are required on 1/16/24, 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 posted online on the court's website.

Prior tentative ruling as of 11/28/23. Appearances are required on 12/5/23, 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 posted online on the court's website.

Prior tentative ruling as of 10/27/23. Appearances are required on 10/31/23, 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 10/12/23. After the status conference on 10/10/23, counsel were to confer regarding possible settlement discussions and trial scheduling and must appear to report on their discussions, and if they are not

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**CONT...**

**David Alan Wilson**

**Chapter 7**

pursuing settlement negotiations, to discuss scheduling of the evidentiary hearing in this contested matter. Appearances are required on 10/17/23, 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 9/29/23. The parties should appear to discuss scheduling of the evidentiary hearing in this contested matter. Appearances are required on 10/10/23, 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.

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

**Debtor(s):**

David Alan Wilson

Represented By  
Michael N Nicastro  
Christina M Chan  
Eryk R Escobar

**Defendant(s):**

David A Wilson

Represented By  
Jon-Michael A Marconi  
James Andrew Hinds Jr  
David Samuel Shevitz  
Christopher A Dias  
Peter M Lively

**Plaintiff(s):**

McKnew, Thomas I. IV

Represented By  
James Andrew Hinds Jr  
Paul R Shankman  
Hye Jin Jang  
Brian Barouir Yeretizian  
Rachel M Sposato  
Michael A Wallin

Lisa A McKnew

Represented By

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**CONT...**

**David Alan Wilson**

**Chapter 7**

James Andrew Hinds Jr  
Paul R Shankman  
Hye Jin Jang  
Brian Barouir Yeretizian  
Rachel M Sposato

**Trustee(s):**

Weneta M Kosmala (TR)

Represented By  
Thomas H Casey

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**2:17-15033 Shapphire Resources, LLC**

**Chapter 11**

**#6.00** Status conference re: Post confirmation of plan

fr. 7/14/22, 8/30/22, 9/20/22, 11/8/22, 1/24/23, 4/25/23,  
6/27/23, 9/19/23

Docket 1

**Tentative Ruling:**

Updated tentative ruling as of 1/10/24. No tentative ruling on the merits. Appearances are required on 1/30/24, 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 9/6/23. No tentative ruling on the merits. Appearances are required on 9/19/23, 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 6/22/23. No tentative ruling on the merits. Appearances are required on 6/27/23, 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 4/17/23. No tentative ruling on the merits. Appearances are required on 4/25/23, 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 1/19/23. No tentative ruling on the merits. Appearances are required on 1/24/23, but counsel and self-represented parties must appear either in person in the courtroom or remotely through

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**CONT... Shapphire Resources, LLC**

**Chapter 11**

Zoom for Government in accordance with the court's remote appearance instructions.

Prior tentative ruling as of 11/1/22. Secured creditor has filed a notice of plan default, asserting plan arrearages approximating \$19,000. Debtor will need to address the notice of default. Appearances are required on 11/8/22, 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.

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

**Debtor(s):**

Shapphire Resources, LLC

Represented By  
Raymond H. Aver

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**Hearing Room 1675**

1:30 PM

**2:18-11475 Catherine Trinh**

**Chapter 11**

**#7.00** Status conference re: Post confirmation of plan

fr. 5/10/22, 7/14/22, 10/18/22, 1/24/23, 5/23/23, 9/5/23,  
9/19/23

Docket 478

**Tentative Ruling:**

Updated tentative ruling as of 1/10/24. No tentative ruling on the merits. Appearances are required on 1/30/24, 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 9/6/23. Plan trustee or his counsel should report on the current status of plan trust administration, including the status of pending litigation. Appearances are required on 9/19/23, 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.

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

Catherine Trinh

Represented By  
Alan W Forsley



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**2:20-18801 Hollywood for Children, Inc., a New York non-profi**

**Chapter 11**

**#8.00 Confirmation Of Plan Of Reorganization  
and Related Voting and Confirmation Procedures**

fr. 9/26/23

Docket 127

**Tentative Ruling:**

Updated tentative ruling as of 1/10/24. No tentative ruling on the merits. Appearances are required on 1/30/24, 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.

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

**Debtor(s):**

Hollywood for Children, Inc., a New

Represented By

Daniel A Lev

Christie, Manson & Woods

**Movant(s):**

Hollywood for Children, Inc., a New

Represented By

Daniel A Lev

Daniel A Lev

Christie, Manson & Woods

Christie, Manson & Woods

Hollywood for Children, Inc., a New

Represented By

Daniel A Lev

Daniel A Lev

Christie, Manson & Woods

Christie, Manson & Woods

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**CONT... Hollywood for Children, Inc., a New York non-profi**

**Chapter 11**

**Trustee(s):**

Andrew W. Levin (TR)

Pro Se

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**2:20-18801 Hollywood for Children, Inc., a New York non-profi**

**Chapter 11**

**#9.00** Motion For Order Further Continuing Hearing Re  
Confirmation Of Debtor And Debtor In Possession's Plan  
Of Reorganization and Related Voting And Confirmation Procedures

fr. 9/12/23

Docket 133

**Tentative Ruling:**

No tentative ruling as of 1/10/24. Appearances are required on 1/30/24, 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.

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

**Debtor(s):**

Hollywood for Children, Inc., a New

Represented By

Daniel A Lev

Christie, Manson & Woods

**Trustee(s):**

Andrew W. Levin (TR)

Pro Se

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**2:20-18801 Hollywood for Children, Inc., a New York non-profi**

**Chapter 11**

**#10.00** Motion for Order Further Continuing Hearing Re Confirmation of  
Debtor and Debtor in Possessions Plan of Reorganization and  
Related Voting and Confirmation Procedures

Docket 167

**Tentative Ruling:**

No tentative ruling as of 1/10/24. Appearances are required on 1/30/24, 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.

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

**Debtor(s):**

Hollywood for Children, Inc., a New

Represented By

Daniel A Lev

Christie, Manson & Woods

**Movant(s):**

Hollywood for Children, Inc., a New

Represented By

Daniel A Lev

Daniel A Lev

Christie, Manson & Woods

Christie, Manson & Woods

**Trustee(s):**

Andrew W. Levin (TR)

Pro Se

**United States Bankruptcy Court  
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**2:13-14135 Art and Architecture Books of the 21st Century**

**Chapter 11**

**#11.00** Cont'd status conference re: Post confirmation of plan

fr. 1/6/22, 7/13/22, 7/14/22, 11/15/22, 3/14/23, 5/23/23, 7/18/23, 9/26/23.

Docket 1

**Tentative Ruling:**

No tentative ruling as of 1/10/24. Appearances are required on 1/30/24, 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.

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

**Debtor(s):**

Art and Architecture Books of the

Represented By  
Thomas M Geher  
David W. Meadows  
Jerome S Cohen  
Carolyn A Dye

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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.

**#12.00** 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, 1/9/24

Docket 1

**\*\*\* VACATED \*\*\* REASON: Order cont to 2/13/24 at 1:30 p.m. ent.  
1/29/24**

**Tentative Ruling:**

Updated tentative ruling as of 1/29/24. Off calendar. Continued by stipulation and order to 2/13/24 at 1:30 p.m. No appearances are required on 1/30/24.

Prior tentative ruling as of 1/8/24. 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

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**Chapter 7**

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 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

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**Chapter 7**

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 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.



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**Chapter 7**

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. 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>
--------------------------

**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

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Kristofer R McDonald  
Richard A Marshack  
D Edward Hays  
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.

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

fr, 1/9/24

Docket 112

**\*\*\* VACATED \*\*\* REASON: Order cont to 2/13/24 at 1:30 p.m. ent.  
1/29/24**

**Tentative Ruling:**

Revised and updated tentative ruling as of 1/29/24. Off calendar. Continued by stipulation and order to 2/13/24 at 1:30 p.m. No appearances are required on 1/30/24.

Prior tentative ruling as of 1/16/24.

Deny Plaintiff's motion for right to attach order and issuance of writ of prejudgment.

Whether a preference claim under 11 U.S.C. § 547 may serve as the basis for a prejudgment attachment under California law appears to be an issue of first impression. Neither party in its briefing so far has cited any case law holding that a prejudgment attachment may be based on a preference claim to meet the requirement of California Code of Civil Procedure § 483.010(a) that an attachment "may be issued only in an action on a claim or claims for money, each of which is based upon a contract, express or implied . . . ."

An attachment under California law is purely statutory, and as such, the attachment statutes are strictly construed. *VFS Financing, Inc. v. CHF Express, Inc.*, 620 F.Supp.2d 1092, 1095 (C.D. Cal. 2009); *see also*, *Ponsonby v. Sacramento Suburban Fruit Lands Co.*, 210 Cal. 229, 232 (1930); *Stowe v. Matson*, 94 Cal.App.2d 678, 683-684 (1949).

A preference claim promotes a central policy of the Bankruptcy Code for equality of distribution among creditors, that is, creditors of equal priority

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should receive pro rata shares of the debtor's property in the bankruptcy estate. See *Begier v. I.R.S.*, 496 U.S. 53, 57 (1990). As the United States Supreme Court observed in *Begier*, "Section 547(b) furthers this policy by permitting a trustee in bankruptcy to avoid certain preferential payments made before the debtor files for bankruptcy" and "[t]his mechanism prevents the debtor from favoring one creditor over others by transferring property shortly before filing for bankruptcy." *Id.*

Plaintiff's preference claim under 11 U.S.C. § 547 is not "based on any contractual obligation, but upon the theory that a wrongful act has been committed which interferes with the rights of other creditors". *Cate v. Stapleton*, 43 Cal.App.2d 492, 496 (1941) (holding that a preference claim under the former Bankruptcy Act sounded in tort rather than in contract determining venue under California Code of Civil Procedure § 395). In discussing why the court in *Cate v. Stapleton* held that the basis of a preference claim is tortious rather than contractual and thus that a venue provision based on where a contract was performed was not applicable, it stated:

. . . In practical effect the action sounds more in tort than in contract, being based upon the wrongful act of the parties, resulting in harm to others, when they had knowledge of the conditions at the time they acted. The duty to return the property arises from the express provisions of the statute irrespective of any contract, express or implied. In so far as any contractual relationship is concerned, rather than being based upon the performance of an obligation, the action is more in the nature of one to set aside a contract as expressly forbidden by the statute under the existing circumstances.

*Id.* That is, as stated by another California appellate court, "an action sound[s] in tort rather than in contract because it seeks damages for a violation of a duty imposed by statute." *Young v. Bank of America*, 141 Cal.App.3d 108, 113 (1983). Plaintiff's preference claim seeks damages for a violation of the duty imposed by the Bankruptcy Code in 11 U.S.C. § 547 not to receive a transfer from the debtor which is preferential as to other creditors. Although the observations of the court in *Cate v. Stapleton* related to a

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preference claim under the former Bankruptcy Act, it does not appear that the underlying policy for preference claims changed when the modern Bankruptcy Code was adopted in 1978, the *Cate v. Stapleton* court's observations that a preference claim as tortious rather than contractual in seeking damages for violation of a statutory duty are thus applicable here. See Countryman, "The Concept of a Voidable Preference in Bankruptcy," 38 *Vanderbilt Law Review* 713 (May 1985) (accessed online on Lexis/Nexis on January 3, 2024).

Because the attachment statutes are strictly construed, including the requirement that under California Code of Civil Procedure § 483.010 that a claim must be contract-based for an attachment, Plaintiff's attachment motion based on its preference claim must be denied because attachment does not apply to a noncontract tort based claim, such as Plaintiff's preference claim. See, e.g., *Stowe v. Matson*, 94 Cal.App. at 683 ("An attachment may not issue in an action founded on tort . . .").

Appearances are required on 1/30/24, 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 1/8/24. 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>
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**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

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

**Tuesday, January 30, 2024**

**Hearing Room 1675**

2:30 PM

**CONT... Kody Branch of California, Inc.**

**Chapter 7**

**Movant(s):**

Second Generation, Inc.

Represented By  
Ryan Coy

**Plaintiff(s):**

Wesley H. Avery

Represented By  
David Wood  
D Edward Hays

Second Generation, Inc.

Represented By  
Ryan Coy

**Trustee(s):**

Wesley H Avery (TR)

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

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

**Tuesday, January 30, 2024**

**Hearing Room 1675**

2:30 PM

**2:15-25283 Arturo Gonzalez**

**Chapter 7**

Adv#: 2:16-01037 Avery v. Gonzalez

**#14.00** Motion to Reconsider Order Denying  
Defendant's Motion to Vacate "Order 18"

fr. 8/8/23, 8/29/23, 9/26/23, 10/31/23, 12/5/23

Docket 237

**\*\*\* VACATED \*\*\* REASON: Cont'd to 2/27/24 at 2:30pm**

**Tentative Ruling:**

Off calendar. Continued to 2/27/24 at 2:30 p.m. by prior order. No  
appearances are required on 1/30/24.

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

Arturo Gonzalez	Pro Se
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**Defendant(s):**

Arturo Gonzalez	Pro Se
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**Movant(s):**

Arturo Gonzalez	Pro Se
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**Plaintiff(s):**

Wesley H. Avery	Represented By Brett B Curlee
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**Trustee(s):**

Wesley H Avery (TR)	Represented By Dennis E McGoldrick
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Robert Kwan, Presiding  
Courtroom 1675 Calendar**

**Tuesday, January 30, 2024**

**Hearing Room 1675**

2:30 PM

**2:15-25283 Arturo Gonzalez**

**Chapter 7**

Adv#: 2:16-01037 Avery v. Gonzalez

**#15.00** Motion to vacate docket 124, (1) "Fraud upon the court" pursuant to FRBP 9024. (2) Motion to vacate docket 124 pursuant to FRBP 4003(b)(2). For debtor's attorney "fraudulently asserting" exemptions at the adversary hearing on February 17, 2016

fr. 9/26/23, 10/31/23, 12/5/23

Docket 247

**\*\*\* VACATED \*\*\* REASON: Cont'd to 2/27/24 at 2:30pm**

**Tentative Ruling:**

Off calendar. Continued to 2/27/24 at 2:30 p.m. by prior order. No appearances are required on 1/30/24.

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

Arturo Gonzalez	Pro Se
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**Defendant(s):**

Arturo Gonzalez	Pro Se
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**Plaintiff(s):**

Wesley H. Avery	Pro Se
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**Trustee(s):**

Wesley H Avery (TR)	Represented By Dennis E McGoldrick
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Robert Kwan, Presiding  
Courtroom 1675 Calendar**

**Tuesday, January 30, 2024**

**Hearing Room 1675**

2:30 PM

**2:15-25283 Arturo Gonzalez**

**Chapter 7**

Adv#: 2:16-01037 Avery v. Gonzalez

**#16.00** Motion to Revised Docket 124 Adversary Conclusion Due to the  
Honorable Judge Kwan Revising Docket.  
fr. 12/5/23

Docket 251

**\*\*\* VACATED \*\*\* REASON: Cont'd to 2/27/24 at 2:30pm**

**Tentative Ruling:**

Off calendar. Continued to 2/27/24 at 2:30 p.m. by prior order. No  
appearances are required on 1/30/24.

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

Arturo Gonzalez	Pro Se
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**Defendant(s):**

Arturo Gonzalez	Pro Se
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**Plaintiff(s):**

Wesley H. Avery	Pro Se
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**Trustee(s):**

Wesley H Avery (TR)	Represented By Dennis E McGoldrick
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Robert Kwan, Presiding  
Courtroom 1675 Calendar**

**Tuesday, January 30, 2024**

**Hearing Room 1675**

2:30 PM

**2:15-25283 Arturo Gonzalez**

**Chapter 7**

Adv#: 2:16-01037 Avery v. Gonzalez

**#17.00** Motion to Revise Docket 124 Adversary Conclusion due to the  
Honorable Judge Kwan revising docket

fr. 12/5/23

Docket 256

**\*\*\* VACATED \*\*\* REASON: Cont'd to 2/27/24 at 2:30pm**

**Tentative Ruling:**

Off calendar. Continued to 2/27/24 at 2:30 p.m. by prior order. No  
appearances are required on 1/30/24.

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

Arturo Gonzalez

Pro Se

**Defendant(s):**

Arturo Gonzalez

Pro Se

**Plaintiff(s):**

Wesley H. Avery

Pro Se

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Dennis E McGoldrick

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

**Tuesday, January 30, 2024**

**Hearing Room 1675**

2:30 PM

**2:15-25283 Arturo Gonzalez**

**Chapter 7**

Adv#: 2:16-01037 Avery v. Gonzalez

**#18.00** Motion to Revised Docket 124 Adversary Conclusion due to the Honorable Judge Kwan revising docket.

fr. 9/26/23, 10/31/23, 12/5/23

Docket 259

**\*\*\* VACATED \*\*\* REASON: Cont'd to 2/27/24 at 2:30pm**

**Tentative Ruling:**

- NONE LISTED -

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

Arturo Gonzalez	Pro Se
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**Defendant(s):**

Arturo Gonzalez	Pro Se
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**Movant(s):**

Arturo Gonzalez	Pro Se
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**Plaintiff(s):**

Wesley H. Avery	Pro Se
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**Trustee(s):**

Wesley H Avery (TR)	Represented By Dennis E McGoldrick
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**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Robert Kwan, Presiding  
Courtroom 1675 Calendar**

**Tuesday, January 30, 2024**

**Hearing Room 1675**

2:30 PM

**2:15-25283 Arturo Gonzalez**

**Chapter 7**

**#19.00** Motion to hold a special meeting due to debtor's former attorney comment, "Court's should note, trustee doesn't approach the court with clean hands" "The Honorable Judge Kwan has the authority to preserve the integrity of the judicial process and to have officers of the court respect it.

fr.8/29/23, 9/26/23, 10/31/23, 12/5/23

Docket 779

**\*\*\* VACATED \*\*\* REASON: Cont'd to 2/27/24 at 2:30pm**

**Tentative Ruling:**

Off calendar. Continued to 2/27/24 at 2:30 p.m. by prior order. No appearances are required on 1/30/24.

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

Arturo Gonzalez

Pro Se

**Movant(s):**

Arturo Gonzalez

Pro Se

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Dennis E McGoldrick

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

**Tuesday, January 30, 2024**

**Hearing Room 1675**

2:30 PM

**2:15-25283 Arturo Gonzalez**

**Chapter 7**

**#20.00** Motion to hold a special meeting due to debtor's former attorney comment, "Court should note, trustee does not approach the court with clean hands. Judge Kwan has the authority to preserve the integrity of the judicial process and to have officers of the court respect it.

fr 8/29/23, 9/26/23, 10/31/23, 12/5/23

***(might be duplicate motion - will check with judge)***

Docket 783

**\*\*\* VACATED \*\*\* REASON: Cont'd to 2/27/24 at 2:30pm**

**Tentative Ruling:**

Off calendar. Continued to 2/27/24 at 2:30 p.m. by prior order. No appearances are required on 1/30/24.

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

Arturo Gonzalez

Pro Se

**Movant(s):**

Arturo Gonzalez

Pro Se

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Dennis E McGoldrick

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

**Tuesday, January 30, 2024**

**Hearing Room 1675**

2:30 PM

**2:15-25283 Arturo Gonzalez**

**Chapter 7**

**#21.00** Motion and Notice of Motion to Vacate  
Docket 364 for "Fraud upon the Court"

fr.10/31/23, 12/5/23

Docket 788

**\*\*\* VACATED \*\*\* REASON: Cont'd to 2/27/24 at 2:30pm**

**Tentative Ruling:**

Off calendar. Continued to 2/27/24 at 2:30 p.m. by prior order. No  
appearances are required on 1/30/24.

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

Arturo Gonzalez

Pro Se

**Movant(s):**

Arturo Gonzalez

Pro Se

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Dennis E McGoldrick

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

**Tuesday, January 30, 2024**

**Hearing Room 1675**

2:30 PM

**2:15-25283 Arturo Gonzalez**

**Chapter 7**

**#22.00** Motion and Notice of Motion for: 1. motion for U.S. Trustee to vacate docket 124 because it was a fraudulent asserted exemption when debtor's attorney made the exemption 2. U.S Trustee has the duty and authority to unwind this fraud FRBP Rule 4003(b)(2) Filed by Debtor Arturo Gonzalez (PP) [EDB] Modified on 9/26/2023 (PP).

fr. 12/5/23, 1/30/24

Docket 791

**\*\*\* VACATED \*\*\* REASON: Cont'd to 2/27/24 at 2:30pm**

**Tentative Ruling:**

Off calendar. Continued to 2/27/24 at 2:30 p.m. by prior order. No appearances are required on 1/30/24.

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

Arturo Gonzalez

Pro Se

**Movant(s):**

Arturo Gonzalez

Pro Se

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Dennis E McGoldrick

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

**Tuesday, January 30, 2024**

**Hearing Room 1675**

2:30 PM

**2:15-25283 Arturo Gonzalez**

**Chapter 7**

**#23.00** Motion and Notice of Motion for: 1. Judge Kwan to recuse himself for demonstrating prejudice towards debtor in all his rulings as they were all "Frauds upon the Court"  
2. Removal of Judge Kwan for Contributing to the "Thefts" of Long Beach Realty Corporation and debtor's property.  
3. This motion is being made pursuant to 28 U.S. Code 455. 4. Removal of Trustee Wesley H. Avery for fraud and damage to the estate.  
fr. 12/5/23

Docket 798

**\*\*\* VACATED \*\*\* REASON: Cont'd to 2/27/2024 at 2:30pm**

**Tentative Ruling:**

Off calendar. The motion to recuse Judge Kwan has been transferred to Judge Russell. The hearing on the motion to remove the trustee is continued to 2/27/24 at 2:30 p.m. by prior order. No appearances are required on 1/30/24.

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

Arturo Gonzalez

Pro Se

**Movant(s):**

Arturo Gonzalez

Pro Se

**Trustee(s):**

Wesley H Avery (TR)

Represented By  
Dennis E McGoldrick