

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

**Tuesday, October 1, 2024**

**Hearing Room 1675**

10:30 AM  
**2:00-00000**

**Chapter 0**

**#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-calendar 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/1604486484>**

**ZoomGov meeting number: 160 448 6484**

**Password: 303779**

**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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**2:20-15358 KNY Clothing, Inc.**

**Chapter 7**

**#1.00** Chapter 7 Trustee's Final Report,  
and Application for Compensation  
(Rosendo Gonzalez)

Docket 40

**Tentative Ruling:**

Approve the trustee's final report and fee application for the reasons stated in the final report and fee application and for lack of timely written opposition. Appearances are required on 10/1/24, 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.

**Party Information**

**Debtor(s):**

KNY Clothing, Inc.

Represented By  
Hyong C Kim

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

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**2:20-15358 KNY Clothing, Inc.**

**Chapter 7**

**#2.00** Application for Compensation  
and Reimbursement  
(Samuel R. Biggs, CPA)

Docket 38

**Tentative Ruling:**

Approve the final fee application of the accountant for the trustee for the reasons stated in the final fee application and for lack of timely written opposition. Appearances are required on 10/1/24, 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>
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**Debtor(s):**

KNY Clothing, Inc.

Represented By  
Hyong C Kim

**Movant(s):**

SLBiggs

Pro Se

**Trustee(s):**

Rosendo Gonzalez (TR)

Pro Se

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**2:18-11525 Shahriar Joseph Zargar and Shabnam Mesachi**

**Chapter 7**

**#3.00** Pre-Trial conference re: Objection to amended claim of Michael Zargar, Abdollah Zargar and Akhtar Davidi [Claim no. 8] (*Evidentiary Hearing*)

fr. 8/19/22, 10/14/22, 12/20/22, 3/14/23, 3/28/23, 4/11/23, 6/13/23, 8/22/23, 10/17/23, 12/12/23, 2/27/24, 6/4/24, 6/25/24, 9/17/24, 9/24/24

Docket 344

**\*\*\* VACATED \*\*\* REASON: Stip & Order ent. 9/30/24 Continuing to 11/5/24 @ 10:30 a.m.**

**Tentative Ruling:**

Updated tentative ruling as of 9/30/24 at 12:30 p.m. Off calendar. In light of the parties' stipulation just filed tentatively resolving the contested matter, the court has ordered that the pretrial conference and the hearing on the order to show cause re: sanctions be continued to 11/5/24 at 10:30 a.m. pending Debtors' filing a notice of dismissal of their claim objection. No appearances are required on 10/1/24.

Supplemental tentative ruling as of 9/23/24. According to debtors' counsel, Raymond Aver, in his response to the OSC filed on 9/20/24, the parties had stipulated to an amount of the claim at a prior session of trial, but there is no written order on the contested matter to that effect. However, as stated at prior hearings, creditors want additional fees and costs, and there is no written order determining such additional amounts of the claim. The purpose of the trial is determine these amounts as of this date in order to resolve the contested matter. Either creditors are claiming additional amounts or they are not, this is not clear, and the objection to the amended claim, this contested matter, is not resolved. Counsel must participate to conclude the matter. It is no excuse as the court stated at the status conference on 6/25/24 that creditors may claim ongoing amounts as they can file further amendments of their claim. In order to conclude the matter which has been long pending, the court will require counsel to pretry the matter and conclude the contested

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matter and will enforce its pretrial scheduling orders with further increasing sanctions to compel counsel to comply.

Updated tentative ruling as of 9/23/24. Due to counsel's noncompliance with the court's pretrial scheduling orders, the court will have to set a new date for the final pretrial conference and order counsel to comply with its pretrial scheduling orders for them to file a joint pretrial stipulation and a proposed order and will impose further sanctions if there is further noncompliance with the court's orders to compel them to comply with the court's orders.

Prior tentative ruling as of 9/13/24. In light of counsel's failure to file a joint pretrial stipulation and a proposed order by the deadline of 9/10/24, the court will have to continue the pretrial conference in this contested matter and will sanction each counsel \$250 for willful failure to comply with the court's pretrial scheduling orders. Appearances are required on 9/24/24, 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 6/12/24. The parties should appear and discuss how to proceed now that the state court has issued its rulings on creditors' claims. Appearances are required on 6/25/24, 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.

**Party Information**

**Debtor(s):**

Shahriar Joseph Zargar

Represented By  
Raymond H. Aver

**Joint Debtor(s):**

Shabnam Mesachi

Represented By  
Raymond H. Aver



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**CONT... Shahriar Joseph Zargar and Shabnam Mesachi**

**Chapter 7**

**Movant(s):**

Shahriar Joseph Zargar

Represented By  
Raymond H. Aver  
Raymond H. Aver

Shabnam Mesachi

Represented By  
Raymond H. Aver

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Robert Gentino  
Robert Gentino

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**2:18-11525 Shahriar Joseph Zargar and Shabnam Mesachi**

**Chapter 7**

**#4.00** Order to Show Cause why monetary sanctions should not be imposed on the parties to the contested matter of debtor's Objection to Amended Claim of Michael Zargar, Abdollah Zargar and Akhtar Davidi (Claim No 8) and/or their counsel for failure to comply with the courts pretrial scheduling orders

fr. 9/24/24

Docket 0

**\*\*\* VACATED \*\*\* REASON: Stip & Order ent. 9/30/24 Continuing to 11/5/24 @ 10:30 a.m.**

**Tentative Ruling:**

Updated tentative ruling as of 9/30/24 at 12:30 p.m. Off calendar. In light of the parties' stipulation just filed tentatively resolving the contested matter, the court has ordered that the pretrial conference and the hearing on the order to show cause re: sanctions be continued to 11/5/24 at 10:30 a.m. pending Debtors' filing a notice of dismissal of their claim objection. No appearances are required on 10/1/24.

Prior tentative ruling as of 9/30/24. The court has reviewed counsel Gentino's response to the OSC. He does not address the fact that he attended the status conference on 6/25/24 during which the court had ordered the parties to file a joint pretrial stipulation and a proposed order and set a deadline for doing so. He like debtor's counsel Aver waived notice of the court's oral scheduling order. The fact that he did not receive a written order does not obviate the fact that he has not complied with the court's scheduling orders.

Prior tentative ruling as of 9/25/24. No updated tentative ruling on the merits. Appearances are required on 10/1/24, 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 9/23/24. Because the record reflects that both

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**Shahriar Joseph Zargar and Shabnam Mesachi**

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counsel failed to comply with the court's pretrial scheduling orders requiring them to file a joint pretrial stipulation and a proposed order to pretry this contested matter, unless they express a valid excuse for their noncompliance based on the procedures set forth in LBR 7016-1, the court intends to impose \$250 monetary sanctions against each of them to compel them to comply. The court notes that at the status conference on 6/25/24, the court orally ordered that they file a joint pretrial stipulation and a proposed order by 9/3/24 and set the final pretrial conference for 9/17/24 and both counsel waived written notice of this order. The court later issued a written order memorializing its oral order.

Prior tentative ruling as of 9/20/24 at 2:00 p.m. The court has reviewed Attorney Aver's response to the order to show cause. At Mr. Aver's request, the court will put the matter on second call at 11:00 a.m. Mr. Aver's response does not excuse him from sanctions for willfully disobeying the court's pretrial scheduling order of 6/25/24, which explicitly stated in writing what the court was ordering. This scheduling order was served on him as shown on the proof of service. That he chose to ignore or misread it is no excuse. The other circumstances described in his response demonstrate a complete lack of diligence by him in complying with Local Bankruptcy Rule 7016-1 as the court had ordered in writing and stated orally at the status conference on 6/25/24. In order to compel the parties' compliance with the court's scheduling orders, the court will impose \$250 in sanctions against Mr. Aver for willfully disobeying the court's scheduling orders pursuant to FRBP 7016, FRCP 16(f), LBR 1001(f) and 7016-1(f) and 11 U.S.C. 105(a). The sanctions imposed will be payable to "Clerk, U.S. Bankruptcy Court".

Prior tentative ruling. Unless counsel Aver and Gentino have a valid excuse for not complying with the court's pretrial scheduling orders, the court will impose a monetary sanction of \$250 against each of them for his willful failure to file a joint pretrial stipulation and a proposed order by the extended deadline of 9/10/24. 11 U.S.C. 105(a); FRBP 7016; FRCP 16(f); LBR 7016-1(f). Appearances are required on 9/24/24, 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.

**Party Information**

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**CONT... Shahriar Joseph Zargar and Shabnam Mesachi**

**Chapter 7**

**Debtor(s):**

Shahriar Joseph Zargar

Represented By  
Raymond H. Aver

**Joint Debtor(s):**

Shabnam Mesachi

Represented By  
Raymond H. Aver

**Trustee(s):**

Carolyn A Dye (TR)

Represented By  
Robert Gentino  
Robert Gentino

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**2:18-10290 People Who Care Youth Center, Inc.**

**Chapter 11**

Adv#: 2:18-01139 People Who Care Youth Center, Inc. v. Ammec, Inc. et al

**#1.00** Order to Show Cause and Reconsideration as to why monetary sanctions should not be imposed on the parties and/or their counsel for her failure to file written responses to court's July 29, 2024 order and/or appear at hearing on September 3, 2024

fr. 9/3/24

Docket 0

**Tentative Ruling:**

Further supplemental tentative ruling as of 9/30/24. In Defendant Greta Curtis's responses to the court's orders to show cause, she in her response filed on 9/27/24 seeks dismissal of the adversary proceeding, arguing the parties allegedly made a "deal" regarding treatment of Defendants' mechanics lien. Plaintiff failed to allege a claim under the Declaratory Judgment Act, 28 U.S.C. § 2201, and Plaintiff cannot maintain an action to invalidate Defendants' mechanics lien because the parties made a "deal" for treatment of the lien through plan confirmation, which precluded Defendants from bringing a state law enforcement action. In Defendant Curtis's response filed on 9/27/24, she argues that the trial should not proceed further on Plaintiff's lien avoidance claims because Defendants have the right to a jury trial on Plaintiff's declaratory judgment claims. Defendant Curtis argues that she should be excused for her lack of compliance with the order to show cause because she has been unable to work with her co-defendant, Ammec Inc., due to the death of its counsel.

Regarding Plaintiff's responses to the court's orders to show cause, Plaintiff argues that the court should decide its claims that remain to be adjudicated on the existing trial record and that if further trial proceedings are warranted, they should be conducted by the district court. That is, it appears that Plaintiff does not want or need to offer further evidence on its lien avoidance claims in addition to what it offered on its slander of title claim.

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**CONT... People Who Care Youth Center, Inc.**

**Chapter 11**

Defendant Curtis's response filed on 9/27/24 seeking dismissal is probably too late to be considered as a motion to dismiss under Federal Rule of Civil Procedure 12(b) since such a motion to dismiss needed to be filed in their responsive pleading, which she and her codefendant Ammec Inc., had done in their answer to the amended complaint. Defendant Curtis's response might be considered later as a motion for judgment on partial findings pursuant to Federal Rule of Civil Procedure 52(c) after Plaintiff rests after presenting its case in chief on its lien avoidance claims.

Plaintiff in its response to the court's orders to show cause acknowledges that the substantive basis of its lien avoidance claims is the Declaratory Judgment Act, 28 U.S.C. § 2201. Plaintiff's declaratory judgment claim was adequately pleaded in its amended complaint as it did not have to allege the statutory basis of the claim in order to meet the pleading standard of Federal Rule of Civil Procedure 8, and there is no need for further amendment of the amended complaint to specifically allege that the claim is under the Declaratory Judgment Act. *Alvarez v. Hill*, 518 F.3d 1152, 1157-1158 (9<sup>th</sup> Cir. 2008). Defendant Curtis has not shown that these claims are jury triable now because it does not appear that these claims are suits at common law as the closest analogy to these claims is quiet title, which is generally not jury triable, *Caira v. Offner*, 126 Cal.App.4th 12, 23-25 (2005) (stating "it is also well established that actions to quiet title, like true declaratory relief actions, are generally equitable in nature").and that the record does not show that Defendants timely made a jury trial demand in this adversary proceeding pursuant to Federal Rules of Civil Procedure 38, 39 and 57.

Regarding Defendant Curtis's response regarding her failure to respond to the court's order to show cause by the deadline, as a self-represented litigant, she had a nondelegable duty to respond to the order to show cause and should have known if counsel for Ammec was not responding to her communications, she still needed to comply with the court's order. As a self-represented litigant, she cannot rely on advice of counsel, though she may have thought of him as her personal attorney.

Regarding service of the court's order to show cause on Ammec Inc., the service list for the orders to show cause indicates formal service on Ammec at the East First Street address in Los Angeles, which Defendants have disputed

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**Chapter 11**

as its service address. However, service of the orders to show cause went to Defendant Curtis, who is Ammec's agent for service of process as well as a director and secretary of Ammec as shown on its last corporate information statement with the California Secretary of State filed by Ammec as a California corporation, which the court has taken judicial notice. Service on Defendant Curtis as Ammec's agent for service of process is actual service on Ammec, and thus, Ammec was effectively aware of its duty to comply with the court's orders to show cause, despite it being represented by counsel. Ammec through Defendant Curtis was aware that it was not complying with the court's deadlines. Having appeared in this adversary proceeding, the court has personal jurisdiction over Ammec and may have to take Ammec's default if it fails to defend in further trial proceedings.

Regarding Plaintiff's suggestion that any further trial proceedings should be conducted by the district court, it cites no authority for this court to transfer a half tried case to the district court because that would not be an efficient use of judicial resources. The court is not going to transfer the case to the district court on its own initiative, though the parties could consider making some kind of motion for transfer if that is what they want.

Accordingly, the court believes that in order to accord procedural due process to Defendants on the untried lien avoidance claims, they should be given the opportunity to offer evidence in defense of Plaintiff's lien avoidance claims in further trial proceedings before this court if they so choose, which includes further cross-examination of Plaintiff's witnesses, and the court will set further trial proceedings for that, or Defendants could choose to have the court decide Plaintiff's lien avoidance claims on the existing trial record, in which case the court will issue revised proposed findings of fact and conclusions of law. The court will hear argument on whether the court must refer the lien avoidance claims to the district court upon submission of proposed findings of fact and conclusions of law along with the proposed findings of fact and conclusions of law on Plaintiff's slander of title claim. However, as stated above, the court does not believe that Defendants have the right to a jury trial on Plaintiff's lien avoidance claims due to the equitable nature of the claims and their waiver of any such right by failing to timely make a jury trial demand.

Additional tentative ruling as of 9/26/24 re: the court's inquiry about the joint

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purchase of lumber. Regarding Plaintiff's analysis of the joint purchase of the lumber, Plaintiff argues that the lumber was acquired by Eric Radley and Greta Curtis in "several tenancy," citing Black's Law Dictionary. The court first notes that this argument is inconsistent with California Civil Code § 682, which provides: "The ownership of property by several persons is either: (a) Of joint interest. (b) Of partnership interests. (c) Of interests in common. (d) Of community interest of spouses." "Several tenancy" is not a recognized form of ownership by several persons under this statute. Moreover, Black's Law Dictionary is really not citable as proper authority for California statutory law or as the common law in California. Under California law, property acquired by several persons is presumed to be acquired as tenants in common unless expressly provided otherwise. California Civil Code § 686; *Wilson v. S.L. Rey, Inc.*, 17 Cal.App.4th 234, 242 (1993), citing inter alia, California Civil Code § 1431. Contrary to Plaintiff's assertion that tenancies generally refer to real property only, in California, tenancy in common applies to both real and personal property. *Higgins v. Eva*, 204 Cal. 231, 239 (1928). Termination of tenancy in common is accomplished by partition, which can be done by agreement of the cotenants or by an action for partition. See *Termination or dissolution of tenancy in common*, 16 Cal.Jur.3d, *Cotenancy and and Joint Ownership* § 34 (online edition August 2024 update), citing, *Bradley v. Harkness*, 26 Cal. 69 (1864); *Voluntary partition, generally*, 48 Cal.Jur.3d *Partition* § 5 (online edition August 2024 update), citing, *Gonzalez v. Gonzalez*, 174 Cal. 588 (1917). Contrary to Plaintiff's assertion, partition does not have to be complicated. *Id.* Plaintiff's argument that the parties' intent to buy particular pieces of lumber when they made the joint purchase seems problematic because there is no testimony or evidence of such a specific agreement. It appears that the parties jointly bought the lumber, and Eric Radley later chose the panels he wanted to take, which does not indicate some prior intent of choosing particular assets. Plaintiff's best argument, it seems to the court, that the parties jointly purchased the property as tenants in common and then effectuated a partition of the property held by them as tenants in common by agreement when Eric Radley took the five lumber panels in Greta Curtis's presence and knowledge as testified to by Barrington Radley.

Further tentative ruling as of 9/25/24. The court has reviewed Defendant



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Curtis's response to the OSC, reporting the death of Attorney Barriage, Defendant Ammec's counsel, as reflected on the State Bar's website. The court is sadden to hear of Mr. Barriage's passing. However, Mr. Barriage was Ammec's counsel, not Curtis's, and Curtis has a separate and independent duty to comply with the court's orders, which she has not complied with. As to Ammec, there is no evidence from a competent witness as to Ammec's lack of response to the court's OSC. Ammec was served at its address of record apart from its counsel, and it has not responded to the OSC and may be in default of the OSC despite counsel's passing. Defendant Curtis in her response stated that she could not respond to the OSC for Ammec as its attorney. However, there could have been a declaration from a competent and knowledgable representative of Ammec in response to the OSC. Based on Defendant Curtis's response, it appears that she still has some connection to Ammec as a shareholder or officer, though the record is unclear about that. As to Defendant Curtis's request for continuance, that can be discussed at the hearing on 10/1/24, which will proceed as scheduled.

Supplemental tentative ruling as of 9/25/24. The court has reviewed Plaintiff's responses to the OSC and notes that Defendants still have not complied with the court's order of 7/25/24 order requesting their views on further proceedings. Otherwise, no updated tentative ruling on the OSC. Appearances are required on 10/1/24, 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.

Tentative ruling as of 9/21/24.

At the hearing, the court will discuss with the parties what is needed to complete the trial in this adversary proceeding, that is, specifically regarding the unadjudicated claims in Plaintiff's amended complaint.

By prior orders, final judgment has been entered on Plaintiff's second claims for relief for claim disallowance and its fourth claim for relief for declaratory relief as to claim disallowance.

Plaintiff's first claim for relief for slander of title has been tried. It appears that there is no need for further trial proceedings on that claim. The court in its

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post-trial rulings has tentatively indicated that the claim is foreclosed by Defendants' assertion of the litigation privilege under California Civil Code § 47(b). See *Action Apartment Assn., Inc. v. City of Santa Monica*, 41 Cal.4th 1232, 1251 (2007)

Due to the court's vacating the grant of partial summary adjudication on Plaintiff's third claim for relief for lien avoidance and fourth claim for relief for declaratory relief as to lien avoidance, these claims remain for adjudication, but have not been tried.

Plaintiff's contention is that Defendants' mechanics lien is fraudulent because it is not supported by a bona fide legal obligation and should be avoided. The theoretical basis of Plaintiff's lien avoidance claim is unclear because it alleges in the amended complaint that the substantive basis of the claim is Federal Rule of Bankruptcy Procedure 7001, which Defendants in their motion to dismiss the original complaint (Docket No. 38) have argued is strictly procedural. To accord due process to Defendants, Plaintiff had to proceed by adversary proceeding to avoid Defendants' lien, but the substantive basis of the lien avoidance claim is unclear. Plaintiff's lien avoidance claim is not based on Plaintiff filing a proof of claim on behalf of Defendants as creditors and then objecting to the claim pursuant to 11 U.S.C. § 502 and Federal Rule of Bankruptcy Procedure 3007, and avoiding the lien based on 11 U.S.C. § 506, or on a motion to determine the secured status of a claim pursuant to 11 U.S.C. § 506 and Federal Rule of Bankruptcy Procedure 3012, or a claim under the avoidance statutes of 11 U.S.C. §§ 544-550. Here, Defendants seek to bypass the bankruptcy proceedings, relying upon the general rule that liens generally ride through bankruptcy unaffected if the creditors do not file a proof of claim in the bankruptcy. *Land v. Bank of New York Mellon (In re Lane)*, 959 F.3d 1226, 1229-1231 (9<sup>th</sup> Cir. 2020); *Harmon v. U.S. Through Farmers Home Admin.*, 101 F.3d 574, 581-582 (8<sup>th</sup> Cir. 1996), *Matter of Penrod*, 50 F.3d 459, 461-462 (7<sup>th</sup> Cir. 1995) (suggesting maxim that liens ride through a bankruptcy if creditor does not file a claim may be overstated). It appears to the court that the sole basis for the lien avoidance relief sought by Plaintiff is the Declaratory Judgment Act, 28 U.S.C. § 2201. See *American Bankers Insurance Company of Florida v. Velazquez*, 830 Fed.Appx. 920 (9<sup>th</sup> Cir. 2020), citing, *Maryland Cas. Co. v. Pacific Coal & Oil Co.*, 312 U.S. 270,

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273, 61 S.Ct. 510, 85 L.Ed. 826 (1941).

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It is also unclear to the court the theoretical basis for Plaintiff's argument regarding the transfer of the lumber property to Eric Radley. According to Plaintiff, Eric Radley and Defendant Greta Curtis jointly purchased all of the lumber, of which Radley took a portion for the benefit of Plaintiff. Plaintiff should explain theoretically how Eric Radley became the owner of the lumber he took. That is, when Radley and Curtis jointly purchased the lumber, they were joint owners, and as joint owners, did they take ownership as joint tenants, tenants in common, joint venturers or some other form of ownership? Further, when Radley took a portion of the lumber, how was the transfer effectuated, i.e., by partition, by agreement or by other arrangement? According to the witness testimony offered by Plaintiff, Radley took a portion of the jointly owned property with the knowledge and acquiescence of Curtis, apparently by agreement at least implied. Defendants argue based on Curtis's testimony, she bought the lumber solely, so it was hers only, and Radley "pilfered" or stole it from her. Defendants also argue that any purported agreements between Curtis and Radley about the joint purchase and transfer to Radley are null and void under the Statute of Frauds and California Commercial Code § 2201 (Docket No. 358). Plaintiff will have to address these additional arguments as it has not really done so.

Defendants will have to address the issue of their mechanics lien being now avoidable because they did not timely file their state court enforcement action under California Civil Code § 8460 as the time for them to do so had been tolled by the automatic stay in this bankruptcy case pursuant to 11 U.S.C. § 108(c), but restarted when the automatic stay was terminated upon entry of the debtor's discharge upon plan confirmation in the bankruptcy case under 11 U.S.C. § 362(c)(2)(C) and 1141(d). There was no impediment for Defendants to file their state court enforcement action after this court issued its decision partially vacating its grant of partial summary adjudication on Plaintiff's third cause of action last year (Docket No. 342, filed and entered on September 22, 2023). It appears that no enforcement action was filed within the extended time under 11 U.S.C. § 108(c) after the debtor's bankruptcy discharge was entered, considering the court's order vacating its prior ruling granting Plaintiff partial summary adjudication on its third claim for relief on

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lien avoidance.

As indicated in its prior orders, the court expects the parties to file written statements of their views on what is needed to complete the trial in this adversary proceeding, and will hear from them at the hearing.

Appearances are required on 10/1/24, 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>
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**Debtor(s):**

People Who Care Youth Center, Inc.

Represented By  
John-Patrick M Fritz  
David B Golubchik

**Defendant(s):**

Ammec, Inc.

Represented By  
John Barriage

Greta Curtis

Pro Se

**Plaintiff(s):**

People Who Care Youth Center, Inc.

Represented By  
John-Patrick M Fritz  
David B Golubchik

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**#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-calendar 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/1604486484>**

**ZoomGov meeting number: 160 448 6484**

**Password: 303779**

**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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**2:11-35922 Victor Huevo**

**Chapter 7**

Adv#: 2:11-02825 Ball v. Huevo

**#1.00** Application and order for appearance and  
examination enforcement of judgment

Docket 367

**Tentative Ruling:**

Appearances are required for the Application for appearance and  
examination enforcement of judgment.

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

Victor Huevo

Represented By  
Baruch C Cohen

**Defendant(s):**

Victor Huevo

Represented By  
M. Jonathan Hayes

**Movant(s):**

Gregg Roberts

Pro Se

**Plaintiff(s):**

Joey Ball

Pro Se

**Trustee(s):**

Brad D Krasnoff (TR)

Pro Se