

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

**Wednesday, October 13, 2021**

**Hearing Room 1675**

11:00 AM  
**2:00-00000**

**Chapter**

**#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.**

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

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**Video/audio web address: <https://cacb.zoomgov.com/j/1608110083>**

**ZoomGov meeting number: 160 811 0083**

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<https://www.cacb.uscourts.gov/judges/honorable-robert-n-kwan> under the "Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these proceedings, please:

- Connect early so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

**Tentative Ruling:**

- NONE LISTED -

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**2:16-24760 Philip Joseph Jaurigui**  
Adv#: 2:18-01351 Mover v. Jaurigui

**Chapter 7**

**#1.10** Status conference re: Scheduling

Docket 1

**Tentative Ruling:**

No tentative ruling as of 10/7/21. Appearances are required on 10/13/21, but counsel and self-represented parties must appear through Zoom for Government in accordance with the court's remote appearance instructions.

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

Philip Joseph Jaurigui

Represented By  
Leonard Pena

**Defendant(s):**

Philip Joseph Jaurigui

Represented By  
Leonard Pena

**Plaintiff(s):**

Jonathan Mover

Represented By  
Steven R Fox

**Trustee(s):**

Jason M Rund (TR)

Pro Se

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**2:16-24760 Philip Joseph Jaurigui**

**Chapter 7**

Adv#: 2:18-01352 Swing House Rehearsal and Recording, Inc. v. Jaurigui

**#1.20** Status conference re: Scheduling

Docket 1

**Tentative Ruling:**

No tentative ruling as of 10/7/21. Appearances are required on 10/13/21, 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):**

Philip Joseph Jaurigui

Represented By  
Leonard Pena

**Defendant(s):**

Philip Joseph Jaurigui

Represented By  
Leonard Pena

**Plaintiff(s):**

Swing House Rehearsal and

Represented By  
Steven R Fox

**Trustee(s):**

Jason M Rund (TR)

Pro Se

**United States Bankruptcy Court  
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11:30 AM

**2:18-11475 Catherine Trinh**

**Chapter 11**

Adv#: 2:18-01209 Voong v. Trinh et al

**#1.30** Hearing re: Motion to stay pending appeal

Docket 161

**Tentative Ruling:**

Updated tentative ruling as of 10/12/21 at 6:00 p.m.

In reading the moving papers, the court is not sure what movant is seeking in terms of a stay pending appeal because the action that he apparently seeks to stay is the sale of the Las Flores property, which is the subject of the plan trustee's sale motion noticed for hearing on 10/20/21. It is not clear what a stay would accomplish because the judgment of the court being appealed is the determination that the Las Flores property is community property. If the court grants the stay pending appeal, that does not affect the pending sale, though as counsel for the plan trustee argues, the outcome of the appeal may have an impact on the characterization of the sales proceeds.

Regarding the sale motion of the plan trustee pursuant to 11 U.S.C. 363 relating to the motion for stay pending appeal, the court makes the following observations that it does not appear that the plan trustee has the authority to sell the plan trust assets free and clear under Bankruptcy Code section 363, which authorizes a trustee or debtor in possession to sell property of the estate free and clear. Section 363 only applies during the pendency of a Chapter 11 case and before confirmation of a plan. In re Golf, LLC, 322 B.R. 874, 877 (Bankr. D. Neb. 2004); In re Altmeyer, 2014 WL 4959146 (Bankr. S.D. Ill. Oct. 2, 2014); see, e.g., In re Celebrity Home Entm't, Inc., 210 F.3d 995, 998 (9th Cir. 2000) (A bankruptcy estate usually ceases to exist after a reorganization plan is confirmed.) The court confirmed the Modified Fourth Amended Chapter 11 Plan, which went effective on January 28, 2021. Neither the plan nor confirmation order expressly provide for the bankruptcy estate to continue; thus, upon the effective date, all nonexempt property of the estate vested in the plan trust with the bankruptcy estate ceasing to exist. See, 11 U.S.C. § 1141(b); Hillis Motors, Inc. v. Hawaii Auto. Dealers' Ass'n,

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**CONT... Catherine Trinh**

**Chapter 11**

997 F.2d 581, 587 (9th Cir.1993) (plan confirmation terminates the estate unless the plan expressly provides for it to continue). The plan does not otherwise confer authority on the plan trustee to sell plan trust assets free and clear of interest pursuant to 11 U.S.C. 363. Indeed, the plan only provides that the plan agent "is authorized to and shall sell or otherwise liquidate or administer the Plan Trust Assets for the benefit of holders of Allowed Claims." Moreover, the plan only provides that "The sale or transfer of any Plan Trust Asset shall require Court approval." The court would inquire of the plan trustee whether prospective purchasers know that any postconfirmation sale will not be free and clear of lien and interests under 11 U.S.C. 363 and good faith purchaser status cannot be conferred under 11 U.S.C. 363(m).

The hearing will begin promptly at 11:30 a.m., if not earlier, if counsel and parties who have filed papers relating to the motion appear earlier. Due to a prior commitment, the court will take the lunch hour recess between 12:20 p.m. and 1:15 p.m. Oral argument will resume at 1:15 p.m. if not concluded by 12:20 p.m.

Appearances are required on 10/13/21, but counsel and self-represented parties must appear through Zoom for Government in accordance with the court's remote appearance instructions.

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

Catherine Trinh

Represented By  
Alan W Forsley  
Philip Kaufler  
Steven R Fox

**Defendant(s):**

Catherine Trinh

Represented By  
Alan W Forsley  
Steven R Fox

Howard Grobstein

Represented By  
Michael Simon

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**CONT... Catherine Trinh**

**Chapter 11**

**Movant(s):**

Kevin Voong

Represented By  
Eric Bensamochan

Kevin Voong

Pro Se

**Plaintiff(s):**

Kevin Voong

Represented By  
Eric Bensamochan

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**Hearing Room 1675**

2:00 PM

**2:13-14135 Art and Architecture Books of the 21st Century Chapter 11**

Adv#: 2:15-01679 THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF T v.

**#1.00** Cont'd status conference re: Complaint for: (1) Avoidance, recovery, and preservation of fraudulent transfers; (2) Avoidance, recovery, and preservation of preferential transfers; (3) Turnover of property; (4) Avoidance and recovery of transfers; (5) Avoidance and recovery of post-petition transfers to defendant ACE Gallery New York Corporation; and (6) Disallowance of claims  
fr. 5/19/21, 6/16/21, 7/8/21

Docket 1

**\*\*\* VACATED \*\*\* REASON: Cont'd from 10/13/21 to 10/20/21 at 2:00 p.m. per order entered on 10/5/21-pp.**

**Tentative Ruling:**

Updated tentative ruling as of 10/7/21. Off calendar. Continued on the court's own motion by prior order to 10/20/21 at 2:00 p.m. No appearances are required on 10/13/21.

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

Art and Architecture Books of the

Represented By  
Thomas M Geher  
Ron Bender  
Beth Ann R Young  
Krikor J Meshefejian  
Kurt Ramlo  
David W. Meadows

**Defendant(s):**

Ace Gallery New York Corporation,

Pro Se

**Plaintiff(s):**

THE OFFICIAL COMMITTEE OF

Represented By  
Victor A Sahn



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**CONT... Art and Architecture Books of the 21st Century**

**Chapter 11**

**U.S. Trustee(s):**

United States Trustee (LA)

Pro Se

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Central District of California  
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3:00 PM

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

**Chapter 7**

**#1.40** Hearing re: Motion of Cong Ty TNHH Silver Design to Strike:

(1) Second Generation, Inc.'s Response to: 1) Creditors' Limited Response to the Trustee's Motion to Sell Litigation Claims; and 2) Statement and Formal Overbid Offer of Cong Ty Tynh Silver Design

Docket 476

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Kody Branch of California, Inc.

Represented By  
John-Patrick M Fritz

**Movant(s):**

Cong Ty TNHH Silver Design

Represented By  
Joseph E. Caceres

**Trustee(s):**

Wesley H. Avery

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

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

**Chapter 7**

**#2.00** Cont'd hearing re: Trustee's motion to approve sale of estate's interest in certain litigation claims: (a) outside the ordinary course of business; (b) free and clear of liens, claims, and interests under 11 U.S.C. Section 363(f); (c) for good faith determination under 11 U.S.C. Section 363(m); and (d) for waiver of 14 day stay fr. 9/14/21

Docket 440

**Tentative Ruling:**

Updated tentative ruling as of 10/7/21. No tentative ruling on the merits. Appearances are required on 10/13/21, but counsel and self-represented parties must appear through Zoom for Government in accordance with the court's remote appearance instructions.

Prior tentative ruling as of 9/13/21. Having reviewed the moving papers, the stipulation and order clarifying issues relating to the motion and the lack of timely written opposition to the motion, the court is inclined to grant the motion for the sale of litigation assets free and clear of liens and interests pursuant to 11 U.S.C. 363(f) as a reasonable exercise of the trustee's business judgment for the reasons stated in the moving papers and for lack of timely written opposition, subject to the clarification agreed to between the trustee and certain parties which are named defendants in pending adversary proceedings or prospective adversary proceedings. See LBR 9013-1(f) and (h). The proposed purchaser, Second Generation, Inc., was not a party to the stipulation clarifying issues (i.e., reducing and limiting the litigation assets being sold), and it is unclear that it consents to the motion as clarified. The court has no objection to the proposed overbid procedures. Since the sale is subject to overbids, there is no tentative ruling on determining the good faith purchaser status of the successful purchaser pursuant to 11 U.S.C. 363(m). The court is also inclined to grant the waiver of the 14-day stay on the effectiveness of the sale order pursuant to FRBP 6004(h) for lack of timely written objection. Appearances are required on 9/14/21, but counsel and self-represented parties must appear through Zoom for Government in accordance with the court's remote appearance instructions.

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

**Chapter 7**

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

Kody Branch of California, Inc.

Represented By  
John-Patrick M Fritz

**Trustee(s):**

Wesley H. Avery

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