

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

Friday, December 10, 2021

Hearing Room 1675

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9:00 AM

**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 TRIAL RE: Application of Sam S. Leslie, plan agent, for issuance of order approving the issuance of writ of execution and appointment of plaintiff as substitute custodian for U.S. Marshal in furtherance of execution of writ and notice of levy; and for order approving sale of artworks free and clear of any claim of lien or interest fr. 8/18/21, 12/2/21, 12/3/21, 12/9/21

Docket 713

**\*\*\* VACATED \*\*\* REASON: Cont'd from 12/10/21 to 12/16/21 at 9:00 a.m. per order entered on 10/13/21-pp.**

**Tentative Ruling:**

Updated tentative ruling as of 12/1/21. Off calendar. Continued to 12/17/21 at 9:00 a.m. No appearances are required on 12/10/21.

Prior tentative ruling. Regarding the issue of whether the court may enter a final judgment on the plan agent's claim to the Banksy artwork, the court agrees with the 400 South La Brea Defendants that the answer is no because the plan agent's claim is a noncore but otherwise related to the bankruptcy case subject to the restrictions of *Stern v. Marshall*, 564 U.S. 462 (2011). The plan agent's claim is based on California state law collection procedures to enforce the judgment entered by this court in this adversary proceeding against defendant Ace Museum through a judgment levy on property of the judgment debtor, Ace Museum, which is a nonbankruptcy debtor party, but legal title to the levied property is contested by third parties, the 400 South La Brea Defendants. Pursuant to California Code of Civil Procedure 720.170(d), the court will conduct a hearing to determine the third party claim of the 400 South La Brea Defendants to the property levied upon by the reorganized debtor as the judgment creditor of defendant Ace Museum. The dispute is whether the property belongs to Ace Museum subject to the reorganized debtor's judgment levy or to the 400 South La Brea Defendants, that is, the dispute is over ownership as to nonbankruptcy debtor parties. Thus, the court disagrees with the plan agent's characterization of his claim being a core proceeding over whether the property was part of the bankruptcy estate under 11 U.S.C. 541. Regardless whether the 400 South La Brea Defendants have asserted counterclaims in this adversary proceeding, this particular dispute

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involving the Banksy artwork is noncore because the action at issue does not "stem from the bankruptcy itself, nor would it necessarily be resolved in the claims allowance process." Stern v. Marshall, 564 U.S. at 499. Absent consent to the bankruptcy court's authority to enter a final judgment on the matter, which is not manifested here, the bankruptcy court may only proceed with hearing the dispute by issuing proposed findings of fact and conclusions of law for review and approval by the district court, which has the authority to enter a final judgment. Executive Benefits Insurance Agency v. Arkison, 573 U.S. 25, 35-37 (2014).

The court will discuss scheduling of the trial with the parties and conducting the trial remotely.

Appearances are required on 4/7/21, but counsel and self-represented parties must appear through Zoom for Government in accordance with the court's remote appearance instructions.

**Party Information**

**Debtor(s):**

Art and Architecture Books of the

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

**Defendant(s):**

Ace Gallery New York Corporation,

Represented By  
Alan W Forsley

Douglas Christmas

Represented By  
Alan W Forsley

Ace Gallery New York, Inc., a

Represented By  
Alan W Forsley

ACE MUSEUM, a California

Represented By  
Alan W Forsley

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400 S La Brea, LLC a California

Represented By  
Michael W Vivoli  
Ronald Rus  
Fahim Farivar  
Brian L Davidoff  
Keith Patrick Banner

Jennifer Kellen

Represented By  
J. Bennett Friedman

Michael D. Smith

Represented By  
Brian L Davidoff

Kamran Gharibian

Represented By  
Brian L Davidoff

Daryoush Dayan

Represented By  
Brian L Davidoff

Cathay Bank, a California

Represented By  
Ekwan E Rhow  
Elliot C Harvey Schatmeier

Jennifer Kellen

Represented By  
Michael D Sobkowiak

**Plaintiff(s):**

THE OFFICIAL COMMITTEE OF

Represented By  
Victor A Sahn  
Daniel A Lev  
David J Richardson  
Asa S Hami  
Jessica Vogel

Official Committee Of Unsecured

Represented By  
David J Richardson  
Victor A Sahn

Sam Leslie

Represented By  
Victor A Sahn

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Carolyn A Dye  
David J Richardson  
Jason Balitzer  
Steven Thomas  
Stephen Sorensen