

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Theodor Albert, Presiding  
Courtroom 5B Calendar**

Wednesday, February 21, 2024

Hearing Room      5B

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10:00 AM

**8:18-10486    Ron S Arad**

**Chapter 7**

Adv#: 8:18-01080      Arad v. DEPARTMENT OF THE TREASURY, INTERNAL REVENUE

**#1.00    TRIAL RE: Complaint  
(set from mtn to amend pretrial order hrg held on 8-10-23)  
(cont'd from 10-05-23 per court's own mtn)  
(set from s/c hrg held on 10-12-23)**

Docket      1

**\*\*\* VACATED \*\*\*    REASON: CONTINUED TO 5-14-24 AT 10:00 A.M.  
PER ORDER APPROVING STIPULATION TO CONTINUE TRIAL  
ENTERED 1-31-24**

**Tentative Ruling:**

Tentative for October 12, 2023  
Assign trial date. Appearance required.

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Tentative for 8/10/23:  
Status? This was continued to accommodate, supposedly, an amended pretrial order but nothing has been filed. Why is this still on calendar?  
Dismiss?

Appearance: required

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Tentative for 3/23/23:  
The court cannot tell if this is properly on calendar, but nothing has been filed in a long time. To the extent it requests additional relief, that request is denied.

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Tentative for 1/26/23:

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CONT...      **Ron S Arad**  
Settled?

**Chapter 7**

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Tentative for 12/1/22:  
See #13.

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Tentative for 10/13/22:  
See #8 and 9.

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Tentative for 9/15/22:  
In view of settlement what is the purpose here?

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Tentative for 8/25/22:  
In view of settlement what is the purpose here?

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Tentative for 5/26/22:  
This is the Motion To Amend Pretrial Order brought by Chapter 7 trustee, Weneta Kosmala (Trustee) . The motion is joined by the debtor, Ron S. Arad. The Internal Revenue Service ("IRS") filed a response opposing the motion.

Federal Rule of Civil Procedure ("FRCP") 16, as incorporated by Federal Rule of Bankruptcy Procedure ("FRBP") 7016, states that the "court may modify the order issued after a final pretrial conference only to prevent manifest injustice." FRCP 16(e). Generally, courts should allow amendments of pre-trial orders when "no substantial injury will be occasioned to the opposing party, the refusal to allow the amendment might result in injustice to the movant, and the inconvenience to the court is slight." *Angle v. Sky Chef*,

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*Inc.*, 535 F.2d 492, 495 (9th Cir. 1976) (quoting *Sherman v. United States*, 462 F.2d 577, 579 (5th Cir. 1972).

1. Background.

Trustee argues that amendment to the pretrial order is necessary to prevent manifest injustice because it contains materially incorrect and/or disputed information. This occurred because the IRS filed a unilateral pretrial stipulation on January 13, 2022 that went unopposed by Debtor, and as a result, the unilateral pretrial stipulation was adopted by the court. After the order adopting the unilateral pretrial stipulation, the case was converted to chapter 7, and Trustee entered the case on February 11, 2022. Upon review of the pretrial order, Trustee flagged several issues of fact that are either allegedly incorrect or at least disputed despite Debtor's earlier failure to challenge those facts. Specifically, Trustee takes issue with the following statements:

A) The IRS lien attaches to 1/3 (33.33%) of the proceeds of La Habra. Pretrial Stipulation p. 11.

Trustee asserts that this legal conclusion is disputed since it is predicated upon the title presumption relating to the La Habra property, but the title presumption can, and should be, overcome by a review of the evidence and intent of the parties who owned the property.

B) The IRS is entitled to receive an additional \$209,612.46 (\$246,602.89) (less the \$36,990.43 already paid) from the sale of La Habra. Pretrial Stipulation p. 11.

Trustee asserts that this is disputed because it is a conclusion predicated upon the finding that the title presumption applies, however the title presumption can, and should be, overcome by a review of the evidence and intent of the parties who owned the property.

C) As stipulated on the record, Citizens Bank is owed \$89,760.00. Pretrial Stipulation p. 12.

Trustee asserts that regardless of the statements in open Court, there

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is no evidence of any agreement by Citizens Bank to reduce its claim amount against the sales proceeds to \$89,760.00. Absent such an agreement, Trustee argues, the court may not simply reduce Citizens claim to the sales proceeds based upon an unopposed pretrial stipulation in a matter in which Citizens is not a party. Therefore, this “fact” is simply incorrect.

D ) After the payment of Citizens Bank’s lien, the IRS is entitled to receive 25% of the net sale proceeds from the Yorba Linda property. Pretrial Stipulation p. 12.

Trustee argues that this is either a misstated fact or a disputed conclusion. Trustee points out that the order approving the sale of the Yorba Linda property states that the “IRS will be paid a total of twelve and one half percent (12 1/2%) of the remaining funds, if any, toward its tax liens which are claims only against the interest that Reuven Arad has in the Property” See Dkt. 297. As a result, Trustee argues, there is no basis for the statement that the IRS is entitled to receive 25% of the net sale proceeds (or approximately twice the amount included in the sale order)from the Yorba Linda property after payment to Citizens Bank.

E) The IRS is entitled to receive an additional \$169,956.01 from the sale of Yorba Linda. Pretrial Stipulation p. 12.

Trustee asserts that this is a conclusion predicated upon the incorrect facts/disputed conclusions listed above.

## 2. Would Manifest Injustice Follow If The Pretrial Order Remains?

Trustee concedes that Debtor’s failure to oppose or even respond to the IRS’s unilateral pretrial stipulation is what caused the court to adopt the statements of fact contained in that pretrial stipulation. However, Trustee strenuously argues that if the pretrial order is not appropriately amended, manifest injustice is sure to follow. Specifically, Trustee argues, if the IRS’ Motion for Summary Judgment was granted based upon the Pretrial Order, the IRS would be entitled to receive more than \$80,000 from the sale proceeds, and yet there would still be no effect on Citizens lien, which would require additional payment from the sales proceeds. Therefore, even though the motion to sell the property and the order contemplate that the IRS will

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take after Citizens on the portion of funds that is the interest of Reuven Arad, the IRS' payment would come solely at the expense of the estate and the Debtor's creditors and would significantly reduce the funds in the estate by jumping ahead of Citizens, which would still require full payment on its claims from the portion of the sales proceeds that is the interest of Reuven Arad. Thus, Trustee argues, the Debtor's estate will be irreparably harmed by the acceptance and adoption of provably false conclusions or assertions including that Citizens Bank has reduced its claim against the sales proceeds.

Trustee also asks that this court take into consideration the alleged Tenancy In Common Agreement ("TIC Agreement") that purports to create a 10% undivided interest between Reuven and Sara Arad in the La Habra property, with the remaining 90% ownership vested in Debtor. Another document Trustee wishes the court to consider is a purported settlement agreement accompanying the judgment of dissolution between Sara and Reuven, suggesting that Sara and Reuven own a 10% undivided interest in the La Habra property as a result of the TIC Agreement.

But none of this is new information to the court. At the hearing on May 5, the court heard these same arguments and was still persuaded that summary judgment as to the La Habra property was still warranted in the IRS's favor. In the court's view, the motion is essentially a broad appeal to equity. The problem is that equity does not necessarily favor Debtor, and by extension Trustee, in all respects. The court is mindful of how long this adversary proceeding has dragged out and the impetus for this motion was created by Debtor's own egregious neglect. Not only that, but Debtor was at all times represented by counsel when these issues manifested, but these issues were nevertheless allowed to persist. The court is somewhat more sympathetic to the predicament facing the Trustee, who was brought in after much of the damage was done, but even she cannot avoid blame entirely. For example, no timely appeal was taken of the order on the unilateral pretrial stipulation. Surely she must have been made aware of the estate's perilous position on this crucial issue. Moreover, the rules including the LBRs are not mere suggestions. They are intended to have real teeth so as to encourage parties in adversary proceedings to observe the rules of litigation strictly. It cannot or at least should not be the law that a trustee automatically catches a

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break because the mistake was only made during the administration by the DIP. No, the better theory is that the trustee steps into the debtor's shoes, both for good and for bad, but she possesses no magic wand that absolves of all earlier errors. After all, LBRs 7016-1(f) & (g) are clear about the potential consequences of neglecting to participate in pretrial conferences. Those local rules state:

(f) Sanctions for Failure to Comply with Rule. In addition to the sanctions authorized by F.R.Civ.P. 16(f), if a status conference statement or a joint proposed pretrial stipulation is not filed or lodged within the times set forth in subsections (a), (b), or (e), respectively, of this rule, the court may order one or more of the following:

- (1) A continuance of the trial date, if no prejudice is involved to the party who is not at fault;
- (2) Entry of a pretrial order based conforming party's proposed description of the facts and law;
- (3) An award of monetary sanctions including attorneys' fees against the party at fault and/or counsel, payable to the party not at fault; and/or
- (4) An award of non-monetary sanctions against the party at fault including entry of judgment of dismissal or the entry of an order striking the answer and entering a default.

(g) Failure to Appear at Hearing or Prepare for Trial. The failure of a party's counsel (or the party, if not represented by counsel) to appear before the court at the status conference or pretrial conference, or to complete the necessary preparations therefor, or to appear at or to be prepared for trial may be considered an abandonment or failure to prosecute or defend diligently, and judgment may be entered against the defaulting party either with respect to a specific issue or as to the entire proceeding, or the proceeding may be dismissed.

But there are a few points that appear to be just plain calculation mistakes, which the court always preserves the right to correct. An example of this is described at paragraph 12 of the Yorba Linda sale order which confines the percentage at 12.5% going to IRS as discussed at ¶¶ D. above. The sale order came first so it should control over contradictory recitals in the pretrial stipulation absent some compelling reason, none of which is offered

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here. This might not matter a lot, however, because of the larger issue concerning Citizen Bank's lien discussed at ¶¶C above. The Trustee is right that even if the adopted pretrial order can govern as between the parties to the adversary proceeding, it cannot logically or legally govern the rights of a non-signatory third party like Citizens. So, to correct manifest injustice and to more properly accord with the existing record, those amendments should be allowed. But the other questions go to interpretation of unauthenticated and extraneous agreements between the debtor, Reuven and Sara Arad such as the TIC Agreement or documents in Sara and Reuven's divorce. These might or might not be genuine, and might or might not be persuasive, but they were central to the adversary proceeding and should have been certainly addressed in the Pretrial Stipulation. So, unless the LBRs are to be ignored, those questions as determined by the order adopting the unilateral pretrial stipulation will stand.

The court remains concerned about the draining of funds that have occurred during the pendency of this adversary proceeding particularly and the bankruptcy case generally, and the extraordinary time it took to resolve it to little good effect from the estate's viewpoint. But the court is also obliged to, whenever possible, decide a given case on its merits, and obvious miscalculations and misstatements of the record should be corrected. Debtor has been procedurally neglectful and it could also be credibly argued that the IRS's claim of prejudice due to undue delay caused by Debtor should be given some weight. That must be balanced against the asserted harm to the estate. But also in this mix is the court's strong feeling that the LBRs should be obeyed and the failure to do so here, particularly after the delays already experienced in prosecution of the adversary proceeding, cannot be without consequence. Therefore, the motion can be granted to correct some issues, as discussed above, in the interest of justice, but others not. The court cannot discern whether this decision must necessarily cause a revisiting of the summary judgment, but it is intended instead primarily to correct disposition of proceeds more in accord with the record, as described above.

*Grant in part, deny in part, as above.*

Appearance: required

**Party Information**

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**Chapter 7**

**Debtor(s):**

Ron S Arad

Represented By  
G Bryan Brannan

**Defendant(s):**

DEPARTMENT OF THE

Represented By  
Jolene Tanner  
Angela Gill

UNITED STATES OF AMERICA

Represented By  
Jolene Tanner  
Angela Gill

**Plaintiff(s):**

Ron S Arad

Represented By  
G Bryan Brannan

**Trustee(s):**

Weneta M.A. Kosmala (TR)

Represented By  
Ryan W Beall  
Jeffrey I Golden

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1:30 PM  
8:00-00000

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**#0.00 Hearings on this calendar will be conducted using ZoomGov video and audio.**

For information about appearing in person (or a hybrid hearing) please visit <https://www.cacb.uscourts.gov/judges/honorable-theodor-c-albert>.

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**Video/audio web address:** <https://cacb.zoomgov.com/j/1610989183>

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**ZoomGov meeting number:** 161 098 9183

**Password:** 501104

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

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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

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**Chapter**

completed your appearance(s).

Docket 0

**Tentative Ruling:**

- NONE LISTED -

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1:30 PM

8:23-11897 Francisco Javier Andrade

Chapter 13

#1.00 Confirmation Of Chapter 13 Plan  
(cont'd from 1-17-24)

Docket 13

**Tentative Ruling:**

Tentative for February 21, 2024  
Are payments current? HOA arrears? Appearance required.

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Tentative for January 17, 2024  
Is the First Amended Plan filed on November 14, 2023 opposed? *Appearance required.*

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Tentative for November 15, 2023  
Repeat filer (four earlier filings). Amended plan was to provide conduit treatment, but was it done? Per Barclays, why should the in rem relief of stay earlier ordered not apply? See #15. Appearance required.

**Party Information**

**Debtor(s):**

Francisco Javier Andrade

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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8:23-12046 Jeffrey Adams Gomez

Chapter 13

#2.00 Confirmation Of Chapter 13 Plan  
(cont'd from 12-20-23)

Docket 23

**Tentative Ruling:**

Tentative for February 21, 2024

The DSO claims still appear to be unmanageable and may require resolution from state court. No provision for the Bridgecrest claim? Trustee is requesting conduit treatment as it seems unclear whether mortgages are being kept current post petition and no declaration is filed. A sale of property is suggested in the plan but month 13 is too late. Is conversion a better approach? Appearance required.

-----  
Tentative for December 20, 2023

There are several issues which must be addressed before confirmation can be reasonably considered. The curing of arrearages and low monthly payments pending projected refinance or sale of Kathy Court property seems very problematic and perhaps infeasible. The reported discussions with U.S. Bank seem encouraging but not alone dispositive. The numerous Smith proofs of claim need quantification. The court will hear whether continuance seems in order. Appearance required.

**Party Information**

**Debtor(s):**

Jeffrey Adams Gomez

Represented By  
Richard G. Heston

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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8:23-12150 Roy Milton Slocum

Chapter 13

#3.00 Confirmation Of Chapter 13 Plan  
(cont'd from 12-20-23)

Docket 11

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR - CASE DISMISSED -  
ORDER AND NOTICE OF DISMISSAL ARISING FROM DEBTOR'S  
REQUEST FOR VOLUNTARY DISMISSAL OF CHAPTER 13 ENTERED  
2-14-24**

**Tentative Ruling:**

Tentative for December 20, 2023

- 1) OBJECTING CREDITOR CATHAY BANK.
- 2) NEED PROOF OF RENTAL INCOME.
- 3) FEASIBILITY. DEBTOR'S EXPECTED RENTAL INCOME DOES NOT BEGIN UNTIL 1/2024 AND IS SPECULATIVE.
- 4) DEBTOR PROPOSES TO PAY 2ND TD ENTIRELY THRU PLAN BUT PROVIDES NO INTEREST RATE.
- 5) TRUSTEE REQUESTS CONDUIT. DEBTOR IS REPEAT FILER WITH 5 PRIOR FILINGS.
- 6) NEED DECLARATION RE POSTPETITION SECURED PAYMENTS FILED.

Appearance required.

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

Roy Milton Slocum

Represented By  
Seema N Sood

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:23-12239 Anna Maria Escarcega**

**Chapter 13**

**#4.00 Confirmation Of Chapter 13 Plan  
(cont'd from 1-17-24)**

Docket 9

**Tentative Ruling:**

Tentative for February 21, 2024  
Continue to 3/20? Appearance required.

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Tentative for January 17, 2024  
Trustee's various objections and missing documents need attention.  
*Appearance required.*

**Party Information**

**Debtor(s):**

Anna Maria Escarcega

Represented By  
Charles Shamash

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:23-12271 Richard Paul Parker**

**Chapter 13**

**#5.00 Confirmation Of Chapter 13 Plan  
(cont'd from 1-17-24)**

Docket 7

**Tentative Ruling:**

Tentative for February 21, 2024

Nothing filed since last hearing 1/17. Obvious deficiencies noted by the trustee. Appearance required.

-----  
Tentative for January 17, 2024

Various missing documents and discrepancies in amounts need to be addressed. *Appearance required.*

**Party Information**

**Debtor(s):**

Richard Paul Parker

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:23-12412 Michelle Lecher Gonzalez**

**Chapter 13**

**#6.00 Confirmation Of Chapter 13 Plan  
(cont'd from 1-17-24)**

Docket 2

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Michelle Lecher Gonzalez

Represented By  
Raj T Wadhvani

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:23-12487 Kirk P Howland**

**Chapter 13**

**#7.00 Confirmation Of Chapter 13 Plan**

Docket 2

**Tentative Ruling:**

- NONE LISTED -

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

**Debtor(s):**

Kirk P Howland

Represented By  
Christopher J Langley

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:23-12546 Jason Richard Grunauer**

**Chapter 13**

**#8.00 Confirmation Of Chapter 13 Plan**

Docket 2

**Tentative Ruling:**

Tentative for February 21, 2024

Continue to 3/20 to address Trustee's objection. Appearance required.

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

Jason Richard Grunauer

Represented By  
Kevin Tang

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:23-12605 Jamie Meredith Arnoldi**

**Chapter 13**

**#9.00 Confirmation Of Chapter 13 Plan .**

Docket 7

**Tentative Ruling:**

Tentative for February 21, 2024

Trustee's ad Americredit's opposition must be addressed. Appearance required.

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

Jamie Meredith Arnoldi

Represented By  
Bert Briones

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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8:23-12611 Micaiah Gordon

Chapter 13

#9.10 Confirmation Of Chapter 13 Plan

Docket 0

**\*\*\* VACATED \*\*\* REASON: OFF CALENDAR - CASE DISMISSED -  
ORDER AND NOTICE OF DISMISSAL FOR FAILURE TO FILE  
SCHEDULES, STATEMENTS AND/OR PLAN ENTERED 1-02-24**

**Tentative Ruling:**

- NONE LISTED -

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

Micaiah Gordon

Pro Se

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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3:00 PM

**8:18-14071 Victor Arreola and Cindy Morelos Arreola**

**Chapter 13**

**#10.00 Trustee's Motion To Dismiss Case Failure To Make Plan Payments.**

Docket 161

**Tentative Ruling:**

Tentative for February 21, 2024

Grant unless current or motion to modify on file. Appearance required.

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

Victor Arreola

Represented By  
Christopher J Langley  
Michael Smith

**Joint Debtor(s):**

Cindy Morelos Arreola

Represented By  
Christopher J Langley  
Michael Smith

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**Hearing Room 5B**

3:00 PM

**8:18-14633 Leeanne Dawn Marquez**

**Chapter 13**

**#11.00 Trustee's Motion To Dismiss Case Due To Material Default Of A Plan Provision**

Docket 71

**Tentative Ruling:**

Tentative for February 21, 2024

Debtor wants an extension on a 60 month plan that has come to term in December. That is not procedurally appropriate. But given the relatively small balance owing, the court will grant the motion to dismiss unless payment in full is achieved by March 31, 2024. After that date the trustee may submit either a dismissal order or process as a completed case, whichever correctly applies. Appearance is optional.

**Party Information**

**Debtor(s):**

Leeanne Dawn Marquez

Represented By  
Matthew D. Resnik

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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3:00 PM

**8:19-13427 Daniel Patrick Pinto and Jessica D Pinto**

**Chapter 13**

**#12.00 Trustee's Motion To Dismiss Case Failure To Make Plan Payments  
(cont'd from 1-17-24)**

Docket 109

**Tentative Ruling:**

Tentative for February 21, 2024  
See #13. Appearance required.

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Tentative for January 17, 2024  
Grant unless motion to modify on file. *Appearance required.*

**Party Information**

**Debtor(s):**

Daniel Patrick Pinto

Represented By  
Onyinye N Anyama

**Joint Debtor(s):**

Jessica D Pinto

Represented By  
Onyinye N Anyama

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**Wednesday, February 21, 2024**

**Hearing Room 5B**

3:00 PM

**8:19-13427 Daniel Patrick Pinto and Jessica D Pinto**

**Chapter 13**

**#13.00 Debtor's Motion Under Local Bankruptcy Rule 3015-1 (n) And (w) To Modify Plan Or Suspend Plan Payments**

Docket 113

**Tentative Ruling:**

Tentative for February 21, 2024

Trustee's concerns must be addressed. Appearance required.

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

Daniel Patrick Pinto

Represented By  
Onyinye N Anyama

**Joint Debtor(s):**

Jessica D Pinto

Represented By  
Onyinye N Anyama

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Theodor Albert, Presiding  
Courtroom 5B Calendar**

**Wednesday, February 21, 2024**

**Hearing Room 5B**

3:00 PM

**8:20-10233 Lincoln Cabus**

**Chapter 13**

**#14.00 Trustee's Motion to Dismiss Case Failure To Make Plan Payments.  
(cont'd from 1-17-24)**

Docket 74

**Tentative Ruling:**

Tentative for February 21, 2024  
See #15. Appearance required.

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Tentative for January 17, 2024  
Grant unless current or motion to modify on file. *Appearance required.*

**Party Information**

**Debtor(s):**

Lincoln Cabus

Represented By  
Jaime A Cuevas Jr.

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Theodor Albert, Presiding  
Courtroom 5B Calendar**

**Wednesday, February 21, 2024**

**Hearing Room 5B**

3:00 PM

**8:20-10233 Lincoln Cabus**

**Chapter 13**

**#15.00 Debtor's Motion Under Local Bankruptcy Rule 3015-1 (n) And (w) To Modify Plan Or Suspend Plan Payments**

Docket 79

**Tentative Ruling:**

Tentative for February 21, 2024

Trustee's points must be addressed. Can debtor modify upward \$200 per month to avoid the feasibility and month 62 problems? Appearance required.

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

Lincoln Cabus

Represented By  
Jaime A Cuevas Jr.

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Theodor Albert, Presiding  
Courtroom 5B Calendar**

**Wednesday, February 21, 2024**

**Hearing Room 5B**

3:00 PM

**8:20-11572 Jonathan E McGee and Amy McGee**

**Chapter 13**

**#16.00** Trustee's Verified Motion To Dismiss Case Due To Material Default Of A Plan Provision

Docket 51

**Tentative Ruling:**

Tentative for February 21, 2024  
Grant. Appearance required.

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

**Debtor(s):**

Jonathan E McGee

Represented By  
Julie J Villalobos

**Joint Debtor(s):**

Amy McGee

Represented By  
Julie J Villalobos

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Theodor Albert, Presiding  
Courtroom 5B Calendar**

**Wednesday, February 21, 2024**

**Hearing Room 5B**

3:00 PM

**8:20-11886 Angela M Sancho**

**Chapter 13**

**#17.00 Trustee's Motion To Dismiss Case Failure To Make Plan Payments**

Docket 90

**Tentative Ruling:**

Tentative for February 21, 2024

Grant unless current or motion to modify on file. Appearance required.

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

Angela M Sancho

Represented By  
Paul Y Lee

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Theodor Albert, Presiding  
Courtroom 520 Calendar**

Wednesday, February 21, 2024

Hearing Room 520

3:00 PM

8:22-11730 Theresa Nguyen Locke

Chapter 13

#18.00 Trustee's Motion To Dismiss Case Failure To Make Plan Payments.  
(cont'd from 1-17-24)

Docket 78

**Tentative Ruling:**

Tentative for February 21, 2024  
Nothing new since January 17? Grant unless current or motion to modify on  
file. Appearance required.

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Tentative for January 17, 2024  
Grant unless current or motion to modify on file. *Appearance required.*

**Party Information**

**Debtor(s):**

Theresa Nguyen Locke

Represented By  
Christopher J Langley  
Michael Smith

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Theodor Albert, Presiding  
Courtroom 5B Calendar**

**Wednesday, February 21, 2024**

**Hearing Room 5B**

3:00 PM

**8:23-10350 Brook Xibu Chang and Tiffany M Cheng**

**Chapter 13**

**#19.00 Trustee's Motion To Dismiss Case Failure To Make Plan Payments**

Docket 54

**Tentative Ruling:**

Tentative for February 21, 2024

Grant unless current or motion to modify on file. Appearance required.

**Party Information**

**Debtor(s):**

Brook Xibu Chang

Represented By  
Christopher J Langley  
Michael Smith

**Joint Debtor(s):**

Tiffany M Cheng

Represented By  
Christopher J Langley  
Michael Smith

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Theodor Albert, Presiding  
Courtroom 5B Calendar**

**Wednesday, February 21, 2024**

**Hearing Room**

**5B**

3:00 PM

**8:23-11549 Carlos Omar Arronte Tenorio and Elizabeth Crystal**

**Chapter 13**

**#20.00 Trustee's Motion To Dismiss Case Failure To Make Plan Payments**

Docket 30

**Tentative Ruling:**

Tentative for February 21, 2024

Deny if current, as represented by debtor. Appearance required.

**Party Information**

**Debtor(s):**

Carlos Omar Arronte Tenorio

Represented By  
Kevin Tang

**Joint Debtor(s):**

Elizabeth Crystal Arronte

Represented By  
Kevin Tang

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Theodor Albert, Presiding  
Courtroom 5B Calendar**

Wednesday, February 21, 2024

Hearing Room

5B

3:00 PM

8:23-11897 Francisco Javier Andrade

Chapter 13

#21.00 Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate  
(cont'd from 1-17-24)

Docket 10

**Tentative Ruling:**

Tentative for February 21, 2024  
Nothing new? See prior tentative from November 15. Appearance required.

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Tentative for January 17, 2024  
Nothing new? See prior tentative from November 15, 2024. Appearance required.

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Tentative for November 15, 2023

Has Debtor overcome the presumption of bad faith? This is the fifth filing.

Proving "good faith" begins with a statutory presumption that every subsequent case filed within one year after dismissal is "filed not in good faith." *In re Thu Thi Dao*, 616 B.R. 103, 113 (Bankr. E.D. Cal. 2020) (citing 11 U.S.C. § 362(c)(3)(C)). Rebutting the presumption of "filed not in good faith" must be by "clear and convincing evidence to the contrary." *Id.* Section 362(c)(3)(B) does not define good faith for purposes of making this determination. Courts have imported pre-BAPCPA case law into the statute to utilize a "totality of the circumstances" test. *In re Castenada*, 342 B.R. 90, 96 (Bankr. S.D. Cal. 2006).

The "totality of the circumstances" test for determining whether a debtor filed a chapter 13 case in good faith includes: (1) whether debtor

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Theodor Albert, Presiding  
Courtroom 5B Calendar**

Wednesday, February 21, 2024

Hearing Room

5B

3:00 PM

CONT... **Francisco Javier Andrade**

**Chapter 13**

misrepresented facts in the petition or the plan, unfairly manipulated the Code or otherwise filed the current chapter 13 plan or petition in an inequitable manner; (2) debtor's history of filings and dismissals; (3) whether debtor only intended to defeat state court litigation; and (4) whether egregious behavior is present. *Id.* (citing *In re Villanueva*, 274 B.R. 836, 841 (9th Cir. BAP 2002)).

Here, the first and third *Castenada* elements are not relevant to the case. The primary issue at bar is weighing Debtor's history of filings. This is the fifth bankruptcy proceeding concerning the Property. The record of Debtor's past filings could be said to show bad faith because Debtor failed to timely submit forms after the initial filings, and even filed a case (the fourth) fifteen minutes before the foreclosure sale, while the third bankruptcy filing was still going on. In *Castenada*, the court found the Debtor filed in good faith partly because the Debtor was not a repeat filer. *Castenada*, 342 B.R. at 97. The same cannot be said here. Furthermore, unlike *Castenada*, where the debtor consistently made their plan payments and significantly reduced the amount of secured debt, no such debt reduction has occurred here. On the other hand, Debtor's asserted change in circumstances, retention of better counsel and consent to conduit payments appear as an admirable attempt to get on the right track.

*No tentative. Appearance required.*

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

Francisco Javier Andrade

Represented By  
Michael D Franco

**Movant(s):**

Francisco Javier Andrade

Represented By  
Michael D Franco

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Theodor Albert, Presiding  
Courtroom 5B Calendar**

**Wednesday, February 21, 2024**

**Hearing Room 5B**

3:00 PM

**8:23-12546 Jason Richard Grunauer**

**Chapter 13**

**#22.00 Motion For Order Determining Value Of Collateral Of 2021 Toyota Highlander**

Docket 17

**Tentative Ruling:**

Tentative for February 21, 2024

Is this vehicle loan subject to the "hanging paragraph" found at §1325(a)(9)?

It would seem maybe not given the 05/2021 "date opened" on the credit report attachment, but this should have been explicitly stated in the motion.

Appearance required.

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

Jason Richard Grunauer

Represented By  
Kevin Tang

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se