

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

Wednesday, March 20, 2024

Hearing Room

5B

11:00 AM

8:00-00000

Chapter

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ZoomGov meeting number: 160 436 8483

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completed your appearance(s).

Docket 0

Tentative Ruling:

- NONE LISTED -

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8:23-12372 Tarzana Plaza Condominiums Association

Chapter 11

**#1.00 STATUS CONFERENCE RE: Chapter 11 Subchapter V Voluntary Petition Non-Individual.
(cont'd from 1-31-24)**

Docket 1

Tentative Ruling:

Tentative for March 20, 2024

Are all MORS filed, as required? Set confirmation hearing and related deadlines. Disclosure separate from the plan will not be required.
Appearance required.

Tentative for January 31, 2024

It sounds like the problems are many but the possible solutions are not yet agreed or even identified. While the court gets the question of expense regarding preparation of a disclosure statement, it is far less clear how the ordinary creditor is going to have any idea how we got here, how a consensus can be achieved or the path toward balancing future costs against income. Another status conference after the plan is filed would seem in order, in about 45 days. *Appearance required.*

Tentative for December 13, 2023

Is a disclosure statement appropriate here? The issues about the Receiver's claim of cash collateral and about obligation to pay assessments seem to inject a level of complexity. Set deadlines for plan confirmation?
Appearance required.

Party Information

Debtor(s):

Tarzana Plaza Condominiums

Represented By
Michael R Totaro

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CONT... Tarzana Plaza Condominiums Association

Chapter 11

Trustee(s):

Arturo Cisneros (TR)

Pro Se

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8:23-12046 Jeffrey Adams Gomez

Chapter 13

**#1.00 Confirmation Of Chapter 13 Plan
(cont'd from 2-21-24)**

Docket 23

Tentative Ruling:

Tentative for March 20, 2024

This problematic case continues without visible progress. There appear to be major secured creditors not accounted for in the plan (e.g. Bridgecrest) and several missed post-petition payments due (US Bank), plus post-petition mortgage payment declaration missing regarding payments due Nationstar, SPS and U.S. Bank. Kristina Smith's amended claims (aggregate \$324,000+) remain an issue, and apparently are not provided for at all in the plan.

Moreover, debtor seemingly does not want to acknowledge that such claims exist and puts on evidence refuting delinquency only regarding the child support issue. The proposed monthly payments offered under the plan are minimal with the real payment apparently coming after about one year from sales of property. 100% is promised but this apparently does not include the spouse's claim. Moreover, it would seem given the track record debtor intend to accrue unpaid mortgage payments. Trustee requests conduit treatment. But why this plan is superior to simply converting the case to a supervised liquidation under Chapter 7 is not explained. Convert to Chapter 7. Appearance required.

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.

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Jeffrey Adams Gomez

Chapter 13

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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8:23-12239 Anna Maria Escarcega

Chapter 13

**#2.00 Confirmation Of Chapter 13 Plan
(cont'd from 2-21-24)**

Docket 9

Tentative Ruling:

Tentative for March 20, 2024

Where is the declaration regarding expenditures from the HELOC loan secured by Tenn. property? Major discrepancies on the stated 6-month net income. Where are we? Appearance required.

Tentative for February 21, 2024

Continue to 3/20? Appearance required.

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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8:23-12263 Lindsay Michelle Moss

Chapter 13

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

Docket 4

Tentative Ruling:

Tentative for March 20, 2024

Service on plan? Should this be a 100% plan? Appearance required.

Tentative for January 17, 2024

Various documents are missing per Trustee. Appearance required.

Party Information

Debtor(s):

Lindsay Michelle Moss

Represented By

James Mortensen

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:23-12271 Richard Paul Parker

Chapter 13

**#4.00 Confirmation Of Chapter 13 Plan
(cont'd from 2-21-24)**

Docket 7

Tentative Ruling:

Tentative for March 20, 2024

Is the plan current? Missing tax returns? Plan calls for \$1450 but actual payments to Barclays and US Bank \$1592? Claims for arrears are almost 3 time what is described in the plan. Appearance required.

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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8:23-12299 Victor Manuel Ramos Rivas

Chapter 13

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

Docket 9

Tentative Ruling:

Tentative for March 20, 2024

An issue arises whether OneMain's vehicle collateral is subject to the 910 rule of §1325 and should, in any event, be the subject of a separate motion.
Appearance required.

Tentative for January 17, 2024

Is the vehicle comprising OneMain's collateral subject to §1325(a) "hanging paragraph"? Appearance required.

Party Information

Debtor(s):

Victor Manuel Ramos Rivas

Represented By
Lauren M Foley

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:23-12431 Brenda Stanfield

Chapter 13

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

Docket 2

Tentative Ruling:

Tentative for March 20, 2024

It would appear that the objections of the Trustee and McKinney on eligibility under 11 U.S.C. §109(e) are well taken. See #30 Debtor shall have ten days to convert to another chapter. Absent that the case will be dismissed. Appearance required.

Tentative for January 17, 2024

There is a lot going on here. The claims bar date of 1/26 has not even passed. Also, the interrelationship of debtor to the Piecemakers partnership, and its liabilities and assets, is both unclear and disturbing. Similarly, how is it even possible on this record to determine whether the best interest test is met? *Appearance required.*

Party Information

Debtor(s):

Brenda Stanfield

Represented By
Andy C Warsaw

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:23-12546 Jason Richard Grunauer

Chapter 13

**#7.00 Confirmation Of Chapter 13 Plan
(cont'd from 2-21-24)**

Docket 2

Tentative Ruling:

Tentative for March 20, 2024

The objectors' are correct. A motion to value the secured claim is indispensable, and the claim might also be immune from bifurcation under § 1325(a)(hanging paragraph) but that is left unclear. Appearance required.

Tentative for February 21, 2024

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

Party Information

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

**#8.00 Confirmation Of Chapter 13 Plan .
(cont'd from 2-21-24)**

Docket 7

Tentative Ruling:

Tentative for March 20, 2024
Continue to coincide with objection to IRS claim set for 4/17/2024 at 3:00 p.m.
Appearance required.

Tentative for February 21, 2024
Trustee's ad Americredit's opposition must be addressed. Appearance
required.

Party Information

Debtor(s):

Jamie Meredith Arnoldi

Represented By
Bert Briones

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:23-12750 Luis Antonio Flores, II

Chapter 13

#9.00 Confirmation Of Chapter 13 Plan

Docket 0

***** VACATED *** REASON: OFF CALENDAR - ORDER AND NOTICE
OF DISMISSAL FOR FAILURE TO FILE SCHEDULES, STATEMENTS,
AND/OR PLAN ENTERED 1-16-24**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Luis Antonio Flores II

Pro Se

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:23-12752 Ryan Joseph Cuello

Chapter 13

#10.00 Confirmation Of Chapter 13 Plan

Docket 8

Tentative Ruling:

Tentative for March 20, 2024

Can the debtor and Capital One resolve the discrepancy between values stated as \$13,350 vs. \$19,558? Appearance required.

Party Information

Debtor(s):

Ryan Joseph Cuello

Represented By
James G. Beirne

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:24-10007 Ala A. Abufarie

Chapter 13

#11.00 Confirmation Of Chapter 13 Plan

Docket 11

Tentative Ruling:

Tentative for March 20, 2024

Trustee's numerous objections and requests for information, and the substantial claim of the CDTFA, must be addressed. Appearance required.

Party Information

Debtor(s):

Ala A. Abufarie

Represented By
Matthew D. Resnik

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:24-10036 Michael Castanon

Chapter 13

#12.00 Confirmation Of Chapter 13 Plan

Docket 15

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Castanon

Represented By
Joon M Khang

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:24-10048 Maria De Lourdes Maganda

Chapter 13

#13.00 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 1-26-24**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maria De Lourdes Maganda

Pro Se

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:24-10054 Micaiah Gordon

Chapter 13

#14.00 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 1-26-24**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Micaiah Gordon

Pro Se

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:24-10120 Yolanda Bolanos Ibarra

Chapter 13

#15.00 Confirmation Of Chapter 13 Plan

Docket 0

Tentative Ruling:

Tentative for March 20, 2024

Dismiss with bar. See #18. Appearance is optional.

Party Information

Debtor(s):

Yolanda Bolanos Ibarra

Pro Se

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:24-10122 Michelle Grant and Gavin Grant

Chapter 13

#16.00 Confirmation of Chapter 13 Plan

Docket 0

***** VACATED *** REASON: OFF CALENDAR - CASE DISMISSED
FOR FAILURE TO FILE SCHEDULES, STATEMENTS AND/OR PLAN
ENTERED ON 2-06-24**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michelle Grant

Pro Se

Joint Debtor(s):

Gavin Grant

Pro Se

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:24-10139 Brian Tad Kornoelje

Chapter 13

#17.00 Confirmation Of Chapter 13 Plan

Docket 2

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Brian Tad Kornoelje

Represented By
D Justin Harelik

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:24-10120 Yolanda Bolanos Ibarra

Chapter 13

#18.00 U.S.Trustee's Motion To Dismiss Debtor Pursuant To 11 U.S.C. §§ 1307(c),
105(a),109(g), And 349 With A 180-Day Bar To Refiling

Docket 9

Tentative Ruling:

Tentative for March 20, 2024
Grant with 180 day bar. Appearance is optional.

Party Information

Debtor(s):

Yolanda Bolanos Ibarra

Pro Se

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:24-10219 Emilia Vourakis

Chapter 13

#19.00 United States Trustee's To Dismiss Case Pursuant To 11 USC Sections 1307(c), 105(a), 109(g), And 349 With A 180-Day Bar To Refiling

Docket 9

***** VACATED *** REASON: OFF CALENDAR - ORDER APPROVING
STIPULATION REGARDING MOTION BY UNITED STATES TRUSTEE
TO DISMISS CASE PURSUANT TO 11 U.S.C. § 1307(c) ENTERED 3-07-24**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Emilia Vourakis

Pro Se

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:24-10219 Emilia Vourakis

Chapter 13

#20.00 Debtor's Motion For Voluntary Dismissal Of Chapter 13 Case

Docket 14

***** VACATED *** REASON: OFF CALENDAR - ORDER APPROVING
STIPULATION REGARDING MOTION BY UNITED STATES TRUSTEE
TO DISMISS CASE PURSUANT TO 11 U.S.C. § 1307(c) ENTERED 3-07-24**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Emilia Vourakis

Pro Se

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:18-14071 Victor Arreola and Cindy Morelos Arreola

Chapter 13

**#21.00 Trustee's Motion To Dismiss Case Failure To Make Plan Payments.
(cont'd from 2-21-24)**

Docket 161

Tentative Ruling:

Tentative for March 20, 2024

Grant unless current or modification motion on file. Appearance required.

Tentative for February 21, 2024

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

Party Information

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

Chapter 13

**#22.00 Trustee's Motion To Dismiss Case Failure To Make Plan Payments
(cont'd from 2-21-24)**

Docket 109

Tentative Ruling:

Tentative for March 20, 2024
See #22. Appearance required.

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

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

Chapter 13

#23.00 Debtor's Motion Under Local Bankruptcy Rule 3015-1 (n) And (w) To Modify Plan Or Suspend Plan Payments
(cont'd from 2-21-24)

Docket 113

***** VACATED *** REASON: OFF CALENDAR - NOTICE OF
WITHDRAWAL OF MOTION UNDER LBR 3015-1(N) AND (W) TO
MODIFY PLAN OR SUSPEND PLAN PAYMENTS FILED 3-18-14 - SEE
DOCUMENT #127**

Tentative Ruling:

Tentative for February 21, 2024

Trustee's concerns must be addressed. 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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8:20-11886 Angela M Sancho

Chapter 13

**#24.00 Trustee's Motion To Dismiss Case Failure To Make Plan Payments
(cont'd from 2-21-24)**

Docket 90

Tentative Ruling:

Tentative for March 20, 2024

According to debtor the CMRP has paid all arrearages and she owes only \$300. If true continue to allow the filing of a proof of claim by Speedy Rapid and missing attorney's fees. Appearance required.

Tentative for February 21, 2024

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

Party Information

Debtor(s):

Angela M Sancho

Represented By
Paul Y Lee

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:21-12212 Kimberly Davis Mason

Chapter 13

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

Docket 72

Tentative Ruling:

Tentative for March 20, 2024

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

Party Information

Debtor(s):

Kimberly Davis Mason

Represented By
Christopher J Langley
Michael Smith

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:21-12423 Steven Eugene Marr

Chapter 13

#26.00 Trustee's Motion to Dismiss Case Failure To Make Plan Payments

Docket 55

***** VACATED *** REASON: OFF CALENDAR - NOTICE OF
VOLUNTARY DISMISSAL OF MOTION FILED 3-18-24 - SEE
DOCUMENT #58**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Steven Eugene Marr

Represented By
Christopher J Langley
Michael Smith

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:21-12745 Brittany Nicole Sam

Chapter 13

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

Docket 45

Tentative Ruling:

Tentative for March 20, 2024
Deny if paid current. Appearance required.

Party Information

Debtor(s):

Brittany Nicole Sam

Represented By
Anthony B Vigil

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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

Chapter 13

**#28.00 Trustee's Motion To Dismiss Case Failure To Make Plan Payments
(cont'd from 2-21-24)**

Docket 30

Tentative Ruling:

Tentative for March 20, 2024

Deny if current, ad Debtor represents. Appearance required.

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, March 20, 2024

Hearing Room

5B

3:00 PM

8:23-12546 Jason Richard Grunauer

Chapter 13

**#29.00 Motion For Order Determining Value Of Collateral Of 2021 Toyota Highlander
(cont'd from 2-21-24)**

Docket 17

Tentative Ruling:

Tentative for March 20, 2024

This was continued to resolve open questions. Status? Appearance required.

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.

Party Information

Debtor(s):

Jason Richard Grunauer

Represented By
Kevin Tang

Trustee(s):

Amrane (SA) Cohen (TR)

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8:23-12431 Brenda Stanfield

Chapter 13

#30.00 Motion Objecting To Claim Number 1 By Claimant Michelle McKinney

Docket 32

Tentative Ruling:

Tentative for March 20, 2024

This is Debtor's objection to claim #1 of Creditor Michelle McKinney ("Creditor"), whose claim against Debtor stems from an Orange County Superior Court Judgment (case no. 30-2018- 00983085-CU-OE-CJC) against Debtor as well as against her general partnership, Piecemakers ("Partnership").

The Creditor's proof of claim itemized the claim #1 as follows:

Joint and Several Liability (including prejudgment interest)	\$2,252,200.00
Debtor's Individual Separate Liability	\$36,880.00
Partnership's Separate Liability (Debtor liable as a general partner?)	\$1,290,800.00
Attorneys' fees (motion pending before State Court—anticipated amount)	\$885,296.00, (later reduced to \$537,306.00 by the court)
Costs (motion pending before State Court—anticipated amount)	\$33,473.00
Post-Judgment Interest (on all liability through 11/17/23)	\$22,557.00

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Total Claim Amount	\$4,521,206.00, (but arithmetically reduced to \$4,173,216 by reduced fees)
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Debtor files her objections on multiple grounds, each of which suggest the claim 1 amount is improperly calculated and should therefore be dismissed entirely or reduced to a level within the chapter 13 debt limit set by 11 U.S.C. § 109(e)—\$2,750,000.00. The Debtor specifically alleges: (1) the Superior Court Judgment debt is rendered unsecured by CCP §493.030(b) or alternatively 11 U.S.C. § 547; (2) Creditor has inflated the amount of her claim by "double dipping" the liability of the Debtor with the separate liability of the Partnership in violation of Cal. Corp. Code §16307; (3) the claim includes unliquidated figures which should not be included in the claim's computation of attorneys' fees and costs; and (4) Creditor has miscalculated the claim's post-judgment interest due to using an incorrect principal figure.

A proper proof of claim is presumed valid and is *prima facie* evidence of the validity of both the claim and its amount. *Lundell v. Anchor Constr, Specialists, Inc. (In re Lundell)*, 223 F.3d 1035, 1039 (9th Cir. 2000); Fed. R. Bankr. P. 3001(f). "Upon objection, the proof of claim provides "some evidence as to its validity and amount" and is "strong enough to carry over a mere formal objection without more." *Id.* (quoting *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991)). In order to rebut the presumption of validity, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Holm*, 931 F.2d at 623; L.B.R. 3007(c)(1). In practice, the objector must "produce evidence which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992). Throwing around legal theories unsubstantiated by evidence does not, in and of itself, provide sufficient probative force to rebut the claim's presumption of liability. *Id.* If the objecting party produces sufficient evidence to rebut the presumption of validity, the burden reverts to the claimant to prove the validity

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of the claim by a preponderance of the evidence. *Lundell*, 223 F.3d at 1039. The ultimate burden of persuasion remains at all times upon the claimant. See *Holm*, 931 F.2d at 623.

A proof of claim filed in a bankruptcy case must include supporting evidence, and a claim filed without evidence is subject to objection on that basis. Failure to attach sufficient documentation to a proof of claim will strip the claim of its *prima facie* validity under FRBP 3001(f), i.e., the claim is no longer presumed valid. See *In re Garner*, 246 B.R. 617,620 (9th Cir. BAP 2000).

Here, claim #1 is presumed valid and is *prima facie* evidence of both the claim's validity and amount. It complies with the FRBP 3001(f) procedural requirements, and the Creditor's proof of claim attached sufficient supporting evidence in accordance with FBRP 3001(f), i.e., the Superior Court Judgment upon which the claim is based. Therefore, the burden falls on Debtor to rebut this presumption by providing sufficient evidence and facts that would defeat the claim by probative force equal to the allegations set forth in the proof of claim. *Holm*, 931 F.2d at 623.

Debtor's evidence, submitted both in support of her original objection as well as the reply filed on March 13, 2024, lack the necessary probative force to rebut any allegation essential to the claim's presumed legal sufficiency. Aside from legal theories regarding the application of certain statutory provisions concerning procedure, Debtor's substantive evidence includes: (1) the Superior Court Judgment, (2) the Creditor's Notice of Motion and Motion for Attorneys' Fees, and (3) a Notice of Judgment Lien filed by the Creditor on October 27, 2023—none of these documents necessarily rebut any of the claim #1 allegations they are intended to challenge.

The Superior Court Judgment is undisputed, and was already submitted by the Creditor in support of claim #1. It does not rebut or invalidate any of the claim's allegations. The Notice of Motion and Motion for Attorneys' Fees is used as support for the argument that claim 1 includes unliquidated figures which impermissibly overinflate the calculation of fees. But it is important to note that claim #1 was filed before Superior Court adjudication of the amount of liquidated damages. But the Debtor (unlike the Creditor in her

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opposition) failed to submit the corresponding Notice of Ruling on Plaintiff's Motion for Attorneys' Fees and/or the Superior Court's Tentative Ruling, which clearly show the Creditor's claimed amount of \$885,296.00 was reduced but liquidated to \$537,306.00 by Superior Court award on February 27, 2024 (see DN 49; Exhibit B). While the Creditor's original claimed amount for Attorneys' Fees was reduced when liquidated, this in no way suggests the Superior Court's calculation of Fees was improper or over inflated. And while the claim #1 amount for Costs is still unliquidated (Superior Court has not yet ruled on Costs), unliquidated damages are considered a proper claim in bankruptcy proceedings and there is no requirement to liquidate the claim before it is brought to bankruptcy court. See 11 U.S.C. § 502(c) ("There shall be estimated for purpose of allowance under this section— (1) any contingent or unliquidated claim, the fixing or liquidation of which, as the case may be, would unduly delay the administration of the case[.]"). Debtor's argument that any claimed unliquidated damages are improper because they might bring the total debt over the chapter 13 limit set forth in 11 U.S.C. § 109 (e) of \$2,750,000 has no bearing on the legitimacy of the Superior Court's pending liquidation of Costs, nor the Creditor's right to include unliquidated damages within her claim (until adjudicated, the Creditor's claimed Costs of \$33,473.00 is presumed valid).

It is true that for eligibility purposes unliquidated claims are not counted. But this doesn't get debtor very far because the remaining liquidated portions of the judgment are still far over the limit. Lastly, the Reply's assertion that the October 27, 2023, Notice of Judgment Lien should inure claim 1 to the benefit of the debtor (because it lists \$2,252,200.83 as the "Amount Required to Satisfy Judgment at This Date of Notice") is unconvincing. The record clearly shows this Judgment Lien was not recorded in any county effecting a lien on real property because Debtor filed for bankruptcy days before the entry of the abstract judgment on the lien, on November 17, 2023. The recording with the Secretary of State might have created a lien on personal property, but none of this appears at all relevant here. The notice of it from October 27, 2023, is therefore seemingly irrelevant, and cannot reasonably be used as evidence to rebut the probative force of claim #1. Moreover, even if the lien could be regarded as an avoidable preference somehow, a separate adversary proceeding would be required; §

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547 is not self-effecting as an adversary proceeding is required. Moreover, the whole discussion of a lien seems a red herring regarding eligibility since even if Claim#1 were entirely unsecured that would not change the point that the §109(e) \$2,750,000 limit is exceeded. But assuming that the case is not dismissed on eligibility grounds, it should be recharacterized as an unsecured claim.

Debtor raises other procedural arguments. Cal. Corp. Code §16307(c) provides a "judgment against a partnership is not by itself a judgment against a partner. A judgment against a partnership may not be satisfied from a partner's assets unless there is also a judgment against the partner." Debtor seemingly confuses the concept of a liquidated debt (relevant for eligibility purposes), a "claim" which is defined as a "right to payment" with the related concept of how process to enforce a judgment may be employed under California law, which is the domain of §16307(c). Debtor cites in her Reply *Ehrenberg v. WSCR, Inc. (In re Hoover WSCR Assoc.)* 268 B.R. 227 (Bankr. C.D. Cal. 2001) *affd. Ehrenberg v. WSCR, Inc. (In re Hoover WSCR Assocs.)* 2005 Bankr. LEXIS 3267 (9th Cir BAP 2005). But that is a different case. The question in *Ehrenberg* was whether the trustee in the debtor's case could sue a general partner under 11 USC §723 for contribution because the estate's assets were insufficient to pay all claims, including those for which the general partner was liable. But in *Ehrenberg* the statute of limitations had expired before his suit was filed and this ran into the problem that the language of §723(a) specifically limits recovery "only to the extent that partnership creditors have recovered or *could recover judgment* against those partners under nonbankruptcy law." *Id.* at 234 (*italics added*). Since California in Cal. Corp. Code §16307(c) required first a judgment, which was no longer available because the statute of limitations had lapsed, the Ehrenberg trustee's action failed. But this court does not find that logic controlling here; we are concerned with whether or not there is a right to payment, a "claim", not necessarily on the question of who can sue to collect on it or the lapse of a statute of limitations. No authority is cited for the Debtor's implicit but extraordinary proposition that only claims upon which the claimant already possesses a judgment count for determining eligibility. No case is cited exporting the particular language of §723(a) into the claims

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allowance question.

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The Superior Court Judgment in the case at bar clearly reflects a judgment against both the Debtor as an individual (who is a general partner of the Partnership) as well as the Partnership. Creditor is not necessarily "double-dipping" by claiming the debt for which Debtor is also jointly and severally liable by operation of law alongside another Partnership debt—the procedural order of Creditor's recovery on the debt is not relevant to the validity of claim #1 itself for our purposes on claim allowance. While it is conceivable that the Judgment should not have separately issued as against Debtor as a named obligor *if that same amount is accounted for separately owed by the partnership*, for which the Debtor is jointly liable by operation of law (and of Corp. Code §16306), and somehow the Superior Court Judge Gastellum missed that point, the court has no basis on this record to join in that conclusion. Moreover, the numbers are very different leading the court to conclude these are for separate and independent obligations. The court notes also that neither Debtor nor her counsel offer any evidence on this point, only argument. Thus, any basis to overcome the *prima facie* validity does not appear.

Since the Debtor's arguments in favor of her objection are supported by irrelevant and/or non-binding evidence, or otherwise entirely unsubstantiated legal theories, the Debtor has failed to rebut claim 1's initial presumption of validity pursuant to FRBP 3001(f). The Debtor has failed to provide sufficient evidence or facts that tend to defeat the claim by probative force greater than or equal to the allegation of Creditor's proof of claim. See *Holm*, 931 F.2d at 623. The court will reduce claim #1 to reflect the difference between the original claim's unliquidated attorneys' fees (\$885,296.00) and the since-liquidated amount (\$537,306.00). The reduction will bring the total amount of claim 1 to \$4,173,216.00 from the original amount of \$4,521,206.00 [$\$4,521,206 - (\$885,296 - \$537,306) = \$4,173,216.00$]. But even if entire portion of the unliquidated attorney's fees were ignored (and costs as well), the claim would still be far above the eligibility threshold.

Overruled. Appearance required.

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Debtor(s):

Brenda Stanfield

Represented By

Andy C Warshaw

Richard L. Sturdevant

Trustee(s):

Amrane (SA) Cohen (TR)

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