

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

Wednesday, July 10, 2024

Hearing Room 5B

10:00 AM
8:00-00000

Chapter

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

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ZoomGov meeting number: 160 402 5031

Password: 123252

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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completed your appearance(s).

Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
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10:00 AM

8:24-11457 NB Crest Investor Units, LLC

Chapter 11

#1.00 STATUS CONFERENCE RE: Chapter 11 Voluntary Petition Individual. LLC

Docket 1

Tentative Ruling:

Tentative for July 10, 2024

Continue to coincide with UST's conversion motion set for July 31, 2024 at
10:00 a.m. *Appearance required.*

Party Information

Debtor(s):

NB Crest Investor Units, LLC

Represented By
Brian T Corrigan

**United States Bankruptcy Court
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8:23-12372 Tarzana Plaza Condominiums Association

Chapter 11

#2.00 Application for Compensation of Final Fees and Expenses For Period:
11/14/2023 to 6/17/2024:

ARTURO CISNEROS, SUBCHAPTER V TRUSTEE:

FEE: \$15,507.50

EXPENSES: \$0.00

Docket 108

Tentative Ruling:

Tentative for July 10, 2024
Allow as prayed. *Appearance is optional.*

Party Information

Debtor(s):

Tarzana Plaza Condominiums

Represented By
Michael R Totaro
David Wood
Royce Zur

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
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8:23-12372 Tarzana Plaza Condominiums Association

Chapter 11

#3.00 Application for Compensation Of Final Fees And/Or Expenses For
Period: 11/11/2023 to 5/13/2024:

MICHAEL R. TOTARO, DEBTOR'S ATTORNEY:

FEE: \$25,135.00

Expenses: \$0.00

Docket 114

***** VACATED *** REASON: OFF CALENDAR - VOLUNTARY
DISMISSAL OF FINAL APPLICATION FOR FEES AND EXPENSES BY
MICHAEL R. TOTARO, MAUREEN J. SHANAHAN, TOTARO &
SHANAHAN & RELATED NOTICE FILED JUNE 19, 2024 AS DOCKET
NO. 112-113 FILED 6-27-24 - SEE DOC #125**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tarzana Plaza Condominiums

Represented By
Michael R Totaro
David Wood
Roye Zur

Trustee(s):

Arturo Cisneros (TR)

Pro Se

**United States Bankruptcy Court
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Wednesday, July 10, 2024

Hearing Room 5B

10:00 AM

8:24-10483 Heycart Inc

Chapter 11

#4.00 Motion Debtors Notice Of Motion And Motion For Order: (1) Approving Disclosure Statement, (2) Establishing Voting And Plan Confirmation Scheduling, And (3) Related Relief

Docket 103

Tentative Ruling:

Tentative for July 10, 2024

The court has several concerns about the adequacy of this disclosure.

Perhaps most concerning is that the parties in interest, including the objectors, have had insufficient time to consider whether the Amended Disclosure filed July 3 has cured or alleviated any of the stated concerns.

Among the main points the court sees are: 1. need for a liquidation analysis articulated not in generalities but via line item; 2. the "new value" proposed to be contributed is clearly not money or money's worth if the court understands correctly that this is merely a forgiveness of past shareholder contribution; 3. feasibility, especially in light of recent MORs.

No tentative. Appearance required.

Party Information

Debtor(s):

Heycart Inc

Represented By
Zev Shechtman
Eric P Israel
Michael G D'Alba
Carol Chow

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Hearing Room 5B

10:00 AM

8:24-10717 Henry George Brennan and Lisa Anne Brennan

Chapter 11

#5.00 Confirmation Of Chapter 11 Plan
(set from s/c hrg held on 5-1-24)

Docket 1

***** VACATED *** REASON: OFF CALENDAR - ORDER GRANTING
EXTENSION OF TIME TO FILE A CHAPTER 11 PLAN AND
DISCLOSURE STATEMENT AND CONTINUING THE JUNE 5, 2024
HEARING DATE ENTERED 5-23-24 - SEE DOC #67**

Tentative Ruling:

Tentative for May 1, 2024

Deadline for filing a plan and disclosure statement is June 1, 2024.

Claims bar date is 60 days after dispatch of notice to creditors advising of bar date.

Debtor to give notice of the deadline by May 15, 2024.

Adequacy of disclosure hearing is June 5, 2024 at 10:00 a.m.

Confirmation date is July 10, 2024 at 10:00 a.m.

Appearance required.

Party Information

Debtor(s):

Henry George Brennan

Represented By

Michael R Totaro

M. Candice Bryner

Joint Debtor(s):

Lisa Anne Brennan

Represented By

Michael R Totaro

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10:00 AM

8:23-11012 Judith Ann Hirou

Chapter 11

- #6.00 Confirmation Of Chapter 11 Subchapter V Plan
(set from s/c hrg held on 8-09-23)
(cont'd from 2-06-24)
(cont'd from 5-08-24 at 10:00 a.m. to 11:00 a.m.)
(cont'd from 5-08-24 per order cont. hrg on s/c & confirmation of debtor's
plan entered 5-07-24)**

Docket 1

***** VACATED *** REASON: OFF CALENDAR - CASE DISMISSED ON
5-20-24 - SEE DOCUMENT #111**

Tentative Ruling:

Tentative for February 7, 2024

Does the court understand correctly that the compromise with Flagstar and Sax opens the door for a dismissal? *Appearance suggested.*

Tentative for January 10, 2024

A structure dismissal was promised, but where is it? Appearance required.

Tentative for November 29, 2023

This is the hearing on confirmation of debtor's Subchapter V plan. The only opposition filed is from Flagstar Bank which apparently holds the second mortgage against debtor's residence. Flagstar objects because of the confusing and vague description of debtor's treatment of this mortgage claim. The court agrees. Is the claim secured or not? If even one dollar is secured then debtor must treat the claim as a fully secured claim and, because its secured by the principal residence, cannot modify it except as to arrearages. See *Nobleman v. American Savings Bank*, 503 U.S. 324 (1993) interpreting 11 U.S.C. §1322(b)(2). Moreover, this factual question of value would require

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CONT... Judith Ann Hirou

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a hearing under §506, not merely an oblique reference in the plan.

Appearance required.

Tentative for 8/9/23:

Status of reported ongoing discussions. How will lien priority affect payment to unsecured? Set confirmation?

Tentative for 6/28/23:

Status?

Appearance: required

Party Information

Debtor(s):

Judith Ann Hirou

Represented By
James E Till

Trustee(s):

Robert Paul Goe (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

8:22-11573 William Joseph Randolph Edwards

Chapter 11

#7.00 Debtor's Motion to Avoid Lien of M&T Bank Under 11 U.S.C. Section 506,
1123(b)(5)

Docket 128

Tentative Ruling:

Tentative for July 10, 2024
Grant as unopposed. *Appearance is optional.*

Party Information

Debtor(s):

William Joseph Randolph Edwards

Represented By
Andrew S Bisom

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8:23-11905 Tuffstuff Fitness International, Inc.

Chapter 11

#8.00 Motion For Order Authorizing Debtor To (I) Reject Unexpired Non-Residential Real Property Lease Pursuant To 11 U.S.C. § 365, And (II) Abandon Any Remaining Personal Property Located At The Leased Premises
[13971 Norton Ave, Chino, CA 91710]

(cont'd from 5-29-24 per order apprvg stip. to reschedule hrg on mtn for order authorizing debtor to reject unexpired non-residential real property lease entered 5-13-24)

Docket 42

***** VACATED *** REASON: CONTINUED TO 8-28-24 AT 10:00 A.M.
PER ORDER APPROVING STIPULATION TO RESCHEDULE
HEARING ON MOTION FOR ORDER AUTHORIZING DEBTOR TO (I)
REJECT UNEXPIRED NON-RESIDENTIAL REAL PROPERTY
ENTERED 6-27-24**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Tuffstuff Fitness International, Inc.

Represented By
John-Patrick M Fritz
Carmela Pagay

Movant(s):

Tuffstuff Fitness International, Inc.

Represented By
John-Patrick M Fritz
Carmela Pagay

Trustee(s):

Caroline Renee Djang (TR)

Pro Se

**United States Bankruptcy Court
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8:24-11213 Ben Edward Lofstedt

Chapter 11

#9.00 Debtor and Debtor-in-Possession's Motion For Authority To Sever Joint Tenancy Interest In Newport Beach Property

Docket 35

Tentative Ruling:

Tentative for July 10, 2024

The court is not sure it really understands this motion.

If what is sought is a disposition of co owners' interests, this clearly requires an adversary proceeding under FRBP 7001(3) or perhaps (2), especially because it is opposed by the joint tenants. This approach might make some sense if it were via stipulation of all the co-owners to make a sensible sale avoiding foreclosure, but not as a forced measure via this summary proceeding. As jointly owned property there are questions of economic and non-economic factors under §363(h). Moreover, the addition of Garrity on title makes a clear determination of community property status, and thus the property of the estate question, somewhat unclear. But those questions persist whether this is a joint tenancy or some other form of joint title.

But present disposition does not seem to be what movant is after. For reasons not well explained, he seems to want a judicial proclamation that the joint tenancy is now 'severed' and that what results is....a tenancy in common? But, so what? One supposes that movant is concerned that one of the joint tenants (maybe the debtor?)will die and that somehow this will result in automatic revesting in the remaining joint tenants. The law on this issue is not clear in the 9th Circuit and the movant has not cited to any applicable authority holding that a bankruptcy estate's joint tenancy interest is extinguished once a debtor dies post-petition. This court's own research has only produced two possible viewpoints among various jurisdictions. The first (and the court considers the better view) is that a bankruptcy filing automatically reduces a joint tenancy to a tenancy in common. See *In re Panholzer*, 36 B.R. 647, 651 (Bankr. D. Md.1984) ("it is the opinion of this Court that the filing of a petition in bankruptcy effects a severance of any joint

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Ben Edward Lofstedt

Chapter 11

tenancy the debtor may have had in property and that the Trustee and the other former joint tenants of the debtor become tenants in common. Thus, the right of survivorship enjoyed by the former joint tenants is destroyed. The result in this case is that there is, indeed, an undivided one-half interest in the subject property which is property of the estate.”).

The second view is that a bankruptcy filing maintains all joint tenancy rules, including the right of survivorship if a debtor/joint tenant should die, thereby theoretically denuding the estate of the value of the asset by events outside of the court's (or anyone's) control. But this unlikely is the law as it is at war with the basic premise that attributes of the estate are fixed as of the petition date. 11 U.S.C. §541(a)(1)(“all legal or equitable interests of the debtor in property” transfer to the bankruptcy estate “as of the commencement of the case.”); U.S. v. Whiting Pools, Inc., 462 U.S. 198, 205 (1983) (property of the estate is to be construed broadly). Some briefing on these scenarios might have helped. In any event, these appear to be issues of law and cannot be determined simply through a court order in summary proceeding like this one without further justification or authority. One supposes that movant is trying to gain some insurance that what the court believes is the better view, i.e. that a petition automatically effects a severance, need not await a legal contest but rather be accomplished by a court-authorized deed to remove all doubt. But any potential sale, absent stipulation, would result in an adversary proceeding. And the court is dubious on whether this "insurance" approach can or should be effected without an adversary proceeding as movant requests.

Deny without prejudice to renewal based on a more definitive analysis.
Appearance required.

Party Information

Debtor(s):

Ben Edward Lofstedt

Represented By

D Edward Hays

Sarah Rose Hasselberger

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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Chapter 11