

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

Wednesday, November 8, 2023

Hearing Room 5B

10:00 AM
8:00-00000

Chapter

#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>.

Case participants may connect to the video and audio feeds, free of charge, using the connection information provided below.

BY MANDATE OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS, MEMBERS OF THE PUBLIC AND THE MEDIA MAY ONLY CONNECT TO THE ZOOMGOV AUDIO FEED, AND ONLY BY TELEPHONE. ACCESS TO THE VIDEO FEED BY THESE INDIVIDUALS IS PROHIBITED. IN THE CASE OF A TRIAL OR EVIDENTIARY HEARING, NO AUDIO ACCESS WILL BE PROVIDED.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Video/audio web address:

<https://cacb.zoomgov.com/j/1609877766>

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

Wednesday, November 8, 2023

Hearing Room

5B

10:00 AM

CONT...

Chapter

ZoomGov meeting number: 160 987 7766
Password: 951573
Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Albert by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Theodor C. Albert's Cases" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-theodor-c-albert> 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

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

Wednesday, November 8, 2023

Hearing Room 5B

10:00 AM

CONT...

Chapter

completed your appearance(s).

Docket 0

Tentative Ruling:

- NONE LISTED -

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

Wednesday, November 8, 2023

Hearing Room 5B

10:00 AM

8:22-10175 Rita Ramos Curiel

Chapter 11

**#1.00 STATUS CONFERENCE RE: Chapter 11 Subchapter V Voluntary Petition
Individual
(Order Setting Status Conference After Appeal)
(cont'd from 10-04-23)**

Docket 0

Tentative Ruling:

Tentative for November 8, 2023

This matter has gotten complicated as apparently there is serious concern whether the refinancing can happen timely and/or whether debtor is the one signing declarations, settlement agreements, etc. While dismissal is apparently not contested, the supposed conditions of dismissal seem unclear. Certainly the subchapter V trustee's request for a set aside of funds in trust for his fee appears appropriate. No tentative. Appearance required.

Tentative for October 4, 2023

Status? According to the Debtor's and Trustee's reports discussions are ongoing to refinance out the Hamilton creditor. There is a request to postpone the status conference until November 8. Is that the preferred approach? Appearance required.

Tentative for 8/9/23:

Updates needed on appeal to the Circuit, timeline for preparation of fortified feasibility report in anticipation of continued hearing.

Appearance: required

Party Information

Debtor(s):

Rita Ramos Curiel

Represented By

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

Wednesday, November 8, 2023

Hearing Room 5B

10:00 AM

CONT... Rita Ramos Curiel

Chapter 11

Matthew D. Resnik
Roksana D. Moradi-Brovia

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Wednesday, November 8, 2023

Hearing Room 5B

10:00 AM

8:22-10175 Rita Ramos Curiel

Chapter 11

**#2.00 Motion for relief from the automatic stay REAL PROPERTY
(cont'd from 11-30-22)
(cont'd from 10-04-23)**

**MARIE HAMILTON
Vs.
DEBTOR**

Docket 64

Tentative Ruling:

Tentative for November 8, 2023
See #1. Status? Appearance required.

Tentative for October 4, 2023
See #2. Appearance required.

Tentative for 12/7/22:
See #6.

Tentative for 11/30/22:
See #10.

Appearance: Suggested

Tentatives for 10/5/22:
The property in question is necessary to a reorganization, and confirmation is in prospect (end of November). While big issues of feasibility remain the

**United States Bankruptcy Court
Central District of California**

Santa Ana

Theodor Albert, Presiding

Courtroom 5B Calendar

Wednesday, November 8, 2023

Hearing Room

5B

10:00 AM

CONT... Rita Ramos Curiel

Chapter 11

court is inclined to allow the attempt. Continue to November 30 @ 10:00AM to coincide with confirmation.

Appearance: suggested

Tentative for 8/23/22:

This is a motion for relief of stay filed by the secured creditor in first position, Hamilton Trust. This is a continued hearing, Since last hearing the collateral comprised of two adjoining properties, 424 N. East Street, Anaheim and 1212 E. Sycamore, Anaheim were valued by §506 motion at \$915,000 and \$615,000, respectively. Movant is owed \$743,478, reportedly. Considering the junior judgment liens in a combined amount of over \$801,000, and junior tax liens, there is no equity in the properties. But because there is value behind the movant on the properties, if considered together, the motion likely should not be granted "for cause" if premised only on lack of value cushion under §362(d)(1) (although there are implications of cause under §362(d)(4) in consequence of prepetition maneuvers). Rather, the real question is whether the properties are "necessary to a reorganization" within the meaning of §362(d)(2). As we are taught in *United Savings of Texas etc. v. Timbers of Inwood Forest*, 484 U.S. 365, 375 (1988) that phrase must be shown by the successful opponent to refer to a reorganization "in prospect."

Movant argues that no reorganization is or can be "in prospect" because its fully matured obligation cannot be dealt with in a plan by any means other than full payment on the effective date. This is incorrect and a misreading of *In re Entz-White Lumber & Supply, Inc.*, 850 F. 2d 1338, 1341 (9th Cir. 1988) overruled in part by *Pacifica L 51 LLC v. New Invs. Inc. (In re New Invs., Inc.)*, 840 F.3d 1137 (9th Cir. 2016). Even a fully matured loan can be stretched over a period of years so long as (at a minimum) the promised payments reduced to present value of the obligation equal the secured claim as provided under §1129(b)(2)(A). But, it should be noted that "[a]lthough not per se objectionable, careful scrutiny must be given to a debtor's plan which proposes to convert a fully matured short term loan into permanent financing." *In re Tri-Growth Centre City, Ltd.*, 136 B.R. 848, 851

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

Wednesday, November 8, 2023

Hearing Room

5B

10:00 AM

CONT... Rita Ramos Curiel
(S.D. Cal. 1992).

Chapter 11

Rather, the closer question is whether the current plan (or any plan) can be confirmed in this case as a practical matter absent consent. As the court reads the plan, debtor proposes to bifurcate the lien of movant into separate parts, each securing a portion of the claim, while presumably creating a semblance of value in each above the assigned portion of movant's lien. No authority is cited for this proposition and it would seem contrary to the requirement that the secured creditor keep its lien as required under § 1129(b)(2)(A)(i)(1). Conceivably debtor will argue that such treatment is the "indubitable equivalent" of the status quo under §1129(b)(2)(A)(iii), but since this treatment proposes in effect to diminish collateral rather than augment, this will be a very hard case to make.

Moreover, as movant observes, there seems to be about a \$4000 monthly shortfall based upon monthly operating reports to meet both promised plan payments and operational expenses. And all of this is before the court even considers the allegations regarding prepetition machinations under §362(d)(4). In sum, the court is not convinced and it is the debtor's burden of proof under §362(g)(2).

The court would value the Chapter V trustee's sober assessment on these points, and particularly given these concerns, whether it even makes sense to adopt the procedural schedule debtor proposes or to try again with another plan.

No tentative

Appearance: required

Tentative for 6/14/22:

The questions before this court on relief of stay are whether (1)the criteria of

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

Wednesday, November 8, 2023

Hearing Room

5B

10:00 AM

CONT... Rita Ramos Curiel

Chapter 11

§362((d)(2) in both subparts are met and (2) whether §(d)(4) might apply. The court sees the property as likely necessary to a reorganization but whether such a reorganization is "in prospect" within the meaning of Timbers is harder to tell. There are terms of the proposed plan which already appear very dubious to this court (30 years @ 4.5% for what amounts to a commercial loan on a fully encumbered property, really? Read *In re North Valley Mall*). The likely remedy on that question is to continue this hearing to coincide with confirmation hearing scheduled 6/22.

But the second question of whether debtor was involved in a scheme to hinder, delay or defraud creditors is also not clear. Some aspects of the bad faith analysis might be said to apply, but this isn't really the classic "new debtor syndrome" case, as debtor was the original borrower and has subjected her assets to this court's governance. There are other creditors. But, the last minute transfers and motive behind them are suspicious although somewhat plausible excuses are offered.

The court would also value Mr. Goe's take on all this as the Subchapter V trustee.

Continue to coincide with confirmation hearing.

Party Information

Debtor(s):

Rita Ramos Curiel

Represented By

Matthew D. Resnik

Roksana D. Moradi-Brovia

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Wednesday, November 8, 2023

Hearing Room 5B

10:00 AM

8:23-12077 Juice Roll Upz, Inc.

Chapter 11

#3.00 STATUS CONFERENCE RE: Chapter 11 Subchapter V Voluntary Petition Non-Individual. Inc.

Docket 1

Tentative Ruling:

Tentative for November 8, 2023

Should a confirmation date be set in anticipation of a plan filing before the deadline? Appearance required.

Party Information

Debtor(s):

Juice Roll Upz, Inc.

Represented By
Anerio V Altman

Trustee(s):

Mark M Sharf (TR)

Pro Se

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

Wednesday, November 8, 2023

Hearing Room 5B

10:00 AM

8:23-12077 Juice Roll Upz, Inc.

Chapter 11

#4.00 Objection To Claim For Setting Insider Compensation

Docket 25

Tentative Ruling:

Tentative for November 8, 2023

The debtor has revised his own request for compensation down to \$19,500 and medical benefit of \$2700 per month, no auto allowance. This is more realistic but the court is not clear whether even as modified it should be approved given the precipitous decline in revenue, year over year. Perhaps a base salary with a percentage bonus over certain thresholds in stated revenue might work? The court would value the UST's input. No tentative. Appearance required.

Party Information

Debtor(s):

Juice Roll Upz, Inc.

Represented By
Anerio V Altman

Trustee(s):

Mark M Sharf (TR)

Pro Se

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

Wednesday, November 8, 2023

Hearing Room

5B

10:00 AM

8:22-11918 **Advanced Gas Products Inc**

Chapter 11

#5.00 Creditor's Motion To Compel Production Of Documents By Debtor
(OST Signed 10-12-23)
(cont'd from 10-19-23)

Docket 175

***** VACATED *** REASON: CONTINUED TO 11-29-23 AT 11:00 A.M.
PER ORDER GRANTING STIPULATION TO CONTINUE HEARING
RELATED TO MOTION TO COMPEL PRODUCTION OF DOCUMENTS
BY DEBTOR AND RELATED DEADLINES ENTERED 11-07-23 - SEE
DOCUMENT #219**

Tentative Ruling:

Tentative for October 19, 2023

The court does not understand why we are here. Clearly copies of bank statements would be important as part of any disclosure preliminary to voting on a plan. Whether Mr. Allen should get statements, or the creditor should subpoena the statements from the banks is a point of little practical difference, but the court is surprised to learn that he cannot access accounts, closed or open, on which he was the signatory. The debtor is advised to assist with all energy getting the documents in question, so that a plan can be confirmed, if confirmation is possible. The reorganization is challenged enough without artificial barriers/squabbles.

No tentative. Appearance required.

Party Information

Debtor(s):

Advanced Gas Products Inc

Represented By

Richard L. Sturdevant

Andy C Warshaw

Trustee(s):

Mark M Sharf (TR)

Pro Se

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

Wednesday, November 8, 2023

Hearing Room 5B

10:00 AM

8:23-11905 Tuffstuff Fitness International, Inc.

Chapter 11

#6.00 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 10-25-23 per order apprvng stip. to reschedule hrg on mtn for order authorizing debtor to reject unexpired non-residential real property lease entered 10-13-23)

Docket 42

***** VACATED *** REASON: CONTINUED TO 12-06-23 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 LEASE
ENTERED 11-02-23**

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
Central District of California
Santa Ana
Theodor Albert, Presiding
Courtroom 5B Calendar**

Wednesday, November 8, 2023

Hearing Room 5B

10:00 AM

8:22-11399 NP Lehi, LLC

Chapter 11

**#7.00 STATUS CONFERENCE RE: Confirmation of First Amended Chapter 11 Plan
(set from dscl stmt hrg held on 4-26-23)
(cont'd from 9-13-23)**

Docket 104

Tentative Ruling:

Tentative for November 8, 2023

Status? Was foreclosure avoided? Should this case be dismissed?
Appearance required unless the parties consent to dismissal.

Tentative for September 13, 2023

Confirmation no longer sought? But the court would appreciate an update so
as to know what, if anything, it should expect at this point.

Tentative for August 30, 2023

The court understands that confirmation is no longer expected?
Appearance is optional.

Tentative for 8/9/23:

So, what is the status of the loan commitment? Is the lender prepared to pay
off the secured creditor? When? Does this fit within the pending foreclosure
timeline? If so, should this be a plan confirmation or a §364 motion?

Appearance: required

Tentative for 6/7/23:

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

Wednesday, November 8, 2023

Hearing Room

5B

10:00 AM

CONT...

NP Lehi, LLC

Chapter 11

The loan commitment was admittedly filed late. Since this commitment letter was only belatedly filed a.m. June 2 , it is understandable that the parties may not have had reasonable time to review and formulate a response. Further, the terms are bare bones and contingent only on "signing loan documents." Of course, everyone in the insolvency world who has been down this path before knows that such a vague condition can either be simple, innocuous , expected and straightforward, or.....serve as a mask for numerous complicated terms which could take weeks or months to straighten out. So, the court will hear argument as to whether such a postponement for review as condition to confirmation should be given or, should the court declare that enough is enough and debtor is out of chances, as is implicit in the order entered April 28.

Appearance: required

Tentative for 4/26/23:

The court notes BCP's skepticism of the ability of Debtor to confirm a plan. BCP objects mainly on two grounds: (1) the Plan has not been proposed in good faith under section 1129(a)(3), and (2) the Plan is not feasible under section 1129(a)(11).

The first ground is difficult to understand given that BCP is to be paid in full under the plan through what is described as a bridge loan on the "effective date." Sometimes games are played over the proposed "effective date" in that proponents try to build in very extensive delaying periods. In this case the period is sixty days; only moderately offensive. Debtor represents to the court its sincerity in seeing the bridge loan through to replace the existing BCP secured loan, and pay its current creditors in full, until it can close on longer-term, lower-rate HUD financing that will enable the development and long-term operation of the Property.

Under the feasibility rubric, BCP raises concerns about the term sheet and source of the loan, pointing mainly to the vagueness of its terms and lack of a real commitment. Some effort is made to question the bona fides of the

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

Wednesday, November 8, 2023

Hearing Room

5B

10:00 AM

CONT... NP Lehi, LLC

Chapter 11

proposed lender and its principal. But those, in and of themselves, do not disqualify the plan or demonstrate a lack of adequate disclosure. Moreover, a backup lender is also mentioned in the Reply; the disclosure Statement should be so amended. Plans being dependent on outside sources of funding are certainly not rare occurrences, but if feasibility is the question, Debtor represents that it has or realistically will secure sufficient funding for the plan. This is a binary "yes or no" proposition. Indeed a 'binding' term sheet is promised within ten days before the confirmation date. The court is willing to accept those representations with the understanding that if the funding falls through (by the tenth day before confirmation mark) and alternate funding cannot be promptly secured, the court will be very reluctant to grant extensions. This is particularly so if any more of the interim adequate protection payments are missed or are late. The disclosure of Nelson Partners' financial condition is not that relevant to this disclosure statement as the court understands that Nelson Partners is not going to fund the plan (although they seem to be nominated as a coborrower). In any case, these issues do not raise sufficiently grave concerns of bad faith. Feasibility is, however, another matter. The court is satisfied that it is at least probable enough at this stage that we do not fall into the category of "visionary schemes" some courts have found fatal at the disclosure statement stage. But Debtor is admonished that it has used up all of its allowed grace and credibility. The ten day benchmark preceding confirmation hearing will be very important, and requests to "go back to the drawing board" will not be well received.

Approve with addition of the backup lender. Set confirmation hearing and related preceding deadlines.

Appearance:required

Party Information

Debtor(s):

NP Lehi, LLC

Represented By
Daniel J Kelly
Jason M Torf
Matthew I Kaplan