

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

Tuesday, November 19, 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.

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/1606495312>

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

Tuesday, November 19, 2024

Hearing Room 5B

10:00 AM

CONT...

Chapter

ZoomGov meeting number: 160 649 5312

Password: 366553

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**

Tuesday, November 19, 2024

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**

Tuesday, November 19, 2024

Hearing Room 5B

10:00 AM

8:24-12218 Josefina Ramirez

Chapter 7

#1.00 Motion for relief from the automatic stay PERSONAL PROPERTY

**SOUTHLAND CREDIT UNION
Vs.
DEBTORS**

Docket 10

Tentative Ruling:

Tentative for November 19, 2024
Grant. *Appearance is optional.*

Party Information

Debtor(s):

Josefina Ramirez

Represented By
Jaime A Cuevas Jr.

Movant(s):

Southland Credit Union

Represented By
Karel Rocha

Trustee(s):

Richard A Marshack (TR)

Pro Se

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

Tuesday, November 19, 2024

Hearing Room 5B

10:00 AM

8:24-12674 The Original Mowbray's Tree Service, Inc.

Chapter 11

#2.00 Motion for relief from automatic stay ACTION IN NON-BANKRUPTCY FORUM

RONNIE D. JORDAN

Vs.

DEBTOR

Docket 141

Tentative Ruling:

Tentative for November 19, 2024

Movant Jordan seeks relief of stay to pursue state court litigation against the debtor and other non-debtor parties. Insofar as debtor is concerned, this appears to be in the nature of claims litigation over the amount, if any, that is due to Jordan as the former CEO. That there is a pending proceeding on the same or similar question is no impediment and perhaps is an advantage as the Superior Court can as readily determine the amount of the claim because it appears that question is solely a matter of state law. Debtor makes two arguments: (1) there was a failure to serve the twenty largest unsecured creditors as required by Rule 4001-1 and (2) this motion is brought too early as debtor still needs its "breathing spell" to focus on the reorganization effort. While the court is sympathetic to an initial breathing period, that is very temporary. Further, this court is not in favor of importing litigation from state court unless strictly required. Since the issue needs to be tried somewhere, at some time, the Superior Court is a logical venue as the matter is already pending.

The solution to the breathing spell question is related to the procedural problem. Relief of stay will be granted for purposes of adjudicating the movant's claim against the debtor only, with no enforcement absent further order. Stay for that limited purpose is relieved on the earlier of twenty days from the giving of notice under Rule 4001-1 (on an opportunity to request a hearing basis) or December 31, 2024, whichever first occurs.

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

Tuesday, November 19, 2024

Hearing Room 5B

10:00 AM

CONT... The Original Mowbray's Tree Service, Inc.

Chapter 11

Appearance required.

Party Information

Debtor(s):

The Original Mowbray's Tree

Represented By
Robert S Marticello
Michael Simon

Movant(s):

Ronnie Jordan

Represented By
Kenneth J Catanzarite

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

Tuesday, November 19, 2024

Hearing Room 5B

10:00 AM

8:24-12674 The Original Mowbray's Tree Service, Inc.

Chapter 11

#3.00 Debtor's Emergency Motion For Entry Of Interim And Final Orders Authorizing Use Of Cash Collateral
(OST Signed 10-21-24)
(Cont'd from 10-22-24)

Docket 5

***** VACATED *** REASON: CONTINUED TO 12-11-24 AT 10:00 A.M.
PER ORDER APPROVING STIPULATION TO CONTINUE NOVEMBER
19, 2024, FINAL HEARING ON DEBTOR'S EMERGENCY MTN FOR
ENTRY OF INTERIM AND FINAL ORDER ENTERED 11-08-24 - SEE
DOC #162**

Tentative Ruling:

Tentative for October 22, 2024

Opposition due at hearing. *Appearance required.*

Party Information

Debtor(s):

The Original Mowbray's Tree

Represented By
Robert S Marticello

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

Tuesday, November 19, 2024

Hearing Room 5B

10:00 AM

8:24-12674 The Original Mowbray's Tree Service, Inc.

Chapter 11

#4.00 Final Hearing Re: Debtor's Emergency Motion For Order Authorizing Continued Use Of Debtor's Bank Accounts And Cash Management System To The Extent Set Forth Herein
(OST Signed 10-21-24)
(cont'd from 10-22-24 per order entered 10-24-24 - see doc #73)

Docket 6

Tentative Ruling:

Tentative for November 19, 2024
Grant as unopposed. *Appearance suggested.*

Tentative for October 22, 2024

Opposition due at hearing. *Appearance required.*

Party Information

Debtor(s):

The Original Mowbray's Tree

Represented By
Robert S Marticello

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

Tuesday, November 19, 2024

Hearing Room 5B

10:00 AM

8:24-12674 The Original Mowbray's Tree Service, Inc.

Chapter 11

#5.00 Final Hearing Re: Debtor's Emergency Motion For Order Authorizing Debtor To Continue Insurance Programs, Honor Terms Of Premium Financing Agreements, Satisfy Related Pre-Petition Obligations And Granting Related Relief
(cont'd from 10-22-24 - per order entered on 10-24-24 - see doc #74)

Docket 8

Tentative Ruling:

Tentative for November 19, 2024
Grant as unopposed. *Appearance suggested.*

Tentative for October 22, 2024

Opposition due at hearing. *Appearance required.*

Party Information

Debtor(s):

The Original Mowbray's Tree

Represented By
Robert S Marticello

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

Tuesday, November 19, 2024

Hearing Room 5B

10:00 AM

8:24-12674 The Original Mowbray's Tree Service, Inc.

Chapter 11

#6.00 Final Hearing Re: Debtor's Emergency Motion For Order: (A) Prohibiting Utility Providers From Altering, Refusing or Discontinuing Service; (B) Deeming Utilities Adequately Assured of Future Performance; and (C) Establishing Procedures for Determining Adequate Assurance of Payment Under 11 U.S.C. § 366
(OST Signed 10-21-24)
(cont'd from 10-22-24 per order entered 10-24-24 see doc #71)

Docket 9

Tentative Ruling:

Tentative for November 19, 2024
Grant as unopposed. *Appearance suggested.*

Tentative for October 22, 2024

Opposition due at hearing. *Appearance required.*

Party Information

Debtor(s):

The Original Mowbray's Tree

Represented By
Robert S Marticello

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

Tuesday, November 19, 2024

Hearing Room 5B

10:00 AM

8:24-11213 Ben Edward Lofstedt

Chapter 11

#7.00 Motion For Order Authorizing Withdrawal As Counsel For Creditor, Sally Lofstedt By Attorney Charles W Daff.

Docket 108

Tentative Ruling:

Tentative for November 19, 2024
Grant as unopposed. *Appearance is optional.*

Party Information

Debtor(s):

Ben Edward Lofstedt

Represented By
D Edward Hays
Sarah Rose Hasselberger

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Tuesday, November 19, 2024

Hearing Room 5B

10:00 AM

8:24-11213 Ben Edward Lofstedt

Chapter 11

#8.00 Motion For Order Authorizing Withdrawal As Counsel For Creditor, Ingra Garrity,
By Attorney Charles W Daff.

Docket 110

Tentative Ruling:

Tentative for November 19, 2024
Grant as unopposed. *Appearance is optional.*

Party Information

Debtor(s):

Ben Edward Lofstedt

Represented By
D Edward Hays
Sarah Rose Hasselberger

Trustee(s):

Robert Paul Goe (TR)

Pro Se

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

Tuesday, November 19, 2024

Hearing Room

5B

10:00 AM

8:23-11167 Five Rivers Land Company LLC

Chapter 11

#9.00 Omnibus Motion For Order Disallowing Claims Against Non-Debtor Obligors:

Claim 1	Aanonson Sprinkler Company
Claim 4	Natural Ag Solutions Inc.
Claim 5	Suburban Propane LP
Claim 9	Silvas Oil Company, Inc.
Claim 10	Aanonson Sprinkler Company
Claim 11	Quality Well Drillers
Claim 14	DFA of California
Claim 15	Midland Tractor
Claim 16	Star Pump Company

Docket 237

Tentative Ruling:

Tentative for November 19, 2024

This is Debtor Five Rivers Land Company, LLC's ("Debtor") and Examiner Scott M. Sackett's ("Examiner") objection to the proofs of claim numbers 1, 4, 5, 9, 10, 11, 14, 15 and 16, in which the respective obligors are non-debtor parties, not the Debtor. The motion is opposed only by one of the creditors, Natural Ag Solutions, Inc. ("Natural Ag"). Consequently, the motion as to those other creditors will be sustained as unopposed. The court also sustains as to Natural Ag. For the reasons explained:

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

Tuesday, November 19, 2024

Hearing Room 5B

10:00 AM

CONT... Five Rivers Land Company LLC

Chapter 11

A. Background

Debtor was previously owned by members of the Brar family, until they sold 100% of the membership interests of Debtor to Coast to Coast Packing Group, LLC ("Coast") under the Membership Interest Purchase Agreement ("MPA"). This sale included all of the assets of the Debtor, including its real estate holdings. Debtor filed chapter 11 bankruptcy on June 6, 2023 and Examiner was appointed on June 21, 2023.

Debtor and Examiner have reviewed the claims register and proofs of claim and determined that the numerous above-stated proofs of claim were improperly filed against Debtor because they reflect that the actual customer and contracting party was a non-debtor party, rather than Debtor itself. These non-debtor parties are affiliates of Debtor or Debtor's prior owners, the Brars. However, Debtor's books do not reflect obligations owed to these claimants. Thus, Debtor and Examiner bring these objections to disallow the respective proofs of claim.

B. Legal Standard

Section 502 of the Bankruptcy Code states that a proof of claim is deemed allowed unless a party in interest objects. 11 U.S. Code § 502. 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). If the objecting party produces sufficient evidence to rebut the presumption of validity, the burden reverts to the claimant to prove the validity 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

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

Tuesday, November 19, 2024

Hearing Room 5B

10:00 AM

CONT... Five Rivers Land Company LLC
F.2d at 623.

Chapter 11

C. Analysis

Debtor and Examiner bring this claim objections to the above-stated proofs of claim on the ground that the claims are not prima facie valid because the evidence attached to each claim indicate an obligation and liability of non-debtor parties. Debtor is not listed as a contracting party to any of invoices/billing statements attached to the proofs of claim. Thus, without evidence showing Debtor's liability to the listed claimants, each is not entitled to the prima facie validity of Section 502 of the Bankruptcy Code.

The only claimant that opposes this claim objection is Natural Ag, which supplied agricultural chemicals to nondebtor affiliate Five Rivers Farming Company, LLC ("Five Rivers Farming"), according to its attached invoices. [See Opp, Exhibit A]. Natural Ag submits that its contact person at Five Rivers Farming was Debtor's owner, David Nino. [See Opp, Exhibit A]. The court notes that Natural Ag has not provided a declaration to authenticate the cited exhibits. Natural Ag makes two main arguments as to why the claim should be allowed: (1) it is entitled to a perfected lien under Cal. Food & Agric. Code § 57561(a), that attaches to the crop proceeds (crops grown on land owned by Debtor); (2) Debtor and Examiner provide no evidence to support its objection and to show that Debtor didn't receive proceeds of crops grown on land where Natural Ag's chemicals were used.

As to the first, Natural Ag Argues that its claim is prima facie valid because on its face, the claim reveals that the crops to which its lien attaches were grown on land owned by Debtor. Allegedly, this is because the balance sheet in Debtor's adversary complaint against the Brars lists thirteen parcels of land owned by the Debtor, and except for four of the parcels, the rest are the same parcels shown in Natural Ag's claim. Natural Ag justifies its lien under Cal. Food & Agric. Code § 57561(a), since it provides agricultural chemicals that attaches to crop proceeds.

Debtor and Examiner assert in their reply that this alleged lien is void because it was created and attached post-petition. As indicated in Cal. Food & Agric. Code § 57561(a), in order to create an agricultural lien, the claimant

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

Tuesday, November 19, 2024

Hearing Room 5B

10:00 AM

CONT... Five Rivers Land Company LLC

Chapter 11

must (a) serve a written notice via certified mail, and (b) file the notice with the California Secretary of State. Both of these actions occurred post-petition because the written notice was claimed to be sent on June 12, 2023 (six days post-petition), and the UCC-1 Financing Statements were filed with the Secretary of State on August 1, 2023 (two months post-petition). Under Section 362(a) of the Bankruptcy Code, an attempt to create and attach a lien against property of the estate after the petition date violates the automatic stay. Further, Debtor and Examiner emphasize that even if Natural Ag's lien is not void from the automatic stay, this lien was only perfected as to Five Rivers Farming, and not Debtor. Thus, this makes the lien unperfected as to Debtor, and avoidable under Section 544 and 545. There is some consideration of the fact that David Nino's name is on the invoices as a point of contact, as owner of Debtor, but the court does not find this to be persuasive enough to now make Debtor liable under the agricultural lien that specifically makes Five Rivers Farming liable. The invoices also apparently reflect delivery to parcels that were not on the list of Debtor's properties, as alleged by Natural Ag. Finally, Debtor and Examiner note that the opposition lacks any declaration that would authenticate the attached invoices and UCC-1 Financing Statements, making them inadmissible. Based on the arguments presented by Debtor and Examiner, the court finds they have met their burden in rebutting the presumption of validity and that the claim should be disallowed based on Natural Ag's first argument.

As to the second argument, Natural Ag contends that even if its claim is not prima facie evidence, it is still some evidence, and Debtor has submitted no evidence to create a factual dispute concerning liability, except for the Examiner's conclusory declaration. Natural Ag asserts that the Examiner was appointed several months after Natural Ag delivered its product to Five Rivers Farming at David Nino's request, so Examiner has no personal knowledge concerning where Natural Ag's product was used. Moreover, no documentation was provided to show that Debtor didn't receive the proceeds of crop grown on the land where Natural Ag's chemicals were used. Debtor and Examiner argue that if this claim 4 is not disallowed/lien is not avoided, they reserve the right to void the lien by operation of the Bankruptcy Code Section 506(d). There are various senior liens asserted against the Debtor's real properties and the proceeds (including Natural Ag's alleged lien) is at best a junior lien. Examiner is currently in the process of

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

Tuesday, November 19, 2024

Hearing Room

5B

10:00 AM

CONT... Five Rivers Land Company LLC

Chapter 11

marketing and attempting to sell the various properties of the estate, and it is unclear the amount and extent of any sale proceeds. By operation of law under Section 506(d), junior liens effectively "out of the money" are void. 11 U.S.C. § 506(d). This may not be necessary, as the court is persuaded by the above stated arguments of Debtor and Examiner that the alleged agricultural lien is likely in violation of the automatic stay and has only been perfected as to Five Rivers Farming, not the Debtor. Although David Nino may be the point of contact on the invoices, this does not alone render every affiliate of the obligor to also be liable under the lien. There is also a procedural obstacle here as Natural Ag has not provided any declaration to authenticate the evidence it attaches to the opposition, which would have already made the exhibits inadmissible under the Federal Rules of Evidence 901(a). Accordingly, the objection is sustained.

Appearance required

Party Information

Debtor(s):

Five Rivers Land Company LLC

Represented By
Garrick A Hollander
Matthew J Stockl
Richard H Golubow