

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Thursday, January 15, 2026

Hearing Room 301

9:30 AM

1: -

Chapter

#0.00 All hearings on this calendar will be conducted in Courtroom 301 at 21041 Burbank Boulevard, Woodland Hills, California, 91367. All parties in interest, members of the public and the press may attend the hearings on this calendar in person.

Additionally, (except with respect to evidentiary hearings, or as otherwise ordered by the Court) parties in interest (and their counsel) may connect by ZoomGov audio and video free of charge, using the connection information provided below. Members of the public and the press may only connect to the zoom audio feed, and only by telephone. Access to the video feed by these individuals is prohibited.

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Password: 263993

For more information on appearing before Judge Kaufman by ZoomGov, please see the information entitled "Tips for a Successful ZoomGov Court Experience" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-victoria-s-kaufman> under the tab "Telephonic Instructions."

Docket 0

Tentative Ruling:

- NONE LISTED -

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1:23-11187 David Flores

Chapter 13

#1.00 Motion for relief from stay [RP]

LEVERAGE FINANCIAL LLC
VS
DEBTOR

fr. 12/11/25

Docket 73

Tentative Ruling:

Grant relief from stay pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(4).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the property.

If recorded in compliance with applicable state laws governing notices of interests or liens in real property, the order is binding in any other case under this title purporting to affect the property filed not later than 2 years after the date of the entry of the order by the court, except that a debtor in a subsequent case under this title may move for relief from the order based upon changed circumstances or for good cause shown, after notice and hearing.

The Court does not find that the debtor as involved in any scheme to hinder, delay or defraud creditors.

Any other request for relief is denied.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Movant must submit the order within seven (7) days.

Party Information

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CONT... David Flores

Chapter 13

Debtor(s):

David Flores

Represented By
Kevin T Simon

Movant(s):

Leverage Financial LLC

Represented By
Luis Chaves

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:25-12103 Richard Jesus Henriquez

Chapter 13

#2.00 Motion in Individual Case for Order Imposing a Stay or Continuing
the Automatic Stay as the Court Deems Appropriate

fr. 12/4/25

Docket 8

Tentative Ruling:

Grant.

Movant must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

Richard Jesus Henriquez

Represented By
Matthew D. Resnik

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:25-11396 Jared Dean Smith

Chapter 7

#3.00 Amended Motion for relief from stay [RP]

NAVY FEDERAL CREDIT UNION
VS
DEBTOR

fr. 10/16/25 (Stip); 11/13/25(stip)

Stip to continue filed 12/31/25

Docket 21

***** VACATED *** REASON: Hearing continued to 3/19/26 at 9:30 a.m.
per Order entered 12/31/25. [Dkt. 76]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jared Dean Smith

Represented By
Michael Jay Berger

Movant(s):

Navy Federal Credit Union

Represented By
Joseph C Delmotte
Asaph Abrams

Trustee(s):

Sandra McBeth (TR)

Pro Se

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1:25-11778 Leticia Romero Prado

Chapter 13

#4.00 Motion in Individual Case for Order Imposing a Stay or
Continuing the Automatic Stay as the Court Deems Appropriate

fr. 10/23/25; 11/13/25; 12/18/25

Docket 22

Tentative Ruling:

In accordance with 11 U.S.C. § 362(c)(3)(B), the debtor must demonstrate that the filing of this case is in good faith. Pursuant to 11 U.S.C. § 362(c)(3)(C), a presumption has arisen that this case was not filed in good faith; this presumption may be rebutted by clear and convincing evidence to the contrary.

On September 24, 2025, the debtor filed a chapter 13 petition. On October 22, 2025, the Court entered its order granting the debtor's motion to sell the real property located at 4663 Kraft Ave., North Hollywood, CA 91602 (the "Property") [doc. 32]. The Property is the debtor's residence.

On November 6, 2025, the debtor filed her first amended chapter 13 plan (the "Amended Plan") [doc. 37]. In the Amended Plan, the debtor proposes to make plan payments of \$950 per month for 60 months. Amended Plan, p. 3. With respect to the claim of secured creditor RCAF Loan Acquisition, LP, as serviced by New Rez LLC dba Shellpoint ("Shellpoint"), the debtor proposes: (1) to pay prepetition arrears of \$45,444.49 to Shellpoint through the Amended Plan; and (2) to maintain and make the current contractual installment payments on Shellpoint's claim by making direct payments. *Id.*, p. 6.

On November 24, 2025, Gala Holdings, LLC ("Gala") filed an objection to confirmation of the Amended Plan (the "Objection") [doc. 46]. In the Objection, Gala states that it is the current beneficiary under a junior deed of trust encumbering the Property. Gala further states that the deed of trust secures a promissory note in the original principal amount of \$255,000, which fully matured and went into default before the petition date. Notwithstanding the recorded junior deed of trust and matured note, in the Amended Plan, the debtor does not provide any treatment for the

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CONT... Leticia Romero Prado
secured claim of Gala.

Chapter 13

On December 19, 2025, the Court entered its *Order Granting on an Interim Basis and Continuing Hearing on Motion for Order Imposing a Stay or Continuing the Automatic Stay* (the "Order") [doc. 59]. The Order provides, in relevant part:

Having considered the Debtor's Declaration and status report (Docket Nos. 50 and 53), and noting that no interested party has objected to the Motion, the Motion is granted, in part, and the automatic stay is continued through the date of the continued hearing to take place on January 15, 2025, at 9:30 a.m.

Debtor must timely pay the full post-petition contractual payments in accordance with the promissory note and deed of trust in favor of Secured Creditor New Rez LLC dba Shellpoint (hereinafter "Shellpoint") or its successor/assignee and Chapter 13 Plan Payments to the Trustee.

Debtor may attempt to resolve Gala Holdings, LLC's objection to the First Amended Chapter 13 Plan (Docket No. 46)

Debtor may sell the Real Property in accordance with this Court's Order entered on October 22, 2025 (Docket No. 32), and pay Shellpoint, and Chapter 13 Trustee, etc.

No later than January 8, 2026, Gala Holdings, LLC, may file and serve on Debtor any objections opposition or other response to the Motion.

Order, p. 5 (emphases omitted).

On January 8, 2026, Gala filed an opposition to the Motion [doc. 63] and attached the declaration of its manager Garik Hadjinian ("Hadjinian Decl.") and the declaration of its counsel Eamon Jafari ("Jafari Decl."). In his declaration, Mr. Hadjinian states that "[s]ince the petition date in this case (September 24, 2025), Gala has not received any postpetition payments from Debtor on account of the Note and Deed of Trust." Hadjinian Decl., ¶ 16. In his declaration, Mr. Jafari states:

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Leticia Romero Prado

Chapter 13

On January 6, 2026, I sent an email to Debtor's counsel, Shai S. Oved, requesting an immediate status update and documents substantiating the sale/escrow that Debtor has referenced in support of continuing stay protection, including whether there is an executed purchase agreement, whether escrow remains open, the currently scheduled closing date, any extensions, whether a current draft settlement statement exists reflecting payoff line items (including Gala), and whether Debtor intends to request further stay extension based on the sale.

On January 7, 2026, Debtor's counsel responded by email. In that response, Debtor's counsel stated, among other things, that (i) escrow "is still opened" and buyer's loan documents "are being prepared for signatures," (ii) counsel "will be seeking a further extension and continuance of the confirmation hearing," (iii) counsel's "effort is to avoid further administrative expenses," and (iv) "the holidays dragged this out beyond the control of the Debtor," while requesting Gala's assistance in "supporting the confirmation continuance and stay extension as we work to close this matter." A true and correct copy of Debtor's counsel's January 7, 2026 email is attached hereto as Exhibit 1.

Debtor's counsel's January 7, 2026 email did not provide: (a) a date-certain closing date; (b) an executed purchase agreement; (c) proof of deposit; (d) proof of buyer funds/financing; or (e) a current draft settlement statement reflecting a payoff line item to Gala.

Based on the escrow contact information provided by Debtor's counsel, I communicated with the escrow officer to request confirmation of the escrow status and documentation supporting a date-certain closing and payoff, including a scheduled closing date and a current estimated closing statement/settlement statement reflecting payoff line items to secured creditors.

On January 6, 2026, the escrow officer responded by email confirming

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Leticia Romero Prado

Chapter 13

only that escrow "is still open" and indicating that the escrow officer would circulate extensions "to all parties" if and when extensions were requested/entered, without providing a date-certain closing date or a current estimated closing statement reflecting a payoff line item to Gala. A true and correct copy of the escrow officer's January 6, 2026 email is attached hereto as Exhibit 2.

Jafari Decl., ¶¶ 4-6 and 8-9.

On January 12, 2026, the debtor filed a *Declaration Setting Forth Postpetition, Preconfirmation Payments on: 1) Deeds of Trust [or Mortgages] 2) Leases on Personal Property 3) Purchase Money Security Liens on Personal Property [LBR 3015-1(e) and LBR 3015-1(m)]* (the "Prado Decl.") [doc. 64]. In her declaration, the debtor represents that she timely made the October, November and December 2025 deed of trust payments to Shellpoint. See Prado Decl., ¶ 5.

The Court questions whether the debtor has engaged a broker to assist the debtor with the sale of the Property and appropriately marketed the Property for sale. Although the Court approved the debtor's sale of the Property for \$2 million in October 2025, the debtor has not provided convincing evidence of a pending sale, including an executed purchase agreement, proof of deposit by the buyer, credible evidence of buyer financing and an estimated closing statement.

At this time, unless the debtor converts this case to one under chapter 7, which is likely to conclude with the debtor's receipt of a discharge, the Court will deny the Motion.

The Court will prepare the order.

Party Information

Debtor(s):

Leticia Romero Prado

Represented By
Shai S Oved

Movant(s):

Leticia Romero Prado

Represented By
Shai S Oved

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CONT... Leticia Romero Prado

Shai S Oved

Chapter 13

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:25-12055 Juan Angel Castillo

Chapter 7

#5.00 Motion for relief from stay [PP]

LOGIX FEDERAL CREDIT UNION
VS
DEBTOR

Docket 10

Tentative Ruling:

Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the property.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Movant must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

Juan Angel Castillo

Represented By
Frank X Ruggier

Movant(s):

LOGIX FEDERAL CREDIT

Represented By
Lior Katz

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CONT... Juan Angel Castillo

Chapter 7

Trustee(s):

Amy L Goldman (TR)

Pro Se

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9:30 AM

1:25-12043 Khachatur Matevosyan

Chapter 13

#6.00 Amended motion for relief from stay [RP]

DANIEL JAVAHERIAN
VS
DEBTOR

Docket 17

Tentative Ruling:

Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1) and relief to the extent provided under 11 U.S.C. § 362(d)(4), as follows:

If recorded in compliance with applicable state laws governing notices of interests or liens in real property, the order is binding in any other case under this title purporting to affect the property filed not later than 2 years after the date of the entry of the order by the court, except that a debtor in a subsequent case under this title may move for relief from the order based upon changed circumstances or for good cause shown, after notice and hearing.

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the property.

Grant movant's request to annul the automatic stay.

"Many courts have focused on two factors in determining whether cause exists to grant [retroactive] relief from the stay: (1) whether the creditor was aware of the bankruptcy petition; and (2) whether the debtor engaged in unreasonable or inequitable conduct, or prejudice would result to the creditor." *In re National Environmental Waste Corp.*, 129 F.3d 1052, 1055 (9th Cir. 1997). "[T]his court, similar to others, balances the equities in order to determine whether retroactive annulment is justified." *Id.* Here, the movant contends that he was unaware of the debtor's bankruptcy petition until after he caused the Notice of Default and Election to Sell Under Deed of Trust to be recorded. In addition, the debtor did not list movant as a creditor in debtor's bankruptcy paperwork. Consequently, the debtor acted

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CONT... Khachatur Matevosyan

Chapter 13

unreasonably in a way that has prejudiced the movant. Finally, the debtor did not file a response to the motion. For these reasons, the Court finds that annulment of the automatic stay is appropriate.

Any other request for relief is denied.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Movant must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

Khachatur Matevosyan

Pro Se

Movant(s):

Daniel Javaherian

Represented By
Sanaz Sarah Bereliani

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:24-11357 Galina Tovmasian

Chapter 13

#7.00 Motion for relief from stay [RP]

BANK OF AMERICA, N.A.
VS
DEBTOR

Docket 83

***** VACATED *** REASON: Continued by stipulation to 2/12/26 at 9:30
am [Dkt. #90]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Galina Tovmasian

Represented By
Khachik Akhkashian

Movant(s):

Bank of America, N.A.

Represented By
Chad L Butler

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:25-12027 Titan Group Logistics, Inc.

Chapter 11

#8.00 Motion for relief from stay [PP]

CROSSROADS EQUIPMENT LEASE AND FINANCE, LLC
VS
DEBTOR

Docket 67

Tentative Ruling:

Pursuant to 11 U.S.C. § 362(g), in any hearing under subsection (d) or (e) of section 362 concerning relief from the automatic stay, the party requesting relief has the burden of proof on the issue of the debtor's equity in the property, and the party opposing relief has the burden of proof on all other issues.

Prepetition, Crossroads Equipment Lease and Finance, LLC ("Movant") repossessed the collateral at issue, a 2023 Volvo VNL64T-860 tractor truck (the "Volvo Truck"). Here, there is no dispute that the debtor, Titan Group Logistics, Inc. ("Titan"), does not have any equity in the Volvo Truck; the amount of Titan's debt to Movant secured by the Volvo Truck exceeds the value of the truck.

As to whether: (1) Movant's security interest in the Volvo Truck is adequately protected (assuming Titan obtains possession and use of the Volvo Truck); and (2) the Volvo Truck is necessary to Titan's effective reorganization, Titan has the burden of proof. In addition to showing that the Volvo Truck is necessary to its reorganization, Titan must demonstrate that Titan's reorganization is in prospect. *See In re A Partners, LLC*, 344 B.R. 114, 126 (Bankr. E.D. Cal. 2006) ("When the court finds that the chapter 11 debtor has no equity in property within the meaning of § 362(d)(2)(A), the debtor must establish the second prong of the § 362(d)(2) inquiry, that the 'property is necessary to an effective reorganization.' § 362(d)(2)(B). 'What this requires is not merely a showing that if there is conceivably to be an effective reorganization, this property will be needed for it; but that the property is essential for an effective organization *that is in prospect*.'") (quoting *United Sav. Assn. v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 375–76, 108 S.Ct. 626, 633, 98 L.Ed.2d 740 (1988)) (emphasis in original).

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CONT... Titan Group Logistics, Inc.

Chapter 11

However, Titan has not filed its monthly operating report for November 2025, nor has Titan provided sufficient information concerning its actual economic performance during December 2025. The only budget for postpetition operations which Titan has filed is out of date. *See* Exhibit 1 to Titan's emergency motion for use of cash collateral (the "Initial Budget") [doc. 3]. That motion was filed shortly after Titan filed its chapter 11 petition, and that budget does not reflect Titan's agreement to pay Movant and BMO Bank N.A. 70% of the monthly contract payments for their collateral [*see* doc. 54]. Furthermore, the Initial Budget does not demonstrate Titan's *actual* income and expenses since Titan filed its chapter 11, subchapter V petition on October 30, 2025.

Party Information

Debtor(s):

Titan Group Logistics, Inc.

Represented By
Tamar Terzian

Movant(s):

CROSSROADS EQUIPMENT

Represented By
Jennifer Witherell Crastz
Raffi Khatchadourian

Trustee(s):

Moriah Douglas Flahaut (TR)

Pro Se

**United States Bankruptcy Court
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1:25-10839 Patrick Michael Nangle

Chapter 7

Adv#: 1:25-01043 Carol Steiner, individually, and as Successor Trus v. Nangle et al

- #9.00** Status conference re first amended complaint for determination of:
- (1) Non-dischargeability pursuant to 11 U.S.C. § 523(a)(2)(A)
 - (2) Non-dischargeability pursuant to 11 U.S.C. § 523(a)(2)(B)
 - (3) Non-dischargeability pursuant to 11 U.S.C. § 523(a)(6)
 - (4) CA Civil Code § 1709 (Common Law Fraud)

fr. 9/25/25; 10/23/25; 11/21/25

Docket 59

Tentative Ruling:

Why does the defendant not want to participate in the Court's Mediation Program at this time?

Information about mediators who participate in the Court's Mediation Program is provided on the Court's website at <https://ecf-ciao.cacb.uscourts.gov/MediatorPortal/MediatorSearch>.

The Court's Third Amended General Order No. 95-01, which concerns the Court's Mediation Program, appears at <https://www.cacb.uscourts.gov/sites/cacb/files/documents/general-orders/3rd%20Amended%20G.O.%2095-01.pdf>. As stated in this Order:

The Mediator **shall serve on a pro bono basis and shall not require compensation or reimbursement of expenses for the first full day of at least one Mediation Conference per quarter per year**. If, at the conclusion of the first full day of the Mediation Conference, it is determined by the parties that additional time will be both necessary and productive in order to complete the Mediation Conference, then:

- a. If the Mediator consents to continue to serve on a pro bono basis, the parties may agree to continue the Mediation

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Patrick Michael Nangle

Chapter 7

Conference; or

b. If the Mediator does not consent to continue to serve on a pro bono basis, the Mediator's compensation shall be on such terms as are satisfactory to the Mediator and the parties

Emphasis added.

If the parties agree to participate in the Court's Mediation Program, seven (7) days after this status conference, the plaintiff must submit an Order Assigning Matter to Mediation Program and Appointing Mediator and Alternate Mediator using Form 702. During the status conference (which may be continued for this purpose), the parties must inform the Court of their choice of Mediator and Alternate Mediator. The parties should contact their mediator candidates before the status conference to determine if their candidates can accommodate the deadlines set forth below.

Deadline to complete discovery: 3/6/26.

If the parties agree to participate in the Court's Mediation Program, deadline to complete one day of mediation: 3/20/26.

Deadline to file pretrial motions: 4/6/26.

Deadline to complete and submit pretrial stipulation in accordance with Local Bankruptcy Rule 7016-1: 4/22/26.

Pretrial: 5/7/26 at 1:30 p.m.

In accordance with Local Bankruptcy Rule 7016-1(a)(3), within seven (7) days after this status conference, the plaintiff must submit a Scheduling Order.

If any of these deadlines are not satisfied, the Court will consider imposing sanctions against the party at fault pursuant to Local Bankruptcy Rule 7016-1(f) and (g).

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CONT... Patrick Michael Nangle

Chapter 7

Debtor(s):

Patrick Michael Nangle

Represented By
Navid Kohan

Defendant(s):

Patrick Michael Nangle

Pro Se

DOES 1 through 20, inclusive

Pro Se

Plaintiff(s):

Carol Steiner, individually, and as

Represented By
Jill David

Trustee(s):

Jeremy W. Faith (TR)

Pro Se

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1:25-11396 Jared Dean Smith

Chapter 7

Adv#: 1:25-01073 Detchev et al v. Smith et al

#10.00 Status Conference re: Amended Complaint to determine
non-dischargeability of debt and for damages

Docket 8

***** VACATED *** REASON: Another Summons issued on 12/9/25.
Hearing is continued to 2/12/26 at 1:30 PM.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jared Dean Smith

Represented By
Michael Jay Berger

Defendant(s):

Jared Dean Smith

Pro Se

NAVY FEDERAL CREDIT UNION

Pro Se

First Hawaiian Bank

Pro Se

Plaintiff(s):

Georgui G Detchev

Represented By
John D Monte

Youlia K Doneva

Represented By
John D Monte

Trustee(s):

Sandra McBeth (TR)

Represented By
Samuel Mushegh Boyamian

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1:25-11467 Lauren Rachel Stone Jackson

Chapter 7

Adv#: 1:25-01075 Jackson v. Stone Jackson

#11.00 Status conference re: Complaint to determine dischargeability of debt

Docket 1

Tentative Ruling:

The parties have not filed a joint status report, and plaintiff has not filed a unilateral status report, pursuant to Local Bankruptcy Rule 7016-1(a). In addition, contrary to the provisions of Local Bankruptcy Rule 7016-1(a), plaintiff has not filed a declaration setting forth the attempts made by plaintiff to contact or obtain the cooperation of defendant.

The Court will continue the status conference to **1:30 p.m. on February 12, 2026**, in order for the parties or plaintiff to comply with Local Bankruptcy Rule 7016-1(a) and timely file the required status report before the status conference.

The Court strongly advises the parties to consult with and engage qualified bankruptcy counsel regarding this adversary proceeding. For assistance in obtaining counsel, the parties may contact **Neighborhood Legal Service of Los Angeles County ("NLS")** at **(800) 433-6251**. NLS personnel also staff a self-help center on the first floor of the U.S. Bankruptcy Court, San Fernando Valley Division, 21041 Burbank Blvd., Woodland Hills, CA 91367. **Personnel of NLS are at this location on Tuesdays and Thursdays from 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m.**

Party Information

Debtor(s):

Lauren Rachel Stone Jackson

Represented By

Sanaz Sarah Bereliani

Defendant(s):

Lauren Rachel Stone Jackson

Pro Se

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CONT... Lauren Rachel Stone Jackson

Chapter 7

Plaintiff(s):

Chis Jackson

Pro Se

Trustee(s):

David Keith Gottlieb (TR)

Pro Se

**United States Bankruptcy Court
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1:25-11168 Yvette Stefens Nelson

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Adv#: 1:25-01064 Nelson v. Nelson

#12.00 Defendant's Motion to Dismiss Under Fed. R. Bankr. P. 7012(b)(6)

Docket 6

Tentative Ruling:

The Court will grant the motion and dismiss the plaintiff's claim for relief under 11 U.S.C. § 523(a)(4) without leave to amend and the plaintiff's remaining claim under 11 U.S.C. § 523(a)(5) with leave to amend.

I. BACKGROUND

A. Defendant's Prior Chapter 7 Case

On October 10, 2011, Yvette Stefens Nelson ("Defendant") filed a chapter 7 petition, initiating case no. 1:11-bk-21894-VK (the "Prior Case"). In the Prior Case, the deadline for parties in interest to challenge dischargeability of debts under 11 U.S.C. §§ 523(a)(2), (4) or (6) was January 9, 2012 (the "Section 523 Deadline") [Prior Case, doc. 5].

In her schedule F filed in the Prior Case, Defendant disclosed a claim held by Matthew Gray Nelson ("Plaintiff") in the amount of \$87,869 for "Spousal Equalization." Schedule F, p. 2 [Prior Case, doc. 1]. Defendant also disclosed a claim held by Wendy Herzog in the amount of \$95,405 for "Attorneys Fees." *Id.*, p. 3.

Prior to the Section 523 Deadline, in November 2011, Plaintiff filed a motion for relief from the automatic stay to proceed with state court litigation against Defendant. The Court granted this motion [Prior Case, docs. 20 and 28].

Despite having notice of the Prior Case, Plaintiff did not file a complaint regarding the dischargeability of any debt owed to Plaintiff under 11 U.S.C. §§ 523(a)(2), (4) or (6). In February 2012, Defendant received a discharge in the Prior Case [Prior Case, doc. 34].

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B. Defendant's Pending Chapter 13 Case

On July 2, 2025, Defendant filed a chapter 13 petition, initiating the pending case. In her schedule E/F, Defendant discloses a claim held by Plaintiff in the amount of \$280,000. Defendant represents that the basis for the debt is "non-support awards from marital dissolution judgment, including marital equalization, reimbursements from overpayment of spousal support, and court sanctions. Some portions already discharged in [the Prior Case]." Schedule E/F, p. 1 [doc. 1]. In addition, Defendant discloses a claim held by Ms. Herzog in the amount of \$96,000. Defendant indicates that this claim is based on "[n]on-support attorneys fees awarded pursuant to marital dissolution judgment. This amount is incorporated into the Judgment amounts listed for [Plaintiff]." *Id.*, p. 2.

On October 6, 2025, Plaintiff filed a complaint against Defendant, initiating this adversary proceeding. On October 8, 2025, Plaintiff filed a first amended complaint (the "Complaint"), requesting nondischargeability of debts owed to him pursuant to 11 U.S.C. §§ 523(a)(4) and (5). The Complaint alleges, in relevant part:

The parties were married on July 14, 1995. The parties separated on January 12, 2009. On September 14, 2011, the state court entered a marital dissolution judgment (the "Judgment"). At trial, the state court found that Defendant had breached her fiduciary duty to Plaintiff by stealing funds from the parties' community property, including by withdrawing \$70,000 from the parties' home equity line of credit (the "HELOC"). The state court also found that Defendant concealed income. As a result of withdrawing the funds from the HELOC, the state court awarded to Plaintiff sanctions in the amount of \$7,352. In addition, the state court awarded to Plaintiff \$90,000 in sanctions, representing actual fees incurred by Plaintiff. On September 1, 2021, Plaintiff renewed the Judgment.

Defendant owes Plaintiff the \$70,000 that Defendant obtained by breach of her fiduciary duty, plus the \$7,352 in sanctions (the "Fiduciary Debt"). In addition, Defendant owes Plaintiff an additional \$60,000 in overpayment of spousal support (the "Overpayment"). As of the petition date, the total amount owed to Plaintiff, including

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interest, was \$379,610.35(the "Debt"). The Debt is nondischargeable under 11 U.S.C. §§ 523(a)(4) and (5).

Complaint, ¶¶ 4, 7-16. To the Complaint, Plaintiff attached the Judgment as Exhibit 1 and the renewal of the Judgment as Exhibit 2.

On November 5, 2025, Defendant filed a motion to dismiss the Complaint (the "Motion") [doc. 6]. In the Motion, Defendant asserts that: (1) the Fiduciary Debt was discharged in the Prior Case; (2) Plaintiff has not established that the Overpayment is in the nature of alimony, maintenance or support; and (3) that leave to amend the Complaint will be futile. On December 15, 2025, Plaintiff filed an opposition to the Motion [doc. 11].

II. ANALYSIS

A. General Standard Under Fed. R. Civil Procedure 12(b)(6)

A motion to dismiss [pursuant to Fed. R. Civil Procedure ("Rule") 12(b)(6)] will only be granted if the complaint fails to allege enough facts to state a claim to relief that is plausible on its face. A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. The plausibility standard is not akin to a probability requirement, but it asks for more than a sheer possibility that a defendant has acted unlawfully.

We accept factual allegations in the complaint as true and construe the pleadings in the light most favorable to the non-moving party. Although factual allegations are taken as true, we do not assume the truth of legal conclusions merely because they are cast in the form of factual allegations. Therefore, conclusory allegations of law and unwarranted inferences are insufficient to defeat a motion to dismiss.

Fayer v. Vaughn, 649 F.3d 1061, 1064 (9th Cir. 2011) (internal quotation marks omitted; citing, *inter alia*, *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 547, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007); and *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S.Ct.

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1937, 173 L.Ed.2d 868 (2009)).

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"A complaint that merely recites statutory language fails to state a claim under Rule 12(b)(6)." *In re Kubick*, 171 B.R. 658, 660 (B.A.P. 9th Cir. 1994). This is because "mere statutory language does not plead facts sufficiently so that they may be answered or denied." *Id.* "[F]acts must be alleged to sufficiently apprise the defendant of the complaint against him." *Id.*

In evaluating a Rule 12(b)(6) motion, review is "limited to the contents of the complaint." *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754 (9th Cir. 1994). However, without converting the motion to one for summary judgment, exhibits attached to the complaint, as well as matters of public record, may be considered in determining whether dismissal is proper. *See Parks School of Business, Inc. v. Symington*, 51 F.3d 1480, 1484 (9th Cir. 1995); *Mack v. South Bay Beer Distributors, Inc.*, 798 F.2d 1279, 1282 (9th Cir. 1986). Further, a court may consider evidence "on which the complaint necessarily relies if: (1) the complaint refers to the document; (2) the document is central to the plaintiff's claim; and (3) no party questions the authenticity of the copy attached to the [Rule] 12(b)(6) motion." *Marder v. Lopez*, 450 F.3d 445, 448 (9th Cir. 2006) (internal quotation marks omitted). "The court may treat such a document as part of the complaint, and thus may assume that its contents are true for purposes of a motion to dismiss under Rule 12(b)(6)." *Id.* (internal quotation marks omitted).

B. Rule 15(a)

Under Rule 15(a)(1)(B), a plaintiff has a one-time right to file an amended complaint "as a matter of course" 21 days after the earlier of (i) service of a responsive pleading or (ii) service of a Rule 12(b), (e) or (f) motion. Even if a plaintiff does not have the right to amend "as a matter of course," the court may grant leave to amend. Rule 15(a)(2) provides that "the court should freely give leave [to amend] when justice so requires." Dismissal without leave to amend is appropriate, however, when the court is satisfied that the deficiencies in the complaint could not possibly be cured by amendment. *Jackson v. Carey*, 353 F.3d 750, 758 (9th Cir. 2003); *Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000).

C. Plaintiff's Claim Under 11 U.S.C. § 523(a)(4)

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11 U.S.C. § 523(c)(1) provides—

Except as provided in subsection (a)(3)(B) of this section, the debtor shall be discharged from a debt of a kind specified in paragraph (2), (4), or (6) of subsection (a) of this section, unless, on request of the creditor to whom such debt is owed, and after notice and a hearing, the court determines such debt to be excepted from discharge under paragraph (2), (4), or (6), as the case may be, of subsection (a) of this section.

11 U.S.C.A. § 523(c).

Pursuant to Fed. R. Bankr. P. ("FRBP") 4007(c)—

Except as (d) provides, a complaint to determine whether a debt is dischargeable under § 523(c) must be filed within 60 days after the first date set for the § 341(a) meeting of creditors. The clerk must give all creditors at least 30 days' notice of the time to file in the manner provided by Rule 2002. On a party in interest's motion filed before the time expires, the court may, after notice and a hearing and for cause, extend the time to file.

FRBP 4007(c).

Defendant received a discharge in the Prior Case. During the Prior Case, Plaintiff did not request that the Court determine that any debt owed to him be excepted from discharge under section 523(a)(4). As a result, in accordance with section 523(c)(1) and FRBP 4007(c), any debt owed to Plaintiff for fraud or defalcation while acting in a fiduciary capacity, which arose before the filing of the Prior Case, was discharged in the Prior Case. In Defendant's pending chapter 13 case, Plaintiff cannot assert a claim under section 523(a)(4), when that claim arose before the Prior Case. For that reason, the Court will grant the Motion as to Plaintiff's claim under section 523(a)(4), without leave to amend. [FN1]

A. Sufficiency of Allegations Regarding 11 U.S.C. § 523(a)(5)

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Section 523(a)(5) excepts from discharge any debt for a "domestic support obligation." The deadline to file a complaint set forth in section 523(c) does not include debts covered by section 523(a)(5). Consequently, creditors do not have a deadline under section 523(c) to file complaint for nondischargeability of a debt under section 523(a)(5). As a result, if any portion of the Debt is encompassed by section 523(a)(5), that portion of the Debt was not discharged in the Prior Case.

Pursuant to § 101(14A):

The term "domestic support obligation" means a debt that accrues before, on, or after the date of the order for relief in a case under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is—

(A) owed to or recoverable by—

(i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or

(ii) a governmental unit;

(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly so designated;

(C) established or subject to establishment before, on, or after the date of the order for relief in a case under this title, by reason of applicable provisions of—

(i) a separation agreement, divorce decree, or property settlement agreement;

(ii) an order of a court of record; or

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(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative for the purpose of collecting the debt.

Here, the only element in dispute is the second element, i.e., that the Debt is "in the nature of alimony, maintenance, or support...." 11 U.S.C. § 101(14A)(B).

To determine whether a debt is in the "nature of support," courts may consider the following factors: 1) the parties' intent that the debt be in the nature of support; 2) the label given to the payments; 3) the recipient's need for the support, generally determined by an imbalance of income; 4) the manner in which the payments are to be made; and 5) the ability of the payments to terminate when the recipient dies or remarries.

Koch v. Olsson (In re Olsson), 532 B.R. 810, 812 (D. Or. 2015) (internal citations omitted). "Labels used by the state court are not binding on the bankruptcy court. Where the judgment is entered following a contested trial (as opposed to by stipulation of the parties), the court looks at the intent of the state court as to the nature of the obligation." *In re Moser*, 530 B.R. 872, 874 (Bankr. D. Or. 2015) (citing *In re Jodoin*, 209 B.R. 132, 138 (B.A.P. 9th Cir. 1997)). "Whether an obligation is in the nature of support is a factual determination made by the bankruptcy court." *Id.* (citing *In re Chang*, 163 F.3d 1138, 1140 (9th Cir.1998) (discussing whether obligation is in nature of support for purposes of dischargeability under § 523(a)(5)). *See also In re Gately*, 2016 WL 6777316, at *3 (B.A.P. 9th Cir. Nov. 15, 2016) ("the bankruptcy court must look behind the state court's award and make a factual inquiry to determine whether the award is actually in the nature of support.")(internal citation and quotations omitted).

In *In re Taylor*, 455 B.R. 799 (Bankr. D.N.M. 2011), *aff'd*, 478 B.R. 419 (B.A.P. 10th Cir. 2012), *aff'd*, 737 F.3d 670 (10th Cir. 2013), the bankruptcy court held that the

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plaintiff's conclusory allegations that the debt was in the nature of support were insufficient for purposes of Rule 12(b)(6):

The Complaint filed in this adversary proceeding fails to allege any facts from which a trier of fact could determine that the recovery of the overpayment from Defendant, plus the attorneys' fees awarded in connection with the Judgment, is in the nature of support for the Plaintiff as creditor-spouse. Plaintiff argues that because the average consumer spends a substantial percentage of his or her annual paycheck on food, housing, and transportation, it is "highly probable" that Plaintiff will be able to prove that he needed the funds to make the overpayment to maintain his daily necessities. *See* Plaintiff's Response to Debtor's Motion to Dismiss Complaint Under Fed.R.Civ.P. 12(b)(6) and Fed. R. Bank. P. 7012(b) ("Response"), pp. 4–5 (Docket No. 6). However, no such allegations are made in the Complaint, and generalities and national averages are insufficient to establish that the overpayment functions as support for Plaintiff. Absent any factual allegations regarding Plaintiff's financial condition and needs at the time the obligation arose, it is impossible to determine that the Judgment, including the award of attorneys' fees, is in the nature of support. Consequently, Plaintiff has failed to state a plausible cause of action under 11 U.S.C. § 523(a)(5).

Taylor, 455 B.R. at 807 (Bankr. D.N.M. 2011); *see also Towne v. Towne (In re Towne)*, 2009 WL 248429, at *2 (Bankr. D. Kan. Feb. 3, 2009) (granting motion to dismiss section 523(a)(5) claim, noting that "The Complaint contains no factual allegations regarding the parties' relative financial circumstances at the time of the divorce.").

Here, the Complaint does not include allegations regarding most of the above-mentioned factors. Based on the Judgment, which is attached to the Complaint, it appears that the Overpayment and the Fiduciary Debt were to be paid from Defendant's share of the proceeds from the sale of the marital home. However, it is not apparent that the Debt is "in the nature of alimony, maintenance, or support." *See* Judgment, pp. 3, 8, 9 and 10.

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Regarding Plaintiff's contention that the Overpayment is in the nature of support, and thus nondischargeable under section 523(a)(5), Plaintiff cites *Norbut v. Norbut (In re Norbut)*, 387 B.R. 199 (Bankr. S.D. Ohio 2008). In *Norbut*, when evaluating whether overpayment of spousal support was in the nature of support, and thus nondischargeable under section 523(a)(5), the bankruptcy court considered the state court's "exhaustive" application of certain factors to determine whether the overpayment should have been retroactively terminated, including: "(a) each of the parties' assets; (b) each of the parties' income; (c) the parties' earning capacities; (d) the length of the marriage; (e) the lifestyles that each of the parties lived during and after the marriage; and (f) the age and health of the parties." *Norbut*, 387 B.R. at 207. Unlike in *Norbut*, Plaintiff has not included sufficient allegations in the Complaint which address the factors for determining whether the debt is in the nature of support.

Plaintiff's reliance on *Dyrud v. Luckman (In re Luckman)*, 2012 Bankr. LEXIS 5902 (Bankr. D. Mont. Dec. 12, 2012), and *In re Baker*, 294 B.R. 281 (Bankr. N.D. Ohio 2002), also is unpersuasive. In *Luckman*, the debtor had brought an action in state court contending that her former husband, Mr. Hart, was delinquent in his child support obligations. Mr. Hart prevailed in that litigation, and the state court awarded him attorney fees. Mr. Hart and his attorney in the marital dissolution case, Mr. Dyrud, filed an adversary proceeding against the debtor seeking a determination that the fee judgment was nondischargeable under section 523(a)(5).

The *Luckman* court held that the judgment was "in the nature of support because it was incurred in the course of litigating the child support obligations of the parties. . . . The child support provisions of the Settlement Agreement between [the debtor] and [Mr. Hart] clearly benefitted the children, so the . . . attorney fees incurred by [Mr. Hart] defending against [the debtor]'s child support claims is in the nature of support." *Luckman*, 2012 Bankr. LEXIS 5902, at *18-20. In *Baker*, the court also noted specific reasons why the overpayment of child support, under the circumstances of that case, was nondischargeable.

Luckman and *Baker* were decided in the context of litigating an obligation to pay child support or an overpayment of child support. Here, the Judgment does not concern child support payments; for that reason, *Luckman* and *Baker* are distinguishable from this case.

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Plaintiff has not yet plead sufficient factual content for the Court to draw the reasonable inference that the Debt, or any portion of the Debt, constitutes a "domestic support obligation." As a result, the Court will grant the Motion as to Plaintiff's claim under 11 U.S.C. § 523(a)(5), with leave to amend the Complaint.

In an amended complaint, the Plaintiff must make allegations which address the factors discussed above, i.e. regarding the state court's intent as to the nature of the debt at issue, Plaintiff's need for support, including financial disparities between Plaintiff and Defendant, and whether or not the obligation terminates when Plaintiff dies or remarries.

III. CONCLUSION

The Court will grant the Motion as to Plaintiff's claim under 11 U.S.C. § 523(a)(4), without leave to amend the Complaint.

The Court will grant the Motion as to Plaintiff's claim under 11 U.S.C. § 523(a)(5), with leave to amend the Complaint.

No later than 14 days after the entry of the Court's order deciding the Motion, Plaintiff may file and serve an amended complaint. No later than 14 days after the filing and service date of an amended complaint, Defendant must file and serve a response to Plaintiff's amended complaint.

Movant must submit the order within seven (7) days.

FOOTNOTES

FN1: As to this issue, Plaintiff's reliance on *In re Goralnick*, 81 B.R. 570 (B.A.P. 9th Cir. 1987) is misplaced. In *Goralnick*, because the debtors *converted* their chapter 11 case to a case under chapter 7, a new deadline arose for creditors to file complaints to determine dischargeability of debts. *Id.* at 573 ("we hold that when a chapter 11 or chapter 13 case is converted to chapter 7, a new period arising for filing complaints objecting to discharge or dischargeability"). In contrast, in the Prior Case, Defendant already obtained a discharge. After receiving a discharge in Defendant's chapter 7 case,

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Defendant's subsequent filing of a chapter 13 petition, which commenced a separate bankruptcy case, does not resuscitate the deadline set in the Prior Case to file a complaint to determine dischargeability of debts.

Party Information

Debtor(s):

Yvette Stefens Nelson

Represented By
Mark J Markus

Defendant(s):

Yvette Stefens Nelson

Represented By
Stella A Havkin

Movant(s):

Yvette Stefens Nelson

Represented By
Stella A Havkin

Plaintiff(s):

Matthew Gray Nelson

Represented By
Gary A Starre

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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Adv#: 1:25-01064 Nelson v. Nelson

#13.00 Status conference re: First Amended Complaint For
Nondischargeability of Debt

fr. 12/11/25

Docket 3

Tentative Ruling:

See cal. no. 12.

The Court will continue the status conference to **1:30 p.m. on March 19, 2026**. Pursuant to Local Bankruptcy Rule 7016-1(a), the parties must to file a joint status using mandatory court form F 7016-1.STATUS.REPORT (and F 7016-1.STATUS.REPORT.ATTACH, if applicable), **no later than March 5, 2026**.

In accordance with Local Bankruptcy Rule 7016-1(a)(4), within seven (7) days after this status conference, the plaintiff must submit a Scheduling Order. If any of these deadlines are not satisfied, the Court will consider imposing sanctions against the party at fault pursuant to Local Bankruptcy Rule 7016-1(f) and (g).

Party Information

Debtor(s):

Yvette Stefens Nelson

Represented By
Mark J Markus

Defendant(s):

Yvette Stefens Nelson

Pro Se

Plaintiff(s):

Matthew Gray Nelson

Represented By
Gary A Starre

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Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se