

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

**Thursday, January 18, 2024**

**Hearing Room 301**

10:30 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.**

Parties in interest 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). Members of the public, the press and parties in interest may participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate remotely and there are no fees for doing so. No pre-registration or prior approval is required.

The audio portion of each hearing will be recorded electronically by the Court and that recording will constitute its official record. Recording, retransmitting, photographing or imaging Court proceedings by any means is strictly prohibited.

**Join CACB ZoomGov Meeting**

Video/audio web address: <https://cacb.zoomgov.com/j/1603052444>

Meeting ID: 160 305 2444

Password: 444783

**Join by Telephone**

Telephone conference lines: 1-669-254-5252 OR 1-646-828-7666

Meeting ID: 160 305 2444

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**CONT...**

**Chapter**

Password: 444783

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:**

**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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**1:22-11170 Robert Lee Alderman and Noni Elizabeth Alderman**

**Chapter 11**

**#1.00 Second and Final Fee Application of  
Michael Jay Berger, Debtor's Attorney**

Period: 1/31/2023 to 10/24/2023  
Fees: \$20,934.00 Expenses: \$968.33

Docket 180

**Tentative Ruling:**

Law Offices of Michael Jay Berger ("MJB"), counsel to debtors and debtors in possession - approve fees of \$55,859.10 and reimbursement of expenses of \$1,825.19, pursuant to 11 U.S.C. § 330, on a final basis. All fees and expenses approved on an interim basis are approved on a final basis. MJB is authorized to collect the remaining balance of \$24,324.60 in fees and \$856.86 in expenses.

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

Note: No response has been filed. Accordingly, no court appearance by applicant 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 applicant will be so notified.

<b>Party Information</b>
--------------------------

**Debtor(s):**

Robert Lee Alderman

Represented By  
Michael Jay Berger

**Joint Debtor(s):**

Noni Elizabeth Alderman

Represented By  
Michael Jay Berger

**Trustee(s):**

Andrew W. Levin (TR)

Pro Se

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Central District of California  
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1:00 PM

**1:23-11299 Camilo Jose Morales, Jr**

**Chapter 7**

**#2.00** U.S. Trustee's Motion to Extend Bar Date for Filing Complaint  
Objecting to Discharge pursuant to 11 U.S.C. § 727  
and/or a Motion to Dismiss under 11 U.S.C. § 707(b)

Docket 23

**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.

<b>Party Information</b>
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**Debtor(s):**

Camilo Jose Morales Jr

Represented By  
Maureen Okwuosa

**Trustee(s):**

David Keith Gottlieb (TR)

Pro Se

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**1:23-11335 Sussan Diana Martinez**

**Chapter 7**

**#3.00** Order to Show Cause re: Dismissal for  
Failure to Comply with Rule 1006(b)  
(installment payment schedule)

Docket 0

**\*\*\* VACATED \*\*\* REASON: Payment of \$168.00 was received on  
12/11/23.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Sussan Diana Martinez

Pro Se

**Trustee(s):**

David Keith Gottlieb (TR)

Pro Se

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**1:23-11200 Windsor Terrace Healthcare, LLC**

**Chapter 11**

**#4.00** Debtors' Motion For Entry Of A Final Order:  
(I) Authorizing The Debtors To (A) Use Cash Collateral And  
(B) Obtain Post-Petition Financing; (II) Granting Adequate Protection;  
(III) Scheduling A Final Hearing; And (IV) Granting Related Relief

fr. 10/5/23, 11/2/23

Docket 173

**Tentative Ruling:**

Grant on an interim basis, as set forth in the proposed Third Interim Order [doc. 576].

The Court will hold a final hearing at **1:30 p.m. on March 7, 2024**. Any objections to entry of the final order must be filed and served no later than February 22, 2024. Any replies must be filed and served no later than February 29, 2024.

No later than **January 19, 2024**, in accordance with the *Order Granting Motion for Order Limiting Notice and Related Relief* [doc. 117 in the lead case], movants must give notice of the final hearing and the deadline to file any objections to entry of the final order.

Movants must lodge the order within seven (7) days.

<b>Party Information</b>
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**Debtor(s):**

Windsor Terrace Healthcare, LLC

Represented By  
Ron Bender  
Juliet Y. Oh  
Monica Y Kim  
Lindsey L Smith  
Robert Carrasco

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**1:23-11200 Windsor Terrace Healthcare, LLC**

**Chapter 11**

**#4.01** Motion To Further Extend Exclusivity Periods For The Debtors  
To File A Plan And Obtain Acceptance Thereof

Docket 543

**Tentative Ruling:**

Taking into account the proposed *Stipulated Order Extending the Exclusivity Periods for the Debtors to File a Plan and Obtain Acceptance Thereof*, the Court will further extend exclusivity periods for the debtors to file a chapter 11 plan and obtain acceptances thereof (the "Motion") [doc. 543] as follows:

The exclusive period for the Original Debtors (as defined in the Motion) and the New Debtors (as defined in the Motion) to file a chapter 11 plan is extended to and including **March 20, 2024**.

The exclusive period for the Original Debtors and the New Debtors to obtain acceptances of a chapter 11 plan is extended to and including **July 20, 2024**.

Note: No response has been filed. Accordingly, no court appearance by movants 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 movants will be so notified.

<b>Party Information</b>
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**Debtor(s):**

Windsor Terrace Healthcare, LLC

Represented By  
Ron Bender  
Juliet Y. Oh  
Monica Y Kim  
Lindsey L Smith  
Robert Carrasco

**Movant(s):**

Windsor Terrace Healthcare, LLC

Represented By



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**CONT... Windsor Terrace Healthcare, LLC**

**Chapter 11**

Ron Bender  
Ron Bender  
Juliet Y. Oh  
Juliet Y. Oh  
Monica Y Kim  
Monica Y Kim  
Lindsey L Smith  
Lindsey L Smith  
Robert Carrasco  
Robert Carrasco

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2:00 PM

**1:22-10147    Wilma & Frieda's Inc.**

**Chapter 11**

**#5.00**    Post confirmation status conference re: chapter 11, subchapter V case

fr. 3/9/23; 7/13/23

Docket      1

**Tentative Ruling:**

Based on the reorganized debtor's *Post Confirmation Status Report* [doc. 220], the Court will continue the post-confirmation status conference to **June 20, 2024 at 2:00 p.m.** On or before **June 6, 2024**, the reorganized debtor must file an updated status report explaining what progress has been made toward consummation of the confirmed plan of reorganization. The report must be served on the United States trustee **and all holders of priority unsecured claims**. The status report must comply with the provisions of Local Bankruptcy Rule 3020-1(b) **AND BE SUPPORTED BY EVIDENCE**.

Appearances on January 18, 2024 are excused.

<b>Party Information</b>
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**Debtor(s):**

Wilma & Frieda's Inc.

Represented By  
Michael Jay Berger  
Katherine Bunker

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**CONT... Wilma & Frieda's Inc.**

**Chapter 11**

**Trustee(s):**

Moriah Douglas Flahaut (TR)

Pro Se

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**1:21-10179 Alex Foxman and Michal J Morey**

**Chapter 11**

**#6.00** Status conference re: chapter 11 subchapter V case

fr. 3/25/21; 4/8/21; 4/22/21; 4/29/21; 7/22/21; 11/18/21; 1/27/22; 7/14/22;  
8/25/22; 11/17/22; 2/16/23; 3/23/23; 11/9/23

Docket 1

**Tentative Ruling:**

On February 3, 2021, the debtors filed a bankruptcy petition under chapter 11, subchapter V. Pursuant to the *Order Setting Hearing on Status of Chapter 11, Subchapter V Case and Requiring Report on Status of Chapter 11, Subchapter V Case* (the "Order Setting Status Conference") [doc. 30]:

The debtor(s) must file with the Court: (1) at the same time filed with the taxing authority, a copy of each Federal income tax return required under applicable law (or at the election of the debtor(s), a transcript of such return) with respect to each tax year of the debtor(s) ending while this case is pending under chapter 11[.]

Order Setting Status Conference, p. 4. In addition, the Order Setting Status Conference provides that "the Court may take any of the following actions at the conference (or at any continued conference) without further notice: 1. Dismiss the case; [or] 2. Convert the case to one under another chapter[.]" *Id.*, p. 2.

Pursuant to the *Order Continuing Chapter 11 Status Conference* [doc. 407], the debtors were obligated to submit their income tax returns for 2022 to the Court no later than November 16, 2023. As of January 12, 2024, the debtors had not filed their 2022 income tax returns with the Court. This failure to comply with an order of the Court constitutes grounds for dismissal or conversion of this case to one under chapter 7. 11 U.S.C. §§ 105(a) and 1112(b)(1) and (4)(E).

In addition, the debtors apparently will not confirm a chapter 11 plan by the Court-set deadline of April 4, 2024. *Order on Sixth Stipulation to Continue Deadlines Regarding Confirmation of the Third Amended Plan of Reorganization* [doc. 417]. In

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**CONT... Alex Foxman and Michal J Morey**

**Chapter 11**

opposition to the motion for relief from the automatic stay filed in March 2023 by Andre Berger, Tracy Berger, Russell M. Frandsen and Christie H. Frandsen (the "Berger/Frandsen Parties") [doc. 318], Dr. Foxman testified:

[T]ogether with my accountant and my counsel I am in the process of filing an Amended Plan of Reorganization with the Court shortly. The projections and financials have been completed by the accountants. That Plan **will have contingencies for paying [Movants] in the event my claims are not successful or sufficiently successful to pay off my debts. One method of paying [Movants] is success in that litigation. However, if he [sic] is not successful, the Plan will offer an alternative.**

Doc. 338, p. 9 (emphasis added). Although Dr. Foxman represented that the debtors would file such a plan of reorganization, as of January 17, 2024, the debtors have not done so. Instead, the debtors now contend that they cannot confirm a plan of reorganization until their litigation in the state court with the Berger/Frandsen Parties has concluded. [FN 1]. Failure to confirm a plan by a deadline set by the Court constitutes grounds for dismissal or conversion of this case to one under chapter 7. 11 U.S.C. §§ 105(a) and 1112(b)(1) and (4)(J).

As of February 28, 2021, the debtors reported that they had aggregate cash in their debtor-in-possession bank accounts in the amount of \$51,709.43. *See* doc. 46. According to their most recently filed monthly operating report ("MOR"), as of the end of November 2023, the debtors had aggregate cash in their debtor-in-possession bank accounts in the amount of \$56,368.43. *See* doc. 424. Taking into account the ending cash balances set forth in their MORs, the debtors have been spending most, if not all, of what they earn every month, as well as incurring significant unpaid attorney's fees. This is taking place despite the debtors' high gross income during this case. Since filing their chapter 11 petition in February 2021, the debtors' average gross income is \$40,023.43 per month.

Andre Berger and Tracy Berger assert, and the debtors do not dispute, that from the petition date to May 31, 2023, *i.e.*, more than six months ago, the estate's professional fees total \$531,351.47. *See Creditors Dr. Andre Berger and Tracy Berger's Objection*

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**CONT... Alex Foxman and Michal J Morey**

**Chapter 11**

*to Debtors' Application for Authority to Employ Steven A. Morris, Esq. and Quantum Law Group as Special Litigation Counsel* [doc. 428], pp. 3-4. At least \$149,746.31 of this amount remains unpaid. *Id.* In light of the debtors' ongoing litigation with the Berger/Frandsen Parties in the state court since May 2023, it is likely the amount of the debtors' unpaid postpetition attorney's fees is substantially greater at this time.

At the status conference, the parties should be prepared to discuss whether the Court should dismiss or convert this case to one under chapter 7. Taking into account, among other things, the debtors' ongoing state court litigation, the previously incurred and increasing administrative claims against the estate and the likelihood that there would not be a distribution to unsecured creditors if this case were converted to one under chapter 7, [FN 2] the Court's evaluation is that it is in the best interest of creditors and the estate to dismiss this case with a 180-day bar to the debtors filing another chapter 11 petition.

For purposes of this status conference and concerning the Court's conclusion that there is cause to dismiss or convert this case at this time [doc. 431], the Court rules as follows regarding Debtors' Evidentiary Objections to the Declaration of Dr. Andre Berger [docs. 437 and 438]:

Paragraphs 1, 3, 3(i), 3(ii), 3(iii), 3(iv), 4, 5, 14 : Overruled. [FN 3]

Paragraphs 3(v), 4(i), 4(ii), 5(i): Sustained.

**FOOTNOTES**

**FN 1:** Prepetition, the debtors and the Berger/Frandsen Parties entered into a settlement agreement (the "Settlement Agreement"). Pursuant to the Settlement Agreement, in order to secure the debtors' monetary obligations under the Settlement Agreement, the debtors provided deeds of trust, encumbering the debtors' real properties, to the Berger/Frandsen Parties. Before filing their chapter 11 petition, the debtors defaulted under the Settlement Agreement; this Court granted relief from the automatic stay for the Berger/Frandsen Parties to proceed with litigation in state court about the Settlement Agreement. After holding extensive evidentiary proceedings, the state court held, among other things, that "the [debtors] acted in bad faith and

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**CONT...**

**Alex Foxman and Michal J Morey**

**Chapter 11**

shirked their financial responsibilities to the business in violation of the terms of the Settlement Agreement." Doc. 338, p. 7.

- FN 2: In the *Reply in Support of Debtors' Application for Authority to Employ Steven A. Morris and Quantum Law Group as Special Litigation Counsel* (the "Reply") [doc. 436], the debtors acknowledge that the Berger/Frandsen parties are "fully secured creditors[.]" Reply, p. 6. In April 2023, the Court granted relief from the automatic stay to the Berger/Frandsen Parties to foreclose upon and take possession of the debtors' real properties located at 321 San Vicente Blvd., 407, Los Angeles CA 90048 and 14606 Sutton Street, Sherman Oaks CA 91403 [docs. 338, 339, 347 and 348].
- FN 3: *See In re Micr Toner International, LLC*, 2017 WL 766899, at \*5 n.7 (Bankr. C.D. Cal. Feb. 24, 2017) ("Settlement communications are inadmissible only if they are proffered to prove or disprove the validity or amount of a disputed claim. Settlement communications may be admitted for other purposes. Evidence Rule 408(b)."); *see also In re Schmalenberg*, 623 B.R. 858, 862 (Bankr. W.D. Wash. 2020) (emails not excluded under Rule 408 when offered to negate debtors' argument of undue delay); *In re Woolard*, 269 B.R. 748, 752 (Bankr. S.D. Ohio 2001) (drafts of separation agreement not excluded under Rule 408 when offered to prove parties' intent); *In re Lake Country Investments*, 2001 WL 267475, at \*2 (Bankr. D. Idaho Mar. 19, 2001) (Rule 408 "does not create an automatic exclusion of everything that is said or written during the course of negotiations between parties. The rule does not require exclusion if the evidence is offered for a purpose other than proving liability for, or the invalidity of, the claim or its amount."); *In re Portnoy*, 201 B.R. 685, 691–92 (Bankr. S.D. N.Y. 1996) (settlement statement not excluded under Rule 408 when offered to demonstrate debtor's intent rather than debtor's liability).

<b>Party Information</b>
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**Debtor(s):**

Alex Foxman

Represented By  
Stella A Havkin

**Joint Debtor(s):**

Michal J Morey

Represented By

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**Chapter 11**

Stella A Havkin

**Trustee(s):**

Susan K Seflin (TR)

Pro Se