

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

Thursday, December 5, 2024

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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Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
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1:24-10631 Nerissa A. Robertson and Kevin R. Robertson

Chapter 13

#1.00 Motion for relief from stay [RP]

PNC BANK, NATIONAL ASSOCIATION
VS
DEBTOR

fr. 10/9/24; 11/26/24

Docket 47

*** VACATED *** REASON: Withdrawal of motion filed 11/6/24. [Dkt. 59]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nerissa A. Robertson

Represented By
Chirnese L Liverpool

Joint Debtor(s):

Kevin R. Robertson

Represented By
Chirnese L Liverpool

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:24-11411 Keith D Price

Chapter 13

#2.00 Motion for relief from stay [RP]

CAPITAL BENEFIT, INC.
VS
DEBTOR

fr. 9/18/24; 10/2/24

Stipulation to continue hearing filed 11/18/24

Docket 6

*** VACATED *** REASON: Hearing is continued to 1/9/25 at 9:30 AM.
[Dkt. 80]

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Keith D Price

Pro Se

Movant(s):

Capital Benefit, Inc.

Represented By
Katherine K Meleski

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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9:30 AM

1:24-11753 Cory Beth Honickman

Chapter 13

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

fr. 11/13/24

Docket 11

Tentative Ruling:

The Court will deny the *Motion in Individual Case for Order Imposing a Stay or Continuing The Automatic Stay as the Court Deems Appropriate* (the "Motion") [doc. 11]. 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; such presumption may be rebutted by clear and convincing evidence to the contrary.

On October 21, 2024, Cory Beth Honickman ("Debtor") filed a chapter 13 petition. At the hearing regarding the Motion held on November 13, 2024, the Court ordered Cory Beth Honickman ("Debtor") to timely pay: (1) her first deed of trust payment for November 2024 as to the real property located at 31173 San Miguel St., Woodland Hills, CA 91364 (the "Property"), if any; and (2) her November 2024 plan payment. The Court also ordered Debtor to file a declaration which demonstrates that Debtor timely made her required postpetition deed of trust and chapter 13 plan payment by no later than November 28, 2024.

In her schedule A/B, Debtor identifies an interest in the Property, valued at \$1.4 million, and no other real estate. In her schedule D, Debtor discloses a debt owed to AmWest Funding Corp ("Amwest") in the amount of \$738,898, secured by the Property. In her schedule J, Debtor discloses a monthly mortgage payment of \$5,908.00.

In her chapter 13 plan (the "Plan"), Debtor proposes to make plan payments of \$1,779 per month for 60 months. Plan, p. 2 [doc. 20]. With respect to Amwest's claim, Debtor proposes to: (1) pay prepetition arrears of \$91,610 to Amwest through the

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CONT... Cory Beth Honickman

Chapter 13

Plan; and (2) maintain and make the current contractual installment payments on Amwest's claim by making direct disbursements. *Id.*, pp. 5-6.

Here, Debtor has not rebutted the presumption of bad faith with clear and convincing evidence. As of December 3, 2024, Debtor has not filed a declaration which demonstrates that she timely made her November 2024 deed of trust payment to Amwest and her November 2024 chapter 13 plan payment.

It appears that Debtor's case will not conclude with a confirmed plan that will be fully performed and that Debtor did not file this case in good faith. Consequently, the Court will deny the Motion.

The Court will prepare the order.

11/13/24 Ruling

The Court will grant the *Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate* (the "Motion") [doc. 11], as to secured creditor Amwest Funding Corp., on an interim basis up to the date of the continued hearing. The Court will continue this hearing to **9:30 a.m. on December 5, 2024.**

No later than November 14, 2024, the debtor must serve on Amwest Funding Corp. a copy of the Motion and notice of the continued hearing date and time and the deadline to file any response 14 days prior thereto. The Motion and notice must be served on Amwest Funding Corp. via first-class mail, postage prepaid, at the following address:

Amwest Funding Corp.
Attn: Ryan Kim
6 Pointe Drive Suite 300
Brea, CA 92821

In addition, the debtor must timely pay: (1) her first deed of trust payment for November 2024 as to the real property located at 31173 San Miguel St., Woodland Hills, CA 91364, if any; and (2) her November 2024 chapter 13 plan payment.

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CONT... Cory Beth Honickman

Chapter 13

No later than November 28, 2024, the debtor must file a declaration which demonstrates that she timely made her required postpetition deed of trust payment, if any, and her required chapter 13 plan payment.

The Court will prepare the order.

Party Information

Debtor(s):

Cory Beth Honickman

Pro Se

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:24-11591 Vartan Ekmekjian

Chapter 7

#4.00 Motion for relief from stay [PP]

BANC OF CALIFORNIA
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):

Vartan Ekmekjian

Represented By
Roland H Kedikian

Movant(s):

Banc of California

Represented By
Christopher Crowell
Raffi Khatchadourian

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CONT... Vartan Ekmekjian

Chapter 7

Trustee(s):

Nancy J Zamora (TR)

Pro Se

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1:24-11725 Terrance Darrelle Thames

Chapter 7

#5.00 Motion for relief from stay [RP]

WILMINGTON SAVINGS FUND SOCIETY, FSB
VS
DEBTOR

Docket 10

Tentative Ruling:

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

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

Movant, or its agents, may, at its option, offer, provide and enter into a potential forbearance agreement, loan modification, refinance agreement or other loan workout or loss mitigation. Movant, through its servicing agent, may contact the debtor by telephone or written correspondence to offer such an agreement.

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):

Terrance Darrelle Thames

Represented By
Navid Kohan

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CONT... Terrance Darrelle Thames

Chapter 7

Movant(s):

Wilmington Savings Fund Society

Represented By
Nichole Glowin

Trustee(s):

Amy L Goldman (TR)

Pro Se

**United States Bankruptcy Court
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1:23-10888 Maria Guadalupe Serrano

Chapter 13

#6.00 Motion for relief from stay [RP]

NEWREZ LLC
VS
DEBTOR

Docket 48

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Maria Guadalupe Serrano

Represented By
Kevin T Simon

Movant(s):

NewRez LLC dba Shellpoint

Represented By
Jenelle C Arnold

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:23-10968 Vagram Garayan

Chapter 13

#7.00 Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
VS
DEBTOR

Docket 62

Tentative Ruling:

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

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

Movant, or its agents, may, at its option, offer, provide and enter into a potential forbearance agreement, loan modification, refinance agreement or other loan workout or loss mitigation. Movant, through its servicing agent, may contact the debtor by telephone or written correspondence to offer such an agreement.

Upon entry of the order, for purposes of Cal. Civ. Code § 2923.5, the debtor is a borrower as defined in Cal. Civ. Code § 2920.5(c)(2)(C).

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.

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CONT... Vagram Garayan

Chapter 13

Debtor(s):

Vagram Garayan

Represented By
Khachik Akhkashian

Movant(s):

U.S. Bank National Association

Represented By
Gatlyn Lindbergh
Natalie E Lea
Jennifer C Wong

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
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1:24-11721 Yazahydi Zenteno

Chapter 13

#8.00 Motion for relief from stay [RP]

PRIVATE MONEY SOLUTIONS, INC.
VS
DEBTOR

Docket 17

Tentative Ruling:

The Court will grant relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(4).

Pursuant to 11 U.S.C. § 362(d)—

On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay—

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest[.]

...

(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real property, if the court finds that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved...

(B) multiple bankruptcy filings affecting such real property.

A decision to lift the automatic stay is within the discretion of the bankruptcy court. *In re MacDonald*, 755 F.2d 715, 716 (9th Cir. 1985). A debtor's bad faith in filing a bankruptcy case can be cause for granting relief from stay. *In re Arnold*, 806 F.2d 937, 939 (9th Cir. 1986). "Bad faith depends on an amalgam of factors and no specific factor is determinative." *In re Sunshine Group, LLC*, 2020 WL 1846940, at *7 (9th

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Chapter 13

Cir. BAP Apr. 10, 2020) (citing *Arnold*, 806 F.2d at 939). "A finding of bad faith is made on a case by case basis, there is no list of factors which must be present in each case to make the finding, and the weight given to any particular factor depends on the circumstances of the individual case." *Id.*

Courts may weigh a variety of circumstantial factors to determine whether a debtor has filed a petition in bad faith, including whether the debtor has any cash flow or sources of income to sustain a plan of reorganization or to make adequate protection payments. *In re St. Paul Self Storage Ltd. Partnership*, 185 B.R. 580, 582–83 (9th Cir. BAP 1995). Once a creditor makes a prima facie showing of bad faith, "[t]he burden, thereafter, is on the debtor to establish good and sufficient reasons why the relief should not be granted." *In re Yukon Enterprises, Inc.*, 39 B.R. 919, 921 (Bankr. C.D. Cal. 1984).

The Ninth Circuit Court of Appeals has found that in some circumstances "unwary creditors may suffer losses at the hands of debtors who abuse the multiple filing opportunities provided by Chapter 13." *In re Fernandez*, 212 B.R. 361, 368 (Bankr. C.D. Cal. 1997)(citing *In re Nash*, 765 F.2d 1410, 1414 (9th Cir. 1985)). Moreover, "under some circumstances bad faith may be established by evidence that a debtor has filed successive bankruptcy petitions primarily to gain the benefit of successive automatic stays." *Id.*, citing *In re Can-Alta Props., Ltd.*, 87 B.R. 89, 91 (9th Cir. BAP 1988).

To obtain relief under 11 U.S.C. § 362(d)(4)—

[T]he court must find three elements to be present. First, debtor's bankruptcy filing must have been part of a scheme. Second, the object of the scheme must be to delay, hinder, or defraud creditors. Third, the scheme must involve either (a) the transfer of some interest in the real property without the secured creditor's consent or court approval, or (b) multiple bankruptcy filings affecting the property. For the court to grant relief under § 362(d)(4), and thus trigger two years of prospective relief as to the subject real property, it must affirmatively find that the three elements above are present.

In re First Yorkshire Holdings, Inc., 470 B.R. 864, 870–71 (9th Cir. BAP

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CONT... Yazahydi Zenteno
2012).

Chapter 13

Here, because the debtor did not file this case in good faith, there is cause to terminate the automatic stay under section 362(d)(1).

On October 10, 2024, Yazahydi Zenteno ("Debtor") filed the current chapter 13 case. In her voluntary petition, Debtor indicated that she lived at 11001 Belmar Avenue, Porter Ranch, CA 91326 (the "Property"). In her schedule A/B, Debtor identified an interest in the Property.

On November 5, 2024, Private Money Solutions, Inc. ("Movant") filed proof of claim no. 3-1, asserting a secured claim in the amount of \$830,506.95. Movant indicated that its claim was based on a deed of trust secured by the Property. In addition, according to the First Amendment to Extension, Forbearance, and Release Agreement attached to its claim, Movant's loan matured on October 10, 2024. *See* Claim No. 3-1, p. 9.

In her chapter 13 plan (the "Plan") [doc. 10], Debtor proposes payments of \$791.43 for the first 2 months of the Plan, and payments of \$2,500 per month for months 3 through 60. Plan, pp. 1-2. In addition, Debtor proposes to maintain and make the current installment payments due to Movant, and to cure arrears in the amount of \$40,000 through the Plan. *Id.*, p. 5.

In her schedule J, Debtor states that her monthly net income is \$791.43. In her schedule I, Debtor states that her non-filing spouse is changing jobs and that his salary will increase to a base of \$150,000.

Because Movant's claim, which is secured by a deed of trust encumbering Debtor's residence, has matured, in order for Debtor to confirm a chapter 13 plan, Movant's entire secured claim must be repaid during the term of Debtor's chapter 13 plan. *See* 11 U.S.C. § 1322(b)(2). Even without taking into account interest, Debtor would have to propose plan payments of more than \$13,000 per month to do so.

Based on her schedules I and J, Debtor's current monthly net income is \$791.43. Given that Debtor does not have sufficient cash flow or a source of income to fund a confirmable chapter 13 plan, it is apparent that Debtor did not file this case in good

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faith.

Chapter 13

Debtor's contention that Movant is sufficiently protected by an equity cushion and that the Property is necessary for an effective reorganization is unavailing. First, Movant did not request relief from stay on the grounds that there is no equity in the Property and that it is not necessary for an effective reorganization. Even so, as discussed *supra*, Debtor has not demonstrated that she will be able to confirm a chapter 13 plan.

Moreover, the filing of this case appears to be part of a scheme to delay, hinder or defraud creditors. Prior to the commencement of this case, Debtor's husband Steve Orocio filed two other chapter 13 cases, both involving the Property, and both of which have been dismissed. Both of these cases were dismissed within two months of their filing.

In Mr. Orocio's most recent case no. 1:24-bk-10200-VK (the "2024 Case"), the Court denied his *Motion in Individual Case for Order Imposing A Stay or Continuing the Automatic Stay as the Court Deems Appropriate* (the "Motion to Extend Stay") [2024 Case, doc. 16]. In its ruling on the Motion to Extend Stay, the Court stated, in relevant part:

At the confirmation hearing, based on the terms of the debtor's chapter 13 plan and the Secured Creditor's objection to confirmation, the Court dismissed the debtor's first case [case no. 1:23-bk-11519-VK] as not having been filed in good faith.

In this case, in his schedule J, the debtor represents that his monthly net income is \$114.86. In his schedule D, the debtor has identified four secured creditors with liens against his residence: FCI Lender Services, the Franchise Tax Board, the Internal Revenue Service and Los Angeles County Treasurer & Tax Collector, holding secured claims in an aggregate amount exceeding \$950,000.

In his first amended chapter 13 plan, the debtor has proposed plan payments in the amount of \$114.86 for months 1 through 60, "plus 1 balloon payment at approximately 9 months equal to prepetition

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income and real property tax liabilities funded by mortgage refinance and outside of plan." Like the chapter 13 plan filed in the Prior Case, the chapter 13 plan filed in this case does not meet the standards for confirmation under 11 U.S.C. § 1325(a)(5); the chapter 13 plan does not provide for periodic payments in equal payment amounts to secured creditors. Moreover, the debtor has not submitted credible evidence about his ability to refinance any secured debt within the period of time set forth in his chapter 13 plan.

Because the debtor has not demonstrated that the filing of this case is in good faith as to the creditors to be stayed, and the Court cannot conclude that this case will be concluded with a confirmed plan that will be fully performed, the Court will deny the motion.

Court's ruling on the Motion to Extend Stay, pp. 2-3 [2024 Case, doc. 25].

It is apparent that Debtor filed this case as part of a scheme to delay, hinder or defraud Movant. Consequently, there is cause to terminate the automatic stay under section 362(d)(4).

Debtor contends that Movant did not timely serve the *Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Real Property)* (the "Motion") [doc. 17] on Debtor and on Debtor's spouse. However, as indicated on the proof of service attached to the Motion, Movant served the Motion on Debtor and her spouse on November 14, 2024.

In addition, Debtor asserts that Movant did not sufficiently serve the Motion on Debtor's spouse because it served the Motion via email. However, the proof of service attached to the Motion states that Movant served the Motion on Debtor's spouse via U.S. mail.

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

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CONT... Yazahydi Zenteno

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

Any other request for relief is denied.

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

Tentative ruling regarding Movant's evidentiary objections to the identified paragraphs in the Declaration of Rhonda Walker set forth below:

para. 3, second sentence: sustained

para. 4: sustained

para. 5: sustained

Party Information

Debtor(s):

Yazahydi Zenteno

Represented By
Rhonda Walker

Movant(s):

Private Money Solutions Inc.

Represented By
Richard J Reynolds

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:24-11357 Galina Tovmasian

Chapter 13

#9.00 Debtor's Motion to Reconsider of Order Denying Notice of Motion and Motion in Individual Case For Order Imposig A Stay or Continuing the Automatic Stay as The Court Deems Appropriate

Docket 42

Tentative Ruling:

The Court will grant the *Motion to Reconsider Order Denying Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate* [doc. 42] and set a hearing on the *Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate* [doc. 23] for **9:30 a.m. on December 19, 2024.**

No later than December 12, 2024, the debtor must file a declaration which demonstrates that she made all required chapter 13 plan payments through November 24, 2024. Such declaration must include documentary evidence showing the aggregate amount of plan payments made.

The debtor is encouraged to consider participating in the Court's Loan Modification Management Program; more information about this program can be found on the Court's website at: <https://www.cacb.uscourts.gov/loan-modification-management-program>.

The debtor must submit an order within seven (7) days.

Party Information

Debtor(s):

Galina Tovmasian

Represented By
Khachik Akhkashian

Movant(s):

Galina Tovmasian

Represented By

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Galina Tovmasian

Khachik Akhkashian

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Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:30 PM

1:22-10932 Robert Hovsepian

Chapter 7

Adv#: 1:24-01035 WEIL v. GASPER

#10.00 Status conference re: Complaint to avoid insider preference
[11 U.S.C. §§547, 548 and 550]

fr. 10/9/24(stip); 10/30/24

Docket 1

Tentative Ruling:

On November 18, 2024, the Court entered an *Order Assigning Matter to Mediation Program and Appointing Mediator and Alternate Mediator* [doc. 13]. On November 21, 2024, the plaintiff filed a *Joint Status Report* [doc. 15]. In the Joint Status Report, the parties represented that mediation has been set for December 18, 2024.

In light of this, the Court will continue the status conference to **1:30 p.m. on January 30, 2025**. If this matter is not resolved through the mediation, the parties must file an updated Joint Status Report **no later than January 21, 2024**.

The Court will prepare the order.

Appearances on December 5, 2024 are excused.

Party Information

Debtor(s):

Robert Hovsepian

Represented By
Navid Kohan

Defendant(s):

BELLA GASPER

Pro Se

Plaintiff(s):

DIANE C WEIL

Represented By

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CONT... Robert Hovsepian

Michelle A Marchisotto

Chapter 7

Trustee(s):

Diane C Weil (TR)

Represented By
Michelle A Marchisotto

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1:24-10748 Jennifer Genia Kahane

Chapter 7

Adv#: 1:24-01036 Morgan v. Kahane

#11.00 Status conference re: Complaint for determination of nondischargeability of debts pursuant to 11 U.S.C. § 532(a)(15)

fr. 10/9/24

Docket 1

Tentative Ruling:

Pursuant to Local Bankruptcy Rule 7016-1(f) and (g), the Court will dismiss this adversary proceeding for failure to prosecute.

On October 9, 2024, the Court held an initial status conference. The Court noted that the plaintiff had not requested entry of default under Local Bankruptcy Rule 7055-1(a).

The Court instructed plaintiff to submit Local Bankruptcy Form F 7055-1.1.Req.Enter.Default, "Request for Clerk to Enter Default Under LBR 7055-1(a)." The Court further stated that, if the plaintiff will be pursuing a default judgment pursuant to Local Bankruptcy Rule 7055-1(b), the plaintiff must file and serve a motion for default judgment by November 21, 2024.

The plaintiff has not requested entry of default, has not filed a motion for default judgment and has not filed a status report.

The Court will prepare the order.

10/19/24 Ruling

Unless an appearance is made at the status conference, the status conference is continued to **1:30 p.m. on December 5, 2024.**

It appears that the plaintiff has not requested entry of default under Local Bankruptcy Rule 7055-1(a). The plaintiff must submit Local Bankruptcy Rule Form F

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CONT... Jennifer Genia Kahane

Chapter 7

7055-1.1.Req.Enter.Default, "Request for Clerk to Enter Default Under LBR 7055-1(a)."

If the plaintiff will be pursuing a default judgment pursuant to Local Bankruptcy Rule 7055-1(b), the plaintiff must serve a motion for default judgment (if such service is required pursuant to Fed. R. Bankr. P. 7055, Fed. R. Civ. P. 55(b)(2) and/or Local Bankruptcy Rule 7055-1(b)(1)(D)) and must file that motion by **November 21, 2024**.

If the plaintiff will be seeking to recover attorneys' fees, the plaintiff must demonstrate that the award of attorneys' fees complies with Local Bankruptcy Rule 7055-1(b)(4).

The plaintiff's appearance on October 9, 2024 is excused.

Party Information

Debtor(s):

Jennifer Genia Kahane

Represented By
Kevin Tang

Defendant(s):

Jennifer Genia Kahane

Pro Se

Plaintiff(s):

Stephen Morgan

Represented By
Simon J Dunstan

Trustee(s):

David Keith Gottlieb (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, December 5, 2024

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2:00 PM

1:22-11138 Alan Barry Bursteen

Chapter 7

Adv#: 1:22-01070 Inferno California, Inc. v. Bursteen

#12.00 Plaintiff's Motion for Default Judgment Under LBR 7055-1

fr. 10/16/24

Docket 49

Tentative Ruling:

Grant motion for default judgment pursuant to 11 U.S.C. § 523(a)(2)(A). Movant will be awarded a judgment against the defendant in the amount of \$1,974,000.

The Court will not award attorneys' fees. Movant has waived its request for attorneys' fees. *Delcaration of Stephane Roy*, ¶ 12 [doc. 60].

Movant must submit the Default Judgment, using Local Bankruptcy Form F 7055.1.2.DEFAULT.JMT.PRIOR, within seven (7) days.

Movant's appearance on December 5, 2024 is excused.

Party Information

Debtor(s):

Alan Barry Bursteen

Represented By
Raymond H. Aver

Defendant(s):

Alan B Bursteen

Pro Se

Movant(s):

Inferno California, Inc.

Represented By
Max Fabricant
Sharon Z. Weiss

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CONT... Alan Barry Bursteen

Chapter 7

Plaintiff(s):

Inferno California, Inc.

Represented By
Max Fabricant
Sharon Z. Weiss

Trustee(s):

David Keith Gottlieb (TR)

Pro Se

**United States Bankruptcy Court
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Thursday, December 5, 2024

Hearing Room 301

2:00 PM

1:23-10324 Lisa Fancher

Chapter 13

Adv#: 1:23-01026 Mayorga v. Fancher

#13.00 Pre-trial conference re: First Amended Complaint for nondischargeability and objection to discharge 11 U.S.C. §§ 523(a)(2)(A), 523(a)(4)

fr. 11/1/23; 12/20/23; 6/12/24; 11/6/24; 11/13/24

Docket 24

Tentative Ruling:

The Court will hold a continued pretrial conference at 1:30 p.m. on February 13, 2025, following the deadline for the conclusion of expert discovery.

On November 18, 2024, the Court entered an *Order Setting: (1) Continued Pretrial Conference and Related Deadlines; and (2) Trial* [doc. 114].

On November 22, 2024, plaintiff filed a *Proposed Joint Pretrial Stipulation* ("Plaintiff's Unilateral Pretrial Stipulation") [doc. 118]. Plaintiff also filed a *Declaration of Eduardo Martorell Pursuant to LBR 7016-1(e)(1)* [doc. 119].

Thereafter, defendant filed a *Proposed Pretrial Stipulation* ("Defendant's Unilateral Pretrial Stipulation") [doc. 120]. Defendant also filed a *Declaration of James R. Selth Pursuant to Local Bankruptcy Rule 7016-1(d)(2)(B)* ("Selth Declaration") [doc. 121].

Facts that the Parties Deem Admitted:

Plaintiff's Unilateral Pretrial Stipulation contains text set apart in yellow highlight in ¶ (A)4 and (A)11 of the facts that the parties deem admitted and require no proof. *Plaintiff's Unilateral Pretrial Stipulation*, ¶¶ (A)4, (A)11 [doc. 118].

With respect to ¶ (A)4, the parties dispute the frequency with which defendant accounted to and paid plaintiff. Plaintiff admits defendant paid him "intermittently," whereas defendant admits she paid plaintiff "regularly." *Compare Plaintiff's Unilateral Pretrial Stipulation*, ¶ (A)4 [doc. 118], with *Defendant's Unilateral Pretrial Stipulation*, ¶(A)4 [doc. 120].

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Chapter 13

The pretrial stipulation may include the version of ¶ (A)4 that appears in *Defendant's Unilateral Pretrial Stipulation* [doc. 118]. However, the following sentence must be added to the end of ¶ (A)4: "The parties dispute whether Defendant accounted to and paid Plaintiff regularly or intermittently."

With respect to ¶ (A)11, the parties dispute what was/were the purpose(s) of the March 20, 2023 hearing scheduled in the state court. Plaintiff admits that the hearing was for "sentencing . . . as well as to hear the Motion of Plaintiff's attorneys' fees in connection with the contempt," whereas defendant admits that the hearing was "to hear the Motion of Plaintiff's attorneys' fees in connection with the contempt." *Compare Plaintiff's Unilateral Pretrial Stipulation*, ¶ (A)11 [doc. 118] with *Defendant's Unilateral Pretrial Stipulation*, ¶(A)11 [doc. 120].

The pretrial stipulation may include the version of ¶ (A)11 that appears in *Defendant's Unilateral Pretrial Stipulation* [doc. 118]. However, the following sentence must be added to the end of ¶ (A)11: "The parties dispute whether an additional purpose existed for the March 20, 2023 hearing scheduled in the state court."

Re Issues of Fact that Remain to be Litigated:

Plaintiff's Pretrial Stipulation also contains text set apart in yellow highlight in ¶¶ (B)25-29 of the issues of fact that remain to be litigated. *Plaintiff's Unilateral Pretrial Stipulation*, ¶¶ (B)25-29 [doc. 118]. Plaintiff objects to the inclusion of these disputed facts as inadmissible because they are irrelevant, unduly prejudicial, misleading, lack foundation, and constitute character evidence. *Id.* ¶¶ (B)24-25.

With respect to ¶ (B)25, defendant argues that this issue of fact is relevant as to plaintiff's claimed damages; that is, if liens existed, then the nonpayment of any royalties would not have damaged plaintiff because plaintiff would not be entitled to receive them before satisfaction of the liens. *Selth Declaration*, ¶ 5(A) [doc. 121]. However, if such liens exist, payment of the royalties still would have benefitted plaintiff by satisfying any such obligations.

Defendant further argues the existence of liens is relevant as to defendant's affirmative defense of unclean hands, i.e., plaintiff allegedly avoided satisfaction of the liens by seeking and receiving payment directly from Frontier instead of BMG. *Id.*

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For a defendant to successfully assert the unclean hands defense, the defendant must prove that the plaintiff's inequitable conduct relates directly to the same subject matter as the plaintiff's claims against the defendant. *Lanard Toys Ltd. v. Dimple Child, L.L.C.*, 843 F. App'x 894, 897 (9th Cir. 2021) (citing *Levi Strauss & Co. v. Shilon*, 121 F.3d 1309, 1313 (9th Cir. 1997)). Here, plaintiff's alleged conduct regarding receipt of royalty payments in a manner that may have avoided satisfaction of liens does not directly relate to the same subject matter as plaintiff's claims against defendant. Thus, ¶ (B)25 is not relevant to this adversary proceeding, and it must be deleted.

With respect to ¶¶ (B)26-29, these issues of fact concern allegations of fraud in the inducement, legal malpractice and failure to perform with respect to the alleged settlement agreement. defendant argues the disputed facts regarding the alleged settlement agreement are relevant because plaintiff's legal fees comprise the majority of plaintiff's claimed damages. *Selth Declaration*, ¶¶ 5(B)-(E) [doc. 121]. Because plaintiff's objection to the inclusion of ¶¶ (B)26-29 is premature, these issues of fact may remain in the pretrial stipulation.

The following paragraph must be added to the end of Section B: "Plaintiff contends that the issues of fact set forth in ¶¶ (B)26-29 (as currently numbered) are inaccurate, misleading and false narratives, lack foundation, are irrelevant, prejudicial and are inappropriate attempts to include inadmissible and inaccurate character evidence."

By no later than **February 6, 2025**, the parties must file a revised joint pre-trial stipulation that conforms with the changes identified above.

WITNESS DECLARATIONS:

Prior to trial, **with the exception of hostile witnesses, the Court will require the parties to submit written declarations of all witnesses (including the parties) providing direct testimony** ("Witness Declarations"), signed under penalty of perjury, otherwise admissible under the Federal Rules of Evidence. At the upcoming pre-trial conference, the parties should be prepared to address any issues they foresee in filing such written declarations.

In addition, **by no later than March 20, 2025**, the parties must submit a schedule for

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Chapter 13

cross-examination of any expert and third-party witnesses, i.e., which witnesses will be cross-examined on which date, and whether that witness must be present in the morning and/or in the afternoon.

Cross-examination, if requested, will take place on the scheduled trial dates.

The following procedures are to be followed for the presentation of evidence to be offered at the trial.

A Witness Declaration will be admissible at trial, subject to timely objections, only if the declarant is present at trial, and subject to cross-examination, **unless cross-examination has been waived in writing, before trial, by the opposing party.**

If a portion of a Witness Declaration concerns an exhibit to be admitted into evidence at trial, the exhibit must be attached to the Witness Declaration.

TIME FOR FILING DECLARATIONS AND OBJECTIONS TO DECLARATIONS:

Plaintiff must serve and file his Witness Declaration(s) on or before **February 26, 2025.**

Defendant must serve and file her Witness Declaration(s) and any evidentiary objections she has to plaintiff's declaration(s) on or before **March 5, 2025.**

Plaintiff must serve and file his reply declaration(s) and any evidentiary objections he has to defendant's Witness Declaration(s) on or before **March 12, 2025.**

Defendant must serve and file any evidentiary objections to plaintiff's reply Witness Declaration(s) on or before **March 19, 2025.**

TIME FOR FILING BRIEFS:

Plaintiff's trial brief must be filed and served on or before **February 26, 2025.**

Defendant's trial brief must be filed and served on or before **March 5, 2025.**

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Any reply brief by plaintiff must be filed and served on or before **March 12, 2025**.

JUDGE'S COPIES:

Judge's copies of all Witness Declarations and briefs which exceed 25 pages must be mailed or delivered to the chambers of Judge Victoria Kaufman.

EXHIBITS:

All trial exhibits must be numbered and marked as required by Local Bankruptcy Rule 9070-1(b)(2). By **March 17, 2025**, each party must deliver to the chambers of Judge Victoria Kaufman the original and one copy of a notebook containing all of that party's trial exhibits. **In addition, each party must bring two additional copies of their trial exhibits to the trial.**

The Court will issue an order incorporating its trial procedures, the related deadlines and the trial date.

Party Information

Debtor(s):

Lisa Fancher

Represented By
James R Selth

Defendant(s):

Lisa Fancher

Represented By
James R Selth

Plaintiff(s):

Louis Mayorga

Represented By
Eduardo Martorell

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
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1:24-10377 Philmar Studios Inc

Chapter 7

#14.00 Status Conference Re:
Movant 1032 N. Sycamore Owner (LA), LLC's Ex Parte Application
For An Order Regarding The Removal of Certain Equipment And
Personal Property, Or Alternatively A Status Conference

fr. 11/14/24; 11/15/24;11/26/24

Docket 220

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Philmar Studios Inc

Represented By
Robert M Yaspan
Sandford L. Frey

Trustee(s):

Amy L Goldman (TR)

Represented By
Peter J Mastan
Matthew J Stockl