



**UNITED STATES BANKRUPTCY COURT**  
Eastern District of California

Honorable Christopher M. Klein  
Bankruptcy Judge  
Sacramento, California

**January 21, 2025 at 1:30 p.m.**

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Unless otherwise ordered, all matters before the Honorable Christopher M. Klein shall be simultaneously: (1) **In Person**, at Sacramento Courtroom #35, (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**.

You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/RemoteAppearances>. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

**Unauthorized Recording is Prohibited:** Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued medical credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

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**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Christopher M. Klein

Bankruptcy Judge

Sacramento, California

**January 21, 2025 at 1:30 p.m.**

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1. [24-24007](#)-C-13 DANIEL/LANA SINYAYEV MOTION TO EMPLOY ALAN  
[MS-2](#) Mark Shmorgon MIKSHANSKY AS SPECIAL COUNSEL  
12-23-24 [[47](#)]

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 29 days' notice was provided. Dkt. 50.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

**The Motion to Employ is granted.**

The debtors seeks to employ Alan Mikshansky as a special counsel for the estate pursuant to Local Bankruptcy Rule 9014-1(f)(1) and Bankruptcy Code Sections 328(a) and 330.

The debtors argue the special counsel is necessary to pursue personal injury claims.

The Declaration of Alan Mikshansky filed in support of the Motion attests to the his disinterestedness and experience. Dkt. 49.

**DISCUSSION**

Pursuant to § 327(a), a trustee or debtor in possession is authorized, with court approval, to engage the services of professionals, including attorneys, to represent or assist the trustee in carrying out the trustee's duties under Title 11. To be so employed by the trustee or debtor in possession, the professional must not hold or represent an interest adverse to the estate and be a disinterested person.

Section 328(a) authorizes, with court approval, a trustee or debtor in possession to engage the professional on reasonable terms and conditions, including a retainer, hourly fee, fixed or percentage fee, or contingent fee

**January 21, 2025 at 1:30 p.m.**

basis. Notwithstanding such approved terms and conditions, the court may allow compensation different from that under the agreement after the conclusion of the representation, if such terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of fixing of such terms and conditions.

Taking into account all of the relevant factors in connection with the employment and compensation of the Alan Mikshansky, considering the declaration demonstrating that the he does not hold an adverse interest to the Estate and is a disinterested persons, the nature and scope of the services to be provided, the court grants the Motion. Approval of compensation is subject to the provisions of 11 U.S.C. § 328 and review of the fee at the time of final allowance of fees for the professional.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Employ filed by debtors, Daniel and Lana Sinyayev having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion to Employ is granted, and the debtors are authorized to employ Alan Miksahnsky as special counsel for the estate.

**IT IS FURTHER ORDERED** that no compensation is permitted except upon court order following an application pursuant to 11 U.S.C. § 330 and subject to the provisions of 11 U.S.C. § 328.

2.     [24-22229](#)-C-13    BENJAMEN VERMA                    MOTION TO SELL  
         [PGM](#)-1                Peter Macaluso                    12-27-24 [[75](#)]

**Final Ruling:** No appearance at the January 21, 2025 hearing is required.

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          This case having been dismissed as of January 2, 2025 (dkt. 74),  
this motion is removed from calendar.

3. [24-25029](#)-C-13 CHAUNCY TAYLOR  
[LGT](#)-1 Arete Kostopoulos

OBJECTION TO CONFIRMATION OF  
PLAN BY LILIAN G. TSANG  
12-20-24 [[13](#)]

**Tentative Ruling:**

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 32 days' notice was provided. Dkt. 15.

**The Objection to Confirmation of Plan is sustained.**

The Chapter 13 Trustee, Lilian Tsang ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. The Meeting of Creditors has not yet concluded; and
2. The debtor has failed to provide tax returns, bank statements and P&L statements.

**DISCUSSION**

Debtor failed to provide required information and documents at the Meeting of Creditors held pursuant to 11 U.S.C. § 341. See 11 U.S.C. § 343. Attempting to confirm a plan while not providing documents and information to the Trustee represents a failure to cooperate. See 11 U.S.C. § 521(a)(3). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1). See also 11 U.S.C. §§ 521(e)(2)(A)(i), 704(a)(3), 1106(a)(3), 1302(b)(1), 1302(c); FED. R. BANKR. P. 4002(b)(2) & (3). Debtor is required to submit those documents and cooperate with the Chapter 13 Trustee. 11 U.S.C. § 521(a)(3). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1) & (a)(6).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, Lilian Tsang, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Objection is sustained.

4. [24-25029](#)-C-13 CHAUNCY TAYLOR  
[LGT](#)-2 Arete Kostopoulos

OBJECTION TO DEBTOR'S CLAIM OF  
EXEMPTIONS  
12-20-24 [[16](#)]

**Tentative Ruling:**

The Objection has been set on Local Rule 9014-1(f)(1) notice which requires 28 days' notice. The Proof of Service shows that 32 days' notice was provided. Dkt. 19.

**The Objection to Claim of Exemptions is sustained.**

The Chapter 13 Trustee, Lilian Tsang ("Trustee"), opposes debtor's claim of homestead exemption on the basis that:

1. Debtor is claiming an exemption on property located at 910 39<sup>th</sup> CT., West Palm Beach, FL;
2. Debtor lists her place of residence at 5325 Elkhorn Blvd., Sacramento, CA;
3. Debtor states on her Statement of Financial Affairs she has not live anywhere other than her California residence in the last three years; and
4. Debtor testified at the Meeting of Creditors she has live continuously in California for the last two years.

**DISCUSSION**

Debtor has claimed the homestead exemption under Cal. Code of Civ. Pro. § 704. CCCP § 704.710(c) defines homestead as the principal dwelling that the judgment debtor resided on the date the lien attached to the dwelling and that the debtor resided continuously until the date that the court determines the dwelling is a homestead.

Since the debtor has admitted that she has continuously resided in California the last two years, she could not have resided at the property in Florida. Therefore, the property in Florida cannot be claimed by the debtor as a homestead for exemption.

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, Lilian Tsang, having been presented to

the court, and upon review of the pleadings, evidence,  
arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Objection is sustained.



5. [24-25464](#)-C-13 MISTY ADUNA  
[CVN](#)-9 Mark Wolff

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
1-3-25 [[27](#)]

YIMING YANG VS.

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 18 days' notice was provided. Dkt. 32.

**The Motion for Relief from the Automatic Stay is granted.**

Yiming Yang and Wen Yin ("Movant") filed this Motion seeking relief from the automatic stay with respect to the real property commonly known as 6105 Jefjen Way, Elk Grove, California ("Property"), to allow an unlawful detainer action to be litigated in state court.

Movant argues relief is warranted under 11 U.S.C. § 362(d)(1) and (d)(2) because the debtor does not have an ownership interest in or a right to maintain possession of the Property. Declaration, Dkt. 29.

Upon review of the record, the court finds Movant has presented a colorable claim for title to and possession of this real property. Cause for relief exists pursuant to 11 U.S.C. § 362(d)(1) to allow the unlawful detainer action to be litigated on the merits in a court of competent jurisdiction.

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, to exercise its rights to obtain possession and control of the Property, including unlawful detainer or other appropriate judicial proceedings and remedies to obtain possession thereof.

**Request for Waiver of Fourteen-Day Stay of Enforcement**

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests, for no particular reason, that the court grant relief from the Rule as adopted by the United States Supreme Court. With no grounds for such relief specified, the court will not grant additional relief merely stated in the prayer.

Movant has not pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 4001(a)(3), and this part of the requested relief is not granted.

No other or additional relief is granted by the court.

The court shall issue an order substantially in the following form holding

that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by Yiming Yang Wen Yin ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant and its agents, representatives and successors, to exercise and enforce all nonbankruptcy rights and remedies to obtain possession of the property commonly known as 6105 Jefjen Way, Elk Grove, California.

**IT IS FURTHER ORDERED** that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is not waived for cause.

No other or additional relief is granted.

6.     [24-25073](#)-C-13   SHELLEY  
          [LGT](#)-1            BETTENCOURT-TILLMAN  
                          Peter Macaluso

OBJECTION TO CONFIRMATION OF  
PLAN BY LILIAN G. TSANG  
12-20-24 [[21](#)]

This case was transferred to the Honorable Ronald H. Sargis on January 9, 2025 (dkt. 26). Accordingly, this matter has been rescheduled to January 28, 2025 at 2:00 p.m. at Sacramento Courtroom 33, Department E. No appearance at the January 21, 2025 hearing is necessary.

**No Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(3) which requires an order shortening time, which was entered on January 15, 2025. Dkt. 17.

**The Motion to Impose the Automatic Stay is ~~xxxxxx~~.**

Randall Scott Welker, Sr. and Roxann Lynn Welker ("Debtors") seeks to have the provisions of the automatic stay provided by 11 U.S.C. § 362(a) imposed in this case. This is Debtors' third bankruptcy petition pending in the past year with the prior two cases having been dismissed. Debtors' prior bankruptcy cases (Nos. 24-24858 and 24-25461) were dismissed on November 18, 2024, and December 19, 2024, respectively. See Order, Bankr. E.D. Cal. No. 24-24858, Dckt. 13, November 18, 2024; Order, Bankr. E.D. Cal. No. 24-25461, Dckt. 12, December 19, 2024. Therefore, pursuant to 11 U.S.C. § 362(c)(4)(A)(I), the provisions of the automatic stay did not go into effect upon Debtor filing the instant case.

Here, Debtors state that the instant case was filed in good faith and explains that the previous cases were dismissed because the cases were filed without counsel and as skeletal filings.

**APPLICABLE LAW**

When the stay has not gone into effect pursuant to 11 U.S.C. § 362(c)(4), a party in interest may request within 30 days of filing that the stay take effect as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and a hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. 11 U.S.C. § 362(c)(4)(B).

For purposes of subparagraph (B), a case is presumptively filed not in good faith as to all creditors if:

(I) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next

most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; . . .

11 U.S.C. § 362(c)(4)(D).

In determining if good faith exists, the court considers the totality of the circumstances. In re Elliot-Cook, 357 B.R. 811, 814 (Bankr. N.D. Cal. 2006); see also Laura B. Bartell, Staying the Serial Filer - Interpreting the New Exploding Stay Provisions of § 362(c)(3) of the Bankruptcy Code, 82 Am. Bankr. L.J. 201, 209-10 (2008). An important indicator of good faith is a realistic prospect of success in the second case, contrary to the failure of the first case. See, e.g., In re Jackola, No. 11-01278, 2011 Bankr. LEXIS 2443, at \*6 (Bankr. D. Haw. June 22, 2011) (citing In re Elliott-Cook, 357 B.R. 811, 815-16 (Bankr. N.D. Cal. 2006)). Courts consider many factors—including those used to determine good faith under §§ 1307(c) and 1325(a)—but the two basic issues to determine good faith under § 362(c)(3) are:

A. Why was the previous plan filed?

B. What has changed so that the present plan is likely to succeed?

In re Elliot-Cook, 357 B.R. at 814-15.

#### DISCUSSION

Debtor's prior cases were dismissed after Debtor failed to timely file documents (No. 24-24858) and after Debtor failed to receive the required credit counseling (No. 24-25461).

At the hearing xxxxxxxxxxxx

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Impose the Automatic Stay filed by Randall Scott Welker, Sr. and Roxann Lynn Welker ("Debtor") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is xxxxxxxxxxxx