



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

Chief Judge Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 7th Floor
Courtroom 28, Department A
Sacramento, California

DAY: MONDAY
DATE: FEBRUARY 3, 2025
CALENDAR: 9:00 A.M. CHAPTER 9 AND 11 CASES

Unless otherwise ordered, all matters before Chief Judge Fredrick E. Clement shall be simultaneously: (1) **IN PERSON** at Sacramento Courtroom No. 28, (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 **Court Appearances** page of our website at:

<https://www.caeb.uscourts.gov/Calendar/CourtAppearances>

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 the 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:

- Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
- Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
- 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 media 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.

PRE-HEARING DISPOSITION INSTRUCTIONS

RULINGS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling.

"No Ruling" means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

"Tentative Ruling" means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. However, non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

"Final Ruling" means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g., nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise, or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

1. [25-20007](#)-A-11 **IN RE: TIFFANY MCINTYRE**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
1-16-2025 [[21](#)]

Final Ruling

This case was dismissed on January 22, 2025. Accordingly, the Order to Show Cause will be removed from the calendar as moot. No appearances are required.

2. [24-24816](#)-A-11 **IN RE: Q'BOLE INC.**
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION
10-26-2024 [[1](#)]

PETER MACALUSO/ATTY. FOR DBT.

No Ruling

3. [24-24836](#)-A-11 **IN RE: STEVEN/SYLVIA TOLKAN**
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION
10-28-2024 [[1](#)]

ROBERT GOLDSTEIN/ATTY. FOR DBT.

No Ruling

4. [24-25338](#)-A-11 **IN RE: WIMPY'S CALIFORNIA DELTA RESORT,**
LLC
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION
11-23-2024 [[1](#)]

PETER MACALUSO/ATTY. FOR DBT.

No Ruling

5. [24-25338](#)-A-11 **IN RE: WIMPY'S CALIFORNIA DELTA RESORT,**
LLC
[PGM-2](#)

MOTION TO USE CASH COLLATERAL
1-15-2025 [\[32\]](#)

PETER MACALUSO/ATTY. FOR DBT.

Final Ruling

The motion is denied without prejudice. First, the motion fails to identify the entity with an interest in the cash collateral. Mot. Cash Collateral, ECF No. 32; Fed. R. Bankr. P. 4001(b)(1)(B). As a result, a creditor is unable to ascertain whether the motion is, in fact, aimed at it. Moreover, the court cannot ascertain whether the creditor impacted has been properly served. Second, and equally importantly, the debtor in possession has not affected proper service on that creditor or on the 20 largest creditors. Motions to use cash collateral must be served on the impacted creditor and on the creditors committee and/or 20 largest creditors. Fed. R. Bankr. P. 4001(b)(1)(C). Service must be accomplished under Rule 7004; Rule 5 notice is insufficient. Fed. R. Bankr. P. 4001(b)(1)(A). Failure to accomplish Rule 70904 service is reversible error. *In re LSSR, LLC*, No. BAP CC-12-1636-DKITA, 2013 WL 2350853, at *1 (B.A.P. 9th Cir. May 29, 2013)(stay relief). Here, Rule 5 notice was given to all creditors. Certificate of Service § 6(B), ECF No. 32. Service was not accomplished on any creditor, whether a secured creditor that is impacted or a committee or the 20 largest creditors. Certificate of Service § 6(A), ECF No. 32. Basic due process has not been honored. The motion is denied; a civil minute order shall issue.

6. [24-25338](#)-A-11 **IN RE: WIMPY'S CALIFORNIA DELTA RESORT,**
LLC
[PGM-3](#)

MOTION TO PAY
1-15-2025 [\[37\]](#)

PETER MACALUSO/ATTY. FOR DBT.

Final Ruling

The motion is denied without prejudice. First, notice is insufficient. The motion must be filed and served not less than 21 days before the hearing. Here, the motion was filed and served January 15, 2025; the hearing is February 3, 2025. The elapsed time is only 19 days. Second, and more importantly, the debtor in possession has failed to make a prima facie case for relief. 11 U.S.C. § 363(b), 507(a)(4). The debtor has not provided the names of the employees, the dates the wage were earned, and/or the specific amount to which the employee is entitled. A civil minute order shall issue.

7. [24-20882](#)-A-11 **IN RE: RJQ COMPANIES, INC.**
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION
3-5-2024 [\[1\]](#)

STEPHEN REYNOLDS/ATTY. FOR DBT.

No Ruling

8. [24-25682](#)-A-11 **IN RE: IDEAL HEALTH AND FITNESS CORP.**
[CAE-1](#)

STATUS CONFERENCE RE: VOLUNTARY PETITION
12-18-2024 [\[1\]](#)

MICHAEL BERGER/ATTY. FOR DBT.

No Ruling

9. [24-25682](#)-A-11 **IN RE: IDEAL HEALTH AND FITNESS CORP.**
[MJB-7](#)

CONTINUED MOTION TO USE CASH COLLATERAL
12-30-2024 [[68](#)]

MICHAEL BERGER/ATTY. FOR DBT.

No Ruling

10. [23-23996](#)-A-11 **IN RE: 9250 BIG HORN HOLDINGS, INC.**
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION
11-7-2023 [[1](#)]

GABRIEL LIBERMAN/ATTY. FOR DBT.

No Ruling