

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

April 21, 2016 at 9:00 a.m.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. Matters resolved without oral argument:

Unless otherwise stated, the court will prepare a civil minute order on each matter listed. If the moving party wants a more specific order, it should submit a proposed amended order to the court. In the event a party wishes to submit such an Order it needs to be titled 'Amended Civil Minute Order.'

If the moving party has received a response or is aware of any reason, such as a settlement, that a response may not have been filed, the moving party must contact Nancy Williams, the Courtroom Deputy, at (916) 930-4580 at least one hour prior to the scheduled hearing.

- 2. The court will not continue any short cause evidentiary hearings scheduled below.**
- 3. If a matter is denied or overruled without prejudice, the moving party may file a new motion or objection to claim with a new docket control number. The moving party may not simply re-notice the original motion.**
- 4. If no disposition is set forth below, the matter will be heard as scheduled.**

1.	15-29890-D-11	GRAIL SEMICONDUCTOR	CONTINUED MOTION TO REJECT
	FWP-5		EMPLOYMENT AGREEMENT WITH
			RONALD W. HOFER
			1-27-16 [61]

Tentative ruling:

As the court intends to grant the debtor's motion to convert the case to Chapter 7, the court will to deny this motion as moot. The court will hear the matter.

2.	15-29890-D-11	GRAIL SEMICONDUCTOR	CONTINUED MOTION TO REJECT
	FWP-6		EMPLOYMENT AGREEMENT WITH BRAD
			A. WOODS
			1-27-16 [66]

Tentative ruling:

As the court intends to grant the debtor's motion to convert the case to Chapter 7, the court will to deny this motion as moot. The court will hear the matter.

3. 15-29890-D-11 GRAIL SEMICONDUCTOR
FWP-9

MOTION TO CONVERT CASE FROM
CHAPTER 11 TO CHAPTER 7 O.S.T.
4-7-16 [203]

Tentative ruling:

Grail Semiconductor, a California Corporation (the "debtor") filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code ("Code") on December 30, 2015. Since the filing of its petition the debtor has maintained possession of its estate and administered the case as a debtor-in-possession. On April 7, 2016 the debtor, as a debtor-in-possession, filed a motion to convert its case to a Chapter 7 pursuant to Code § 1112(a) (the "Motion").

The U.S. Trustee and judgement creditor, Mischcon de Reya, have filed statements of non-opposition to the Motion and support the debtor's request to convert the case to Chapter 7. Ronald W. Hofer, a prior officer and creditor of the debtor, and the official committee of unsecured creditors (the "Committee") have filed opposition to the Motion, requesting the court appoint a Chapter 11 trustee instead of converting the case to Chapter 7.

As the debtor is a debtor-in-possession the court finds that the debtor may convert its case to Chapter 7 as a matter of right. See Collier on Bankruptcy 16th Edition § 1112.02 (2016). The debtor's right to convert its case to Chapter 7 may be qualified if the case has been filed in bad faith or the debtor has administered the case in bad faith. The oppositions filed by Mr. Hofer and the Committee do not suggest any conduct that would rise to the level of bad faith, thereby possibly limiting the debtor's right to convert the case to Chapter 7. Further, nothing in the record suggests that the debtor's case was filed, or has been administered, in bad faith. As such, the court concludes that the debtor maintains the right to convert its case to Chapter 7.

Assuming for the sake of discussion that the debtor does not have the absolute right to convert its case to Chapter 7, the court nonetheless finds that conversion to Chapter 7 is in the best interest of creditors and the estate. The debtor is not operating any business in its Chapter 11 case, but rather, only pursuing litigation claims. The court finds that these litigation claims can be pursued more cost effectively in a Chapter 7 case than in a Chapter 11.

For the reasons stated above, the court intends to grant the motion and convert the case to Chapter 7. The court will hear the matter.