

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Fresno Federal Courthouse
2500 Tulare Street, 5th Floor
Courtroom 11, Department A
Fresno, California

PRE-HEARING DISPOSITIONS

DAY: TUESDAY
DATE: DECEMBER 8, 2015
CALENDAR: 1:30 P.M. CHAPTER 11 CASES

GENERAL DESIGNATIONS

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

COURT'S ERRORS IN FINAL RULINGS

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 60(a), as incorporated by Federal Rules of Bankruptcy Procedure 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

1. [13-17136](#)-A-11 BHAVIKA'S PROPERTIES, MOTION TO CONFIRM CHAPTER 11
EVN-15 LLC PLAN
BHAVIKA'S PROPERTIES, LLC/MV 11-18-15 [[389](#)]
ELAINE NGUYEN/Atty. for dbt.

Tentative Ruling

Motion: Chapter 11 Plan Confirmation

Disposition: Continued for an evidentiary hearing

Order: Scheduling order

The court will hold a scheduling conference for the purpose of setting an evidentiary hearing under Federal Rule of Bankruptcy Procedure 9014(d). An evidentiary hearing is required because disputed, material factual issues must be resolved before the court can rule on the relief requested. Preliminarily, the court identifies the following disputed, material factual issues: (i) good faith, 11 U.S.C. § 1129(a)(3); (ii) whether ownership and management of the debtor is in the best interest of creditors, 11 U.S.C. § 1129(a)(5)(A)(ii); (iii) best interests of creditors, including present value calculation, 11 U.S.C. s 1129(a)(7); (iv) feasibility, 11 U.S.C. § 1129(a)(11); and (v) compliance with 11 U.S.C. § 1129(b), as to the County of Fresno and the Small Business Administration.

The United States will be asked to clarify two matters: (i) objection, "Weintraub & Selth as indicated that it has received payment of attorney's fees for representing Bhavika 'from non-estate funds.' Doc. 110:14-15 [citation is ambiguous]," p. 7, lines 9-10; and (ii) where the plan "deprives SBA of its rights to collect against guarantors. p. 6, lines 25-26."

All parties shall appear at the hearing for the purpose of determining the nature and scope of the matter, identifying the disputed and undisputed issues, and establishing the relevant scheduling dates and deadlines. Alternatively, the court may continue the matter to allow the parties to file a joint status report that states:

- (1) all relief sought and the grounds for such relief;
- (2) the disputed factual or legal issues;
- (3) the undisputed factual or legal issues;
- (4) whether discovery is necessary or waived;
- (5) the deadline for Rule 26(a)(1)(A) initial disclosures;
- (6) the deadline for Rule 26(a)(2) expert disclosures (including written reports);
- (7) the deadline for the close of discovery;
- (8) whether the alternate-direct testimony procedure will be used;
- (9) the deadlines for any dispositive motions or evidentiary motions;
- (10) the dates for the evidentiary hearing and the trial time that will be required;
- (11) any other such matters as may be necessary or expedient to the resolution of these issues.

2. [13-17136](#)-A-11 BHAVIKA'S PROPERTIES,
EVN-16 LLC
BHAVIKA'S PROPERTIES, LLC/MV
ELAINE NGUYEN/Atty. for dbt.

MOTION TO USE CASH COLLATERAL
11-24-15 [[402](#)]

No tentative ruling.

3. [13-17136](#)-A-11 BHAVIKA'S PROPERTIES,
EVN-17 LLC
BHAVIKA'S PROPERTIES, LLC/MV

MOTION FOR REJECTION OF
COMMERCIAL LEASE AND/OR MOTION
FOR REJECTION OF MANAGEMENT
CONTRACT WITH BHAVIKA'S
HOSPITALITY, INC.
11-24-15 [[409](#)]

ELAINE NGUYEN/Atty. for dbt.

No tentative ruling.

4. [15-12827](#)-A-11 BLUEGREENPISTA
DRJ-4 ENTERPRISES, INC.
BLUEGREENPISTA ENTERPRISES,
INC./MV
DAVID JENKINS/Atty. for dbt.
OST

MOTION TO ENTER INTO FIVE YEAR
PISTACHIO SALES AGREEMENT
AND/OR MOTION TO BORROW
12-1-15 [[85](#)]

No tentative ruling.