TENTATIVE RULING

ISSUED BY JUDGE J. BARRETT MARUM

Case Name:	CASHCALL, INC.
Case Number:	26-03102-JBM11
Hearing:	November 12, 2026, at 8:30 a.m.
Motion:	CREDITOR CONSUMER FINANCIAL BUREAU'S MOTION PURSUANT TO BANKRUPTCY RULE 9024 FOR RECONSIDERATION OF COURT MODIFIED ORDER ON DEBTOR'S FIRST-DAY MOTION REGARDING POSTPETITION FINANCING

Hear. The Court has reviewed Creditor Consumer Financial Bureau's ("CFPB") Motion Pursuant to Bankruptcy Rule 9024 For Reconsideration of Court Modified Order on Debtor's First-Day Motion For Interim and Final Orders (I) Authorizing Debtor to (A) Obtain Postpetition Financing, and (B) Use Cash Collateral, (II) Granting Adequate Protection, and (III) Scheduling Final Hearing ("Motion to Reconsider") (ECF No. 140), Creditor Eduardo De La Torre's Joinder (ECF No. 157); the Debtor's Opposition (ECF No. 202); and the CFPB's Reply (ECF No. 228).

For the reasons stated below, the Court will **HEAR** argument and invites the parties to focus on the specific issues raised as discussed further below.

Legal Standard

The Court considers a request for relief from a judgment under Civil Rule 60(b), incorporated into bankruptcy proceedings by the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rule") 9024. The burden of showing that such relief is proper falls on the movant seeking relief. *See In re Mellem*, 625 B.R. 172, 184 (9th Cir. BAP 2021), *aff'd,* 2021 WL 5542226 (9th Cir. Nov. 26, 2021) (internal citation omitted).

Civil Rule 60(b)(3) provides that the Court may grant a party relief from an order based on "fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party . . . ." The movant "must prove by clear and convincing evidence that the [order] was obtained through fraud, misrepresentation, or other misconduct and the conduct complained of prevented the losing party from fully and fairly presenting the defense." *Trendsettah USA, Inc. v. Swisher Int'l, Inc.*, 31 F.4th 1124, 1136 (9th Cir. 2022) (internal citation omitted). Civil "Rule 60(b)(3) is aimed at judgments which were unfairly obtained, not at those which are factually incorrect...." *Id*. (internal citation omitted).

Analysis

The CFPB requests that the Court set aside its Order under Civil Rule 60(b)(3) "because the Debtor appears to have misrepresented to the Court either the authority of Mr. Jalbert or the

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non-involvement of Mr. Reddam, thus causing the Court to grant its DIP Financing Motion." ECF No. 140 at 7. In addition, the CFPB asserts that "[t]he sequence of events here may also constitute misconduct within the meaning of the [Civil] Rule, as the Debtor secured the Order by means of the Reddam resignation and then failed to honor a key element underpinning the Court's ruling." *Id*.

The CFPB prefaces its argument with the assertion that the Independent Director and the CRO are fiduciaries to the bankruptcy estate, charged with maximizing the value of the estate. ECF No. 140 at 8. In spite of these fiduciary duties, the CFPB argues that "the Debtor . . . has continued to pursue litigation tactics intended to frustrate the [CFPB's] execution on the security package, which, once completed, would greatly reduce the amount of its claim against the estate." *Id*. The CFPB points out that "the Debtor remains subject to joint-and-several liability in the enforcement action for an amount that would be greatly reduced once the security package—which consists solely of assets pledged by Mr. Reddam and the DIP Lender—is turned over to the CFPB." *Id*. The CFPB further argues that by continuing to take certain positions in the CFPB and Interpleader actions, the Debtor continues to align itself with Reddam – in contravention of its duty of loyalty to the estate. *Id*.

The CFPB also questions whether the Independent Director is truly making the Debtor's litigation decisions post-appointment and notes "[f]or all the weight that the Court put[] on his role as Independent Director, Mr. Jalbert" has neither submitted a single declaration in this case nor provided testimony in support of the Debtor's request to approve the DIP financing. ECF No. 140 at 9-10. The CFPB thus seeks to set aside the Court's Order (ECF No. 113) authorizing the Debtor's request for DIP financing.

In its Opposition, the Debtor first argues that the CFPB had a full and fair opportunity to present its argument – and that it indeed, did – at the August 26, 2026 hearing. It disputes that it made a misrepresentation to the Court, let alone a material one, and argues that the CFPB fails to meet its burden of showing a misrepresentation to the Court. The Debtor next argues that the CFPB had an opportunity to conduct due diligence on the issues that the CFPB raises in the Motion to Reconsider. The Debtor further argues that setting aside the Order would be inequitable because the Debtor's professionals have relied on the Court's Order and exercised intervening rights based on the Order and, thus, those intervening rights have vested as a result of the professionals' reliance on the Order.

Finally, the Debtor argues that the Court's authorization of employment of the Debtor's special conflicts counsel will assist the Independent Director to render litigation decisions in the best interests of the estate. ECF No. 202 at 19. It notes that "[t]he Debtor has already taken steps to facilitate that process by selecting Allen Matkins as Special Conflicts Counsel" and that once the Court authorizes that employment, "Special Conflicts Counsel will assist Mr. Jalbert in independently evaluating whether, and to what extent, the Debtor will continue participating in the CFPB and Interpleader Actions." *Id*. But, the Debtor argues, that independent review is necessarily dependent on funding through the DIP financing vehicle.

In support of its Opposition, the Debtor attaches the declaration of Craig Jalbert, the Independent Director. ECF No. 202-1 at 1-4. In his declaration, Mr. Jalbert testifies that he has

served as an Independent Director of the Debtor since July 15, 2026, and is now the sole director following Reddam's resignation from the Debtor on August 27, 2026. He testifies that since the date of his appointment, "Reddam has had no participation in making decisions on behalf of the Debtor in the CFPB Action, Interpleader Action, or any other litigation. All litigation decisions since my appointment to have been made solely with my oversight and without any participation by Mr. Reddam." *Id*. at ¶ 5.

Mr. Jalbert testifies that the Debtor does not know whether the CFPB will ultimately need to recover anything from the Debtor to the extent that the CFPB judgment is capable of satisfaction in full by Reddam's existing assets, given the joint and several liability nature of the judgment, and that to the extent that the Debtor can obtain relief from the judgment, it benefits the estate and other creditors. ECF No. 202-1 at ¶ 6. Mr. Jalbert further testifies that notwithstanding the prior joint representation by the same counsel in the CFPB and Interpleader actions, the filings at issue "were merely a continuation of prior services rendered" and were improperly filed on the Debtor's behalf based on counsel's mistake, which has since been ameliorated in part in those actions. *Id*. at ¶ 9. He testifies that he asked proposed Special Conflicts Counsel "to examine the Debtor's prior litigation positions and strategy in order to recommend what changes—if any—need to be made" but that they had not reached a decision regarding those actions. *Id*. at ¶ 10.

On Reply, the CFPB contends that proposed special conflicts counsel's declaration proves that the Debtor is not in control of its litigation decisions. It highlights that proposed special conflicts counsel testifies in his declaration that "after the Debtor's bankruptcy petition was filed, counsel for Reddam filed an answer to the interpleader complaint on behalf of both Reddam and the Debtor, but did so *without the knowledge or consent of the Debtor's current management*." ECF No. 228 at 2 (emphasis in original) (citing ECF No. 197 at ¶ 5). The CFPB also highlights that the Independent Director acknowledges that the two filings were improperly made by Debtor's former counsel in the CFPB and Interpleader actions. This evidence, the CFPB argues, establishes its inability to fully and fairly present its case and supports relief under Civil Rule 60(b)(3).

The CFPB asserts that given "Mr. Jalbert was completely in the dark when such decisions were being made, it is far from clear how he has personal knowledge that Mr. Reddam was not the one making them." ECF No. 228 at 4. It also asserts that Mr. Jalbert's declaration makes clear "that nobody informed Mr. Jalbert about CashCall's litigation filings until very recently when the [CFPB] put them at issue." *Id*. And it argues that counsel in the CFPB and Interpleader actions "did not realize that the Debtor was managed by an independent director" at the time that counsel filed the filings in that action.

The Court is troubled by certain aspects of the CFPB's Motion to Reconsider – namely, that as pointed out in its Reply, it appears that litigation decisions were made for the Debtor in the CFPB and Interpleader actions without the knowledge let alone authorization of the Debtor's Independent Director and/or CRO. In particular, the Debtor's former counsel in those actions (and Reddam's current counsel) filed two documents for the Debtor after Reddam's August 28, 2026 resignation from the Debtor, on September 2, 2026 and September 9, 2026. The Court needs to understand how this happened. Who on behalf of the Debtor authorized those filings?

Why was the Bienert Katzman firm unaware that the Independent Director and the CRO were in control of the Debtor when Bienert Katzman made the two filings at issue on the Debtor's behalf?

The Court also needs to understand why the Debtor remains an active participant or has any continuing involvement in the Interpleader Action. The Court requires a better understanding of why the Debtor would continue to defend itself in that action if the Debtor agrees that the money in the segregated account belongs to Reddam and not the Debtor.

Finally, the Debtor should address the issue of the Accounts Receivables owing to the Debtor by Absolutely Zero. The Debtor's Schedule A/B as originally filed (ECF No. 73) and amended (ECF No. 124) reports its Accounts Receivable on the petition date as $4,402,653.56 (face amount of $4,477,289.56 minus doubtful or uncollectible accounts in the amount of $74,636). Regarding its original Schedule A/B, the Debtor included the following note:

> The residual loan portfolio outstanding as of the Petition Date is reported on Schedule A/B, Part 3, line 11b as accounts receivable over 90 days old with a face amount of $1,332,644.10, against which the Debtor has recorded a Fair Market Value adjustment of $74,636.00. This net amount of $1,258,008.10, when consolidated with **booked Accounts Receivable of $3,144,645.46**, results in a reported net book value of $4,402,653.56.

ECF No. 73 at 4. Emphasis added.

Is the "booked Accounts Receivable of $3,144,645.46" owed by Absolutely Zero? If so, did the Debtor make this particular disclosure to the Court or in any filings in this case before the Court approved the DIP financing on a final basis?

The Court will hear arguments on these points at the November 12, 2026 hearing. It will not take testimony at the hearing. To the extent that the Court determines that it requires testimonial evidence on these issues, the Court will set a separate evidentiary hearing.

Finally, the Court will reserve argument on the issue of vested interests until after it determines whether a material misrepresentation was made in connection with the Debtor's request for DIP financing.