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6 Center Court Partners, LLC

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9 **UNITED STATES BANKRUPTCY COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **SAN FERNANDO VALLEY DIVISION**

12 In Re:)
13 CENTER COURT PARTNERS, LLC,)
14 Debtor.)
15)
16)

CASE NO: 1:11-bk-13715-MT

NOTICE OF MOTION AND MOTION
FOR USE OF CASH COLLATERAL
PURSUANT TO 11 U.S.C. § 363(c);
MEMORANDUM OF POINTS AND
AUTHORITIES AND DECLARATIONS
OF ROGER MEYER IN SUPPORT
THEREOF

Hearing:
Date: 6-23-2011
Time: 11:00 a.m.
Crtrm: 302

1 **TO ALL THE PARTIES INTERESTED:**

2 Debtor-in-Possession, Center Court Partners, LLC., (“Debtor”), brings this
3 instant Motion for Authorization For Use of Cash Collateral(the “Motion”), Debtor
4 hereby files this Notice and Motion for Use of Cash pursuant to 11 U.S.C. §363(c);
5 Memorandum of Points and Authorities and Declaration of Roger Meyer in Support
6 Thereof.

7 The Motion should be granted as the money is necessary for Debtor to pay
8 ongoing financial obligations to maintain the Debtor’s business, which is Debtors
9 primary asset. This Motion is based upon the attached Memorandum of Points and
10 Authorities, the Declaration of Roger Meyer in support thereof, and all other
11 pleadings and files in this matter and upon such additional evidence and argument
12 as may be presented at or before the time of the hearing on this mater.

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15 Dated: June 6, 2011

LAW OFFICES OF MARTIN D. GROSS

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18 /s/Martin D. Gross

19 Martin D. Gross
20 Attorney For Center Court Partners, LLC
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I. STATEMENT OF FACTS

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2 1. On March 25, 2011 (the "Petition Date"), Debtor filed a voluntary petition
3 for relief under Chapter 11 of the Bankruptcy Code.

4 2. Debtor is continuing in the operation and management of its business
5 pursuant to Bankruptcy Code §1107 and §1108.

6 3. Debtor owns a commercial property located at 29501 Canwood Street,
7 Agoura Hills, CA 91301 (the "Property") . The monthly rent receipts are the Debtor's
8 sole source of income.

9 4. On or about August 7, 2007, the Debtor executed and delivered to
10 Montecito Bank and Trust certain loan and security documents evidencing a
11 construction loan by Montecito Bank & Trust to Debtor in the principal amount of
12 \$10,000,000.00, which was assigned loan number 7-4-25549, by Montecito Bank
13 and Trust and had a February 25, 2009 maturity date, subject to earlier acceleration
14 upon any default.

15 5. The Loan was documented, in part, by the following:

16 a. Promissory note dated August 7, 2007 in the original amount of
17 \$10,000,000.00.

18 b. Deed of trust executed August 7, 2007 which created a lien in first
19 position in Montecito Bank & Trust favor on the Property to secure
20 the Debtors obligations owed to Montecito Bank & Trust under the
21 Note and Loan.

22 6. The Bank entered into two forbearance agreements the latter of which
23 expired. There remains a \$9,000,000.00 principal and a disputed unpaid interest.

24 7. Debtor is not aware of Montecito Bank and Trust's security interest in
25 the Cash Collateral in the written loan documents.

26 8. Pursuant to provisions of §361, §363(c), and §363(e), of the
27 Bankruptcy Code, and subject to the limitations set forth below, the Debtor requests
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1 to use and disburse "Cash Collateral", as that term is defined in §363(a), in the
2 ordinary course of Debtor's business as set forth in this Motion. Debtor requests that
3 it be permitted to expend funds from the Debtor-in-Possession Account ("DIP"
4 Account"), which funds all constitute Cash Collateral, in amounts equal to the
5 Debtors gross monthly budget amounts designated in Debtors's Estimated
6 Expenses Budget ("Budget") through December 23, 2011 or sooner if such event
7 should take place as set forth in the Motion. A true and correct copy of the Budget is
8 attached to the Motion, as Exhibit #1 and its terms incorporated herein by this
9 reference.

10 9. The Debtor shall disburse funds from the DIP Account only in the
11 amounts set forth in the Budget. Absent Court order to the contrary, in no event shall
12 the Debtor disburse from the DIP Account more than the aggregate amounts set
13 forth in the Budget subject to a 15% variance (the "Maximum Disbursement"). Any
14 amounts in excess of the Maximum Disbursements shall remain in the DIP Account
15 and shall not be disbursed or otherwise available to the Debtor absent entry of a
16 further Court Order or consent of Montecito Bank & Trust and the Debtor.

17 **I. ARGUMENT**

18 **A. Funds Held in Debtor in Possession Account Are Cash Collateral as** 19 **Defined by 11 U.S.C. §363(a).**

20 11 U.S.C. §363(a) defines "cash collateral" as:

21 "...cash, negotiable instrument, documents of title, securities, deposit
22 accounts, or other cash equivalents whenever acquired in which the estate
23 and an entity other than the estate have an interest and includes the
24 proceeds, products, offspring, rents, or profits of property...whether existing
25 before or after commencement of a case under this title."

26 The Debtor operates a single asset real property with two current tenants.
27 Monthly rent is collected on a monthly basis from the two tenants. The monthly rent
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1 is Debtor's only source of income and are being held in the DIP Account
2 Accordingly, the monthly rents, pursuant to 11 U.S.C. §363(e), qualify as cash
3 collateral.

4
5 **B. Cash Collateral Use Should be Authorized as the Sole Secured**
6 **Creditor's Interest will Remain "Adequately Protected."**

7 To obtain court authorization to use cash collateral, a debtor must establish
8 that the "interest" of creditors holding liens on the subject collateral will remain
9 "adequately protected," 11 U.S.C. §363(e). Pursuant to United States v. Timbers of
10 Inwood Forest, 484 U.S. 365, 108S.Ct. 626 (1988), the "interest property" entitled to
11 adequate protection under 11 U.S.C. §363(e) is no more or less than the "value of
12 the collateral" that is subject to the secured creditor's lien.

13 Here, the Cash Collateral is being used to pay the necessary monthly
14 expenses to maintain the Property and service its tenants. The Cash Collateral is
15 derived from the monthly rent which is the Debtors sole source of income. The
16 collateral to maintain the daily operations of the property, will not cause a decline in
17 the value of the Property, and the property will be well maintained and generating
18 revenue. Accordingly, the Court's authorization of such use of the Cash Collateral is
19 appropriate.

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21 **C. Identification of Provision in Motion as Required by Local Bankruptcy Rule**
22 **4001-2(b).**

23 Debtor identifies the following provisions in the Cash Collateral Motion,
24 pursuant to the checklist set forth in Local Bankruptcy Rule 4001-2(b), as follows:

- 25 (1) The Cash Collateral Motion does not provide for cross-collateralization
26 protection to pre-petition secured creditors.
27 (2) The Cash Collateral Motion does not bind the estate or parties in
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- 1 interest with respect to the validity, perfection, or amount of Montecito
2 Bank and & Trust, or any other secured creditor.
- 3 (3) The Cash Collateral Motion does not waive or limit the estate's rights
4 under 11 U.S.C. §506(c).
- 5 (4) The Cash Collateral Motion does not grant to the pre-petition secured
6 creditor liens on the Debtor's claims and causes of action arising under 11
7 U.S.C. §§ 544, 545, 547, 547, or 549.
- 8 (5) The Cash Collateral Motion does not deem pre-petition secured debt
9 to be post-petition debt or use post-petition loans from a pre-petition
10 secured creditor to pay part or all that secured creditor's pre-petition debt,
11 other than as provided in U.S.C. §552(b).
- 12 (6) The Cash Collateral Motion does not provide disparate treatment for
13 professionals retained by a creditors' committee from that provided for the
14 professionals retained by the debtor with respect to a professional fee
15 carve out.
- 16 (7) The Cash Collateral Motion does not prime a secured lien.

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D. Essential Terms of the Cash Collateral Motion

The essential terms of the Cash Collateral Motion are as follows:

1. Term: The Debtor's authority to use Cash Collateral shall terminate ("Termination Event") on the earlier of: (1) the effective date of any confirmed plan of reorganization; (2) the consummation of the sale or all or substantially all of the Debtor's assets; (3) the dismissal of the Case or the conversion of the Case to a case under Chapter 7 of the Bankruptcy code; (4) Upon the entry of an Order appointing a Chapter 11 Trustee; (5) 5:00 p.m. Pacific Time December 23, 2011.

1 2. Use of Cash Collateral: The Debtor shall be authorized to use Cash Collateral
2 upon the following terms and conditions:

3 a. All Cash Collateral shall be deposited, upon receipt, in appropriate debtor
4 in possession bank accounts, unless and to the extent otherwise permitted by the
5 Court;

6 b. The Debtor shall be entitled to use Cash Collateral to pay the reasonable,
7 ordinary, and necessary expenses of operating and maintaining their businesses
8 (“Ordinary Expenses”) subject to the following terms:

9 (1). The Debtor may use Cash Collateral for the items contained in the Budget
10 attached to the Cash Collateral Motion as Exhibit “1”.

11 (2). The Debtor’s use of Cash Collateral is expressly limited to the specific
12 items and amounts set forth in the Budget, except that the Debtor may exceed
13 the budgeted sum in any single budget period for any itemized expense
14 category by no more than 15% plus any prior budget period expense item that
15 was incurred but not paid (subject to the same 15% overage limitation). If
16 actual expenditures for any line items are less than the amount set forth in the
17 Budget, the difference shall carry over to the next budget period(s).

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19 3. Insurance. During the term of the use of the Cash Collateral, the Debtor shall
20 maintain adequate insurance coverage on all of Debtor’s collateral.

21
22 4. No Waiver. Nothing contained in the Cash Collateral Motion or the Order
23 thereon shall be deemed or construed to waive, reduce, or otherwise diminish the
24 rights and claims of either Montecito Bank & Trust or the Debtor against each
25 other or any third parties.

26 5. Bankruptcy Court Order. The Cash Collateral Motion is subject to the approval of
27 the Bankruptcy Court.

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III. CONCLUSION

Based upon the foregoing, Debtor asserts that the Cash Collateral Motion is appropriate and requests this Court's authorization of the same.

DATED: June 6, 2011

LAW OFFICES OF MARTIN D. GROSS

/s/ Martin D. Gross
Martin D. Gross
Attorney for Center Court Partners, LLC

DECLARATION OF ROGER MEYER

1
2 I am the managing member of Center Court Partners, LLC., (“Debtor”) the
3 Debtor and Debtor in possession herein. I have personal knowledge of the facts
4 alleged herein and if called upon as a witness, I could and would competently testify
5 thereto.

6 1. On March 25, 2011 (the “Petition Date”), Debtor filed a voluntary petition
7 for relief under Chapter 11 of the Bankruptcy Code.

8 2. Debtor is continuing in the operation and management of its business
9 pursuant to Bankruptcy Code §1107 and §1108.

10 3. Debtor owns a commercial property located at 29501 Canwood Street,
11 Agoura Hills, CA 91301 (the “Property”) . The monthly rent receipts are the Debtor’s
12 sole source of income.

13 4. On or about August 7, 2007, the Debtor executed and delivered to
14 Montecito Bank and Trust certain loan and security documents evidencing a loan by
15 Montecito Bank & Trust to Debtor in the principal amount of \$10,000,000.00, which
16 was assigned loan number 7-4-25549, by Montecito Bank and Trust and had a
17 February 25, 2009 maturity date, subject to earlier acceleration upon any default.

18 5. The Loan was documented, in part, by the following:

19 a. Promissory note dated August 7, 2007 in the original amount of
20 \$10,000,000.00.

21 b. Deed of trust executed August 7, 2007 which created a lien in first
22 position in Montecito Bank & Trust favor on the Property to secure
23 the Debtors obligations owed to Montecito Bank & Trust under the
24 Note and Loan.

25 6. The Bank entered into two forbearance agreements the latter of which
26 expired. There remains a \$9,000,000.00 principal and a disputed unpaid interest.

27 7. Debtor is not aware of Montecito Bank and Trust’s security interest in
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1 the Cash Collateral in the written loan documents.

2 8. Pursuant to provisions of §361, §363(c), and §363(e), of the
3 Bankruptcy Code, and subject to the limitations set forth below, the Debtor requests
4 to use and disburse "Cash Collateral", as that term is defined in §363(a), in the
5 ordinary course of Debtor's business as set forth in this Motion. Debtor requests that
6 it be permitted to expend funds from the Debtor-in-Possession Account ("DIP"
7 Account"), which funds all constitute Cash Collateral, in amounts equal to the
8 Debtors gross monthly budget amounts designated in Debtors's Estimated
9 Expenses Budget ("Budget") through December 23, 2011 or sooner if such event
10 should take place as set forth in the Motion. A true and correct copy of the Budget is
11 attached to the Motion, as Exhibit #1 and its terms incorporated herein by this
12 reference.

13 9. The Debtor shall disburse funds from the DIP Account only in the
14 amounts set forth in the Budget. Absent Court order to the contrary, in no event shall
15 the Debtor disburse from the DIP Account more than the aggregate amounts set
16 forth in the Budget subject to a 15% variance (the "Maximum Disbursement"). Any
17 amounts in excess of the Maximum Disbursements shall remain in the DIP Account
18 and shall not be disbursed or otherwise available to the Debtor absent entry of a
19 further Court Order or consent of Montecito Bank & Trust and the Debtor.

20 10. Here, the Cash Collateral is being used to pay the necessary monthly
21 expenses to maintain the Property and service its tenants. The Cash Collateral is
22 derived from the monthly rent which is the Debtors sole source of income. The
23 collateral to maintain the daily operations of the property, will not cause a decline in
24 the value of the Property, and the property will be well maintained and generating
25 revenue. Accordingly, the Court's authorization of such use of the Cash Collateral is
26 appropriate.

27 11. Debtor identifies the following provisions in the Cash Collateral
28

1 Motion, pursuant to the checklist set forth in Local Bankruptcy Rule 4001-2(b), as
2 follows:

3 (1) The Cash Collateral Motion does not provide for cross-collateralization
4 protection to pre-petition secured creditors.

5 (2) The Cash Collateral Motion does not bind the estate or parties in
6 interest with respect to the validity, perfection, or amount of Montecito
7 Bank and & Trust, or any other secured creditor.

8 (3) The Cash Collateral Motion does not waive or limit the estate's rights
9 under 11 U.S.C. §506(c).

10 (4) The Cash Collateral Motion does not grant to the pre-petition secured
11 creditor liens on the Debtor's claims and causes of action arising under 11
12 U.S.C. §§ 544, 545, 547, 547, or 549.

13 (5) The Cash Collateral Motion does not deem pre-petition secured debt
14 to be post-petition debt or use post-petition loans from a pre-petition
15 secured creditor to pay part or all that secured creditor's pre-petition debt,
16 other than as provided in U.S.C. §552(b).

17 (6) The Cash Collateral Motion does not provide disparate treatment for
18 professionals retained by a creditors' committee from that provided for the
19 professionals retained by the debtor with respect to a professional fee
20 carve out.

21 (7) The Cash Collateral Motion does not prime a secured lien.

22
23 12. The essential terms of the Cash Collateral Stipulation are as follows:

24 a. Term: The Debtor's authority to use Cash Collateral shall
25 terminate ("Termination Event") on the earlier of: (1) the effective date of any
26 confirmed plan of reorganization; (2) the consummation of the sale or all or
27 substantially all of the Debtor's assets; (3) the dismissal of the Case or the
28

1 conversion of the Case to a case under Chapter 7 of the Bankruptcy code; (4) Upon
2 the entry of an Order appointing a Chapter 11 Trustee; (5) 5:00 p.m. Pacific Time
3 December 23, 2011.

4 b. 2. Use of Cash Collateral: The Debtor shall be authorized to use
5 Cash Collateral

6 upon the following terms and conditions:

7 a. All Cash Collateral shall be deposited, upon receipt, in appropriate debtor
8 in possession bank accounts, unless and to the extent otherwise permitted by the
9 Court;

10 b. The Debtor shall be entitled to use Cash Collateral to pay the reasonable,
11 ordinary, and necessary expenses of operating and maintaining their businesses
12 ("Ordinary Expenses") subject to the following terms:

13 (1). The Debtor may use Cash Collateral for the items contained in the Budget
14 attached to the Cash Collateral Motion as Exhibit "1".

15 (2). The Debtor's use of Cash Collateral is expressly limited to the specific
16 items and amounts set forth in the Budget, except that the Debtor may exceed
17 the budgeted sum in any single budget period for any itemized expense
18 category by no more than 15% plus any prior budget period expense item that
19 was incurred but not paid (subject to the same 15% overage limitation). If
20 actual expenditures for any line items are less than the amount set forth in the
21 Budget, the difference shall carry over to the next budget period(s).

22 c. Insurance. During the term of the Use of Cash Collateral, the
23 Debtor shall maintain adequate insurance coverage on all of Debtor's collateral.

24 d. No Waiver. Nothing contained in the Motion or the Order
25 thereon shall be deemed or construed to waive, reduce, or otherwise diminish the
26 rights and claims of either Montecito Bank & Trust or the Debtor against each other
27 or any third parties.

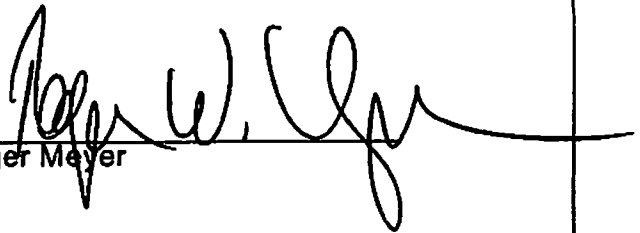
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e. Bankruptcy Court Order. The Cash Collateral Motion is subject to
the approval of the Bankruptcy Court.

I declare under penalty of perjury under the laws of the United States of
America that the foregoing is true and correct.

Dated: June 6, 2011

By: 
Roger Meyer

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EXHIBIT #1

EXPENSES

		1 month	6 months
Aid Alert	Acct #: None		
1014 S. Westlake blvd. #14		\$ 65.00	\$ 390.00
Westlake Village, CA 91461	(818)991-6002		
American Janitorial Services	Acct #:1908		
949 Camino Dos Rios		\$ 150.00	\$ 900.00
Thousand Oaks, CA 91360	(800)824-4764		
AT&T	Acct #:81870613877438		
PO Box 5001		\$ 156.00	\$ 936.00
Carol Stream, IL 60197	(888) 944-0447		
Farmer's Insurance	Acct #: 604683875		
1930 Ray Shire St		\$ 776.00	\$ 4,656.00
Thousand Oaks, CA 91362	(805) 446-3300		
JRM Equities-Landscape	Acct #: none		
577 Corte Aguacate		\$ 550.00	\$ 3,300.00
Camarillo, CA 93010	(805)844-9424		
JRM Equities-Property mgmt	Acct #: none		
577 Corte Aguacate		\$ 2,000.00	\$ 12,000.00
Camarillo, CA 93010	(805)844-9424		
Las Virgenes Water District	Acct #:0000742885		
4232 Las Virgenes Rd		\$ 700.00	\$ 4,200.00
Calabasas, CA 91302	(818)257-2200		
Southern CA Edison	Acct #: 2308122639		
PO Box 300		\$ 950.00	\$ 5,700.00
Rosemead, CA 91772	(800)990-7788		
Southern CA Gas Co.	Acct #: 0467317666		
PO Box 30777		\$ 300.00	\$ 1,800.00
Los Angeles, CA 90030	(800)427-2200		
ThyssenKrupp Elevator	Acct #:300-43110		
PO Box 933013		\$ 491.00	\$ 2,946.00
Atlanta, GA 31193	(323)278-9888		
Vacco HVAC	Acct #: none		
4665 Ortega St		\$ 240.00	\$ 1,440.00
Ventura, CA 93003	(805)644-4328		
Waste Mgmt GI	Acct #:700015665802839		
195 West Los Angeles Ave		\$ 226.00	\$ 1,356.00
Simi Valley, CA 93065	(805)522-9400		
Accounting/Tax Return	Acct #: none		
1800 Ventura Blvd		\$ 100.00	\$ 600.00
Camarillo, CA 93010	(818)484-0496		
Misc. Repairs		\$ 1,000.00	\$ 6,000.00
Totals		\$ 7,704.00	\$ 46,224.00

RENTS

		1 month	6 months
Dr. Pakula		\$ 5,914.30	\$ 35,485.80
Westlab		\$ 4,131.71	\$ 24,790.26
Totals		\$ 10,046.01	\$ 60,276.06

		1 month	6 months
net total		\$ 2,342.01	\$ 14,052.06

In re: Center Court Partners, LLC, a California Corporation Debtor(s).	CHAPTER: 11 CASE NUMBER: 1:11-bk-13715
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NOTE: When using this form to indicate service of a proposed order, DO NOT list any person or entity in Category I. Proposed orders do not generate an NEF because only orders that have been entered are placed on a CM/ECF docket.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
Law Offices of Martin D. Gross 2001 Wilshire Blvd. Suite 205 Santa Monica , CA 90403

A true and correct copy of the foregoing document described as Motion for Use of Cash Collateral Pursuant to U.S.C. 363(c); Memorandum of Points and Authorities; declaration of Roger Meyer in Support Thereof will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d), and (b) in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") - Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On June 9, 2011 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email addressed indicated below:

Service information continued on attached page


II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):
On June 9, 2011 I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follow. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on _____ I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method) by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

June 9, 2011	Maureen Amaya	
Date	Type Name	Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

In Re Center Court Partners, LLC
Case No.: 1:11-bk-13715-MT
Service List

I. Parties to be Served by the Court via Notice of Electronic Filing (“NEF”)

Katherine Bunker - kate.bunker@usdoj.gov
Ashleigh A Danker - adanker@kayescholar.com
Melissa J Fassett - mjf@ppplaw.com
US Trustee - ustpreion16.wh.ecf@usdoj.gov

II. Parties Served via U.S. Mail

Honorable Maureen A. Tighe
U.S. Bankruptcy Court
21041 Burbank Blvd. Suite 325
Woodland Hills

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