

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Geraldine Mund, Presiding
Courtroom 303 Calendar**

Tuesday, October 13, 2020

Hearing Room 303

9:00 AM

1: -

Chapter

#0.00 You will not be permitted to be physically present in the courtroom.

The 10:00 A.M. Calendar Hearing will be by Court Call, dial 1-886-582-6878 or 1-888-882-6878

Docket 0

Matter Notes:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
San Fernando Valley
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Tuesday, October 13, 2020

Hearing Room 303

10:00 AM

1:05-13556 Linda Widdowson

Chapter 7

Adv#: 1:20-01023 Fidelity National Title Company v. Widdowson et al

#1.00 Motion to Deposit Funds into Court Registry

fr. 7/21/20, 9/15/20

Docket 27

Matter Notes:

- NONE LISTED -

Tentative Ruling:

THE HEARING WILL BE BY PHONE THROUGH COURT CALL.

It is clear that this motion should be granted and Fidelity should be out of this case. However, Citibank has named Fidelity as a cross-defendant. Everyone is seeking the same thing - that Fidelity turnover the money, which Fidelity wants to do. There is a default against Widdowson. I just need to know how to proceed properly so that the loose ends are tied up. As I understand it, the Court will hold the money, Fidelity will seek payment for its expenses and fees for bringing this motion, Citibank and Ford will litigate against each other to determine which of them is entitled to the money, the Trustee will not be involved unless there is a decision that neither Citibank nor Ford is entitled to the money or there is some surplus left for the estate. That would go to the Trustee, but there needs to be a judgment against Widdowson to remove her from this case.

It seems best to continue this without hearing to the 11/17 at 10:00 time when there is a status conference. Please figure out the above and advise me prior to that time how this will proceed.

Prior tentative ruling (9/15/20)

In 2007 Trustee sold the debtor's single family residence at 194 Saddlebow Rd., Bell Canyon. This was free and clear of liens. Fidelity National Title Co (Fidelity) was the sub-agent of Valley Escrow. Two abstracts of judgment were discovered: \$35,332.29 recorded on 9/16/03 in favor of Ford and \$21,870.53 recorded on 10/1/03 in favor of Citibank. Fidelity is holding \$57,202.82 in the sub-escrow account and has never

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CONT... **Linda Widdowson**

Chapter 7

received further instructions from the Trustee. Fidelity wants to turn these over to the Trustee.

David Seror, the trustee, has filed an answer. Seror asserts that to the extent that Citibank and Ford each have a valid, perfected, non-avoidable security interest in the funds, that is superior to the Estate's interest, but the Estate's interest is superior to that of the Debtor.

Per the status report filed on 9/3, Widdowson was served by publication. On 9/11, Fidelity filed a request for entry of default as to Citibank, but there were technical errors. This was resubmitted on 9/14. Per the status report, Plaintiff will be submitting a request to default Widdowson.

Ford Credit Titling Trust filed an answer and a crossclaim against Citibank on 9/3. That status conference is set for 11/17.

Once the money is deposited, will the Trustee take over the prosecution of this case or will it all be decided by the Ford v. Citibank matter?

Continue this to 11/17 at 10:00 a.m. If there is no objection to the continuance, no appearance is needed on 9/15.

Party Information

Debtor(s):

Linda Widdowson

Represented By
Michael E Mahurin
David A Tilem
Susan I Montgomery

Defendant(s):

Linda Widdowson

Pro Se

DAVID SEROR ESQ

Pro Se

Citibank (South Dakota) N.A.

Pro Se

FORD CREDIT TITLING TRUST

Represented By
Adam N Barasch

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CONT... Linda Widdowson

Chapter 7

Plaintiff(s):

Fidelity National Title Company

Represented By
Sheri Kanesaka

Trustee(s):

David Seror (TR)

Represented By
Anthony A Friedman
Anthony A Friedman
Susan I Montgomery

**United States Bankruptcy Court
Central District of California
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Courtroom 302 Calendar**

Tuesday, October 13, 2020

Hearing Room 302

10:00 AM

1:05-13556 Linda Widdowson

Chapter 7

Adv#: 1:20-01023 Fidelity National Title Company v. Widdowson et al

#2.00 Status Conference Re:
Complaint for Interpleader and Declaratory
Relief.

fr. 4/7/20; 6/2/20, 7/21/20, 9/15/20

Docket 1

Matter Notes:

- NONE LISTED -

Tentative Ruling:

Ford Credit Titling Trust filed an answer and a crossclaim against Citibank on 9/3. The status conference for the cross-claim is set for 11/17. Continue this without appearance to 11/17 at 10:00 a.m.

Prior tentative ruling (7/21/20)

On July 1 the clerk's office issue another summons on Citibank. The answer is due on 7/31. On 6/22 the court entered its order allowing service by publication on the debtor. Continue by stipulation to September 15, 2020 at 10:00 a.m. to allow the service by publication on Widdowson to be completed.

Prior tentative ruling (6/2/20)

In 2007 Trustee sold the debtor's single family resident at 194 Saddlebow Rd., Bell Canyon. This was free and clear of liens. Fidelity National Title Co (Fidelity) was the sub-agent of Valley Escrow. Two abstracts of judgment were discovered: \$35,332.29 recorded on 9/16/03 in favor of Ford and \$21,870.53 recorded on 10/1/03 in favor of Citibank. Fidelity is holding \$57,202.82 in the sub-escrow account and has never received further instructions from the Trustee. Fidelity wants to turn these over to the Trustee.

Ford has until July 24 to respond. David Seror, the trustee, has filed

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10:00 AM

CONT... **Linda Widdowson**

Chapter 7

an answer. Seror asserts that to the extent that Citibank and Ford each have a valid, perfected, non-avoidable security interest in the funds, that is superior to the Estate's interest, but the Estate's interest is superior to that of the Debtor

The status report is that Fidelity will file a motion to deposit the funds and to be dismissed. [It previously filed such a motion, but withdrew it.] The Trustee, who joined the status report, sees trial in 90 days and that it will take about 30 minutes. The motion to deposit funds is set for July 21 at 10:00 a.m.

Why no response by Citibank? Did Widdowson get notice (I can't open the proof of service). Once the money is deposited, will the Trustee take over the prosecution of this case?

Prior tentative ruling (4/7/20)

Due to the response to the coronavirus pandemic, this matter is continued without appearance to **June 2, 2020 at 10:00 a.m.** Should you need an emergency hearing before that time, please file a motion requesting that and stating the reason. Plaintiff is to give notice of this continuance to all defendants.

Party Information

Debtor(s):

Linda Widdowson

Represented By
Michael E Mahurin
David A Tilem
Susan I Montgomery

Defendant(s):

Linda Widdowson

Pro Se

DAVID SEROR ESQ

Pro Se

Citibank (South Dakota) N.A.

Pro Se

FORD CREDIT TITLING TRUST

Pro Se

**United States Bankruptcy Court
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10:00 AM

CONT... Linda Widdowson

Chapter 7

Plaintiff(s):

Fidelity National Title Company

Represented By
Sheri Kanesaka

Trustee(s):

David Seror (TR)

Represented By
Anthony A Friedman
Anthony A Friedman
Susan I Montgomery

**United States Bankruptcy Court
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10:00 AM

1:08-16001 Leonid Zaks

Chapter 7

Adv#: 1:08-01593 Wells Fargo Merchant Services LLC v. Proaudio America et al

#3.00 Order to Tamara Zaks to Appear by Telephone for Examination

fr. 9/15/20

Docket 50

Matter Notes:

- NONE LISTED -

Tentative Ruling:

OFF CALENDAR

Counsel for Wells Fargo and Ms. Zaks both appeared by phone on 9/15 and the parties were to deal with this. Per the report filed on 10/6 the examination took place on 10/5 and the motion was been withdrawn.

Prior tentative ruling (9/15/20)

This is to set a time and method for a judgment debtor examination. Ms. Zaks had to choice to contact the counsel for Wells Fargo and work this out or to appear by phone at this hearing. Nothing more has been received from either party as of 9/10.

Party Information

Debtor(s):

Leonid Zaks

Represented By
Creighton A Stephens

Defendant(s):

Proaudio America

Pro Se

Leonid Zaks

Represented By
Creighton A Stephens

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CONT... Leonid Zaks

Chapter 7

Joint Debtor(s):

Tamara Zaks

Represented By
Creighton A Stephens

Plaintiff(s):

Wells Fargo Merchant Services LLC

Represented By
Allan Herzlich

Trustee(s):

David Seror (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 303

10:00 AM

1:17-10853 Joseph Daniel Beam

Chapter 7

Adv#: 1:17-01046 Henderson v. Beam

#4.00 Status Conference Re:
Complaint for Fraudulent Activity in
Bankruptcy Case.

fr. 5/7/19; 7/16/19; 7/30/19; 9/24/19, 11/19/19; 12/23/19,
1/28/20, 3/3/20, 4/7/20, 6/23/20, 9/15/20

Docket 1

Matter Notes:

- NONE LISTED -

Tentative Ruling:

THE HEARING WILL BE BY PHONE THROUGH COURT CALL.

Ms. Henderson appeared by phone on 9/15. No appearance by Ms. Moreno, which has been a pattern of hers. On 9/17 the Court issued an order to appear by phone at this status conference. Because Ms. Henderson said that Mr. Beam may be obtaining bankruptcy counsel. the order directed the appearance of Ms. Henderson, Ms. Moreno, Mr. Beam, and any bankruptcy counsel that Mr. Beam obtained. Nothing new filed as of 10/8.

Prior tentative ruling (9/15/20)

Nothing new filed as of 9/11/20. The hearing will be by Court Call. Ms. Henderson can attend without charge. Check with the clerk's office if you need information on how to do this. I need an update on what is happening in the superior court.

Prior tentative ruling (6/23/20)

Nothing new filed as of 6/18/20. The hearing will be by Court Call. Ms. Henderson can attend without charge. Check with the clerk's office if you need information on how to do this. I assume that nothing has happened in the superior court. If you both agree to a continuance without appearance to 9/15/20 at 10:00, please advise me.

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CONT... Joseph Daniel Beam

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prior tentative ruling (4/7/20)

Due to the response to the coronavirus pandemic, this matter is continued without appearance to **June 23, 2020 at 10:00 a.m.** Should you need an emergency hearing before that time, please file a motion requesting that and stating the reason.

Prior tentative ruling (12/23/19)

Nothing new received as of 12/18.

prior tentative ruling

Ms. Henderson has submitted a copy of the minute order of Judge Dordi on August 22, 2019.

Per Judge Dordi's order:

(1) The Naviant student loans of Henderson are her sole and separate debt.

(2) All debts accumulated from the date of marriage until the separation in 2010 are confirmed to Beam as his separate debts under Family Code §2622(b) and he is to hold Henderson harmless from them.

(3) There are a list of debts accumulated by Henderson after the date of separation and they are for her necessities of life under Family Code 2523 and are awarded to Beam to pay and he is to hold Henderson harmless from them [5 accounts are listed].

(4) Beam is to pay spousal support of \$1,100 per month starting 9/15/19.

How does this impact on the §727 complaint? Does Henderson intend to proceed? If so, what discovery needs to be done?

prior tentative ruling (9/24/19)

On July 30, there was a joint status conference with Judge Dordi of the Superior Court. This status conference on Sept. 24 is to update me on the status of the dissolution case. It also includes a claim for support and that would effect the dischargeability of the support amount ruled in favor of Ms. Henderson. As to this adversary proceeding, Henderson explained that her concern is that there will be a determination that some portion of the

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CONT... Joseph Daniel Beam

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community debt is attributable to Mr. Beam alone, but that this will be discharged as to him in this bankruptcy and that she would be left subject to that portion of the debt as well as to the part attributable to her. Thus, she wants to deny him the discharge so that he is liable for all of the community debt or that she can seek to collect his portion from him.

Once the support issue is resolved, this adversary proceeding should either be dismissed or go to trial.

prior tentative ruling (7/30/19)

On 7/10/19, Plaintiff filed a status report. She said that she failed to appear because the superior court issues were delayed, so she thought that the hearing in the bankruptcy court was cancelled. She then set a last minute job interview. She wishes the court to continue prior court orders (10/4/17) lifting the automatic stay on the Debtor. She then goes through the facts in the superior court dissolution case.

The property division did not take place before the bankruptcy, so Judge Barash properly entered an order lifting the automatic stay. She goes on to argue that the delays in the superior court were due to Debtor's counsel. She wants this hearing continued until after the superior court trial (no date set for that) and wants sanctions against Attorney Moreno for causing the delays in the state and federal courts.

Proposed ruling: The order lifting the automatic stay does not have to be renewed. It continues in effect as set forth therein. I am still not convinced that I should wait for the superior court ruling. I think that it would be a good idea for me to either talk to the superior court judge as to scheduling or hold a joint status conference with the superior court judge. I am not just going to continue this on with no end in sight. As to sanctions against counsel, I have no authority to grant them as to the state court case and - as of this point - no reason to grant them as to this case.

prior tentative ruling (5/7/19)

This arises out of a family law case. According to the Debtor's status report, the family law judge is requiring briefs as to marital debts and the proposed division between the parties. The family law trial setting conference

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CONT... Joseph Daniel Beam

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is set for 6/12/19. In this court, the defendant estimates one hour to present his case-in-chief.

This is a §727 case to deny discharge and the family law division of property may not be relevant. The crux of the complaint is that the debtor (sometimes through his attorney) knowingly filed improper paperwork; that this was a careless and frivolous bankruptcy case meant to delay and frustrate the divorce proceedings; that debtor failed to notify creditors of "intention to file bankruptcy;" and that debtor failed to disclose his true income and assets. The complaint also specifies the following reasons to deny discharge as to what items are listed on or omitted from the schedules and statement of affairs:

- (1) He declared debts that were solely owed by plaintiff and are not community debts
- (2) He claimed to own no property - the complaint lists a series of personal property, particularly automation. It also specifies income received from a pre-petition art sale and money he removed from an education fund for their son. There is also a pension account that was not revealed.
- (3) There were unsecured debts that he did not disclose, specifically for a previously repossessed car, a judgment by American Express, and a City of Los Angeles tax bill.
- (4) He did not reveal past spousal support paid or owed and other related family support payments made in 2014 through April 2016.
- (5) He did not list any expenses, though he has paid them.
- (6) He did not list gifts from his mother and friends in the approximate sum of \$50,000. He lives rent free and does not pay utilities or living costs.
- (7) There are a lot of debts from the marriage, but he did not declare them as codebtor obligations.
- (8) He declared a lower income than he actual receives.
- (9) He under-reported the attorney fees that he has paid to his counsel.

Plaintiff is also complaining of fraudulent activity of counsel (Kathleen Moreno) in that she knowingly filed this case "with no intent not to file proper documents." [Note that the complaint does not actually name Ms. Moreno as a co-defendant and she would not be subject to §727 as she is not the debtor.]

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Debtor's answer denies all allegations.

Since filing, this case has been largely on hold pending the state court dissolution proceedings.

As I review the complaint, it may not be worthwhile to wait until the family law court has acted - or it may be the best way. Clearly some of these actions were prepetition and non-financial or may have been too early to be included in the schedules. Perhaps it is best to rule on those specifics. Some of the others may be resolved in the family law proceeding - such as assets actually owned and debts actually owed.

Plaintiff has to realize that a §727 action will block the discharge of ALL debts, not just of those owed to her (which are already protected under §523). This means that other creditors will have as much right to seek payment as she does and that may prevent her from actually timely collecting future spousal support, etc. However, this is a §727 complaint and if she decides to dismiss it, the Trustee must be notified and may wish to take over the case.

Let's talk.

Party Information

Debtor(s):

Joseph Daniel Beam

Represented By
Kathleen A Moreno

Defendant(s):

Joseph Daniel Beam

Represented By
Kathleen A Moreno

Plaintiff(s):

Ellen Henderson

Pro Se

Trustee(s):

Nancy J Zamora (TR)

Pro Se