

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

10:00 AM

6:16-13461 Zانavia Scandrick

Chapter 7

#1.00 Pro se Reaffirmation Agreement Between Debtor and Alaska USA Federal Credit Union re 2013 Ford Explorer

EH__

Docket 9

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Zانavia Scandrick

Pro Se

Trustee(s):

Arturo Cisneros (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Wednesday, June 08, 2016

Hearing Room 303

10:00 AM

6:16-12706 Jose Luis Guerrero and Rachel Denise Guerrero

Chapter 7

#2.00 Reaffirmation Agreement Between Debtor and Navy Federal Credit Union #0155
re 2004 Honda Civic \$ 4,657.98

EH__

Docket 13

***** VACATED *** REASON: AMENDED REAFFIRMATION FILED
5/24/15 WITH ATTORNEY CERTIFICATION**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Luis Guerrero

Represented By
Brian J Soo-Hoo

Joint Debtor(s):

Rachel Denise Guerrero

Represented By
Brian J Soo-Hoo

Trustee(s):

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

11:00 AM

6:15-22214 Steve Eric Daskowski

Chapter 7

#3.00 Motion to Vacate Discharge

EH__

Docket 33

Tentative Ruling:

06/08/2016

BACKGROUND

On December 23, 2015 ("Petition Date"), Steve Eric Daskowski (the "Debtor") filed his petition for chapter 7 relief. The Debtor received a discharge on April 18, 2016.

On May 11, 2016, the Debtor filed a Motion to Vacate the Discharge ("Motion"). The Motion is unopposed. Specifically, the Debtor seeks to vacate the discharge order on the basis that due to inadvertence or mistake (pursuant to Rule 60(b)), the mortgage lender "did not timely file the reaffirmation agreement." (Debtor Decl. ¶8).

DISCUSSION

The Debtor argues that pursuant to Rule 60(b) there are, in essence, equitable grounds for vacating of the discharge order. However, the view that Rule 60(b) authorizes a bankruptcy court to vacate a discharge order is the minority view. The majority view, taken by the Ninth Circuit BAP, is that revocation of the discharge order in a chapter 7 case must be in accordance with § 727(d), and that there is no inherent equitable power which permits the bankruptcy court to revoke a discharge outside the framework of § 727(d). *In re Markovich*, 207 B.R. 909, 913 (9th Cir. BAP 1997). Moreover, contrary to the Debtor's position that the fault for failing to timely file the reaffirmation agreement lies with the lender, the Court notes that Federal Rule of Bankruptcy Procedure 4004(c)(2) allows a debtor to file a motion requesting that an order granting his or her discharge be deferred for "up to 30 days ... and, on an additional motion filed within that period, to a date certain after expiration of the 30 days."

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

11:00 AM

CONT...

Steve Eric Daskowski

Chapter 7

Here, the Debtor's counsel knew or should have known that when the reaffirmation agreement was returned by the lender (as asserted by the Debtor for having been completed on an outdated form), that out of an abundance of caution the Debtor's counsel should have advised the Debtor of the need for a motion to defer entry of the discharge. Finally, it also appears that the outdated form provided to the Debtor may have been provided by the Debtor's own attorney. If so, this fact would further undercut the assertion that the failure to timely file the reaffirmation agreement is due to any inadvertence or mistake on the part of the lender.

TENTATIVE RULING

For the foregoing reasons, the Court is inclined to DENY the Motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Steve Eric Daskowski

Represented By
Daniel King

Movant(s):

Steve Eric Daskowski

Represented By
Daniel King

Trustee(s):

Howard B Grobstein (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

11:00 AM

6:14-12368 Jose Dimas Avila

Chapter 7

#4.00 Motion to Allow Claim 8 of Atlantic Credit & Finance SFU III, LLC as Late Filed

EH__

Docket 72

Tentative Ruling:

06/08/2016

Background:

On February 26, 2014 ("Petition Date"), Jose Dimas Avila ("Debtor") filed for chapter 7 relief. John Pringle is the duly appointed chapter 7 trustee ("Trustee"). On May 5, 2016, Trustee filed Objection to Claim # 8 (the "Objection") of Atlantic Credit & Finance SFU III, LLC ("Claimant"). Service was proper and no opposition or response has been filed.

Claim #: 8

Amount: \$6,702.17

Objection:

Trustee objects to Creditor's claim on the grounds that the claim was late-filed and is thus entitled to distribution only pursuant to § 726(a)(3), against any surplus.

Applicable Law:

Pursuant to 11 U.S.C. § 502(a), a proof of claim is deemed allowed unless a

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

11:00 AM

CONT...

Jose Dimas Avila

Chapter 7

party in interest objects. Absent an objection, a proof of claim constitutes *prima facie* evidence of the validity and amount of the claim under Federal Rule of Bankruptcy Procedure ("FRBP") 3001(f). *Lundell v. Anchor Constr. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000). When a party files an objection to a proof of claim, that filing "creates a dispute which is a contested matter" within the meaning of FRBP 9014 and the Court must resolve the matter after notice and opportunity for hearing upon a motion for relief. *Id.*

When a creditor has filed a proof of claim that complies with the rules (thereby giving rise to the presumption of validity), the burden shifts to the objecting party who must "present evidence to overcome the *prima facie* case." *United States v. Offord Fin., Inc., (In re Medina)*, 205 B.R. 216,222 (9th Cir. BAP 1996). To defeat the claim, the objecting party must provide sufficient evidence and "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell*, 223 F.3d at 1039 (*quoting In re Holm*, 931 F.2d 620, 623 (9th Cir. 1991)). "The objector must produce evidence, which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." *Lundell*, 223 F.3d at 1040 (*quoting In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173-74 (3d Cir. 1992)). If the objecting party produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts back to the claimant to prove the validity of the claim by a preponderance of the evidence. *Ashford v. Consol. Pioneer Mort. (In re Consol. Pioneer Mort.)*, 178 B.R. 222, 226 (9th Cir. BAP 1995), *aff'd*, 91 F.3d 151 (9th Cir. 1996) (*quoting Allegheny Int'l*, 954 F.2d at 173-74). The ultimate burden of persuasion remains at all times on the claimant. *Lundell*, 223 F.3d at 1039; *Holm*, 931 F.2d at 623.

Analysis:

Service is proper and no opposition was filed. Pursuant to LBR 9013-1(h), the Court deems Claimant's nonopposition as consent to the sustaining of the Trustee's Objection.

As to the merits, the claims bar date was November 10, 2014. The Trustee has provided a true and correct copy of the Claimant's proof of claim filed on May 4, 2016. (Ex. 1).The claim is unquestionably late. As such, the Trustee has established

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

11:00 AM

CONT... **Jose Dimas Avila**

Chapter 7

that the Claimant is not entitled to a distribution absent a surplus estate.

Tentative Ruling

For the foregoing reasons, primarily given Claimant's failure to file opposition, the Trustee's Objection to Claim #8 is sustained. Claimant shall be allowed distribution only from any surplus pursuant to § 726(a)(3).

APPEARANCES WAIVED. If written or oral opposition is presented at the hearing, the hearing may be continued. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Jose Dimas Avila

Represented By
Timothy L McCandless

Movant(s):

John P Pringle (TR)

Represented By
Toan B Chung

Trustee(s):

John P Pringle (TR)

Represented By
Toan B Chung

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

11:00 AM

6:13-22713 Abel Solorzano and Irma Solorzano

Chapter 7

#5.00 Order to show cause re: Debtors' failure to comply with settlement

EH__

Docket 395

***** VACATED *** REASON: CONTINUED TO 6/22/16 AT 11:00 A.M.**

Tentative Ruling:

Party Information

Debtor(s):

Abel Solorzano

Represented By
Byron Z Moldo

Joint Debtor(s):

Irma Solorzano

Represented By
Byron Z Moldo

Movant(s):

Howard B Grobstein (TR)

Represented By
Ivan L Kallick

Trustee(s):

Howard B Grobstein (TR)

Represented By
Ivan L Kallick

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

11:00 AM

6:13-22710 Jesus M. Tapia

Chapter 7

#6.00 United States Trustee's Motion for an Order Appointing Chapter 7 Trustee

EH__

Docket 20

Tentative Ruling:

6/8/16

On July 25, 2013 ("Petition Date"), Jesus Tapia ("Debtor") filed for chapter 7 relief. Robert Whitmore is the duly appointed chapter 7 trustee ("Trustee").

On November 4, 2013, the Debtor received a chapter 7 discharge, and on November 5, 2013, the case was closed.

On April 22, 2016, the Debtor filed a motion to reopen ("Motion to Reopen") the case to disclose a products liability suit in the amount of \$1,200,000 (the "Claim") that Debtor initially failed to disclose. On April 27, 2016, the Court entered an order granting the Motion to Reopen ("Order Granting Motion to Reopen"). However, the Order Granting Motion to Reopen inadvertently failed to specify that a chapter 7 trustee would be reappointed.

On May 12, 2016, the United States Trustee ("UST") filed a motion to reappoint a chapter 7 trustee ("Motion") to determine if the Claim can be administered for the benefit of the Debtor's estate.

As of June 6, 2016, no opposition to the Motion has been filed.

TENTATIVE RULING

The Court will GRANT the Motion as the Order Granting Motion to Reopen

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Wednesday, June 08, 2016

Hearing Room 303

11:00 AM

CONT... **Jesus M. Tapia**

Chapter 7

inadvertently failed to specify that a chapter 7 trustee would be reappointed.

APPEARANCED WAIVED. Movant to lodge order within 7 days.

Party Information

Debtor(s):

Jesus M. Tapia

Represented By
Michael Smith

Movant(s):

United States Trustee (RS)

Represented By
Abram Feuerstein esq

Trustee(s):

Robert Whitmore (TR)

Pro Se

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Wednesday, June 08, 2016

Hearing Room 303

11:00 AM

6:13-30133 Nabeel Slaieh

Chapter 7

Adv#: 6:14-01081 Albrecht v. Slaieh

#7.00 Motion to Reconsider Court's Order Dismissing Adversary Proceeding

EH__

Docket 81

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Nabeel Slaieh

Represented By
George A Saba

Defendant(s):

Nabeel Slaieh

Represented By
Stephen B Mashney
Bruce A Boice
George A Saba

Interested Party(s):

Jerid Maybaum

Pro Se

Movant(s):

W E Jon Albrecht

Represented By
William L Miltner
Robert C Harvey

Plaintiff(s):

W E Jon Albrecht

Represented By
William L Miltner
Robert C Harvey

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

11:00 AM

CONT... Nabeel Slaieh

Chapter 7

Trustee(s):

Larry D Simons (TR)

Represented By
D Edward Hays
David Wood
Matthew Grimshaw

Larry D Simons (TR)

Pro Se

U.S. Trustee(s):

United States Trustee (RS)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

11:00 AM

6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat and

Chapter 7

#8.00 CONT Motion for Approval of Compromise Between Trustee and Douglas J Roger MD Inc Define Benefit Plan

From: 5/11/16

Also #9 & #10

EH__

Docket 320

***** VACATED *** REASON: CONTINUED TO 6/29/16 AT 11:00 A.M.**

Tentative Ruling:

05/11/2016

Based on the representations made to the Court by counsel for the Parties that negotiations are ongoing, and based on the consent of the Parties to a continuance, the Court shall CONTINUE the hearing on the Motion to June 8, 2016 at 11:00 a.m.

APPEARANCES ARE WAIVED.

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer Shaw
Michael S Kogan

Movant(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes
D Edward Hays

Trustee(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

11:00 AM

CONT...

**Douglas J Roger, MD, Inc., A Professional Corporat and
D Edward Hays**

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

11:00 AM

6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat and

Chapter 7

#9.00 CONT Motion to Approve Compromise Under Rule 9019 between Trustee and Dr. Eric L. Freedman

From: 5/11/16

Also #8 & #10

EH__

Docket 322

***** VACATED *** REASON: CONTINUED TO 6/29/16 AT 11:00 A.M.**

Tentative Ruling:

05/11/2016

Based on the representations made to the Court by counsel for the Parties that negotiations are ongoing, and based on the consent of the Parties to a continuance, the Court shall CONTINUE the hearing on the Motion to June 8, 2016 at 11:00 a.m.

APPEARANCES ARE WAIVED.

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer Shaw
Michael S Kogan

Movant(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes
D Edward Hays

Trustee(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

11:00 AM

CONT...

Douglas J Roger, MD, Inc., A Professional Corporat and

D Edward Hays

Chapter 7

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

11:00 AM

6:13-27344 Douglas J Roger, MD, Inc., A Professional Corporat and

Chapter 7

#10.00 CONT Motion for Approval of Compromise Between Trustee and OIC Medical Corporation, Liberty Orthopedic Corporation, and Universal Orthopaedic Group

From: 5/11/16

Also #8 & #9

EH__

Docket 318

***** VACATED *** REASON: CONTINUED TO 6/29/16 AT 11:00 A.M.**

Tentative Ruling:

05/11/2016

Based on the representations made to the Court by counsel for the Parties that negotiations are ongoing, and based on the consent of the Parties to a continuance, the Court shall CONTINUE the hearing on the Motion to June 8, 2016 at 11:00 a.m.

APPEARANCES ARE WAIVED.

Party Information

Debtor(s):

Douglas J Roger, MD, Inc., A

Represented By
Summer Shaw
Michael S Kogan

Movant(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes
D Edward Hays

Trustee(s):

Arturo Cisneros (TR)

Represented By
Chad V Haes

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

11:00 AM

CONT...

**Douglas J Roger, MD, Inc., A Professional Corporat and
D Edward Hays**

Chapter 7

United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar

Wednesday, June 08, 2016

Hearing Room 303

2:00 PM

6:15-12667 Markus Boyd

Chapter 7

Adv#: 6:15-01195 Pringle v. Boyd

#11.00 CONT Status Conference RE: [1] Adversary case 6:15-ap-01195. Complaint by John P Pringle against Markus Boyd. Trustee's Complaint :(1) to Revoke the Debtor's Discharge and (2) For an Accounting and Turnover Nature of Suit: (11 (Recovery of money/property - 542 turnover of property)),(41 (Objection / revocation of discharge - 727(c),(d),(e)))

HOLDING DATE

From: 9/16/15, 11/4/15, 2/10/16, 4/6/16

EH__

Docket 1

*** VACATED *** REASON: CONTINUED TO 6/22/16 AT 2:00 PM

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Markus Boyd

Represented By
Andrew Edward Smyth

Defendant(s):

Markus Boyd

Represented By
Andrew Edward Smyth

Plaintiff(s):

John P Pringle

Represented By
Wesley H Avery

Trustee(s):

John P Pringle (TR)

Represented By
Wesley H Avery

John P Pringle (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

2:00 PM

CONT... Markus Boyd

Chapter 7

U.S. Trustee(s):

United States Trustee (RS)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

2:00 PM

6:15-11774 David K Fishbeck

Chapter 7

Adv#: 6:15-01152 SHREFFLER v. Fishbeck

#12.00 CONT Status Conference RE: [1] Adversary case 6:15-ap-01152. Complaint by DEBORAH SHREFFLER against David K Fishbeck. false pretenses, false representation, actual fraud)),(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)),(68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Goch, Michael)

From: 7/22/15, 3/9/16

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/22/16 AT 2:00 PM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David K Fishbeck

Represented By
Stephen H Darrow

Defendant(s):

David K Fishbeck

Represented By
Stephen H Darrow

Plaintiff(s):

DEBORAH SHREFFLER

Represented By
Michael Goch

Trustee(s):

Karl T Anderson (TR)

Pro Se

Karl T Anderson (TR)

Represented By
Hydee J Mulichak

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

2:00 PM

CONT... David K Fishbeck

Chapter 7

U.S. Trustee(s):

United States Trustee (RS)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

2:00 PM

6:13-27610 Baleine LP

Chapter 7

Adv#: 6:15-01314 Simons v. The Law Office of Don C. Burns et al

#13.00 CONT Status Conference RE: [1] Adversary case 6:15-ap-01314. Complaint by Larry D. Simons against The Law Office of Don C. Burns, Don C. Burns. (Charge To Estate \$350). (with Adversary Coversheet) Nature of Suit: (12 (Recovery of money/property - 547 preference)),(13 (Recovery of money/property - 548 fraudulent transfer)),(14 (Recovery of money/property - other))

From: 12/30/15, 2/10/16, 5/11/16

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/22/16 AT 2:00 PM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Baleine LP

Represented By
Summer Shaw

Defendant(s):

Don C. Burns

Pro Se

The Law Office of Don C. Burns

Pro Se

Plaintiff(s):

Larry D. Simons

Represented By
Carmela Pagay

Trustee(s):

Larry D Simons (TR)

Represented By
Carmela Pagay

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 303 Calendar**

Wednesday, June 08, 2016

Hearing Room 303

2:00 PM

CONT... **Baleine LP**
Larry D Simons (TR)

Represented By
Carmela Pagay
Todd A Frealy

Chapter 7

U.S. Trustee(s):

United States Trustee (RS)

Pro Se