

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, December 15, 2016

Hearing Room 5B

10:00 AM

8:10-22458 Richard James Swintek

Chapter 7

Adv#: 8:13-01106 Karen M Good - Judgment Enforcement Bureau v. Charles W Daff Chapter

**#1.00 STATUS HEARING RE: Motion For Summary Judgment
(con't from 4-7-16)**

Docket 55

Tentative Ruling:

Tentative for 12/15/16:
Continue until 9th Circuit issues a ruling?

Tentative for 4/7/16:
Should status conference be continued to a date following Ninth Circuit's
determination?

Party Information

Debtor(s):

Richard James Swintek

Represented By
Richard W Snyder
D Edward Hays
Sarah C Boone

Defendant(s):

Charles W Daff Chapter 7 Trustee

Represented By
Cathrine M Castaldi
Joel S. Miliband
Sara A Milroy
Arjun Sivakumar

Plaintiff(s):

Karen M Good - Judgment

Represented By
Karen Good
Roya Rohani

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CONT... Richard James Swintek

Chapter 7

Trustee(s):

Charles W Daff (TR)

Represented By
Cathrine M Castaldi
Joel S. Miliband
Charles W Daff (TR)

Charles W Daff (TR)

Represented By
Joel S. Miliband
Cathrine M Castaldi
Arjun Sivakumar

U.S. Trustee(s):

United States Trustee (SA)

Pro Se

**United States Bankruptcy Court
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10:00 AM

8:10-10310 Robert A. Ferrante

Chapter 7

Adv#: 8:13-01204 Lt Col William Seay (U.S.M.C. Ret) v. Remar Investments LP et al

- #2.00** STATUS CONFERENCE RE: Complaint by judgment creditor under 11 U.S.C. Section 506 and Bankruptcy Rule 7001(2) to determine the validity, priority, and extent of Plaintiff's lien on 1) the 518 Harbor Island Drive Real Property; and 2) Debtor's reversionary and other beneficial interest in the 528 Harbor Drive Trust and for orders for fraudulent conveyance of 518 Harbor Island Drive; Declaring the 518 Harbor Island Drive Trust void under California Law as a self settled trust; 2) Declaring void the notice of default filed in April, 2013 by Remar Investments against 518 Harbor Island Drive and the property protected by Bankruptcy Code Section 362(A)(4) from further acts by Remar to enforce its lien; and 3) Declaring Debtor to be the alter ego of 518 Harbor Island Trust (con't from 10-6-16)

Docket 1

Tentative Ruling:

Tentative for 12/15/16:

Deadline for completing discovery: August 1, 2017

Last Date for filing pre-trial motions: August 21, 2017

Pre-trial conference on September 7, 2017 at 10:00 am

Tentative for 10/6/16:

The court has reviewed the Joint Status Report. The court notes that the District Court's recent order affirming this court's summary judgment order regarding lien priority has been further appealed to the Ninth Circuit. So, it would appear that portions of this case are effectively on hold for some period of time. But the upcoming sale motion, if granted, might profoundly affect where we go with this case. Some questions not addressed in the Joint Status Report include:

1. Will the pending sale motion (if granted and if the sale is consummated) moot the appeal? Will there be an attempt to obtain a stay pending appeal? Can or should proceeds be immediately disbursed from escrow?

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CONT...

Robert A. Ferrante

Chapter 7

2. There are several claims for relief other than the lien priority question (declaratory relief, fraudulent conveyance, usury) and these might still need to be litigated. Should we set deadlines now for litigating those portions so that we can get closer to final resolution, or instead simply suspend this case until the Ninth Circuit rules in the interest of economy?
3. In order to sell free of liens under 11 U.S.C. §363(f) it is necessary that one of the five subsections of that section apply, so the court doubts that mere lien priority determination is by itself a sufficient or comprehensive resolution. The court presumes the Trustee and Seay will argue that Remar 's lien is "in *bona fide* dispute." What do the parties propose to do on this score?
4. What if anything does the title company have to say about these or any related questions?

Tentative for 7/7/16:

Has the summary judgment resolved all open questions such that we shall stay the matter pending appeal?

Tentative for 1/28/16:

Has the summary judgment effectively resolved all issues and so that is why there is no status report?

Tentative for 11/12/15:

See #12.

Tentative for 10/27/15:

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CONT... Robert A. Ferrante

Chapter 7

See #15.

Tentative for 9/1/15:

Why no status report? What is the effect of BAP's recent decision?

Tentative for 7/30/15:

Based on the late-filed and separate status reports it appears that matters are as yet too unsettled for imposition of deadlines. Continue as status conference to October 29, 2015 at 10:00 a.m. Updated status reports are required in accord with Local Bankruptcy Rules.

Tentative for 5/28/15:

Status conference continued to July 30, 2015 at 10:00 a.m. to assess developments in view of recently amended complaint.

Tentative for 4/23/15:

Status conference continued to May 28, 2015 at 10:00 a.m. Why no new status report?

Tentative for 2/26/15:

Continue to April 23, 2015 at 10:00 a.m. to coincide with trustee's adversary status conference.

Tentative for 10/23/14:

Continue until after new hearing on dismissal in February 2015.

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CONT... Robert A. Ferrante

Chapter 7

Tentative for 9/4/14:
Has complaint been amended?

Tentative for 4/24/14:
Pre-trial conference continued to September 4, 2014 at 10:00 a.m. The court sees no reason to change established deadlines.

Tentative for 3/4/14:
Deadline for completing discovery: August 1, 2014
Last date for filing pre-trial motions: August 18, 2014
Pre-trial conference on: September 4, 2014 at 10:00 a.m.
Joint pre-trial order due per local rules.

Tentative for 1/23/14:
Still no status report...why?

Prior Tentative:
Why no status report?

Party Information

Debtor(s):

Robert A. Ferrante

Represented By
Richard M Moneymaker

Defendant(s):

Oscar Chacon

Pro Se

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CONT... Robert A. Ferrante

Chapter 7

Richard C Shinn Pro Se

Remar Investments LP Pro Se

Thomas H Casey Ch 7 Trustee Pro Se

Plaintiff(s):

Lt Col William Seay (U.S.M.C. Ret) Represented By
Brian Lysaght

Trustee(s):

Thomas H Casey (TR) Pro Se

Thomas H Casey (TR) Represented By
Thomas H Casey
Thomas A Vogele

U.S. Trustee(s):

United States Trustee (SA) Pro Se

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8:10-10310 Robert A. Ferrante

Chapter 7

Adv#: 8:10-01312 Hall Living Trust et al v. Ferrante

#3.00 Order To Show Cause RE: Dismissal
(Set from order entered 11-02-16)

Docket 1

Tentative Ruling:

Tentative for 12/15/16:
Status? Is the matter settled?

Party Information

Debtor(s):

Robert A. Ferrante

Represented By
Richard M Moneymaker
Arash Shirdel

Defendant(s):

Robert A Ferrante

Represented By
Deborah Young

Plaintiff(s):

Carrie C Hall

Represented By
Nathan Fransen
Arash Shirdel

Carrie C Hall Living Trust

Represented By
Nathan Fransen
Arash Shirdel

Trustee(s):

Thomas H Casey (TR)

Represented By
Thomas H Casey
Thomas A Vogele
Kathleen J McCarthy

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CONT... Robert A. Ferrante

Brendan Loper

Chapter 7

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10:00 AM

8:15-10563 Aleli A. Hernandez

Chapter 13

Adv#: 8:15-01355 Asset Management Holdings, LLC v. JPMORGAN CHASE BANK, N.A. et

- #4.00** STATUS CONFERENCE RE: Second Amended Complaint For: (1) Determination of Secured Status of JPMorgan Chase Bank, N.A.'s Claim Pursuant to 11 U.S.C. Section 506; (2) Objection to Claim - Disallowance of claim of JPMorgan Chase Bank, N.A.; (3) Equitable Subordination of JPMorgan Chase Bank, N.A.'s Claim Pursuant to 11 U.S.C. Section 510(C); (4) Partial Equitable Subordination of JPMorgan Chase Bank, N.A.'s Claim Pursuant to 11 U.S.C. Section 510 (C); (5) For an Award of Damages Resulting from Unlawful Modification of Principal Balance of JPMorgan Chase Bank, N.A.'s Claim; and (6) Relief from Order Avoiding Plaintiff's Lien

Docket 57

Tentative Ruling:

Tentative for 12/15/16:

Status Conference continued to January 26, 2017 at 10:00 am after amended complaint is filed.

Party Information

Debtor(s):

Aleli A. Hernandez

Represented By
Tate C Casey

Defendant(s):

Virgil Theodore Hernandez

Pro Se

Aleli A. Hernandez

Pro Se

JPMORGAN CHASE BANK, N.A.

Represented By
Sheri Kanesaka
Heather E Stern
Rafael R Garcia-Salgado
Bryant S Delgadillo

Virgil Theodore Hernandez and

Pro Se

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CONT... Aleli A. Hernandez

Chapter 13

Plaintiff(s):

Asset Management Holdings, LLC

Represented By
Vanessa M Haberbusch

Trustee(s):

Amrane (SA) Cohen (TR)

Pro Se

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8:15-13008 Anna's Linens, Inc.

Chapter 11

Adv#: 8:15-01438 Anna's Linens, Inc. v. American Textile Company

**#5.00 STATUS CONFERENCE RE: Complaint for: (1) Avoidance and Recovery of Preferential Transfers [11 USC Sections 547(b), 550(a), and 551]; and (2) Disallowance of Any Claims Held by Defendant [11 USC Section 502(d)]
(cont'd from 11-10-16 per order approving stip. ent. 10-25-16)**

Docket 1

Tentative Ruling:

Tentative for 12/15/16:
Status Conference continued to February 9, 2017 at 10:00 am. Personal appearance not required.

Party Information

Debtor(s):

Anna's Linens, Inc.

Represented By
David B Golubchik
Lindsey L Smith
Eve H Karasik
John-Patrick M Fritz
Todd M Arnold
Ian Landsberg
Juliet Y Oh

Defendant(s):

American Textile Company

Pro Se

Plaintiff(s):

Anna's Linens, Inc.

Represented By
Irving M Gross

U.S. Trustee(s):

United States Trustee (SA)

Pro Se

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8:15-13008 Anna's Linens, Inc.

Chapter 11

Adv#: 8:15-01440 Anna's Linens, Inc. v. Boston Warehouse Trading Corp.

#6.00 STATUS CONFERENCE RE: Complaint for: (1) Avoidance and Recovery of Preferential Transfers [11 USC Sections 547(b), 550(a), and 551]; and (2) Disallowance of Any Claims Held by Defendant [11 USC Section 502(d)] (cont'd from 11-03-16)

Docket 1

Tentative Ruling:

Tentative for 12/15/16:
Status Conference continued February 9, 2017 at 10:00 am. Personal appearance not required.

Tentative for 8/11/16:
Status conference continued to October 27, 2016 at 10:00 a.m. to permit documentation of settlement.

Tentative for 6/23/16:
Status conference continued to March 31, 2016 at 10:00 a.m. as requested.

Party Information

Debtor(s):

Anna's Linens, Inc.

Represented By
David B Golubchik
Lindsey L Smith
Eve H Karasik
John-Patrick M Fritz
Todd M Arnold
Ian Landsberg
Juliet Y Oh

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CONT... Anna's Linens, Inc.

Chapter 11

Defendant(s):

Boston Warehouse Trading Corp. Pro Se

Plaintiff(s):

Anna's Linens, Inc. Represented By
Irving M Gross

U.S. Trustee(s):

United States Trustee (SA) Pro Se

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8:09-22699 Cheri Fu

Chapter 7

Adv#: 8:16-01182 Joseph v. Best Ascent Investments, Inc.,

#7.00 STATUS CONFERENCE RE: Trustee's Complaint For: (1) Breach of Contract;
(2) Common; and (3) Conversion
(con't from 10-13-16)

Docket 1

***** VACATED *** REASON: CONTINUED TO 1/26/2017 AT 10:00 A.M.
PER ORDER APPROVING THE SECOND SITPULATION FOR
EXTENSION OF TIME FOR DEFENDANT BEST ASCENT
INVESTMENTS, INC TO RESPOND TO THE COMPLAINT ENTERED
11-3-16**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Cheri Fu

Represented By
Evan D Smiley
John T. Madden
Beth Gaschen
Susann K Narholm - SUSPENDED -
Mark Anchor Albert

Defendant(s):

Best Ascent Investments, Inc.,

Pro Se

Joint Debtor(s):

Thomas Fu (Deceased)

Pro Se

Plaintiff(s):

James J Joseph

Represented By
Paul R Shankman

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CONT... Cheri Fu

Chapter 7

Trustee(s):

James J Joseph (TR)

Represented By
James J Joseph (TR)
Paul R Shankman
Lisa Nelson

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8:13-11495 Point Center Financial, Inc.

Chapter 7

Adv#: 8:16-01213 Grobstein v. Charton et al

#8.00 STATUS CONFERENCE RE: Complaint for Disallowance of Claims Under 11 U.S.C. Section 502(B)(1) or, In The Alternative, Mandatory Subordination Under 11 U.S.C. Section 510(B)[Relates to Claim Numbers 2, 114, 118, 119, 120, 121, 122, 123, 124, 126, 130, 138, 139, 140, 143, 146, 147, 193, 194, 195, 197, 310, 311, 405, 601, 613, 636]

Docket 1

***** VACATED *** REASON: CONTINUED TO 3-09-17 AT 10:00 AM.
PER ORDER APPROVING STIPULATION TO CONTINUE STATUS
CONFERENCE ENTERED 12-14-16**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Point Center Financial, Inc.

Represented By

Robert P Goe

Jeffrey S Benice

Carlos F Negrete - INACTIVE -

Defendant(s):

JON A. NORD

Pro Se

Robert M Peppercorn

Pro Se

Kurt Sipolski

Pro Se

DON MEALING, TRUSTEE

Pro Se

Cheryl Licht

Pro Se

Jessica Louie

Pro Se

Sid Louie

Pro Se

Frank Soracco

Pro Se

**United States Bankruptcy Court
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CONT... Point Center Financial, Inc.

Chapter 7

Donna Joy Wall	Pro Se
ROBERT L. WELLS	Pro Se
LLOYD CHARTON	Pro Se
Lorna E Titzer	Pro Se
REID TAKAHASHI	Pro Se
WENDY TAKAHASHI	Pro Se
Gary L Titzer	Pro Se
THOMAS F. BEREAN	Pro Se
Raymond Bille	Pro Se
JOHN G. FRY	Pro Se
Monica Bayless	Pro Se
Lloyd Charton	Pro Se
Kent Azaren	Pro Se
JOHN R. BAYLESS	Pro Se
Ana Garber	Pro Se
LRH Operating Group Inc	Pro Se
Daniel K Larson	Pro Se
Erin Larson	Pro Se
Jeffrey Gomberg	Pro Se
Robert Garber	Pro Se
ETTA M. GLYNN	Pro Se
WILLIAM E. GLYNN	Pro Se

Plaintiff(s):

Howard B. Grobstein

Represented By
Roye Zur

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CONT... Point Center Financial, Inc.

Chapter 7

Trustee(s):

Howard B Grobstein (TR)

Represented By

Rodger M Landau

Roye Zur

Kathy Bazoian Phelps

John P Reitman

Robert G Wilson

Monica Rieder

Jon L Dalberg

Michael G Spector

Peter J Gurfein

**United States Bankruptcy Court
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10:00 AM

8:16-12639 Michael Perry Carter

Chapter 7

Adv#: 8:16-01214 United States Of America v. Carter

#9.00 STATUS CONFERENCE RE: Complaint Objecting to Discharge of Certain Debts Pursuant to 11 U.S.C. Section 523(a)(2)(A) and 523(c)(1)

Docket 1

Tentative Ruling:

Tentative for 12/15/16:

Deadline for completing discovery: April 30, 2017.

Last Date for filing pre-trial motions: April 24, 2017.

Pre-trial conference on May 25, 2017 at 10:00 am.

Party Information

Debtor(s):

Michael Perry Carter

Represented By
Daniel King

Defendant(s):

Michael Perry Carter

Pro Se

Joint Debtor(s):

Deborah Lynn Carter

Represented By
Daniel King

Plaintiff(s):

United States Of America

Represented By
Elan S Levey

Trustee(s):

Thomas H Casey (TR)

Pro Se

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8:14-14092 David A. Sanchez, M.D., Inc.

Chapter 7

#10.00 STATUS CONFERENCE RE: Chapter 7 Trustee's Objection to the Filed Claim of the Employment Development Department (Claim No. 5) and the Notice of State Tax Liens Recorded by the Employment Development Department (cont'd from 8-30-16 per stip and order entered 8-26-16)

Docket 233

***** VACATED *** REASON: CONTINUED TO 1-26-17 AT 10:00 A.M.
PER ORDER APPROVING STIPULATION TO CONTINUE CERTAIN
DEADLINES ON CHAPTER 7 TRUSTEE'S OBJECTION TO THE FILED
CLAIM OF THE EMPLOYMENT DEVELOPMENT DEPARTMENT
[CLAIM NO. 5] ENTERED 11-09-16**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

David A. Sanchez, M.D., Inc.

Represented By
Joshua R Engle

Movant(s):

Thomas H Casey (TR)

Represented By
Thomas H Casey
Kathleen J McCarthy
Steve Burnell
Michael J. Weiland

Trustee(s):

Thomas H Casey (TR)

Represented By
Thomas H Casey
Kathleen J McCarthy
Steve Burnell
Michael J. Weiland

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10:00 AM

8:14-13214 Joseph Francis Bartholomew

Chapter 7

Adv#: 8:15-01377 American National Insurance Company v. Bartholomew et al

**#11.00 PRE-TRIAL CONFERENCE RE: Complaint In Interpleader
(set from s/c hrg held on 2-25-16)**

Docket 1

***** VACATED *** REASON: OFF CALENDAR - ORDER DISMISSING
COMPLAINT IN INTERPLEADER AND CLOSING ADVERSARY
ENTERED 9-7-16**

Tentative Ruling:

Tentative for 2/25/16:

Deadline for completing discovery: November 1, 2016

Last date for filing pre-trial motions: November 21, 2016

Pre-trial conference on: December 15, 2016 at 10:00 a.m.

Joint pre-trial order due per local rules.

Party Information

Debtor(s):

Joseph Francis Bartholomew

Represented By
Dana M Douglas
Edward T Weber

Defendant(s):

Westdale Construction Co Limited Pro Se

Browside International Limited Pro Se

Laprima Investments LTD Pro Se

Joseph Francis Bartholomew Pro Se

MBP Insurance Services Inc Pro Se

Plaintiff(s):

American National Insurance

Represented By
James J Moak

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CONT... Joseph Francis Bartholomew

Chapter 7

Trustee(s):

John M Wolfe (TR)

Represented By
David M Goodrich

U.S. Trustee(s):

United States Trustee (SA)

Pro Se

**United States Bankruptcy Court
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11:00 AM

8:10-17383 Desiree C Sayre

Chapter 7

Adv#: 8:15-01474 Chavez v. California Attorney Lending, LLC et al

#12.00 Motion of California Attorney Lending, LLC for Order Compelling Plaintiff to Produce Documents, Provide Amended Responses to Request for Production, and for Monetary Sanctions

Docket 79

Tentative Ruling:

This is Defendant California Attorney Lending, LLC ("Defendant") motion for an order compelling Plaintiff Fernando F. Chavez ("Plaintiff") to produce documents responsive to Defendant's request, for Plaintiff to respond without objection to the production request, and for monetary sanctions against Plaintiff and counsel for \$1,610.00 for non-compliance with discovery and his lack of cooperation to meet and confer.

The allegations and counterclaims at the center of this adversary proceeding concern disputes over attorneys' fees and referral fees related to state court litigation involving debtor Federico Sayre, in which Defendant has an asserted interest. Mediation was held on September 12, 2016. Prior to mediation, Defendant's counsel sought production of documents from Plaintiff, and also served a subpoena upon Bank of America for certain bank records. Plaintiff objected to the production request and to the Bank of America subpoena on the grounds that the responsive documents were protected under attorney-client privilege. Consequently, Plaintiff filed a Motion to Quash the requests.

On November 3, 2016, the court held the hearing on the Motion to Quash. On November 16, 2016, the court entered an order denying the Motion to Quash, finding that "Defendants have an actual interest in the Subject Trust Account and that bank records pertaining to an attorney's client trust account are not protected by an attorney-client privilege..." See Order at 2, lines 3-4, docket number 77. Following the hearing on November 3, 2016, counsel for Defendant and Plaintiff conferred

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CONT... Desiree C Sayre

Chapter 7

again. Each side offers slightly different accounts of what happened. Defendant states that Plaintiff's counsel was "receptive" toward producing the responsive documents, simply asking for an extension of the deadline to end of December. Defendant claims his counsel stated that he would give Plaintiff's counsel only an additional two weeks before filing this motion to compel. Motion at 4, line 9. According to Plaintiff "there was a material dispute regarding what would be contained in the responses." Opposition at 2, lines 11-12. Defendant asserts that as of the filing of the motion, "Plaintiff has failed to provide any further response to the Request for Production and Plaintiff has failed to produce any documents responsive thereto." Motion at 4, lines 16-18. In contrast, Defendant argues that "[P]laintiff is in fact producing (future tense?) the documents pertinent to the remaining requests prior to the hearing set for December 15." Opposition at 2, lines 16-17.

Just like last time it would appear that (assuming follow through on Plaintiff's promise) this motion could have been entirely avoided given the smallest amount of good faith and courtesy. Similarly, had the mentioned subset of documents been timely produced, their reportedly obvious content might have avoided the need for this motion altogether. Plaintiff's primary argument is that the request is overbroad, concerns in the most part irrelevant information and should thus be denied. Plaintiff also argues in part that the request for "every and all documents for the attorney-client trust account [from] several years ago is overbroad in its purpose...and [that it] is not relevant to the present proceedings..." Opposition at 3, lines 21-23. In asserting that the production request is overbroad, Plaintiff contends that the request is overbroad because "not...every document in plaintiff's account records...might somehow prove that there is a violation in the state court's original order impounding the funds..." Opposition at 3, lines 10-13.

In other words, Plaintiff does not seem to argue that the request in and of itself is overbroad, but rather the request should be determined overbroad because it will yield few documents relevant to Defendant's counterclaim. Plaintiff suggests that the totality of the truly relevant information can be found in the copy of a check or two and the accompanying deposit slip(s), all of which is (or will) be produced by the

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CONT...

Desiree C Sayre

Chapter 7

hearing. The fee from the Chaj litigation is allegedly a known and verifiable number, and presumably this same amount is reflected in the check and deposit; end of story (or so the argument goes). While this might sound superficially correct, and as stated above had it been timely given the motion might have been avoided, the court is in no position to judge this merely on the report of Plaintiff. Any expected civility and trust between counsel seems not to be present in this case. Moreover, Defendant under broad discovery rules probably has some considerable latitude in seeing whether the report of what the documents contain in fact matches the copied faces of the documents.

"[T]he deposition-discovery rules are to be accorded a broad and liberal treatment." *Hickman v. Taylor*, 329 U.S. 495, 507 (1947). "Litigants 'may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party.' Fed.R.Civ.P. 26(b)(1). Relevant information for purposes of discovery is information "reasonably calculated to lead to the discovery of admissible evidence. 406 F.3d 625, 635 (9th Cir. 2005). The request itself cited by Plaintiff itself does not seem overly broad. Specific documents are listed (documents pertaining to client trust accounts) and a time period is listed (from July 1, 2014 to the date of Plaintiff's response). Moreover, a specific account with Bank of America is listed. Accordingly, this request seems to have had reasonable parameters. It is only the Plaintiff's report of the alleged simplicity of actually relevant document that would cast it in a different light. In addition, Plaintiff's argument doesn't account for the fact that Defendant may arguably find relevant some responsive documents that Plaintiff believes to be irrelevant. Given that discovery rules are to be liberally construed, Plaintiff's assertion that the request is overbroad because not all responsive documents are relevant is unpersuasive. The propounding party must be given some leeway in seeing for himself whether the report of what is contained is borne out in the actual production.

Defendant argues that Plaintiff's noncompliance warrants sanctions under Fed. R. Civ. P. 37(a)(5). Rule 37 provides that the court "must... require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the

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Hearing Room

5B

11:00 AM

CONT... **Desiree C Sayre**

Chapter 7

motion, including attorney's fees." However, the court must not order monetary sanctions if the court finds "(i) the movant filed the motion before attempting in good faith to obtain the disclosure or discovery without court action; (ii) the opposing party's nondisclosure, response, or objection was substantially justified; or (iii) other circumstances make an award of expenses unjust."

Here, there may arguably be a basis for an order requiring Plaintiff to pay Defendant's costs. According to Defendant, Plaintiff has had numerous opportunities to respond. In addition, there is also an argument that while Plaintiff may have had some basis to object, that he did so was not substantially justified as required by Rule 37. But other facts also weigh against sanctions. Plaintiff asserts that he has (or will have) already started turning over responsive documents (regrettably late). Would that turnover have indeed happened absent a pending motion? In addition, it is not so clear whether Defendant truly attempted in good faith to obtain the documents *before* filing this motion, as Plaintiff claims that Defendant's counsel has improperly threatened to report Plaintiff's counsel to the California State Bar. In view of these facts, there may be "other circumstances [present that] make an award of expenses unjust."

But the court is not interested in yet more motions of this kind over essentially nothing. Such motions are expensive, tedious, demeaning to the profession and time-consuming. Consequently, the court will hold for now on the question of sanctions pending an evaluation of whether its order compelling production is truly and timely carried out.

Grant order compelling production. Continue approximately 45 days as to sanctions pending evaluation of timeliness and completeness of production.

Party Information

Debtor(s):

Desiree C Sayre

Represented By

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, December 15, 2016

Hearing Room 5B

11:00 AM

CONT... Desiree C Sayre

Chapter 7

Andrew Goodman
Rudolph E Brandes

Defendant(s):

WENETA M KOSMALA

Represented By
Reem J Bello
Michael R Adele

California Attorney Lending, LLC

Represented By
Richard W Labowe

Plaintiff(s):

Fernando F Chavez

Represented By
Anthony J Palik
Gregory B Henry

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Reem J Bello
Jeffrey I Golden

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Theodor Albert, Presiding
Courtroom 5B Calendar**

Thursday, December 15, 2016

Hearing Room 5B

2:00 PM

8:12-12486 Steve K. Rosene

Chapter 7

Adv#: 8:12-01249 LENDINGTREE, LLC v. Rosene

#13.00 Plaintiff LendingTree, LLC's Motion For Summary Judgment Or Partial Summary Judgement Or, In The Alternative, To Amend Complaint

Docket 25

Tentative Ruling:

No opposition. Grant summary judgment as requested under any or all of § 523(a)(2), (a)(4), or (a)(6). Also, grant leave to amend to add a count under § 523(a)(13) should plaintiff wish to proceed under that theory as well.

Party Information

Debtor(s):

Steve K. Rosene

Represented By
Paul R Shankman

Defendant(s):

Steve K. Rosene

Pro Se

Plaintiff(s):

LENDINGTREE, LLC

Represented By
Matthew B Holbrook

Trustee(s):

James J Joseph (TR)

Pro Se