

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Tuesday, May 6, 2025

Hearing Room 303

11:00 AM

6: -

Chapter

#0.00 Judge Reyes Bordeaux will hold hearings in person and remotely via Zoom.gov.

In person Appearance Policies

Parties may appear in person for hearings at United States Bankruptcy Court located at 3420 Twelfth Street, Riverside, CA 92501 in Courtroom 303. Parties appearing in person must wear face masks, practice social distancing, and comply with all applicable guidelines of the United States Bankruptcy Court, Central District of California, and any additional requirements required under California State Law at the time of the hearing. Please note that Judge Reyes Bordeaux will not be wearing a mask.

Remote Appearance Policies

Parties may also appear remotely for hearings using ZoomGov, which permits parties to appear by video or by telephone. Hearing participants and members of the public may use ZoomGov free of charge to connect to hearings before Judge Reyes Bordeaux. Video and audio connection information for hearing(s) on this calendar is listed below.

Individuals may use a personal computer (equipped with camera, microphone and speaker), or a mobile device (such as an iPhone) to appear by ZoomGov video and ZoomGov audio. Individuals may also use a telephone to appear by ZoomGov audio only (standard telephone charges may apply). A Zoom or ZoomGov account is not necessary to connect to the hearings and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

A Zoom or ZoomGov account is not necessary to participate in the hearings and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and will constitutes its official record.

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Video/audio web address: <https://cacb.zoomgov.com/s/1617286588>

ZoomGov Meeting ID Number: 161 728 6588

Meeting Passcode: 3032025

Telephone conference lines: 1 (669) 254 5252 or 1 (646) 828 7666

For more information on appearing before Judge Reyes Bordeaux by ZoomGov, please see the information entitled "Procedures for Video & Telephonic Appearances" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-magdalena-reyes-bordeaux> under the tab "Phone/Video Appearances."

Docket 0

Tentative Ruling:

- NONE LISTED -

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6:24-14822 Andrienna C Rosales

Chapter 7

#1.00 Motion to Approve Compromise Under Rule 9019 with Valerie Esparza

EH_____

Docket 37

Tentative Ruling:

After reviewing Trustee's Motion to Approve Compromise Under Rule 9019 ("Motion") with Valerie Esparza; Declaration of Charles W. Daff in Support, and there being no opposition, the Court's tentative is to grant Motion.

APPEARANCES REQUIRED

If you wish to be heard on this matter, you can appear at the hearing in person or remotely. For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.

Party Information

Debtor(s):

Andrienna C Rosales

Represented By
Tyson Takeuchi

Movant(s):

Charles W Daff (TR)

Represented By
Tinho Mang
D Edward Hays

Trustee(s):

Charles W Daff (TR)

Represented By
Tinho Mang
D Edward Hays

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6:25-11456 Jose Cervantes

Chapter 7

#2.00 Motion for An Order Refunding Attorney's Fees
(Case dismissed 3/31/25)

EH____

Docket 14

***** VACATED *** REASON: STIPULATED ORDER ENTERED 4/24/25**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Jose Cervantes

Represented By
R Grace Rodriguez

Movant(s):

United States Trustee (RS)

Represented By
Abram Feuerstein esq

Trustee(s):

Arturo Cisneros (TR)

Pro Se

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6:24-15863 Najib H Benjelloun

Chapter 7

#3.00 CONT Motion for Order Extending Case Closing Date to file Student Loan Adversary.

From: 4/22/25

EH____

Docket 14

Tentative Ruling:

Moving party to address:

1. Why is motion to extend time to file a student loan adversary proceeding under 11 U.S.C. §523(a)(8) necessary?

APPEARANCES REQUIRED.

If you wish to be heard on this matter, you can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings**

Procedural History

On September 30, 2024, Najib H Benjelloun ("Debtor") filed a chapter 7 petition. BK Dkt. 1. On January 13, 2025, Debtor received a discharge. BK Dkt. 12.

On January 27, 2025, Debtor filed instant Motion to Extend Time Notice of Motion and Motion for Order Extending Case Closing Date to File Student Loan Adversary ("Motion"). BK Dkt. 14.

On April 3, 2025, Debtor filed an adversary proceeding (6:25-ap-01032-RB) seeking to discharge Debtor's student loan debt under 11 U.S.C § 523(a)(8). ADV Dkt. 1.

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CONT... Najib H Benjelloun

Chapter 7

Legal Analysis

Deadline for Filing a Non-Dischargeability Complaint Governed by
Federal Rule of Bankruptcy Procedure 4007(b)

The deadline to file a dischargeability complaint in a bankruptcy proceeding is governed by Fed. R. Bankr. P. 4007(b), which sets forth that:

"A complaint other than under § 523(c) *may be filed at any time.*"

Fed. R. Bankr. P. 4007(b) (emphasis added)

Section 523(c) sets forth the procedure—including the filing deadline—for excepting debts from discharge under §523(a)(2), §523(a)(4), and §523(a)(6), which typically requires creditors to file a complaint 60 days after the initial meeting of creditors. *See* §523(c). *In re Zygarewicz*, 423 B.R. 909, 913 (Bankr. E.D. Cal. 2010).

However, an adversary proceeding brought under §523(a)(8) is not a complaint that falls within the scope § 523(c). *See also In re Zygarewicz*, 423 B.R. 909, 912-13 (Bankr. E.D. Cal. 2010) ("there is nothing in the Bankruptcy Code requiring that a complaint under section 523(a)(8) be filed at any particular point in a bankruptcy case, whether it is filed under chapter 7 or 13. Fed. R. Bankr. P. 4007(b) permits such dischargeability complaints to be brought any time, including after the entry of a discharge and the closing of the bankruptcy case.") Accordingly, there is no deadline expressly imposed by the Code or Rules for filing an adversary proceeding to determine whether a student loan debt should be excepted from discharge under Section 523(a)(8). *In re Gimbel, No. 11-12802-J7, 2018 Bankr. LEXIS 667, *11 (Bankr. D.N.M. Mar. 8, 2018).*

Since a complaint under §523(a)(8) is not subject to the time limits set forth under § 523(c), an extension for filing such an adversary in this case appears to be unnecessary. Here, Debtor filed an adversary proceeding on April 3, 2025, and the status conference is scheduled for July 15, 2025. As such, Debtor's complaint under Section 523(a)(8) can proceed without the necessity of an order extending time to file said adversary proceeding. Notably, no opposition to the filing of the adversary

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CONT... Najib H Benjelloun

Chapter 7

proceeding under Section 523(a)(8) has been brought before the Court alleging Debtor's complaint is untimely.

Thus, the Court seeks clarity as to why Debtor's request for the relief sought in the instant Motion is needed.

Party Information

Debtor(s):

Najib H Benjelloun

Represented By
A. Rita Kostopoulos

Movant(s):

Najib H Benjelloun

Represented By
A. Rita Kostopoulos
A. Rita Kostopoulos
A. Rita Kostopoulos

Trustee(s):

Charles W Daff (TR)

Pro Se

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11:00 AM

6:24-15886 Marc David Spann

Chapter 13

#4.00 CONT Motion for Authority to Sell or Refinance Real Property under LBR 3015-1

From: 4/24/25

EH ____

Docket 72

Tentative Ruling:

APPEARANCES REQUIRED

If you wish to be heard on this matter, you can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

Marc David Spann

Represented By
A. Rita Kostopoulos

Movant(s):

Marc David Spann

Represented By
A. Rita Kostopoulos
A. Rita Kostopoulos
A. Rita Kostopoulos

Trustee(s):

Rod Danielson (TR)

Pro Se

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11:00 AM

6:25-11619 Kenneth Louis Brooks

Chapter 7

#5.00 CONT Debtor's Motion to Reconsider Dismissal of Case and Vacate the Dismissal entered by Clerk

From: 4/22/25

EH____

Docket 13

Tentative Ruling:

APPEARANCES REQUIRED

If you wish to be heard on this matter, you can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings**

Party Information

Debtor(s):

Kenneth Louis Brooks

Pro Se

Movant(s):

Kenneth Louis Brooks

Pro Se

Trustee(s):

Lynda T. Bui (TR)

Pro Se

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2:00 PM

6:24-10322 Delfino Galindo-Ramirez

Chapter 7

Adv#: 6:24-01032 Investment Retrievers, Inc. a California Corporati v. Galindo-Ramirez

#1.00 CONT Motion for Default Judgment against Delfino Galindo-Ramirez

From: 3/25/25

Also #2

EH____

Docket 47

***** VACATED *** REASON: CONTINUED TO 5/27/25 AT 2:00 P.M.**

Tentative Ruling:

Party Information

Debtor(s):

Delfino Galindo-Ramirez

Represented By
Marlin Branstetter

Defendant(s):

Delfino Galindo-Ramirez

Pro Se

Movant(s):

Investment Retrievers, Inc. a

Represented By
Steven A Wolvek

Plaintiff(s):

Investment Retrievers, Inc. a

Represented By
Steven A Wolvek

Trustee(s):

Larry D Simons (TR)

Pro Se

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6:24-10322 Delfino Galindo-Ramirez

Chapter 7

Adv#: 6:24-01032 Investment Retrievers, Inc. a California Corporati v. Galindo-Ramirez

#2.00 CONT Status Conference re: Complaint by Investment Retrievers, Inc. against Delfino Galindo-Ramirez, Nature of Suit: 523(a)(2) False pretenses, false representation and actual fraud

From: 7/30/24, 9/3/24, 9/23/24, 10/7/24, 10/28/24, 12/16/24, 12/23/24, 1/14/25, 1/21/25, 1/28/25, 3/11/25, 3/25/25

Also #1

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 5/27/25 AT 2:00 P.M.**

Tentative Ruling:

Party Information

Debtor(s):

Delfino Galindo-Ramirez

Represented By
Marlin Branstetter

Defendant(s):

Delfino Galindo-Ramirez

Pro Se

Plaintiff(s):

Investment Retrievers, Inc. a

Represented By
Steven A Wolvek

Trustee(s):

Larry D Simons (TR)

Pro Se

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2:00 PM

6:24-11500 Efren Luna

Chapter 7

Adv#: 6:24-01047 Barrera et al v. Sunnyslope Inc et al

#3.00 CONT Motion to dismiss amended adversary complaint

FROM: **WJ 2-6-25**, 3/25/25, 4/22/25

Also #4

EH____

Docket 43

Tentative Ruling:

After reviewing the *Transcript Regarding Hearing Held 10/31/2024*, ECF Adv. Doc. 34; *Amended Complaint*, ECF Adv. Doc. 37-39; *Joint Status Report*, ECF Adv. Doc. 41; *Motion to Dismiss*, ECF Adv. Doc. 43; *Joint Status Report*, ECF Adv. Doc. 54; *Opposition to Motion to Dismiss*, ECF Adv. Doc. 57; *Reply to Opposition*, ECF Adv. Doc. 65, the Court's tentative is to GRANT Defendants' Motion to Dismiss under F.R.C.P. 12(b)(6) with leave to amend.

APPEARANCES REQUIRED.

If you wish to be heard on this matter, you can appear at the hearing in person or remotely. For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.

Party Information

Debtor(s):

Efren Luna

Represented By
Christopher J Langley
Michael Smith

Defendant(s):

Sunnyslope Inc

Pro Se

Efren Luna

Represented By

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CONT...

Efren Luna

Chapter 7

Baruch C Cohen

Rocio Margarita Luna Cardenas

Represented By
Baruch C Cohen

Joint Debtor(s):

Rocio Margarita Luna Cardenas

Represented By
Christopher J Langley
Michael Smith

Movant(s):

Efren Luna

Represented By
Baruch C Cohen

Rocio Margarita Luna Cardenas

Represented By
Baruch C Cohen

Plaintiff(s):

Joe Barrera

Represented By
Robert J Lynch

Amie Barrera

Represented By
Robert J Lynch

Trustee(s):

Robert Whitmore (TR)

Pro Se

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6:24-11500 Efren Luna

Chapter 7

Adv#: 6:24-01047 Barrera et al v. Sunnyslope Inc et al

#4.00 CONT Status Conference re: Complaint by Joseph Barrera, Amie Barrera against Sunnyslope Inc, Efren Luna, Rocio Margarita Luna Cardenas for objection/revocation of discharge, and dischargeability, false pretenses, false representation and actual fraud

FROM: S/C 9-12-24, 9-12-24, 9-26-24, 10-31-24, 1-23-24. **WJ 2-6-25**, 3/25/25, 4/22/25

Also #3

EH____

Docket 1

Tentative Ruling:

APPEARANCES REQUIRED.

If you wish to be heard on this matter, you can appear at the hearing in person or remotely. For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.

Party Information

Debtor(s):

Efren Luna

Represented By
Christopher J Langley
Michael Smith

Defendant(s):

Sunnyslope Inc

Pro Se

Efren Luna

Represented By
Baruch C Cohen

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CONT...

Efren Luna

Chapter 7

Rocio Margarita Luna Cardenas

Represented By
Baruch C Cohen

Joint Debtor(s):

Rocio Margarita Luna Cardenas

Represented By
Christopher J Langley
Michael Smith

Plaintiff(s):

Joe Barrera

Represented By
Robert J Lynch

Amie Barrera

Represented By
Robert J Lynch

Trustee(s):

Robert Whitmore (TR)

Pro Se

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6:23-12360 Claire Marie Conniry

Chapter 7

#5.00 CONT Debtor's Motion to compel trustee to abandon interest in property of estate

From: 10/1/24, 10/11/24, 10/28/24, 1/7/25, 2/4/25, 3/25/25

Also #6

EH____

Docket 18

***** VACATED *** REASON: CONTINUED TO 7/15/25 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Claire Marie Conniry

Represented By
Jenny L Doling

Movant(s):

Claire Marie Conniry

Represented By
Jenny L Doling
Jenny L Doling

Trustee(s):

Larry D Simons (TR)

Pro Se

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6:23-12360 Claire Marie Conniry

Chapter 7

Adv#: 6:24-01056 Simons (TR) v. Nationwide Life Insurance Company et al

#6.00 CONT Status Conference re: Complaint by Larry D Simons (TR) against Nationwide Life Insurance Company, Nature of Suit: (11 (Recovery of money/property - 542 turnover of property))

From: 10/22/24, 10/28/24, 1/7/25, 2/4/25, 3/25/25

Also #5

EH_____

Docket 1

***** VACATED *** REASON: CONTINUED TO 7/15/25 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Claire Marie Conniry

Represented By
Jenny L Doling

Defendant(s):

Nationwide Life Insurance Company

Pro Se

Claire Marie Conniry

Represented By
Jenny L Doling

Plaintiff(s):

Larry D Simons (TR)

Pro Se

Trustee(s):

Larry D Simons (TR)

Pro Se

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2:00 PM

6:24-11879 Ricardo Salvador Casas, Jr.

Chapter 7

Adv#: 6:24-01057 Casas v. Casas Jr et al

#7.00 CONT Status re: Complaint by Lourdes Casas against Ricardo Salvador Casas Jr , Arleen Curiel, false pretenses, false representation, actual fraud)) ,(67 (Dischargeability - 523(a)(4), fraud as fiduciary, embezzlement, larceny)) ,(65 (Dischargeability - other)

From: 10/22/24, 10/28/24, 2/4/25, 3/25/25

EH____

Docket 1

Tentative Ruling:

APPEARANCES REQUIRED.

If you wish to be heard on this matter, you can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

Ricardo Salvador Casas Jr.

Represented By
Todd L Turoci

Defendant(s):

Ricardo Salvador Casas Jr

Represented By
Solomon A Cheifer

Arleen Curiel

Represented By
Solomon A Cheifer

Joint Debtor(s):

Arleen Curiel

Represented By
Todd L Turoci

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CONT... Ricardo Salvador Casas, Jr.

Chapter 7

Plaintiff(s):

Lourdes Casas

Represented By
Sueanne Chadbourne

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
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6:24-14527 Guadalupe J Garcia-Fonseca

Chapter 7

Adv#: 6:24-01082 National Commercial Recovery v. Garcia-Fonseca et al

#8.00 CONT Status Conference re: Complaint by National Commercial Recovery against Guadalupe J. Garcia-Fonseca, Concepcion Montoya Garcia re: Fraud as fiduciary, embezzlement, larceny

From: 2/4/25

EH__

Docket 1

Tentative Ruling:

APPEARANCES REQUIRED.

If you wish to be heard on this matter, you can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

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Party Information

Debtor(s):

Guadalupe J Garcia-Fonseca

Represented By
William Radcliffe

Defendant(s):

Guadalupe J. Garcia-Fonseca

Represented By
William Radcliffe

Concepcion Montoya Garcia

Represented By
William Radcliffe

Joint Debtor(s):

Concepcion Montoya Garcia

Represented By
William Radcliffe

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CONT... Guadalupe J Garcia-Fonseca

Chapter 7

Plaintiff(s):

National Commercial Recovery

Represented By
Glenn Besnyl

Trustee(s):

Charles W Daff (TR)

Pro Se

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6:23-11166 Ambrosio Miramontes

Chapter 7

Adv#: 6:25-01007 Tseng v. Miramontes

#9.00 Status Conference RE: Complaint by Wei Chang Tseng, Ambrosio Miramontes
against Ambrosio Miramontes for false pretenses, false representation, actual
fraud and willful and malicious injury

EH____

Docket 1

***** VACATED *** REASON: CONTINUED TO 5/27/25 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Ambrosio Miramontes	Pro Se
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Defendant(s):

Ambrosio Miramontes	Pro Se
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Plaintiff(s):

Wei Chang Tseng	Represented By Daniel King
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Trustee(s):

Todd A. Frealy (TR)	Pro Se
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6:24-16632 Stephen H. Salmon

Chapter 13

Adv#: 6:25-01010 Salmon v. Salmon

#10.00 Status Conference RE: Complaint by Melissa Salmon against Stephen H. Salmon for willful and malicious injury: validity, priority or extent of lien or other interest in property; other actions that would have been brought in state court if unrelated to bankruptcy; and determination of removed claim or cause

Also #11 thru 13

EH__

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/10/25 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen H. Salmon

Represented By
Lazaro E Fernandez

Defendant(s):

Stephen H. Salmon

Represented By
Lazaro E Fernandez

Plaintiff(s):

Melissa Salmon

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:24-16632 Stephen H. Salmon

Chapter 13

Adv#: 6:25-01011 Salmon v. Salmon

#11.00 Status Conference RE: Complaint by Melissa Salmon against Stephen Salmon for willful and malicious injury; determination of removed claim or cause; divorce/sep property settlement/decreed; validity, priority or extent of lien or other interest in property; other actions that would have been brought in state court if unrelated to bankruptcy

Also #10, #12 thru 13

EH_____

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/10/25 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen H. Salmon

Represented By
Lazaro E Fernandez

Defendant(s):

Stephen Salmon

Represented By
Lazaro E Fernandez

Plaintiff(s):

Melissa Salmon

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:24-16632 Stephen H. Salmon

Chapter 13

Adv#: 6:25-01012 Salmon v. Salmon

#12.00 Status Conference RE: Complaint by Melissa Salmon against Stephen H Salmon for willful and malicious injury; determination of removed claim or cause; validity, priority or extent of lien or other interest in property; declaratory judgment; other actions that would have been brought in state court if unrelated to bankruptcy

Also # 10 thru 11 and 13

EH____

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/10/25 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen H. Salmon

Represented By
Lazaro E Fernandez

Defendant(s):

Stephen H Salmon

Represented By
Lazaro E Fernandez

Plaintiff(s):

Melissa Salmon

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:24-16632 Stephen H. Salmon

Chapter 13

Adv#: 6:25-01013 Salmon v. Salmon

#13.00 Status Conference RE: Complaint by Melissa Salmon against Stephen H Salmon for willful and malicious injury; other actions that would have been brought in state court if unrelated to bankruptcy; validity, priority or extent of lien or other interest in property; and other

Also # 10 thru 12

EH_____

Docket 1

***** VACATED *** REASON: CONTINUED TO 6/10/25 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Stephen H. Salmon

Represented By
Lazaro E Fernandez

Defendant(s):

Stephen H Salmon

Represented By
Lazaro E Fernandez

Plaintiff(s):

Melissa Salmon

Pro Se

Trustee(s):

Rod Danielson (TR)

Pro Se

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6:24-16538 Brandon Scott Gatewood

Chapter 7

Adv#: 6:25-01014 Johnson v. Gatewood

#14.00 Status Conference RE: Complaint by Michael Johnson against Brandon Scott Gatewood for objection/revocation of discharge and willful and malicious injury

EH____

Docket 1

***** VACATED *** REASON: CONTINUED TO 5/27/25 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Brandon Scott Gatewood

Represented By
Shawn Anthony Doan

Defendant(s):

Brandon Scott Gatewood

Represented By
Robert W. Tiangco

Plaintiff(s):

Michael Johnson

Pro Se

Trustee(s):

Larry D Simons (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
Riverside
Magdalena Reyes Bordeaux, Presiding
Courtroom 303 Calendar**

Tuesday, May 6, 2025

Hearing Room 303

2:00 PM

6:23-10104 Victor Manuel Archila

Chapter 7

Adv#: 6:24-01100 Simons (TR) v. Campos

#15.00 Motion for Default Judgment against Luis Ruben Cardenas Campos

Also # 16

EH____

Docket 12

Tentative Ruling:

After reviewing the *Complaint filed by Plaintiff Larry D. Simons (TR)*, ECF Adv. Doc. 1; *Plaintiff's Request for Entry of Default Under Local Bankruptcy Rule 7055-1*, ECF Adv. Doc. 8; *Plaintiff's Declaration in Support of Request for Entry of Default*, ECF Adv. Doc. 9; *Notice That Clerk Has Entered Default Against Defendant(s) Keith Jones, Jr.*, ECF Adv. Doc. 11; and *Plaintiff's Motion for Default Judgment*, ECF Adv. Doc. 12, the Court's tentative is to DENY Plaintiff's Motion for Default Judgment under 11 U.S.C. §547(b).

APPEARANCES REQUIRED.

If you wish to be heard on this matter, you can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Procedural History

Bankruptcy Case

On January 12, 2023, Victor Manuel Archila and Maria Elena De Archila ("Debtors") commenced a voluntary Ch. 7 action. BK. Dkt. 1. On January 25, 2023, Debtors filed their Personal Financial Management Course Certificate BK. Dkt. 8 and 9. On April 24, 2023, Debtors received a discharge. BK. Dkt. 14.

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On May 30, 2023, a Meeting of Creditors was held and concluded. BK. Dkt. 17.

Adversary Case

On December 11, 2024, Chapter 7 Trustee Simons ("Trustee") filed an adversary proceeding against Debtors' son Luis Cardens Campos ("Defendant"). BK. Dkt. 19; ADV. Dkt. 1.¹

On December 12, 2024, the Court Clerk issued a Summons to Defendant. ADV. Dkt. 3. On December 23, 2024, Trustee requested the Court Clerk issue another Summons along with a notice for the status conference. ADV. Dkt. 4. On the same day, the Court Clerk issued a second Summons to Defendant. ADV. Dkt. 5.

On December 26, 2024, the Summons Service was executed upon Defendant. ADV. Dkt. 6. The deadline to file an answer was January 22, 2025.

On March 6, 2025, Trustee filed a Unilateral Status Report. ADV. Dkt. 7.

As of March 6, 2025, Defendant did not file an answer to the instant adversary proceeding. ADV. Dkt. 7

On April 2, 2025, Trustee requested an Entry of Default against Defendant. ADV. Dkt. 8. On the same day, the Court Clerk entered Default against Defendant. ADV. Dkt. 11. On April 3, 2025, Trustee filed a Motion for Default Judgment against Defendant. ADV. Dkt. 12.

To date, Defendant has not filed an answer to complaint or made appearance in this adversary proceeding.

Complaint

Factual Background

Trustee alleges Debtors transferred at least \$10,668.72 (the "Transfer") to Defendant Luis Cardens Campos, Debtors' son, within 12-month period leading up to the bankruptcy filing. Trustee contends Transfer was made for little or no consideration

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and involved transfer of Debtors' interest in property that belonged to Debtors. Trustee also asserts that Transfer was made to settle a prior debt owed by Debtors to Defendant, and which occurred while Debtors were insolvent.

Causes of Action

Trustee asserts the following eight (8) Causes of Action in his adversary complaint.

1. Avoidance of Preferential Transfer Pursuant to 11 U.S.C. § 547(b)
2. Avoidance Of Fraudulent Transfer, Actual Intent [11 U.S.C. § 548(a)(1)(A)]
3. Avoidance Of Fraudulent Transfer, Constructive Intent [11 U.S.C. § 548(a)(1)(B) (i-ii) (I)]
4. Avoidance Of Fraudulent Transfer, Constructive Intent [11 U.S.C. § 548(a)(1)(B)(i-ii) (II)]
5. Avoidance Of Fraudulent Transfer, Constructive Intent [11 U.S.C. § 548(a)(1)(B)(i-ii) (III)]
6. For Recovery of Property Pursuant to 11 U.S.C. § 550
7. For Preservation of Avoided Transfer Pursuant to 11 U.S.C. § 551
8. For Disallowance of Claim Pursuant to 11 U.S.C. § 502(d)

Motion for Default Judgment

On April 3, 2025, Trustee filed a Motion for Default Judgment ("Motion") (ADV. Dkt. 12).

In Motion, Trustee requests the Court enter a Default Judgment against Defendant to Avoid Preferential Transfer under 11 U.S.C. § 547(b) (Cause of Action #1) and for Recovery of Property under 11 U.S.C. § 550 (Cause of Action #6).

Legal Analysis

1. Default Judgment

Fed. R. Civil P. 55(b), which is applicable in bankruptcy adversary proceeding under Fed. R. Bankr. P. 7055, allows a party to apply to the Bankruptcy Court for a default judgment where "a party against whom a judgment for affirmative relief is sought has

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failed to plead or otherwise defend," after applicant has obtained clerk's entry of default.

With respect to a default judgment, "necessary facts not contained in the pleadings, and claims which are legally insufficient, are not established by default." *Cripps v. Life Ins. Co. of N. Am.*, 980 F.2d 1261, 1267 (9th Cir. 1992) (emphasis added).

Significantly, "[F]actual deficiencies in the complaint [cannot be cured] by alleging or even attempting to prove additional facts in [a] motion for default judgment or at oral argument. *FDIC v. RPM Mortg., Inc.*, 2018 U.S. Dist. LEXIS 42952, 12 (N.D. Cal. Mar. 15, 2018) (emphasis added).; *see also Cty. Hall Ins. Co., Inc. v. Rd. Bang Express, Inc.*, 2025 U.S. Dist. LEXIS 75862, fn. 1 (S.D. Fla. Apr. 21, 2025) (stating "[p]laintiff cannot add allegations after the fact that Defendants have not admitted by their default and ask the Court to enter default judgment based on such fact"); *see also Selig v. Niagara Recovery Sols. Mgmt. Grp., LLC, Civil Action*, 2020 U.S. Dist. LEXIS 132423 (E.D. Va. July 27, 2020) ("to the extent that the motion for default judgment alleges new facts, the Court will not consider those allegations.")

In other words, "the general rule is that well-pled allegations in the complaint regarding liability are deemed true." *Geddes v. United Fin. Group*, 559 F.2d 557, 560 (9th Cir.1977) (citing *Pope v. United States*, 323 U.S. 1, (1944) (emphasis added)). For an allegation to be... well-pleaded [] it must set forth a non-conclusory factual allegation rather than a legal conclusion." *Price v. Yeramishyn*, 2023 U.S. Dist. LEXIS 213720, 5 (C.D. Cal. Nov. 30, 2023).

Plaintiff is Not Entitled to Default Judgment Under 11 U.S.C. § 547(b)

1. Plaintiff's Claim Under 11 U.S.C. § 547(b)

11 U.S.C. § 547(b) enables a trustee, under certain conditions, to avoid transfers of the debtor's interest in property. *See Aikin v. Neilson (In re Cedar Funding, Inc.)*, 2012 U.S. Dist. LEXIS 45538, 8 (N.D. Cal. Mar. 31, 2012).

"The purpose of [11 U.S.C. § 547(b)] is to discourage creditors from racing to the courthouse to dismember the debtor during his slide into bankruptcy and to facilitate the prime bankruptcy policy of equality of distribution among creditors of the debtor."

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State Compensation Ins. Fund v. Zamora (In re Silverman), 616 F.3d 1001, 1006 (9th Cir. 2010) (internal citation and quotation marks omitted).

11 U.S.C. § 547(b) states:

(b) Except as provided in subsections (c) and (i) of this section, the trustee may, based on reasonable due diligence in the circumstances of the case and taking into account a party's known or reasonably knowable affirmative defenses under subsection (c), avoid any transfer of an interest of the debtor in property—

(1) to or for the benefit of a creditor.

(2) for or on account of an antecedent debt owed by the debtor before such transfer was made.

(3) made while the debtor was insolvent.

(4) made--

(A) on or within 90 days before the date of the filing of the petition; or

(B) between ninety days and one year before the date of the filing of the petition, if such creditor at the time of such transfer was an insider; and

(5) that enables such creditor to receive more than such creditor would receive

if--

(A) the case was a case under chapter 7 of this title;

(B) the transfer had not been made; and

(C) such creditor received payment of such debt to the extent provided by the provisions of this title.

Simply put, "[11 U.S.C.] § 547(b) permits a trustee to avoid any

(1) transfer of debtor's interest in property;

(2) to or for a creditor's benefit;

(3) on account of an antecedent debt;

(4) within 90 days prior to filing of petition (or within one year if transferee was an "insider");

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(5) made while debtor was insolvent;

(6) that prefers creditor receiving transfer."

Diamond v. Empire Partners, Inc. (In re Empire Land, LLC), 2016 Bankr. LEXIS 1087, 37– 38 (Bankr. C.D. Cal. Apr. 4, 2016).

(1) *Transfer of the Debtor's Interest in Property*

While the Bankruptcy Code does not define ‘an interest of the debtor in property, the United States Supreme Court has interpreted the term to mean "that property that would have been part of the estate had it not been transferred before the commencement of bankruptcy proceedings."

Taylor Assocs. v. Diamant (In re Advent Mgmt. Corp.), 104 F.3d 293 (9th Cir. 1997) (citing *Begier v. I.R.S.*, 496 U.S. 53, 58, 110 L. Ed. 2d 46, 110 S. Ct. 2258 (1990)). "[The] bankruptcy estate is comprised of all legal and equitable interest in debtor's property as of the filing of the bankruptcy petition." *In re Capital Mortg. & Loan, Inc.*, 35 B.R. 967 (Bankr. E.D. Cal. 1983).

In a Motion for Default, a Court generally considers only well-pled allegations. *Geddes*, 559 F.2d 557 at 560 (emphasis added). An allegation is well plead if it "set[s] forth a non-conclusory factual allegation rather than a legal conclusion." *Price v. Yeramishyn*, 2023 U.S. Dist. LEXIS 213720, 5 (C.D. Cal. Nov. 30, 2023).

A statement ***is conclusory if it "is one that merely recites statutory standards*** or is overly vague or sweeping." *Jimenez v. Dep't of Homeland Sec.*, 119 F.4th 892, 903 (11th Cir. 2024) (emphasis added); *see also Thrasher v. Barnsley Gardens Props.*, 2008 U.S. Dist. LEXIS 129761, fn. 48 (N.D. Ga. Aug. 19, 2008) (a statement is conclusory if it "express[es] a factual inference without stating the underlying facts on which the inference is based. (internal citation omitted). A statement may be conclusory, even if predicated with clauses such as "based on my experience," because, while such ***predicate explains the reason for the affiant's belief or conclusion, it fails to state an underlying fact on which the belief or conclusion is based"***) (citation omitted) (emphasis added).

With respect to this element, the Complaint provides that "[t]he Trustee is informed and believes and based thereon alleges that the Transfer was a transfer of the Debtors’

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interest in property belonged to the Debtors." This is a conclusory statement as it "merely recites statutory standards" without providing any factual support. *Jimenez*, 119 F.4th 892 at 903. While Plaintiff prefaces the allegation with the phrase that "the Trustee is informed and believes," this phrase merely explains the basis for Trustee's belief. The allegation does not "state an underlying fact on which the belief or conclusion is based." *Thrasher*, 2008 U.S. Dist. LEXIS 129761, fn. 48.

Although Plaintiff's Motion for Default asserts that "the Defendant originally stated in a written declaration that he loaned the Debtors monies," this factual allegation does not appear in the complaint and is not established by default. *Cripps v. Life Ins. Co. of N. Am.*, 980 F.2d 1261, 1267 (9th Cir. 1992) (stating that "**necessary facts not contained in the pleadings are not established by default**") (emphasis added). Also, as stated in *FDIC*, 2018 U.S. Dist. LEXIS 42952, at 12, "factual deficiencies in the complaint [cannot be cured] by alleging or attempting to prove additional facts **in a motion for default judgment or during oral argument.**"(emphasis added)

Although the statement in Motion for Default might have supported a default judgment if it had been included in the original complaint, the Court cannot consider it because it was not actually pled in the complaint.

As only a conclusory allegation has been pleaded, Plaintiff has failed to properly plead the first (1) element.

(2) Transfer to Benefit of Creditor

For a transfer to benefit the creditor, all that is "require[d] [is] that the transfer actually benefitted the creditor." *Gladstone v. Bank of Am., N.A. (In re Vassau)*, 499 B.R. 864 (Bankr. S.D. Cal. 2013).

Here, the transfer clearly benefitted Defendant, as Defendant received repayment of entire \$10,668.72 that was transferred.

Thus, the second (2) element has been met.

(3) On Account of an Antecedent Debt

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The term "antecedent debt" is not defined under the Bankruptcy Code. The term "debt," however, is defined under Section 101(12) as a "liability on a claim." Black's Law Dictionary (8th ed. 2004), defines "antecedent" as: "Earlier; preexisting; previous." Additionally, Black's Law Dictionary defines the term "antecedent debt" in the bankruptcy context as: "A debtor's prepetition obligation that existed before a debtor's transfer of an interest in property." *Frank v. Citizens Bank (In re Girard)*, 2006 Bankr. LEXIS 148 (Bankr. E.D. Mich. Feb. 3, 2006).

With respect to this element, the Complaint provides that "Plaintiff is informed and believes and, on that basis alleges thereon, that the Transfer was made for or on account of an antecedent debt owed by the Debtors to the Defendant before the Transfer was made."

However, as discussed above, this allegation is conclusory.

This allegation "recites statutory standards" without offering any supporting factual detail. Further, simply prefacing a legal conclusion with a phrase such as "Plaintiff is informed and believes" does not transform that conclusion into a factual allegation. While the phrase explains basis for Trustee's belief, it does not state underlying fact on which the belief or conclusion is predicated.

To properly plead that a transfer was made on account of an antecedent debt, Plaintiff needs to include factual allegations in the complaint. For example, Plaintiff could allege when the debt was incurred, when the Debtors became obligated to repay it, and confirm that the debt existed before the bankruptcy was filed in the complaint.

As only a conclusory allegation has been pleaded, Plaintiff has failed to allege third (3) element.

(4) Transfer Within One Year of the Petition Date

If a transfer is to an insider, it is considered to be a preference if it is made within one year prior to the filing. 11 U.S.C. § 547(b)(4)(B). Even if the transfer is made to a non-insider, the look-back period is extended to one year if an insider benefits from the transfer. *Liquidation Tr. v. Daimler AG (In re Old CarCo LLC)*, 435 B.R. 169 (Bankr. S.D.N.Y. 2010). Significantly, a debtor's child is considered to be an insider

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under 11 U.S.C. § 547(b). *See Rinn v. Fraidin (In re Fraidin)*, 257 B.R. 437, 441 (Bankr. D. Md. 2001) (stating a debtor's children are relatives of the debtor and are therefore "insiders" as defined by the Bankruptcy Code.)

Here, as Defendant is Debtors child, Defendant is considered an insider under § 547(b).

With respect to this element, the Complaint provides that "Plaintiff is informed and believes and, on that basis alleges thereon, that the Debtors made a transfer of property to the Defendant on or within the 12 months prior to the Petition Date." This is just a restatement of the statutory language and does not include any specific facts to support that conclusion.

Although Plaintiff, in its Motion for Default, asserts that Debtors testified that the Transfer occurred in December of 2022, that information is not included in the Complaint. As noted above, the necessary facts to support a default judgment must be alleged in the Complaint itself, and deficiencies in pleading cannot be cured by statements made in a motion for default.

To properly plead this element, Plaintiff should allege facts mentioned in Motion in Complaint.

As only a conclusory allegation has been pleaded, Plaintiff has failed to allege fourth (4) element in the Complaint.

(5) Insolvent at the Time of the Transfer

"Under § 547(b)(3) the Plaintiff must show that the Debtor was insolvent on the date the transfer [was] made or became insolvent as a result of such transfer. *Havre Aerie # 166 Eagles v. Groven (In re Havre Aerie #166 Eagles)*, 2013 Bankr. LEXIS 950, 15 (Bankr. D. Mont. Mar. 14, 2013). "Under the applicable 'balance sheet' test debtors are insolvent when their liabilities exceed their assets." *Id.* (citations omitted). Further, "under § 547(f), the debtor is presumed to have been insolvent under § 547(b)(3) for the 90 days prior to filing for bankruptcy." *Id.*

With respect to this element, the Complaint provides that "Plaintiff is informed and

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believes and, on that basis alleges thereon, that the Transfer was made while the Debtors were insolvent." This is a conclusory statement without factual support and restates the statutory language.

In Motion, Plaintiff argues Debtors were insolvent under the balance sheet test, citing the Debtors' schedules to show that their liabilities allegedly exceeded their assets. However, as discussed above, this factual assertion is not included in the Complaint and therefore cannot be accepted as true for purposes of evaluating the sufficiency of the pleadings.

In the alternative, in Motion for Default, Plaintiff contends that the transfer occurred during the 90-day presumed period of insolvency. However, as explained in the section above, the Defendant has failed to provide factual support in the complaint to substantiate the claim that the transfer occurred during this 90-day insolvency period.

As only a conclusory allegation has been pleaded, Plaintiff has failed to allege the fifth (5) element.

(6) Prefers Creditor Receiving Transfer.

A creditor is preferred when it received "more than it would have if debtor and liquidated and distributed the estate to all creditors." *In re Food Catering & Housing, Inc.*, 971 F.2d 396, 397 (9th Cir. 1992).

In the complaint, all Plaintiff asserts is that,

Plaintiff is informed and believes and, on that basis alleges thereon, that the Transfer enabled the Defendant to receive more than the Defendant would have received if (a) the Debtors' bankruptcy case was a case under chapter 7 of title 11 of the United States Code; (b) the respective transfer had not been made; and (c) the Defendant received payment of such debt to the extent provided by title 11 of the United States Code.

This is a conclusory allegation that recites statutory standard without factual support for Plaintiff's legal conclusion in the Complaint.

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In Motion, Plaintiff asserts that the bankruptcy estate had a balance of \$0 and that other creditors had claims totaling approximately \$35,000. These facts suggest Defendant received more than it would have in a Chapter 7 liquidation. However, as these factual allegations were not pleaded in the complaint, this Court cannot consider them.

While that assertion might have supported this element if pleaded in the Complaint, it was not.

As only a conclusory allegation has been pleaded, Plaintiff has failed to properly plead the sixth (6) element.

Conclusion

Trustee's Motion for Default Judgment under 11 U.S.C. § 547(b) is **DENIED**.

Party Information

Debtor(s):

Victor Manuel Archila

Represented By
James D. Hornbuckle

Defendant(s):

Luis Ruben Cardenas Campos

Pro Se

Joint Debtor(s):

Maria Elena De Archila

Represented By
James D. Hornbuckle

Movant(s):

Larry D Simons (TR)

Pro Se

Larry D Simons (TR)

Pro Se

Plaintiff(s):

Larry D Simons (TR)

Pro Se

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Chapter 7

Trustee(s):

Larry D Simons (TR)

Pro Se

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6:23-10104 Victor Manuel Archila

Chapter 7

Adv#: 6:24-01100 Simons (TR) v. Campos

#16.00 CONT Status Conference RE: Complaint by Larry D Simons (TR) against Luis Ruben Cardenas Campos. Nature of Suit: (12 (Recovery of money/property - 547 preference)), (13 (Recovery of money/property - 548 fraudulent transfer))

(Another Summons Issued 12/23/24)

From: 3/11/25

Also #15

EH____

Docket 1

Tentative Ruling:

APPEARANCES REQUIRED.

You can appear at the hearing in person or remotely. **For ZoomGov instructions, please see Page 1 of this week's Tentative Rulings.**

Party Information

Debtor(s):

Victor Manuel Archila

Represented By
James D. Hornbuckle

Defendant(s):

Luis Ruben Cardenas Campos

Pro Se

Joint Debtor(s):

Maria Elena De Archila

Represented By
James D. Hornbuckle

Plaintiff(s):

Larry D Simons (TR)

Pro Se

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Chapter 7

Trustee(s):

Larry D Simons (TR)

Pro Se

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6:23-13158 Kirk Sean Dean

Chapter 11

Adv#: 6:24-01095 Dean et al v. Great American Pool Care

#1.00 CONT Defendant's Motion to Dismiss Complaint for: (1) Determination of the Validity, Extent of Lien and Lien Avoidance of Claim No. 12 in its Entirety; (2) Declaratory Judgment to Void Ongoing Non-Judicial Foreclosure on Claim No. 12; (3) Declaratory Judgment to Disallow Recovery on Unsecured Portion of Claim No. 12 in Ongoing Non-Judicial Foreclosure; (4) Declaratory Judgment to Enter Necessary Orders to Give Full Effect to the Upcoming Final State Court Judgment from the California Court of Appeals

From: 3/27/25, 4/24/25

Also # 2 & 3

EH____

Docket 7

***** VACATED *** REASON: CONTINUED TO 5/13/25 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kirk Sean Dean

Represented By
Alla Tenina

Defendant(s):

Great American Pool Care

Represented By
David B Golubchik

Joint Debtor(s):

Regina Ivette Bush-Dean

Represented By
Alla Tenina

Movant(s):

Great American Pool Care

Represented By

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CONT... Kirk Sean Dean

David B Golubchik

Chapter 11

Plaintiff(s):

Regina Ivette Bush-Dean

Represented By
Alla Tenina

Kirk Sean Dean

Represented By
Alla Tenina

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Chapter 11

Adv#: 6:24-01095 Dean et al v. Great American Pool Care

#2.00 CONT Status Conference re: Complaint by Kirk Sean Dean, Regina Ivette Bush-Dean against Great American Pool Care re: Validity, priority or extent of lien or other interest in property and Declaratory judgment

From: 3/13/25, 3/27/25, 4/24/25

Also #1 and 3

EH____

Docket 1

***** VACATED *** REASON: CONTINUED TO 5/13/25 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kirk Sean Dean

Represented By
Alla Tenina

Defendant(s):

Great American Pool Care

Represented By
David B Golubchik

Joint Debtor(s):

Regina Ivette Bush-Dean

Represented By
Alla Tenina

Plaintiff(s):

Regina Ivette Bush-Dean

Represented By
Alla Tenina

Kirk Sean Dean

Represented By
Alla Tenina

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CONT... Kirk Sean Dean

Chapter 11

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6:23-13158 Kirk Sean Dean and Regina Ivette Bush-Dean

Chapter 11

#3.00 CONT Post-Confirmation re: Chapter 11 Plan

From: 2/13/25, 2/27/25, 3/13/25, 3/27/25, 4/24/25

Also # 1 & 2

EH____

Docket 328

***** VACATED *** REASON: CONTINUED TO 5/13/25 AT 2:00 P.M.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Kirk Sean Dean

Represented By
Alla Tenina

Joint Debtor(s):

Regina Ivette Bush-Dean

Represented By
Alla Tenina