

UNITED STATES BANKRUPTCY COURT  
Eastern District of California

**Honorable Ronald H. Sargis**  
Chief Bankruptcy Judge  
Sacramento, California

**February 20, 2019 at 2:00 p.m.**

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1. [18-25001-E-7](#)      **JOSEPH AKINS**      **CONTINUED STATUS CONFERENCE**  
[18-2187](#)           **RE: COMPLAINT**  
                **11-13-18 [1]**

**BLACK V. AKINS**

**Final Ruling: No appearance at the February 20, 2019 Status Conference is required.**

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Plaintiff's Atty: Pro Se  
Defendant's Atty: unknown

Adv. Filed: 11/13/18  
Answer: none  
Nature of Action:  
Objection/revocation of discharge  
Dischargeability - false pretenses, false representation, actual fraud  
Dischargeability - fraud as fiduciary, embezzlement, larceny

**The Status Conference is continued to 2:00 p.m. on April 24, 2019.**

Notes:  
Continued from 1/9/19 to be heard in conjunction with order to show cause.

**FEBRUARY 20, 2019 STATUS CONFERENCE**

On February 6, 2019, in response to an Order to Show Cause re prosecution of this case Plaintiff has reported that she has obtained counsel and counsel will be filing an amended complaint. Response, Dckt. 9. Plaintiff also reports that she had an intervening medical matter that has delayed the prosecution of this Adversary Proceeding.

Plaintiff's new counsel who has now appeared in this case for Plaintiff has not yet filed a substitution of attorney and notice of appearance. L.B.R. 1001-1, E.D. Cal. Dist. Ct. Local Rule 180.

The court continues the Status Conference for an sufficient time for counsel to substitute in, the amended complaint be filed and served, and a responsive pleading filed.

2. [18-25001-E-7](#)      JOSEPH AKINS  
[18-2187](#)              RHS-1  
BLACK V. AKINS

ORDER TO SHOW CAUSE  
1-13-19 [7]

**Final Ruling: No appearance at the February 20, 2019 Hearing is required.**

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The Order to Show Cause was served by the Clerk of the Court on Plaintiff, Defendant, and the Office of the U.S. Trustee as stated on the Certificate of Service on January 16, 2019. The court computes that 35 days' notice has been provided.

The court issued an Order to Show Cause on January 13, 2018, based on Debtor's failure to prosecute the Adversary Proceeding. Dckt. 7.

**The Order to Show Cause is discharged, and the Adversary Proceeding shall proceed in this court.**

Dominique Black, the plaintiff ("Plaintiff"), filed a Complaint against the defendant and debtor, Joseph H. Akins ("Defendant") on November 13, 2018. Dckt. 1. The Complaint sought a determination that Plaintiff's debts were non-dischargeable and objected to Defendant's discharge. *Id.*

The Court conducted the Status Conference in this Adversary Proceeding on January 10, 2019. Plaintiff (prosecuting this Adversary Proceeding in pro se) did not appear at the Status Conference. No certificate of service documenting timely service of the Summons and Complaint in this Adversary Proceeding has been filed by Plaintiff.

Based on Plaintiff's failure to prosecute the Adversary Proceeding, the court issued this Order To Show Cause requiring the appearance of Plaintiff in person (No Telephonic Appearance Authorized) at the February 20, 2019 hearing to show cause as to why the court should not dismiss this Adversary Proceeding. Order, Dckt. 7. The court further ordered that any response or opposition shall be in writing filed 14 days before the hearing. *Id.*

#### **PLAINTIFF'S RESPONSE**

Plaintiff filed a Response to the Order on February 6, 2019. Dckt. 9. Plaintiff states he, not knowing the requirements of the Federal Rules of Bankruptcy Procedure, attempted to serve the summons and Complaint on Defendant by mailing a copy of the summons and Complaint to Defendant's attorney only on November 14, 2018 and did not file a proof of service.

Plaintiff states further, realizing the complexity of prosecuting an Adversary Proceeding in *Pro Se*, he has retained counsel to file and serve an amended Complaint as well as bring this matter into compliance with the Federal Rules of Bankruptcy Procedure and all local rules and anticipates an Amended Complaint will be filed and served before the hearing on the Order.

Plaintiff also notes he was delayed in prosecuting this matter due to Plaintiff's hip replacement surgery undergone on December 14, 2018.

## **DISCUSSION**

Plaintiff, previously proceeding in *Pro Se*, has now retained counsel in order to effectively prosecute the Adversary Proceeding and comply with the requirements of law in doing so. The Order to Show Cause is discharged, and the Adversary Proceeding shall proceed in this court

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Order to Show Cause having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Order to Show Cause is discharged, and the Adversary Proceeding shall proceed in this court.

3. [17-27918-E-7](#)      **ADELINA/MARTIN CEJA**  
[18-2045](#)

**STATUS CONFERENCE RE:**  
**COMPLAINT**  
**4-10-18 [1]**

**TIRE & WHEEL MASTER, INC. V.**  
**CEJA ET AL**

Plaintiff's Atty: D. Randall Ensminger  
Defendant's Atty: David J. Collins

Adv. Filed: 4/10/18  
Answer: 6/12/18

Nature of Action:  
Dischargeability - false pretenses, false representation, actual fraud  
Dischargeability - fraud as fiduciary, embezzlement, larceny  
Dischargeability - willful and malicious injury  
Recovery of money/property - fraudulent transfer

**The Status Conference is XXXXXXXXXXXXXXXXXXXXXXXXXX**

Notes:

**SUMMARY OF COMPLAINT**

Tire & Wheel Master, Inc. ("Plaintiff") has filed this Complaint Objecting to Defendant-Debtor (Dckt. 1) obtaining a discharge and for the Nondischargeability of debt, alleging:

1. Defendant-Debtors Adelina Vargas and Martin Barajas Ceja failed to disclose their ownership of The Tire Dealer, LP.
2. Defendant-Debtors obtained credit from Plaintiff, totaling \$312,645.97 as of October 18, 2017, when Plaintiff obtained a judgment.
3. Defendant-Debtors, and each of them, guaranteed the above obligation, which Plaintiff asserts were "fraudulent inducements" for the \$312,645.97 in credit.
4. Defendant-Debtor failed to disclose that business and personal taxes were not being paid, as well as personal and property tax liens by county, state, and federal agencies.
5. It is asserted that the above guaranty obligations are nondischargeable pursuant to 11 U.S.C. § 523(a)(2) and (6).
6. It is further asserted that:

16. Defendants are not eligible for discharge as a debtor in their bankruptcy action pursuant to 11 U.S.C. §§ 727(a)(4)(A) and (5) as a result of Defendants knowingly and fraudulently making a false oath in connection with a bankruptcy and as a result of Defendants' failure to satisfactorily explain the loss of and/or deficiency of assets.

## **SUMMARY OF ANSWER**

Adelian Vargas Ceja and Martin Barajas Ceja filed an Answer, Dckt. 7, to the Complaint which Admits being indebted to Plaintiff and “denies each and every other allegation of the complaint, other than the procedural facts regarding the filing of the bankruptcy petition.” Answer ¶ 1, Dckt. 7.

These “denials” include denying: ““3. Jurisdiction is vested in this proceeding pursuant to 28 U.S.C. § 157, 28 U.S.C. §1334, and 11 U.S.C. §523; this proceeding is a core matter.” Complaint ¶ 2. This does not appear to be a valid “denial.”

Also, use of a General Denial, while admitting indebtedness may well have resulted in Defendant-Debtors admitting may of the allegations relating to the indebtedness - including representations made or not made in obtaining the credit. In “admitting” the indebtedness, it appears Defendant-Debtor may be admitting the ownership of The Tire Dealer, LP, for which it would be easy to verify whether such was disclosed on Schedule A/B.

Federal Rules of Bankruptcy Procedure 7008 and 7012 incorporate Federal Rule of Civil Procedure 8 and 12(b)-(i) into the adversary proceeding process. Federal Rule of Civil Procedure 8(b) provides:

(b) Defenses; Admissions and Denials.

(1) In General. In responding to a pleading, a party must:

(A) state in short and plain terms its defenses to each claim asserted against it; and

(B) admit or deny the allegations asserted against it by an opposing party.

(2) Denials—Responding to the Substance. A denial must fairly respond to the substance of the allegation.

(3) General and Specific Denials. A party that intends in good faith to deny all the allegations of a pleading—including the jurisdictional grounds—may do so by a general denial. A party that does not intend to deny all the allegations must either specifically deny designated allegations or generally deny all except those specifically admitted.

(4) Denying Part of an Allegation. A party that intends in good faith to deny only part of an allegation must admit the part that is true and deny the rest.

(5) Lacking Knowledge or Information. A party that lacks knowledge or information sufficient to form a belief about the truth of an allegation must so state, and the statement has

the effect of a denial.

(6) Effect of Failing to Deny. An allegation—other than one relating to the amount of damages—is admitted if a responsive pleading is required and the allegation is not denied. If a responsive pleading is not required, an allegation is considered denied or avoided.

## **REQUIRED PLEADING OF CORE AND NON-CORE MATTERS, CONSENT OR NON-CONSENT TO NON-CORE MATTER**

The basic pleading requirements of Federal Rule of Civil Procedure 8 for a complaint, including that the complaint “[m]ust contain: (1) a short and plain statement of the grounds for the court's jurisdiction...,” apply to complaints in Adversary Proceedings. In add to incorporating Rule 8, Federal Rule of Bankruptcy Procedure 7008 adds the addition pleading requirement concerning whether the matters in the complaint are core or non-core:

“Rule 8 F.R.Civ.P. applies in adversary proceedings. The allegation of jurisdiction required by Rule 8(a) shall also contain a reference to the name, number, and chapter of the case under the Code to which the adversary proceeding relates and to the district and division where the case under the Code is pending. In an adversary proceeding before a bankruptcy judge, **the complaint, counterclaim, cross-claim, or third-party complaint shall contain a statement that the proceeding is core or non-core and, if non-core, that the pleader does or does not consent to entry of final orders or judgment by the bankruptcy judge.**”

Fed. R. Bankr. P. 7008 (emphasis added).

For a responsive pleading, Federal Rule of Bankruptcy Procedure 12(b) applies in adversary proceeding. Fed. R. Bankr. P. 7012(b). The Bankruptcy Rules add a further responsive pleading requirement concerning whether the matter are core or non-core, as well as the consent or non-consent for non-core matters by the responding party:

“(b) Applicability of Rule 12(b)-(i) F.R.Civ.P. Rule 12(b)-(i) F.R.Civ.P. applies in adversary proceedings. A responsive pleading **shall admit or deny an allegation that the proceeding is core or non-core.** If the response is that the proceeding is **non-core, it shall include a statement that the party does or does not consent** to entry of final orders or judgment by the bankruptcy judge. In non-core proceedings final orders and judgments shall not be entered on the bankruptcy judge's order except with the express consent of the parties.”

Fed. R. Bank. P. 7012(b) (emphasis added).

## **FINAL BANKRUPTCY COURT JUDGMENT**

Plaintiff alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and **157(b)(2)**, and 11 U.S.C. § 11 U.S.C. § 523. Further, that pursuant thereto this is a core proceeding. Complaint ¶ 3, Dckt. 1.

In the Answer, Defendant-Debtor does not clearly admits the allegations of jurisdiction and core proceedings. Answer ¶ 1, Dckt. 7. **At the Status Conference Defendant-Debtors xxxxxxxxxx.**

**To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this Adversary Proceeding are “related to” matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.**

## **DISCOVERY PLAN AND ORDER THEREON**

On June 14, 2018, the Parties filed their Joint Discovery Plan. Dckt. 9. The Joint Discovery Plan set the following deadlines:

1. Discovery will be completed by October 31 , 2018 subject to any extensions which may be granted by the Court.
2. There are no limitations on the scope or subject matter of the discovery.
3. Written discovery shall be served no later than August 1, 2018.
4. Depositions shall be completed no later than September 30, 2018.
5. Expert disclosures by October 1, 2018 and expert depositions completed by October 31.

The court approved the joint discovery plan, continuing the Status Conference to a time after discovery has been ordered to be completed. Order, Dckt. 12.

## **SCHEDULING PRETRIAL CONFERENCE**

The court shall issue a Pre-Trial Scheduling Order setting the following dates and deadlines:

- a. Plaintiff alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and **157(b)(2)**, and 11 U.S.C. § 11 U.S.C. § 523. Further, that pursuant thereto this is a core proceeding. Complaint ¶ 3, Dckt. 1.

In the Answer, Defendant-Debtor does not clearly admits the allegations of jurisdiction and core proceedings. Answer ¶ 1, Dckt. 7. **At the Status Conference Defendant-Debtors xxxxxxxxxx.**

**To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this Adversary Proceeding are “related to” matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.**

- b. The Court shall conduct a Pre-Trial Conference at **2:00 p.m. on April 24, 2019.**

c. that a pretrial statement must be filed and served by each party **no later than seven court days** prior to the scheduled pretrial conference. Each party's pretrial statement shall state the name of the party or parties on whose behalf it is presented and set forth the nature of the action and the following matters, under the following captions, and in the following order:

1) Jurisdiction-Venue. The factual and statutory basis of federal jurisdiction and venue, whether there is any dispute concerning jurisdiction or venue, and whether this is a core proceeding.

(2) Undisputed Factual Issues. A plain, concise statement of each element of each claim or defense that is undisputed and does not require proof at trial. The parties shall have, or be prepared to state at the pre-trial conference, all of the undisputed facts for which an agreed statement of facts shall be executed and filed within 10 days of the completion of the pre-trial conference.

(3) Disputed Factual Issues. A plain, concise statement of each element of each claim or defense (and any related essential facts) that is disputed and that requires proof at trial.

(4) Disputed Evidentiary Issues. A plain, concise summary of any reasonably anticipated disputes concerning admissibility of evidence.

(5) Relief Sought. The elements of monetary damage, if any, and the specific nature of any other relief sought.

(6) Points of Law. A statement of the legal theory or theories of recovery or of defense and of any points of law (substantive or procedural) that are or may reasonably be expected to be in controversy, citing the pertinent statutes, rules, cases, and other authorities relied upon. Extended legal argument is not required in the pretrial statement.

(7) Abandoned Issues. A statement of all issues raised by the pleadings that have been abandoned, including, for example, claims for relief and affirmative defenses.

(8) Witnesses. A list (names and addresses) of all prospective witnesses, and designating those who are expert witnesses. Only witnesses so listed will be permitted to testify at trial, except true rebuttal witnesses in the court's discretion and except as otherwise provided by the pretrial order. Unless the court directs otherwise, the alternate direct testimony procedure (direct testimony submitted by declaration) will be used at trial, and all witnesses shall be presented for live direct and cross-examination.

(9) Exhibits - Schedules and Summaries. A list of documents or other exhibits that the party expects to offer at trial, except documents or other exhibits used solely for impeachment. Only exhibits so listed may be offered at trial, except documents or other exhibits used solely for impeachment. Only exhibits so listed may be offered at trial, except as otherwise provided in the pretrial order.

(10) Discovery Documents. A list of all deposition excerpts, answers to interrogatories, and responses to requests for admissions that the party expects to offer at



trial.

(11) Further Discovery or Motions. Any requests for further discovery or pretrial motions shall set forth the grounds for relief from this scheduling order. Requests for relief from this scheduling order are not favored and will ordinarily be denied unless the moving party makes a strong showing of diligence in complying with this scheduling order.

(12) Stipulations. Any stipulations requested or offered for pretrial or trial purposes.

(13) Amendments - Dismissals. Any requests for amendments to pleadings, dismissals, additions, or substitutions of parties shall set forth the grounds for relief from this scheduling order. Requests for relief from this scheduling order are not favored and will ordinarily be denied unless the moving party makes a strong showing of diligence in complying with this scheduling order.

(14) Agreed Statements. A statement whether presentation of all or part of the action upon an Agreed Statement of Facts is feasible and advisable.

(15) Attorney's Fees. A statement whether attorney's fees are sought and the basis therefor.

(16) Miscellaneous. Any other appropriate comments, suggestions, or information that might aid in the disposition of the action, including reference to any matters set forth in Federal Rule of Civil Procedure 16 (c) and Federal Rule of Bankruptcy Procedure 7016.

(17) Estimated Time for Trial. A statement with the estimated time needed for trial

4. [17-20220-E-7](#)      **WILLIAM/FAYE THOMAS**  
[18-2090](#)

**CONTINUED STATUS CONFERENCE**  
**RE: AMENDED COMPLAINT**  
**8-29-18 [18]**

**PUTNAM V. THOMAS, JR. ET AL**

Plaintiff's Atty: Pro Se  
Defendant's Atty: Lucas B. Garcia

Adv. Filed: 6/7/18  
Answer: none  
Amd. Cmplt Filed: 8/29/18  
Answer: 1/16/19

Nature of Action:  
Recovery of money/property - fraudulent transfer  
Validity, priority or extent of lien or other interest in property  
Objection/revocation of discharge  
Dischargeability - false pretenses, false representation, actual fraud  
Dischargeability - fraud as fiduciary, embezzlement, larceny  
Dischargeability - willful and malicious injury

<b>The Status Conference is <span style="color: red;">XXXXXXXXXXXXXXXXXXXXXXXXXXXX</span></b>
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Notes:  
Continued from 12/11/18

Order discharging Order to Show Cause filed 12/14/18 [Dckt 59]

Answer and Affirmative Defenses to the Complaint of Creditor Robert S. Putman filed 1/16/19 [Dckt 63]

**SUMMARY OF COMPLAINT**

Robert Putnam ("Plaintiff") filed his First Amended Complaint, Dckt. 18. The court has granted a Motion to Dismiss the claim of nondischargeability under 11 U.S.C. § 523(a)(4), but denied as to the remaining relief sought pursuant to 11 U.S.C. § 523(a)(6). The First Amended Complaint alleges the following:

1. Plaintiff provided services as counsel for Defendant Debtor in a State Court Action.
2. The obligation for those services is alleged to be \$118,156.92.
3. Plaintiff asserts having a lien on the proceeds of the State Court Action.

4. Defendant-Debtor, as the Chapter 13 Trustee, purported to settle the State Court Action for no recovery for the bankruptcy estate without bankruptcy court approval.

5. Defendant-Debtor, through his conduct, has attempted to rendered a valuable State Court Action, and Plaintiff's lien thereon, valueless. Defendant-Debtor also pleads with specificity four Affirmative Defenses.

## **FINAL BANKRUPTCY COURT JUDGMENT**

Plaintiff Robert Putnam, alleges in the First Amended Complaint that jurisdiction for this Adversary Proceeding exists pursuant to Federal Rule of Bankruptcy Procedure 4007 and 7001(6). Jurisdiction for determination of the nondischargeability of a debt under 11 U.S.C. § 523 is exists pursuant to 28 U.S.C. §§ 1334 and 157(b)(2), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I). In the Answer, Defendant William Carter Thomas admits the allegations of jurisdiction and core proceedings. Answer ¶ 3, Dckt. 63. **To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this Adversary Proceeding are “related to” matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.**

## **ISSUANCE OF PRE-TRIAL SCHEDULING ORDER**

The court shall issue a Pre-Trial Scheduling Order setting the following dates and deadlines:

- a. Plaintiff Robert Putnam, alleges in the First Amended Complaint that jurisdiction for this Adversary Proceeding exists pursuant to Federal Rule of Bankruptcy Procedure 4007 and 7001(6). Jurisdiction for determination of the nondischargeability of a debt under 11 U.S.C. § 523 is exists pursuant to 28 U.S.C. §§ 1334 and 157(b)(2), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I). In the Answer, Defendant William Carter Thomas admits the allegations of jurisdiction and core proceedings. Answer ¶ 3, Dckt. 63. **To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this Adversary Proceeding are “related to” matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.**
- b. Initial Disclosures shall be made on or before -----, **2019**.
- c. Expert Witnesses shall be disclosed on or before -----, **2019**, and Expert Witness Reports, if any, shall be exchanged on or before -----, **2019**.
- d. Discovery closes, including the hearing of all discovery motions, on -----, **2019**.
- e. Dispositive Motions shall be heard before -----, **2019**.
- f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at ----- **p.m. on --**

-----, 2019.

5. [18-25524-E-7](#)      **RANDY/CAROLYN SHREVE**  
[18-2166](#)

**CONTINUED STATUS CONFERENCE**  
**RE: COMPLAINT**  
**10-8-18 [1]**

**SHREVE ET AL V. SN SERVICING  
CORPORATION**

Plaintiff's Atty: Kyle W. Schumacher  
Defendant's Atty: Michelle R. Ghidotti-Gonsalves

Adv. Filed: 10/8/18  
Answer: 10/23/18

Nature of Action:  
[Adversary Proceeding Cover Sheet does not state the nature of suit]

**The Status Conference is XXXXXXXXXXXX**

Notes:

Continued from 12/19/18. The Parties having informed the court that settlement is being discussed.

### **SUMMARY OF COMPLAINT**

Randy and Carolyn Shreve ("Plaintiff-Debtors") filed a Complaint asserting claims relating to alleged violations of the automatic stay. Dckt. 1. The Complaint alleges:

1. Plaintiff-Debtors commenced their Chapter 7 case on August 31, 2018.
2. Defendant SN Servicing Corporation was served with notice of the bankruptcy case.
3. On or about September 26, 2018, Defendant sent Plaintiff-Debtors a notice of nonjudicial foreclosure sale of Plaintiff-Debtor's real property.
4. The notice of nonjudicial foreclosure sale includes the Federal Fair Debt Collection Practices first notice disclosure that the sending is attempting to collect a debt.
5. Sending of the notice constitutes a violation of the automatic stay for which damages and fees may be recovered pursuant to 11 U.S.C. § 362(k).

### **SUMMARY OF ANSWER**

SN Servicing Corporation ("Defendant") filed an Answer, Dckt. 8, which admits and denies specific allegations in the Complaint. The Answer includes eleven Affirmative Defenses.

**REQUIRED PLEADING OF CORE AND NON-CORE MATTERS,  
CONSENT OR NON-CONSENT TO NON-CORE MATTER**

The basic pleading requirements of Federal Rule of Civil Procedure 8 for a complaint, including that the complaint “[m]ust contain: (1) a short and plain statement of the grounds for the court’s jurisdiction...,” apply to complaints in Adversary Proceedings. In add to incorporating Rule 8, Federal Rule of Bankruptcy Procedure 7008 adds the addition pleading requirement concerning whether the matters in the complaint are core or non-core:

“Rule 8 F.R.Civ.P. applies in adversary proceedings. The allegation of jurisdiction required by Rule 8(a) shall also contain a reference to the name, number, and chapter of the case under the Code to which the adversary proceeding relates and to the district and division where the case under the Code is pending. In an adversary proceeding before a bankruptcy judge, **the complaint, counterclaim, cross-claim, or third-party complaint shall contain a statement that the proceeding is core or non-core and, if non-core, that the pleader does or does not consent to entry of final orders or judgment by the bankruptcy judge.**”

Fed. R. Bankr. P. 7008 (emphasis added).

For a responsive pleading, Federal Rule of Bankruptcy Procedure 12(b) applies in adversary proceeding. Fed. R. Bankr. P. 7012(b). The Bankruptcy Rules add a further responsive pleading requirement concerning whether the matter are core or non-core, as well as the consent or non-consent for non-core matters by the responding party:

“(b) Applicability of Rule 12(b)-(i) F.R.Civ.P. Rule 12(b)-(i) F.R.Civ.P. applies in adversary proceedings. A responsive pleading **shall admit or deny an allegation that the proceeding is core or non-core.** If the response is that the proceeding is **non-core, it shall include a statement that the party does or does not consent** to entry of final orders or judgment by the bankruptcy judge. In non-core proceedings final orders and judgments shall not be entered on the bankruptcy judge's order except with the express consent of the parties.”

Fed. R. Bank. P. 7012(b) (emphasis added).

**FINAL BANKRUPTCY COURT JUDGMENT**

Plaintiff-Debtors Randy and Carolyn Shreve allege in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Complaint ¶¶ 1, 5, Dckt. 1.

In the Answer, Defendant SB Servicing Corporation asserts that it does not need to admit or deny the allegations of federal court jurisdiction. Answer ¶ 1, Dckt. 8. Defendant makes the same response to the allegation that a claim for relief pursuant to 11 U.S.C. § 362(k) is a core proceeding need not be responded to. Answer ¶ 5, *Id.*

At the Status Conference, **XXXXXXXXXXXXXXXXXXXX**

To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this Adversary Proceeding are “related to” matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.

## SETTLEMENT

At the December 19, 2018 Status Conference the Parties advised the court that a settlement was being discussed and that a Status Report would be filed before the February 20, 2019 Continued Status Conference. As of the court’s February 18, 2019 review of the Docket no Status Report had been filed.

At the Status Conference ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

## ISSUANCE OF PRE-TRIAL SCHEDULING ORDER

The court shall issue a Pre-Trial Scheduling Order setting the following dates and deadlines:

- a. The Plaintiff alleges that jurisdiction exists for this Adversary Proceeding pursuant to 28 U.S.C. § 1334 and 157, and the referral to this bankruptcy court from the United States District Court for the Eastern District of California. Further, that this is a core proceeding before this bankruptcy court pursuant to 28 U.S.C. § 157(b)(2)(A), (N), and (O). **First Amended** Complaint, ¶¶ X, X, Dckt. X. The Defendant admits the jurisdiction and that this is a core proceeding. Answer, ¶¶ X, X, Dckt. X. **To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this is Adversary Proceeding are related to proceedings, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all claims and issues in this Adversary Proceeding referred to the bankruptcy court.**
- b. Initial Disclosures shall be made on or before ~~-----~~, **2019**.
- c. Expert Witnesses shall be disclosed on or before ~~-----~~, **2019**, and Expert Witness Reports, if any, shall be exchanged on or before ~~-----~~, **2019**.
- d. Discovery closes, including the hearing of all discovery motions, on ~~-----~~, **2019**.
- e. Dispositive Motions shall be heard before ~~-----~~, **2019**.
- f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at ~~-----~~ **p.m. on --** ~~-----~~, **2019**.

6. [17-26125-E-7](#) [18-2030](#) FIRST CAPITAL RETAIL, LLC

CONTINUED STATUS CONFERENCE  
RE: AMENDED COMPLAINT  
5-17-18 [39]

FIRST DATA MERCHANT SERVICES  
LLC V. MCA RECOVERY, LLC ET AL

**Final Ruling: No appearance at the February 20, 2019 Status Conference is required.**  
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Plaintiff's Atty: Randy B. Soref; Andrew Joseph Nazar

Defendants' Atty:

Robert S. McWhorter [MCA Recovery, LLC]

Gabriel E. Liberman [First Capital Retail, LLC]

Jeffrey D. Ganz; J. Russell Cunningham [13<sup>th</sup> Floor/Pilot, LLC]

Adv. Filed: 3/22/18

Answer: 4/23/18 [First Capital Retail, LLC]

Amd. Cmpl. Filed: 5/17/18

Answer: 7/20/18 [13<sup>th</sup> Floor/Pilot, LLC]

7/20/18 [First Capital Retail, LLC]

7/20/18 [MCA Recovery, LLC]

Amd. Answer: 8/3/18 [MCA Recovery, LLC]

Cross-Claim Filed [by 13<sup>th</sup> Floor/Pilot, LLC]: 7/20/18

Answer: none

Cross-Claim Filed [by MCA Recovery, LLC]: 8/3/18

Answer: 8/22/18 [13<sup>th</sup> Floor/Pilot, LLC]

Amd. Cross-Claim Filed [by 13<sup>th</sup> Floor/Pilot, LLC]: 8/22/18

Answer: 10/23/18 [MCA Recovery, LLC]

Nature of Action:

Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy estate)

**The Status Conference is continued to 2:00 p.m. on March 28, 2019.**

Notes:

Continued from 12/19/18. Parties to file a joint discovery plan by 2/6/19; not filed as of 2/12/19

Stipulation to Continue the Initial Status Conference, the Deadline for Responding to the First Amended Complaint, and All Associate Intervening Deadlines filed 2/13/19 [Dckt 144]; order pending.

February 20, 2019 at 2:00 p.m.

- Page 16 of 31 -



## FEBRUARY 20, 2019 STATUS CONFERENCE

On February 13, 2019, MCA Recovery, LLC, Kimberly J. Husted, the Chapter 7 Trustee, and 13<sup>TH</sup> Floor/Pilot, LLC filed their Stipulation to continue the Status Conference. Dckt. 144. The court construes the Stipulation to be a joint ex parte motion for relief from the court. Fed. R. Bankr. P. 7007 and Fed. R. Bankr. P. 7(b).

The Parties report that in this interpleder action the parties have been engaging in settlement negotiations. They request a continuance of the Status Conference to allow these to proceed before the court begins setting deadlines and the costs and expenses of litigation begin to climb (and make settlement more challenging).

The court grants the Parties request for the continuance to afford them the full opportunity to resolve this matter before it proceeds further.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Status Conference set to having been conducted by the court and the Parties requesting a continuance to allow them to continue with their ongoing settlement discussions, presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Status Conference is continued to 2:00 p.m. on March 28, 2018.

**IT IS FURTHER ORDERED** that the Parties shall file a joint or their separate Discovery Plan by March 15, 2019.

7. [18-27039-E-13](#)      **NADIA KOSTYUK**  
[18-2195](#)

**STATUS CONFERENCE RE:  
COMPLAINT  
12-6-18 [1]**

**KOSTYUK V. BBV PROFIT SHARING  
PLAN ET AL**

**Final Ruling: No appearance at the February 20, 2019 Status Conference is required.**

-----  
Plaintiff's Atty: Peter G. Macaluso

Defendants' Atty:

Joyce K. Lau; Harris L. Cohen [BBV Profit Sharing Plan; Milestone Financial, LLC; Bear Bruin Ventures, Inc.; William R. Stuart]

Unknown [Del Toro Loan Servicing, Inc.; Independent Note & Contract Services, LLC; Mortgage Lender Services, Inc.; Nationwide Posting & Publication]

Adv. Filed: 12/6/18

Answer: none

Nature of Action:

Recovery of money/property - turnover of property

Recovery of money/property - preference

Recovery of money/property - fraudulent transfer

Recovery of money/property - other

Validity, priority or extent of lien or other interest in property

**The Status Conference is continued to 2:00 p.m. on March 28, 2019.**

Notes:

[JKL-1] BBV Profit Sharing Plan, Milestone Financial, LLC, Bruin Bear Ventures, Inc. and William R. Stuart's Motion to Dismiss re Complaint filed 1/23/19 [Dckt 9], set for hearing 2/21/19 at 11:00 a.m.

Substitution of Attorney for Plaintiff filed 2/6/19 [Dckt 21]; Order granting filed 2/7/19 [Dckt 25]

Plaintiff's Status Statement filed 2/11/19 [Dckt 26]

Plaintiff's Initial Disclosures filed 2/11/19 [Dckt 27]

### **FEBRUARY 20, 2019 STATUS CONFERENCE**

Dismissal of the Plaintiff-Debtor's, Nadia Kostyuk, Chapter 13 case is the subject of the court's dismissal calendar on February 20, 2019. The court's tentative is to dismiss the case. Such would then render the exercise of federal court jurisdiction in this Adversary Proceeding inappropriate.

**February 20, 2019 at 2:00 p.m.**

- Page 18 of 31 -

At an earlier proceeding in January 2019 in Plaintiff-Debtor's bankruptcy case, her former counsel advised the court that the Complaint was to be amended, with many of the claims dropped. No amended complaint has been filed.

Plaintiff-Debtor's new attorney requests/demands trial in this case in May 2019 - just three months from this Status Conference.

The Complaint as drafted lists twelve causes of action- ranging from injunctive relief (for which Plaintiff-Debtor has not attempted to obtain a temporary restraining order or preliminary injunction), breach of contract, cancellation of instrument, unfair practice, and then to the twelfth cause of action for TILA/RSPA violations. The Complaint names eight defendants.

The Defendants have filed a Motion to Dismiss which merely states the legal conclusion that each of the claims should be dismissed. Motion, Dckt. 9. Federal Rule of Civil Procedure 7(b)(1)(B), as incorporated by Federal Rule of Bankruptcy Procedure 7007 requires that the motion itself must state with particularity the grounds, not merely the relief requested. Defendants have filed a Points and Authorities that may state grounds; among the legal authorities, arguments, and contentions; but the court is reluctant to try and state for the parties the required grounds that it may mine from those buried in a points and authorities.

The court also notes that Plaintiff-Debtor's new counsel's striving to have a trial in May 2019, when no answer has been filed may indicate a lack of understanding of the Complaint he has inherited and the pile of unprosecuted claims by former counsel.

Additionally, Plaintiff-Debtor's former counsel also advised the court that the Plaintiff-Debtor and her husband were hiring another attorney to prosecute these same claims in State Court. If so, then this action would not be prosecuted.

Given that a dismissal of the Plaintiff-Debtor's bankruptcy case may render this proceeding inappropriate, before the court expends judicial time and resources in trying to navigate the Complaint (which it has been represented is to be amended) and having Defendants amend their Motion, the court continues the Status Conference.

8. [13-24657-E-13](#)      MICHAEL FARRACE  
[17-2040](#)

FARRACE V. NEW PENN FINANCIAL,

CONTINUED PRE-TRIAL  
CONFERENCE RE: COMPLAINT FOR  
DECLARATORY RELIEF, VIOLATION  
OF THE AUTOMATIC STAY AND  
RELATED STATE AND FEDERAL  
CAUSES OF ACTION  
3-20-17 [1]

**ADVERSARY PROCEEDING CLOSED:  
02/01/2019**

**Final Ruling: No appearance at the February 20, 2019 Status Conference is required.**  
-----

Plaintiff's Atty: Peter L. Cianchetta  
Defendant's Atty: Erin M. McCartney

Adv. Filed: 3/20/17  
Answer: 5/10/17

Nature of Action:  
Declaratory Judgment  
Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

**The Adversary Proceeding having been dismissed, the Status Conference is removed from the Calendar.**

Notes:

Notice of Stipulated Dismissal of Adversary Proceeding filed 1/14/19 [Dckt 60]; Order dismissing filed 1/14/19 [Dckt 61]

9. [18-23182-E-7](#) ENRIQUE OLMOS  
[18-2139](#)

CONTINUED STATUS CONFERENCE  
RE: AMENDED COMPLAINT  
8-31-18 [12]

**BERMUDEZ V. OLMOS, JR.**

**Final Ruling: No appearance at the February 20, 2019 Status Conference is required.**  
-----

Plaintiff's Atty: Pro Se  
Defendant's Atty: Anthony J. Palik

Adv. Filed: 8/16/18  
Answer: none  
Amd. Cmplt. Filed: 8/31/18  
Answer: none

Nature of Action:  
Objection/revocation of discharge  
Dischargeability - false pretenses, false representation, actual fraud

<p>The Adversary Proceeding having been dismissed, <b>the Status Conference is removed from the Calendar.</b></p>
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Notes:

Continued from 11/13/18. The Parties are to file a discovery plan 7 days before the continued status conference.

Notice of Motion and Motion to Dismiss and Consent to Final Disposition by Bankruptcy Court Judge filed 10/2/18 [Dckt 16]; Order granting filed 12/12/18 [Dckt 34]. Plaintiff to file and serve a second amended complaint, if any, **on or before 1/2/19.**

10. [17-27397-E-13](#) [18-2014](#) GEVORG/ARMINE POLADYAN

PRE-TRIAL CONFERENCE RE:  
AMENDED COMPLAINT  
5-10-18 [\[31\]](#)

TRIVEDI V. POLADYAN ET AL

### Trial Conducted With Item 11.

Plaintiff's Atty: Peter G. Macaluso  
Defendant's Atty: Peter L. Cianchetta

Adv. Filed: 2/14/18  
Answer: none  
Amd. Cmplt. Filed: 5/10/18  
Answer: 1/2/19 [Dckt 66]  
Amd. Answer: 1/2/19 [Dckt 67]

#### Nature of Action:

Dischargeability - false pretenses, false representation, actual fraud  
Dischargeability - fraud as fiduciary, embezzlement, larceny  
Dischargeability - willful and malicious injury

#### Notes:

Scheduling Order -  
Close of discovery 2/15/19

### SUMMARY OF COMPLAINT

Tapan Trivedi, Administrator for the Estate of Ortansa Ambrus-Cernat, filed an Amended Complaint on May 10, 2018. Dckt. 31. By order filed on November 19, 2018, the court dismissed the First, Third, Sixth, and Seventh Causes of Action. Order, Dckt. 63. The complaint seeks a determination of nondischargeability of obligations arising out of transaction between Defendant-Debtor and Ms. Ambrus-Cernat. It is alleged that the obligation is nondischargeable based on fraud, 11 U.S.C. § 523(a)(2); and willful and malicious injury, 11 U.S.C. § 523(a)(6). It is further alleged that Defendant-Debtor should be denied a discharge in the related bankruptcy case because of the transfer of property with the intent to hinder, delay, or defraud a creditor or officer of the bankruptcy estate, 11 U.S.C. § 727(b)(2)(A).

### SUMMARY OF ANSWER

Gevorg Poladyan and Armine Asatryan, Defendant-Debtor, filed an Amended Answer on January 2, 2019. Dckt. 67. In the Amended Answer Defendant-Debtor admits and denies specific allegations in the Amended Complaint. The Amended Answer states three Affirmative Defenses.

### FINAL BANKRUPTCY COURT JUDGMENT

Plaintiff Tapan Trivedi, Administrator for the Estate of Ortansa Ambrus-Cernat alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and

157(b)(2), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(K) and (L), and to the extent any issues are non-core, to the bankruptcy judge issuing all final orders and judgment in this Adversary Proceeding. Amended Complaint ¶¶ 10, 11, Dckt. 31. In the Answer, Defendant-Debtor Gevorg Poladyan and Armine Asatryan admits the allegations of jurisdiction and core proceedings, and the consent to the bankruptcy judge issuing all final order

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Court having concluded the Pre-Trial Conference in this Adversary Proceeding and the related Adversary Proceeding Poladyan *et al. v. Trivedi*, 18-2130; the substantive matters of the two Adversary Proceedings relating to the same substantive and legal matters; the Parties having agreed to conduct the two trials at the same time, presenting the evidence and making oral argument applicable to both simultaneously; and good cause appearing;

**IT IS ORDERED** that trial in this Adversary Proceeding shall be conducted at **xxxxx a.m. on xxxxx, 2019**, to be conducted with and based on the same evidence and oral arguments presented in the related Adversary Proceeding Poladyan *et al. v. Trivedi*, 18-2130

11. [17-27397-E-13](#)      **GEVORG/ARMINE POLADYAN**  
[18-2130](#)

**POLADYAN ET AL V. TRIVEDI**

**PRE-TRIAL CONFERENCE RE:  
COMPLAINT OBJECTING TO PROOF  
OF CLAIM; DECLARATORY RELIEF  
AND RELATED STATE CAUSED OF  
ACTION  
8-8-18 [1]**

Plaintiff's Atty: Peter G. Macaluso  
Defendant's Atty: Peter L. Cianchetta

Adv. Filed: 2/14/18  
Answer: none  
Amd. Cmplt. Filed: 5/10/18  
Answer: 1/2/19 [Dckt 66]  
Amd. Answer: 1/2/19 [Dckt 67]

Nature of Action:

Dischargeability - false pretenses, false representation, actual fraud

Dischargeability - fraud as fiduciary, embezzlement, larceny

Dischargeability - willful and malicious injury

Notes:

Scheduling Order -

Close of discovery 2/15/19

Defendant's Pretrial Conference Statement filed 2/11/19 [Dckt 46]

Plaintiff's Pretrial Conference Statement filed 2/12/19 [Dckt 48]

## **SUMMARY OF COMPLAINT**

Gevorg Poladyan and Armine Asatryan, Plaintiff-Debtor, has filed this Complaint objecting to the claim filed by Defendant Tapan Trivedi, Administrator for the Estate of Ortansa Ambrus-Cernat. Dckt. 1. Because this relates to Defendant's related Adversary Proceeding to have that claim determined nondischargeable, Adv. Pro. 18-2014, this Objection Complaint has been consolidated procedurally with the other Adversary Proceeding.

## **SUMMARY OF ANSWER**

Defendant Tapan Trivedi, Administrator for the Estate of Ortansa Ambrus-Cernat has filed an Answer that admits and denies specific allegations in the Complaint. Dckt. 7. The Answer asserts four Affirmative Defenses.



## FINAL BANKRUPTCY COURT JUDGMENT

Gevorg Poladyan and Armine Asatryan, Plaintiff-Debtor alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157, and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and to the extent any matter are noncore, consents to the bankruptcy judge issuing all final orders and judgement in this Adversary Proceeding. Complaint ¶¶ 1, 4, Dckt. 1. In the Answer, Defendant Tapan Trivedi, Administrator for the Estate of Ortansa Ambrus-Cernat admits the allegations of jurisdiction and core proceedings, as well as the consent to the bankruptcy judge issuing all final orders and judgment in this Adversary Proceeding. Answer ¶ 3, Dckt. 7.

The court shall issue an Trial Setting in this Adversary Proceeding setting the following dates and deadlines:

- A. Evidence shall be presented pursuant to Local Bankruptcy Rule 9017-1.
- B. **Plaintiff** shall lodge with the court and serve their Direct Testimony Statements and Exhibits on or before -----, **2017**.
- C. **Defendant** shall lodge with the court and serve their Direct Testimony Statements and Exhibits on or before -----, **2017**.
- D. The Parties shall lodge with the court, file, and serve Hearing Briefs and Evidentiary Objections on or before -----, **2017**.
- E. Oppositions to Evidentiary Objections, if any, shall be lodged with the court, filed, and served on or before -----, **2017**.
- F. The Trial shall be conducted at ----**x.m. on** -----, **2017**.

The Parties in their respective Pretrial Conference Statements, Dckts. -----, -----, and as stated on the record at the Pretrial Conference, have agreed to and establish for all purposes in this Adversary Proceeding the following facts and issues of law:

<b>Plaintiffs Gevorg Poladyan and Armine Asatryan</b>	<b>Defendant Tapan Trivedi, Admin.</b>
<p><b>Jurisdiction and Venue:</b></p> <p>Gevorg Poladyan and Armine Asatryan, Plaintiff-Debtor alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157, and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and to the extent any matter are non-core, consents to the bankruptcy judge issuing all final orders and judgement in this Adversary Proceeding. Complaint ¶¶ 1, 4, Dckt. 1. In the Answer, Defendant Tapan Trivedi, Administrator for the Estate of Ortansa Ambrus-Cernat admits the allegations of jurisdiction and core proceedings, as well as the consent to the bankruptcy judge issuing all final orders and judgment in this Adversary Proceeding.</p>	

**Undisputed Facts Plaintiffs:**

1. Defendant, the Estate of Ortansa Ambrus-Cernat, is the purported creditor in the underlying Chapter 13 case, case number 17-27397-D-7, Tapan Trivedi is the Administrator of the estate of Ortansa Ambrus-Cernat.
2. Plaintiffs, Gevorg G. Poladyan and Armine Asatryan, are the debtors in the above listed case.
3. To the extent that any part of this matter is deemed non-core, Plaintiffs consent to this Court in rendering final judgment.
4. On or about, August 8, 2008, Ortansa Ambrus-Cernat purchased the Palmwood property at a short sale from Plaintiffs for \$180,000.00.
5. On or about, February 2, 2012 Ortansa signed a grant deed to Plaintiffs, gifting them the Palmwood property.
6. On May 20, 2014, Ortansa passed away.

**Undisputed Facts Defendant:**

1. Defendant, Tapan Trivedi, is the creditor in the underlying Chapter 7 case, case number 17-27397-D-7, and is the Administrator of the estate of Ortansa Ambrus-Cernat, the holder of this unsecured claim.
2. Plaintiffs, Gevorg G. Poladyan and Armine Asatryan, are the debtors in the above listed case, and Plaintiffs do business in California.
3. Plaintiffs filed a petition for relief under Chapter 7 of the Bankruptcy Code on November 8, 2017.
4. This adversary proceeding is brought in connection with Plaintiff's underlying bankruptcy case under Chapter 7 of Title 11, case number 17-27397-D-7.
5. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 157 and 1334, and as such constitutes a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(K) & (L).
6. To the extent that any part of this matter is deemed non-core, Defendant consents to this Court in rendering final judgment.
7. On or about, August 8, 2008, Ortansa purchased the Palmwood Property at a short sale from Plaintiffs for \$180,000.00.

8. On or about April 30, 2011, Ortansa sold the Palmwood Property to Plaintiffs for \$180,000.
9. On or about, February 2, 2012 Ortansa signed a grant deed to Plaintiffs.
10. On October 1, 2012, Plaintiffs signed a Loan Agreement, in the amount of \$100,000.00, with Outsource Legal Support, LLC. (“Outsource”).
11. On April 1, 2013, Plaintiffs signed a Loan Agreement in the amount of \$80,000.00 with Outsource.
12. The transfer to Outsource was for Outsource’s own benefit on account of an alleged antecedent debt owed by Plaintiffs to Outsource, while Plaintiffs were insolvent, and made within ninety (90) days before the filing of the underlying Chapter 7 case.
13. Plaintiffs were owners of certain real property commonly known as 2242 Palmwood Court, Rancho Cordova, CA.
14. Plaintiffs were behind on the mortgage for the Palmwood Property and were facing foreclosure.
15. Plaintiffs agreed to a contract between themselves and Ortansa Ambrus-Cernat (hereinafter “Ortansa”) that Ortansa would refinance her home to purchase Plaintiffs’ Palmwood Property at a short sale, and sell it back to Plaintiffs for \$180,000.
16. Ortansa exceeded the age of 65 in 2008.
17. Plaintiffs convinced Ortansa to borrow money on her home, purchase the Palmwood Property, transfer the Palmwood Property back to Plaintiffs, only for Plaintiffs to neither make any payments, nor refinance the home and repay the \$180,000.00.
18. Ortansa purchased the Palmwood Property for \$180,000.00, as stated in the State Action, with the agreement that Plaintiffs would care for Ortansa’s disabled adult son after her death.
19. Plaintiffs did not repay the loan from Ortansa, nor did Plaintiffs have the intent to repay the loan when the agreement was formed.
20. Plaintiffs intentionally encumbered the Palmwood Property with a \$50,000.00 loan before Ortansa died, and allegedly \$180,000.00 thereafter.
21. On May 20, 2014, Ortansa died.
22. Plaintiffs refused to make any payments.
23. On or about September 9, 2014, Plaintiffs obtained a First Deed of Trust with Citimortgage in the amount of \$50,000.00.

24. No payments were made to Ortansa's estate.
25. On December 16, 2015, Defendant filed suit in Sacramento Superior Court, case #34-2015-00188010.
26. Defendant obtained a default judgment against Plaintiff, Armina Asatryan.
27. Plaintiff Gevorg G. Palodyan filed an his answer on or about March 3, 2016.
28. Outsource Legal Support, LLC, recorded two (2) deeds of trust on November 5, 2017, for \$100,000.00, and \$80,000.00, and thereafter a UCC-1 Financial Statement with the Secretary of the State of California.
29. Plaintiffs filed for Chapter 7 bankruptcy on November 8, 2017.
30. On or about December 16, 2015, Defendant brought suit in Superior Court of California, Sacramento County, case #34-2015-00188010 (hereinafter "State Action") against Plaintiffs, praying for \$210,000.00 in damages.
31. On November 5, 2017, Outsource Legal Support, LLC. (Hereinafter "Outsource") recorded a Second Deed of Trust in the amount of \$100,000.00.
32. On November 5, 2017, Outsource recorded a Third Deed of Trust in the amount of \$80,000.00.
33. Thereafter, Outsource recorded a UCC-1 Financing Statement against Plaintiffs' business and assets thereof.
34. Defendant holds claims "for money, property, services, or an extension, renewal, or refinancing of credit".
35. Defendant holds a claim arising from "False pretenses, a false representation, or actual fraud, wherein Plaintiffs promised to repay \$180,000.00 if Ortansa refinanced her home, purchased Plaintiffs' home, and sold the property back.
36. Defendant holds claims arising from "use of a statement in writing" - that Plaintiffs would repay the \$180,000 loaned, which was materially false as no payments were ever made; respecting the Debtors' ability to refinance the home to repay the loan; upon which the Defendant reasonably relied; and which was re-recorded by the Plaintiffs and made with intent to deceive.
37. Defendant's claim arises pursuant to 11 U.S.C. 523(a)(2).46.
38. Defendant holds claims arising from "fraud or defalcation while acting in a fiduciary capacity, embezzlement, or larceny"; as Plaintiffs made promises to care for Ortansa's handicapped son after she died if Ortansa would refinance her home and buy Plaintiffs' which was in foreclosure, thereafter allowing them to repay the \$180,000.00 by refinancing the property, after she transferred it

back to them.

39. Defendant's claim arises pursuant to 11 U.S.C. 523(a)(2).

40. Defendant incorporates all of the above paragraphs as set forth herein at length.

41. Defendant holds claims arising from "willful and malicious injury by the debtor to another entity or to the property of another entity" by failing to make any payments, failing to care for Ortansa's son resulting in his death, encumbering the property, causing willful and malicious injury to Ortansa's estate which has been damaged \$210,000.00.

42. Defendant's claim arises pursuant to 11 U.S.C. 523(a)(6).

<b>Disputed Facts:</b> 1. Whether the transfer of the Palmwood property by Ortansia was a Gift or a sale.	<b>Disputed Facts:</b> 1. The agreement set forth that the Plaintiffs would care for Ortansa's mentally challenged adult son, make monthly payments, and refinance the Palmwood property for the \$180,000.00 that Plaintiffs would owe Ortansa, transfer the Palmwood property by grant deed, and that Plaintiffs would make payments and then refinance the Palmwood Property and repay Ortansa.
<b>Disputed Evidentiary Issues:</b> 1. None	<b>Disputed Evidentiary Issues:</b> 1. None
<b>Relief Sought:</b> 1. Nothing Stated	<b>Relief Sought:</b> 1. "Substantive Claim"
<b>Points of Law:</b> 1. 11 U.S.C. 523(a)(2) 2. 11 U.S.C. 523(a)(4) 3. 11 U.S.C. 523(a)(6)	
<b>Abandoned Issues:</b>	<b>Abandoned Issues:</b>

1. None	1. None
<p>Witnesses:</p> <p>1. Gevorg G. Poladyan</p> <p>2. Armine Asatryan</p> <p>3. Anna Karpetyan</p> <p>4. Sandy Vue</p> <p>5. Phavandy Southivilay</p>	<p>Witnesses:</p> <p>1. Judith D. Ambrus</p> <p>2. Emeric Ambrus</p> <p>3. Gevorg G. Poladyan</p> <p>4. Armine Asatryan</p>
<p>Exhibits:</p> <p>1. <del>Grant Deed???????</del></p>	<p>Exhibits:</p> <p>1. Debtors' Bankruptcy Petition #17-27397-E-13</p> <p>2. Schedules A-J,</p> <p>3. Debtors' Statement of Financial Affairs</p>
<p>Discovery Documents:</p> <p>1. None</p>	<p>Discovery Documents:</p> <p>1. None</p>
<p>Further Discovery or Motions:</p> <p>1. None</p>	<p>Further Discovery or Motions:</p> <p>1. None</p>
<p>Stipulations:</p> <p>1. None</p>	<p>Stipulations:</p> <p>1. None</p>
<p>Amendments:</p> <p>1. None</p>	<p>Amendments:</p> <p>1. None</p>
<p>Dismissals:</p> <p>1. None</p>	<p>Dismissals:</p> <p>1. None</p>

<p>Agreed Statement of Facts:</p> <p>1.       None</p>	<p>Agreed Statement of Facts:</p> <p>1.       None</p>
<p>Attorneys' Fees Basis:</p> <p>1.       None Stated</p>	<p>Attorneys' Fees Basis:</p> <p>1.       None Stated</p>
<p>Additional Items</p> <p>1.       None</p>	<p>Additional Items</p> <p>1.       None</p>
<p>Trial Time Estimation: None Provided</p>	<p>Trial Time Estimation: None Provided</p>