

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Chief Bankruptcy Judge
Sacramento, California

June 19, 2019 at 2:00 p.m.

1. [18-25001-E-7](#) JOSEPH AKINS STATUS CONFERENCE RE: AMENDED
[18-2187](#) COMPLAINT
BLACK V. AKINS 4-4-19 [21]

Final Ruling: No appearance at the June 19, 2019 Status Conference is required.

Plaintiff's Atty: Nicholas B. Lazzarini
Defendant's Atty: Sheila Gropper Nelson

Adv. Filed: 11/13/18
Answer: none
Amd. Cmplt Filed: 4/4/19
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 has been continued to 11:00 a.m. on July 11, 2019 by prior order of the court (Dckt. 41).

Notes:

Set by automatic notice of the court re reissued summons on amended complaint filed 4/24/19 [Dckt 27]

Continued Status Conference re amended complaint heard 5/29/19 [Dckt 41]; status conference continued to 7/11/19 at 11:00 a.m.

2. [18-27720-E-13](#) **DAVID RYNDA**
[19-2023](#)

CONTINUED STATUS CONFERENCE
RE: AMENDED COMPLAINT RYNDA V.
MACHADO ET AL
3-3-19 [21]

RYNDA V. MACHADO

Plaintiff's Atty: Tracy L. Wood
Defendant's Atty:
 Armando S. Mendez [Elina M. Machado]
 unknown [Gabriel Machado]

Adv. Filed: 2/11/19
Answer: none

Amd. Cmplt. Filed: 3/3/19
Answer: none

Nature of Action:
[Adversary Cover Sheet not filed]

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| The Status Conference is XXXXXXXXXXXXXXXXXXXX |
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Notes:
Unilateral Status Report filed by Plaintiff 5/29/19 [Dckt 42]

Status Report filed by Defendant [Elina Machado] 5/30/19 [Dckt 44]

JUNE 19, 2019 STATUS CONFERENCE

At the Status Conference the court addressed the First Amended Complaint and the numbering errors in stating the two causes of action. The attorneys for the parties reported, XXXXXXXX

With respect to the First Cause of Action for a declaration that Defendant Elina lacks standing, counsel for Plaintiff-Debtor stated, XXXXXXXXXXXXXXXXXXXX

Review of Pleadings

The First Amended Complaint was filed by David Rynda on March 3, 2019. The court summarizes the Causes of Action as follows:

First Cause of Action - Declaratory Judgment Lack of Standing

The specific relief requested for the First Cause of Action is stated by the Plaintiff-Debtor to be that:

“29. Therefore, the Court should declare that the Defendant Elina Machado lacks standing as a property owner in this case, and the Motion for Lift of Stay should be disallowed as filed.”

First Amended Complaint, second ¶ 29, following first ¶ 31; Dckt. 21. It appears that the argument in this First Cause of Action is that Defendant Elina Machado does not have an interest in the Property for which a quiet title claim is made in the Second Cause of Action.

The Second Cause of Action asserts that Plaintiff-Debtor purchased the real property in dispute from Defendant and her former husband, Co-Defendant Gabriel Machado. It is alleged that two “original” quitclaim deeds were prepared by which title to the property was made to Plaintiff-Debtor. It is further asserted that attorney Earnest Anderson (Plaintiff-Debtor’s attorney in the transaction) lost his “original” and that Defendant Gabriel Machado stole Plaintiff-Debtor’s “original” quit claim deed that Plaintiff-Debtor kept under his bed for safekeeping.

It is asserted that testimony and admissions in other court proceedings by the two Defendants establishes that such deed was executed and title was transferred.

Plaintiff-Debtor’s Status Report

On May 29, 2019, Plaintiff-Debtor filed a Status Report. It includes advising the court of the following. Dckt. 42. Plaintiff-Debtor does not dispute the jurisdiction of this court and any parties’ allegations of core or non-core nature of these proceedings. It is not clear if Plaintiff-Debtor asserts that this is a core or non-core proceeding.

REVIEW OF ANSWER

No answers have been filed in this Adversary Proceeding.

Defendant Elina Machado (“Defendant Elina”) Status Report

Defendant Elina Machado filed a Status Report on May 30, 2019. Dckt. 44. In it she states that the address at which the summons and complaint were served is one at which neither she nor her separated husband, the other Defendant, now live. The two Defendants are prosecuting a divorce action in the state court.

Attorney Armando S. Mendez, Esq., has filed the Status Report and states that he is representing only Defendant Elina.

3. [18-27524-E-11](#) DAVID FOYIL

STATUS CONFERENCE RE:
VOLUNTARY PETITION
3-22-19 [\[66\]](#)

Debtor's Atty: David Foyil

The Status Conference is Continued to 2:00 p.m. on xxxxxx, 2019.

Notes:

Order converting Chapter 13 case to one under Chapter 11 filed 3/7/19 [Dckt 57]

Operating Report filed: 3/27/19; 4/13/19; 4/30/19; amd report 4/30/19; 5/14/19

[AP-1] Motion for Relief from Automatic Stay filed 4/15/19 [Dckt 75]; Stipulation re Adequate Protection and Treatment of Creditor's Claim filed 6/7/19 [Dckt 111]; Order pending

Trustee Report at 341 Meeting docketed 4/19/19; continued to 5/17/19

Debtor's Disclosure Statement filed 5/3/19 [Dckt 89], set for hearing 7/11/19 at 11:30 a.m.

Trustee Report at 341 Meeting docketed 5/17/19; Debtor/Counsel did not appear; meeting concluded as to Debtor

Trustee's Final Report and Accounting filed 5/23/19 [Dckt 104]

Status Report filed 6/5/19 [Dckt 109]

JUNE 19, 2019 STATUS CONFERENCE

This bankruptcy case was originally filed as a Chapter 13 case by the Debtor. This case was converted to one under Chapter 11 by order of the court filed on March 7, 2019. Dckt. 57.

Debtor filed Amended Schedules on April 2, 2019, following the conversion of this case. Dckt. 71. On Schedule A/B Debtor lists real and personal property, some of which is identified as the Debtor's property and some as the "Separate Property of Spouse" (but such for such property Debtor has checked the box that Debtor is the only person owning the property).

On Schedule I Debtor lists having monthly net income from his business (law practice) of \$13,950.00 and that his spouse has income from her business of \$2,750.00 a month. Dckt. 71 at 13-14. The total monthly net income from the businesses is \$16,700.00.

On Schedule J Debtor lists having (\$11,540) in reasonable and necessary expenses. *Id.* at 15-16. These expenses include:

(1) mortgage/taxes/insurance.....(\$4,980)

- (2) home maintenance and repairs.....(\$ 208)
- (3) Electricity and Heat..... (\$ 700)
- (4) Telephone, internet, cable..... (\$ 300)
- (5) Food and Housekeeping Supplies.....(\$ 300)
- (6) Transportation (fuel, registration, maintenance)....(\$ 200)
- (7) Income Tax.....(\$3,000)
- (8) Car Payments.....(\$ 800)

After subtracting the expenses from the income, Debtor indicates having \$5,060 a month to fund a Chapter 11 Plan.

Chapter 11 Plan

No Chapter 11 Plan has been filed by the Debtor in Possession. A document titled “Debtor’s Disclosure Statement” was filed on May 3, 2019. The Disclosure Statement makes reference to a Chapter 11 Plan being filed concurrently with the Disclosure Statement, but none appears on the Docket in this case.

Exhibit B filed with the Motion to Approve the Disclosure Statement states that Exhibit C is a “Debtor’s Plan of Reorganization, Dated May 1, 2019.” Dckt. 91. While an exhibit, there is not a Plan filed in this case.

The Exhibit titled “Plan” does not include a section providing how the plan will be funded. There is no amount with which the plan is to be funded each month. For administrative expenses and claims the Treatment portion of the Exhibit states:

- A. Administrative expenses will be paid on the effective date of the Plan.
- B. Priority Claims - as soon as “practicable” after the effective date shall be paid.
- C. U.S. Trustee Fees paid on the effective date.
- D. PennyMac Secured Claim - (\$1,325,661.73), 1st Deed of Trust
 - 1. Value of Real Property Collateral - \$650,000
 - 2. Pre-Petition arrearage - (\$70,129.16)
 - 3. Payments
 - a. 5.250% Interest Rate

- b. “Upon Confirmation” Debtor will “tender” monthly contract installment as provided in the contract
 - c. (\$70,129.16) arrearage cured over 60 months, with monthly payments of \$1,168.82.
- E. Nissan Motor Acceptance - (\$38,801.55) secured claim
 - 1. Collateral - 2015 Nissan Armada, Listed on Schedule A having a value of \$25,000.
 - 2. Attachment to Proof of Claim No. 1 has copy of Purchase Agreement for August 2016 purchase.
- F. Chrysler Capital - (\$19,236.19) Secured Claim
 - 1. Surrender of Collateral
- G. Internal Revenue Service and California Franchise Tax Board Secured, Priority, and General Unsecured Claim
 - 1. Secured portion to be amortized over twenty four months
 - 2. Priority portion to be paid as soon as practical after confirmation.
 - 3. Unsecured portion to be paid with general unsecured claims.
- H. Unsecured claims to not receive any distributions.

Dckt. 91.

On June 7, 2019, Debtor in Possession and PennyMac Holding, LLC (“PMH”) filed a document titled “Stipulation re: Adequate Protection and Treatment of Creditor’s Claim Under Debtor’s Chapter 11 Plan of Reorganization.” Dckt. 111. In the Stipulation the Debtor in Possession and PennyMac Holding, LLC seek to stipulate and bind the estate to:

- A. Notwithstanding the actual value of the Property that secures the claim, PMH’s claim is fully secured and paid in full.
- B. Debtor’s plan (but apparently not the Debtor in Possession’s plan) shall not alter the rights of PMH.
- C. Debtor (but apparently not the Debtor in Possession nor the plan administrator) shall make the regular monthly contractual payments to PMH.
 - 1. The current regular monthly contract payment is \$3,684.28.
 - 2. Debtor shall also make a monthly escrow payment for property taxes and insurance, which is stated to be currently \$1,319.55

- D. Debtor shall also cure the arrearage of \$103,571.92 in sixty (60) equal monthly installments of (\$1,726.20).
- E. In the event of a pre-confirmation default PMH shall provide notice of the default, and if not cured within fifteen days, the motion for relief from the stay may be restored to the calendar.
- F. Confirmation of the Plan terminates the automatic stay “as to the Debtor and estate vis-a-vis” PMH.
- G. The Stipulation must be made part of the Chapter 11 Plan as an exhibit.

Dckt. 111.

On June 11, 2019, counsel for PMH lodged with the court a proposed order based on the Stipulation. The relief ordered by the court in the proposed order is stated as:

IT IS HEREBY ORDERED that the Stipulation is approved.

The court cannot sign such an order. First, by “approving the stipulation,” is any relief granted by the court? Do the parties intend the “stipulation” to be the order of the court? Is the court by “approving the stipulation” transferring to the Debtor in Possession (who has the right and power to stipulate to modifications of the automatic stay as it applies to the property of the bankruptcy estate) and PMH federal judicial power to making findings of fact and issue orders?

Further, the Stipulation specifies terms of a Chapter 11 Plan. Such terms can be set only through the confirmation of a Plan. The court cannot, and will not, engage in a piecemeal plan confirmation process, conducted in secret, for which no notice is given to other parties in interest.

At the Status Conference **XXXXXXXXXXXXXXXXXXXXXXXXXXXX**

4. [10-46636-E-13](#) **JOSEPH/KIMBERLY OLIVA**
[18-2062](#)
OLIVA ET AL V. OCWEN LOAN
SERVICING, LLC

**PRE-TRIAL CONFERENCE RE:
COMPLAINT FOR DAMAGES FOR
WILLFUL VIOLATIONS OF THE
AUTOMATIC STAY**
5-4-18 [1]

Final Ruling: No appearance at the June 19, 2019 Pre-Trial Conference is required.

Plaintiff's Atty: Rick Morin
Defendant's Atty: Bernard J. Kornberg

Adv. Filed: 5/4/18
Answer: 6/11/18

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

The Parties having filed a Stipulation for Dismissal of this Adversary Proceeding with Prejudice as Provided in Federal Rule of Civil Procedure 41(a)(1)(A)(ii) and Federal Rule of Bankruptcy Procedure 7041 (Dckt. 21), this Adversary Proceeding has been dismissed with prejudice. The Parties have lodged with the court an order pursuant to their Stipulation that has been entered by the court.

The Parties further stipulated to each party bearing its own attorney's fees, costs, and expenses. The Clerk of the Court may close the file for this Adversary Proceeding.

The Pre-Trial Conference is Concluded and Removed from the Calendar.

Notes:
Set by order of the court filed 12/9/18 [Dckt 16]

Scheduling order -
Initial disclosures by 7/25/18
Disclose experts by ~~11/15/18~~; 1/15/18
Close of Discovery ~~12/18/18~~; 2/15/18
Exchange expert reports by ~~1/4/19~~; 2/28/18
Expert discovery closes ~~2/28/19~~; 3/15/18
Dispositive motions heard by 4/30/19

5. [11-44540-E-13](#) **MERCEDES PEREZ**
[18-2042](#)

CONTINUED STATUS CONFERENCE
RE: AMENDED COMPLAINT
3-11-19 [31]

PEREZ V. FREY ET AL
ADVERSARY PROCEEDING
DISMISSED: 05/29/2019

Final Ruling: No appearance at the June 19, 2019 Status Conference is required.

Plaintiff's Atty: Peter L. Cianchetta
Defendant's Atty: unknown

Adv. Filed: 4/5/18
Answer: none
Amd. Cmplt. Filed: 3/11/19
Answer: none

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

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| <p>The Adversary Proceeding having been dismissed (Dckt. 36), the Status Conference is Concluded and Removed From the Calendar.</p> |
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Notes:
Notice of Dismissal; Voluntary Dismissing Adversary Proceeding filed 5/29/19 [Dckt 36]

8. [18-22747-E-13](#) **DAVID/CHRISTINA CASTILLO** **CONTINUED STATUS CONFERENCE**
[19-2011](#) **RE: COMPLAINT**
1-17-19 [1]

**CASTILLO ET AL V. LVNV
FUNDING, LLC**

Plaintiff's Atty: Aubrey L. Jacobsen
Defendant's Atty: unknown

Adv. Filed: 1/17/19
Answer: none

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

Notes:
Continued from 5/29/19, counsel for Plaintiff reporting that they are still working on concluding the settlement.

JUNE 19, 2019 STATUS CONFERENCE

At the June 19, 2019 Status Conference, **XXXXXXXXXXXXXXXXXXXX**

MAY 29, 2019 STATUS CONFERENCE

At the Status Conference, counsel for Plaintiff reported that they are still working on concluding the settlement.

MARCH 20, 2019 STATUS CONFERENCE

Plaintiff reported that the matter has been settled and the parties are working on the documentation thereof.

10. [19-21976-E-7](#) CONQUIP, INC.
[19-2048](#)

**CONTINUED STATUS CONFERENCE
RE: NOTICE OF REMOVAL
4-3-19 [1]**

**ZIELENSKI V. CONQUIP, INC. ET
AL**

Trustee's Atty: J. Russell Cunningham
Plaintiff's Atty: Port J. Parker
Defendant's Atty:
 Jennifer E. Duggan [Conquip, Inc.]
 unknown [Yuquing Cao; Matthew Lind]

Adv. Filed: 4/3/19
Answer: none

Nature of Action:
Determination of removed claim or cause

Notes:
Continued from 5/29/19

JUNE 19, 2019 STATUS CONFERENCE

On April 3, 2019, J. Michael Hopper, the Plaintiff-Trustee, filed a Notice of Removal, of an action from the California Superior Court. The Notice of Removal states that claims of the Debtor were asserted in the State Court Complaint by Adam Zielenski, the principal of the Debtor, as derivative claims.

A copy of the State Court Complaint is attached as Exhibit A to the Complaint. Dckt. 1 at 3. The State Court Complaint has a filing date of November 6, 2017. The Debtor commenced its bankruptcy case on March 29, 2019. The title to the State Court Complaint lists the Derivative Claims of the Debtor as:

1. Breach of Fiduciary Duty;
2. Abuse of Control;
3. Corporate Waste; and
4. Unjust Enrichment

The Status Conference was continued to June 19, 2019, at the request of the Plaintiff-Trustee. No Status Report has been filed by the Plaintiff-Trustee.

At the Status Conference, XXXXXXXXXXXXXXXXXXXXXXXXXXXX

11. [17-22481-E-7](#) **WILLIAM LANDES**
[17-2139](#)

CONTINUED STATUS CONFERENCE
RE: COMPLAINT
7-27-17 [1]

LANDES V. LANDES

Plaintiff's Atty: Brant J. Bordsen; David R. Lane
Defendant's Atty: Douglas B. Jacobs

Adv. Filed: 7/27/17
Answer: 8/7/17

Nature of Action:
Dischargeability - domestic support
Dischargeability - divorce or separation obligation (other than domestic support)
Dischargeability - fraud as fiduciary, embezzlement, larceny
Dischargeability - willful and malicious injury

The Status Conference is XXXXXXXXXXXXXXXXXXXXXXXXXXXX

Notes:

Continued from 4/24/19. Plaintiff to file a Status Report on or before 5/29/19 if adversary proceeding not dismissed.

Plaintiff's Status Report filed 5/29/19 [Dckt 57]

JUNE 19, 2019 STATUS CONFERENCE

On May 29, 2019, the Plaintiff filed a Status Report stating,

The parties have lodged a Stipulation with Order thereon to dismiss this action without prejudice. The order has yet to be entered.

Dckt. 57.

Stipulations are filed with the court. Proposed orders are lodged with the court. Federal Rule of Civil Procedure 41(a)(1)(A)(ii) as incorporated into Federal Rule of Bankruptcy Procedure 7041 provides that the parties to an adversary proceeding may stipulate to a dismissal of an adversary proceeding. No order is required.

If such a stipulation is not entered into, or the parties desire an order of the court, Federal Rule of Civil Procedure 41(a)(2) provides that such an order may be requested by the plaintiff. Such request "must" be made by motion. Fed. R. Civ. P. 7(b), Fed. R. Bankr. P. 7007.

Local Bankruptcy Rule 9004-1 and 9004-2 govern law and motion practice in the Eastern District

of California. A motion is a separate document from other pleadings, and is a separate document from an order.

At the Status Conference, XXXXXXXXXXXXXXXXXXXXXXXXXXXX

APRIL 24, 2019 STATUS CONFERENCE

Defendant-Debtor Status Conference Report (Dckt. 47)

Defendant-Debtor states that his Chapter 7 bankruptcy case was filed in 2017, when he was in the middle of a State Court Dissolution Proceeding. Defendant-Debtor has filed a Motion to Stay this Adversary Proceeding while the parties prosecute the Dissolution Proceeding. Defendant-Debtor states that the hearing on that Motion to Stay was conducted on September 25, 2017. The Order staying this Adversary Proceeding was entered on October 6, 2017. Dckt. 21.

The U.S. Trustee filed an Adversary Proceeding, 17-2244, seeking to have the Defendant-Debtor denied his discharge in the Chapter 7 bankruptcy case. Pursuant to a stipulation between Defendant-Debtor and the U.S. Trustee judgment was entered in said Adversary Proceeding denying the Defendant-Debtor a discharge in Chapter 7 case 17-22481. 17-2244; Order on Stipulation, Dckt. 40.

The court notes that the Order denying the Defendant-Debtor his discharge was entered on July 19, 2018 – which was two hundred seventy-nine (279) days before the April 24, 2019 Status Conference.

Defendant-Debtor asserts that this Adversary Proceeding should be dismissed as moot, given that it seeks to have obligations determined nondischargeable pursuant to 11 U.S.C. § 523 in a bankruptcy case in which the Defendant-Debtor has been denied his discharge.

Plaintiff Status Conference Report (Dckt. 50)

The Plaintiff filed a Status Report on April 16, 2019. In it counsel for Plaintiff states that Defendant-Debtor is suffering from a major health issue and the Dissolution Proceeding is in flux.

Plaintiff then requests a six month continuance in this Adversary Proceeding. The Status Report does not address whether there is an actual case in controversy for which a federal court may exercise federal judicial power.

The Complaint, Dckt. 1, seeks relief pursuant to 11 U.S.C. § 523(a)(4) [fraud/defalcation in a martial fiduciary capacity]; § 523(a)(5) [domestic support obligations]; and § 523(a)(6) [willful and malicious injury]; § 523(a)(15) [obligation from a dissolution proceeding]. All of these claims regard in exempting from discharge specific obligations. There being no discharge granted the Defendant-Debtor in the Chapter 7 bankruptcy case for which Plaintiff wants specific debts to be excepted, it appears that this issue is moot.

Subject matter jurisdiction defines a court’s power to hear cases. *Steel Co. v. Citizens for Better Env’t*, 523 U.S. 83, 89 (1998). Before a federal court exercises its jurisdiction over parties, it must determine that there is a sufficient “case” or “controversy as required by the United States Constitution, Article III, Section 2, Clause 1, which states,

Sec. 2, Cl 1. Subjects of jurisdiction.

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

At the Status Conference counsel for Plaintiff addressed the question of what Constitutionally sufficient “case or controversy” exists for the exercise of federal judicial power. Counsel for the Plaintiff stated merely that Plaintiff sought to have the dollar amounts of the obligation determined.

12. [16-22482-E-7](#) **TIMOTHY MUNSON**
[17-2206](#)

**CONTINUED PRE-TRIAL
CONFERENCE RE: COMPLAINT
11-14-17 [1]**

FARRAR V. MUNSON

Plaintiff's Atty: Dana A. Suntag; Benjamin J. Codog
Defendant's Atty: Jenny D. Dennis

Adv. Filed: 11/14/17
Answer: 12/21/17

Nature of Action:
Recovery of money/property - fraudulent transfer
Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
Recovery of money/property - turnover of property
Recovery of money/property - preference

The Status Conference is XXXXXXXXXXXXXXXXXXXXXXXXXXXX

Notes:
Continued from 5/29/19 by stipulation of the Parties [Dckt 53]. Order filed 4/26/19 [Dckt 54]

JUNE 19, 2019 STATUS CONFERENCE

On April 24, 2019, the Parties filed a joint *ex parte* motion requesting the continuance of the May 20, 2019 Status Conference based on the stipulation of the Parties. Dckt. 53. The grounds for the stipulation were stated to be:

E. The Parties have signed a settlement agreement of this adversary proceeding, and on April 23, 2019, the Trustee filed a motion to compromise it that is set for hearing on May 30, 2019.

Dckt. 53 at 2:15-17.

The court granted the Plaintiff-Trustee's Motion to Approve the Compromise. 16-22482; Dckt. 78.

No further pleadings, dismissal, or status report has been filed in this Adversary Proceeding.

At the Status Conference, XXXXXXXXXXXXXXXXXXXXXXXXXXXX

13. [19-20284-E-7](#) DUANE/CAROL ZANON
[19-2045](#)

**CONTINUED STATUS CONFERENCE
RE: COMPLAINT
4-1-19 [1]**

**ZANON ET AL V. U.S. DEPARTMENT
OF EDUCATION**

Final Ruling: No appearance at the June 19, 2019 Status Conference is required.

Plaintiff's Atty: David N. Chandler
Defendant's Atty: unknown

Adv. Filed: 4/1/19
Answer: none

Nature of Action:
Dischargeability - student loan

The Status Conference is continued to 2:00 p.m. on August 21, 2019.

Notes:

Continued from 5/29/19 re reissued summons filed 4/25/19 [Dckt 7]

Reissued summons filed 6/4/19 sets status conference for 8/21/19 at 2:00 p.m. [Dckt 11]

JUNE 19, 2019 STATUS CONFERENCE

On June 3, 2019, Plaintiff filed a request for an "Alias Summons," the stated reason being "additional service addresses." Dckt. 10.

On June 4, 2019, the Clerk issued a Reissued Summons, for which the Status Conference in this Adversary Proceeding was reset to 2:00 p.m. on August 21, 2019.

MAY 29, 2019 STATUS CONFERENCE

The Status Conference is continued to 2:00 p.m. on June 19, 2019, as stated in the Reissued Summons. Dckt. 7.

SUMMARY OF COMPLAINT

Duane Zanon and Carol Zanon (Plaintiff-Debtor) filed a Complaint to Determine the Dischargeability of student loan debt. Dckt. 1. The allegations in the Complaint are summarized as follows:

1. Plaintiff-Debtor has guaranteed the student loan of their son (the primary obligor).
2. Plaintiff-Debtor is of retirement age and cannot maintain a minimal standard of living if obligated to pay the student loan obligation.
3. Plaintiff-Debtor has incurred significant financial obligations/expenses in addressing a health issue concerning their son. Their son is unable to pay the student loan.
4. Plaintiff-Debtor's sole source of income is retirement payments and Social Security.
5. Plaintiff-Debtor projects no significant increase in income in the foreseeable future.

SERVICE OF COMPLAINT

On May 1, 2019, Plaintiff-Debtor filed a Certificate of Service attesting to the service of the Complaint and Reissued Summons on May 1, 2019. Dckt. 8. The Reissued Summons reset the Status Conference date for 2:00 p.m. on June 19, 2019. Dckt. 7.

SUMMARY OF ANSWER

No Answer has been filed.

14. [19-20284-E-7](#) DUANE/CAROL ZANON
[19-2046](#)

**CONTINUED STATUS CONFERENCE
RE: COMPLAINT
4-1-19 [1]**

ZANON V. NELNET

Final Ruling: No appearance at the June 19, 2019 Status Conference is required.

Continued to 8/21/19 at 2:00 p.m. by Stipulation of the Parties [Order, Dckt 19]

Plaintiff's Atty: David N. Chandler

Defendant's Atty:

Barry H. Spitzer [Educational Credit Management Corporation]

Patricia L. Wheeler [Nelnet]

Adv. Filed: 4/1/29

Answer:

5/1/19 Educational Credit Management Corporation

6/3/19 Nelnet

Nature of Action:

Dischargeability - student loan

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| <p>The Status Conference has been continued to 2:00 p.m. on August 21, 2019, pursuant to the stipulation of the parties (Dckt. 19).</p> |
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Notes:

Continued from 5/29/19. David Chandler, counsel for Plaintiff, and Barry Spitzer, counsel for Defendant, and each of them to appear at the continued status conference - telephonic appearances permitted.

[BHS-1] Stipulation to Allow Educational Credit Management Corporation to Intervene as Defendant as the Real Party in Interest in Place of Nelnet filed 6/12/19 [Dckt 14]

Stipulation for Continuance of Status Conference filed 6/12/19 [Dckt 16]; Order approving filed 6/13/19 [Dckt 19]

15. [19-20284-E-7](#) **DUANE/CAROL ZANON**
[19-2047](#)

CONTINUED STATUS CONFERENCE
RE: COMPLAINT
4-1-19 [1]

ZANON ET AL V. NAVIENT

Final Ruling: No appearance at the June 19, 2019 Status Conference is required.

Continued to 8/21/19 at 2:00 p.m. by Stipulation of the Parties [Order, Dckt 17]

Plaintiff's Atty: David N. Chandler

Defendant's Atty:

Barry H. Spitzer [Educational Credit Management Corporation]

Dennis Winters [Navient Solutions, LLC]

Adv. Filed: 4/1/19

Answer:

4/25/19 [Navient Solutions, LLC]

Nature of Action:

Dischargeability - student loan

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| <p>The Status Conference has been continued to 2:00 p.m. on August 21, 2019, pursuant to the stipulation of the parties (Dckt. 19).</p> |
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Notes:

Continued from 5/29/19. David Chandler, counsel for Plaintiff, and Dennis Winters, counsel for Defendant, and each of them to appear at the continued status conference - telephonic appearances permitted.

[BHS-1] Stipulation to Allow Educational Credit Management Corporation to Intervene as Defendant as the Real Party in Interest in Place of Nelnet filed 6/12/19 [Dckt 12]

Stipulation for Continuance of Status Conference filed 6/12/19 [Dckt 14]; Order approving filed 6/13/19 [Dckt 17]