

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Chief Bankruptcy Judge
Sacramento, California

July 1, 2020 at 2:00 p.m.

1. [18-27524-E-11](#) **DAVID FOYIL** **CONTINUED STATUS CONFERENCE
RE: VOLUNTARY PETITION
12-1-18 [1]**

Debtor's Atty: David Foyil

Notes:
Continued from 3/4/20

Operating Reports filed: 3/16/20 [Feb, Mar]; 5/17/20 [amd Jan, amd Feb, amd Mar]; 6/13/20 [May]

Status Report filed 6/16/20 [Dckt 241]

**The Status Conference is continued to 2:00 p.m. on ~~XXXXXXXXXX~~,
2020**

JULY 1, 2020 STATUS CONFERENCE

In an updated Status Report filed on June 16, 2020, the Debtor in Possession reports that the Internal Revenue Service has not amended its claim consistent with the obligation asserted to be owed by the Debtor in Possession now that several years tax returns have been filed. Thus, the Debtor in Possession anticipates filing an objection to the Internal Revenue Service claim.

Debtor in Possession states that he is conducting further discussions with the creditor having a deed of trust on the Debtor's residence, which pending foreclosure precipitated the filing of this bankruptcy case.

The Debtor in Possession also discusses challenges created by the COVID-19 pandemic and the impact on his law practice.

This case was filed on December 1, 2018. No plan has been confirmed by the Debtor in Possession.

At the Status Conference, **XXXXXXXXXX**

MARCH 4, 200 STATUS CONFERENCE

The Monthly Operating Report for January 2020 was timely filed on February 14, 2020. Dckt. 225. This bankruptcy case was filed December 1, 2018. For the month of January 2020, The Debtor in Possession reports there being a negative of (\$1,148) of cash accrual, the expenses exceeding that amount. For the twenty-four months that this case has been pending, there has been a \$12,495 of cash accrual, approximately \$1,000 a month for this Bankruptcy Estate.

In the most recent Status Report filed on February 17, 2020 (Dckt. 227), the Debtor in Possession discusses the operation of this legal practice as a solo practitioner. The Debtor in Possession states that the state and federal tax returns for the individual debtor and the "Corporation" have been filed 2015, 2016, and 2017. The Debtor in Possession states that he believe that the Internal Revenue Service would have amended its proof of claim to be consistent with these returns, but it has not.

The Status Report states that a Plan has been filed, but it references the one that the Debtor in Possession voluntarily dismissed in December 2019.

There is no Chapter 11 Plan or Disclosure Statement pending before this court. The Internal Revenue Service has filed its amended claim asserting a claim in the amount of (\$1,076,408.22), of which: (1) (\$140,717.82) is secured and (2) (\$935,690.40) is unsecured. Of the unsecured, (\$551,385.17) is asserted to be priority taxes.

NOVEMBER 20, 2019 STATUS CONFERENCE

This case was commenced on December 1, 2018, as a Chapter 13 case. This is the Debtor's fourth bankruptcy case since October 29, 2014. The prior cases are: 14-30370, Chapter 11, Dismissed February 19, 2015; 16-22194, Chapter 11, Dismissed June 29, 2016; and 1826678, Chapter 13, dismissed November 16, 2018. This case was converted to one under Chapter 11 pursuant to the motion of the debtor. A Chapter 11 Plan and Disclosure Statement were filed, but dismissed. The Debtor in Possession and a creditor with a significant claim appear to have focused the issues concerning the claim. All monthly operating reports have been filed.

At the hearing, the Debtor in Possession reported that the IRS has updated its proof of claim, and there may still be several issues.

2. [20-20168-E-7](#) SHAWN MYERS
[20-2038](#)

STATUS CONFERENCE RE:
COMPLAINT
4-6-20 [1]

KRZEWICKI V. MYERS

Plaintiff's Atty: Robert J. Enos
Defendant's Atty: Len ReidReynoso

Adv. Filed: 4/6/20
Answer: 5/1/20

Nature of Action:
Dischargeability - false pretenses, false representation, actual fraud

Notes:

The Status Conference is XXXXXXXXXX

SUMMARY OF COMPLAINT

Robert Krzewicki ("Plaintiff") has filed a Complaint to determine the nondischargeability of an obligation asserted to be owed to him by Defendant-Debtor. Nondischargeability is sought pursuant to 11 U.S.C. § 523(a)(2)(A) and (B).

SUMMARY OF ANSWER

Shawn Meyers ("Defendant-Debtor") has filed an Answer, Dckt. 7, that admits and denies specific allegations in the Complaint.

FINAL BANKRUPTCY COURT JUDGMENT

Plaintiff Robert Krzewicki 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)(i) and (j).. Complaint ¶ 2.1, Dckt. 1. In the Answer, Defendant Shawn Myers admits the allegations of jurisdiction and core proceedings. Answer ¶¶ 2.1, 2.2, Dckt. 7. 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.

JOINT STATUS CONFERENCE STATEMENT AND DISCOVERY PLAN

The Parties filed their Joint Status Statement and Discovery Plan on June 24, 2020. Dckt. 10. Plaintiff projects having discovery completed in 120 days.

Plaintiff reports that due to other trial commitments, Plaintiff's counsel cannot be ready for trial until February 2021.

Defendant proposes that the parties use written testimony and exhibits in lieu of a trial.

At the Status Conference, the Parties addressed what could be documented and presented in writing, including use of Direct Testimony Statements, to minimize or obviate the need for an in-person trial. **XXXXXXXXXX**

ISSUANCE OF PRE-TRIAL SCHEDULING ORDER

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

- a. Plaintiff Robert Krzewicki 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)(i) and (j). Complaint ¶ 2.1, Dckt. 1. In the Answer, Defendant Shawn Myers admits the allegations of jurisdiction and core proceedings. Answer ¶¶ 2.1, 2.2, Dckt. 7. **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 -----, **2020**.
- c. Expert Witnesses shall be disclosed on or before -----, **2020**, and Expert Witness Reports, if any, shall be exchanged on or before -----, **2020**.
- d. Discovery closes, including the hearing of all discovery motions, on -----, **2020**.
- e. Dispositive Motions shall be heard before -----, **2020**.
- f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at ----- **p.m. on --** -----, **2020**.

Debtor's Atty: Judson H. Henry

Notes:

Continued from 3/4/20

Operating Reports filed: 3/16/20 [Feb]; 4/13/20 [Periodic Report]; 4/19/20 [Mar]; 5/14/20 [Apr]; 6/15/20 [May]

[JHH-1] Order granting Motion to Employ attorney filed 4/13/20 [Dckt 72]

Trustee Report at 341 Meeting lodged 5/8/20; Debtor appeared; Meeting concluded

Amended Adversary Complaint for Money Damages and Declaratory Relief filed 6/15/20 [Dckt 87]

**The Status Conference is continued to 2:00 p.m. on ~~November 18,~~
2020.**

JULY 1, 2020 STATUS CONFERENCE

On June 24, 2020, Herbert Miller, the Debtor in Possession, filed an updated Status Report. Dckt. 88. The Debtor in Possession projects having a Chapter 11 plan of reorganization and disclosure statement filed by October 1, 2020, now taking into account the economic disruption continuing to occur relating to the COVID-19 pandemic.

The Debtor in Possession discusses the evolution of the business upon which a plan is to be built. The Debtor in Possession also identifies four proofs of claim which will be the subject of objections and the grounds for such objections.

The Status Report also reviews the pending Adversary Proceeding and Contested Matters. With respect to the foreclosure sale conducted in violation of the automatic stay, the Debtor in Possession believes that the buyers may be an "innocent third party," and therefore the estate would pursue only an economic recovery against the creditor conducting a foreclosure sale in violation of the stay.

For the other two properties, the Debtor in Possession intends to pursue litigation to identify the actual creditor, the actual obligation, and what would be acceptable payment terms. The Debtor in Possession challenges the validity of any alleged foreclosure sales.

At the Status Conference, counsel for the Debtor in Possession further reported

XXXXXXXXXX

MARCH 4, 2020 STATUS CONFERENCE

Debtor Herbert Miller commenced this voluntary Chapter 11 Case on January 13, 2020. The Debtor has had several other recent bankruptcy cases. These are summarized as follows:

Chapter 11 Case 19-23392	Filed: May 29, 2019	Dismissed: July 15, 2019
	The bankruptcy case was dismissed due to the failure of Debtor to pay the filing fee.	
Chapter 13 Case 18-26373	Filed: October 9, 2018	Dismissed: November 7, 2018
	Case Dismissed due to Debtor’s failure to file documents. The court denied the Debtor’s subsequent motion to vacate the dismissal and motion to convert the case, if the dismissal was vacated, to one under Chapter 11.	

At the Status Conference the Debtor in Possession reported the First Meeting of Creditors has been continued due to illness of counsel.

Review of Schedules

On Schedule A/B Debtor lists owning the following significant real and personal property assets:

1. Single Family Dwelling (“SFD”) Alta Mesa East Road.....\$450,000
2. SFD Hilton Dr.....\$500,000
3. Shadow Court.....\$600,000

4. Cash.....\$ 80
5. Bank Accounts.....\$ 100
6. Moreno Real Estate, LLC (owns 80%).....\$ -0-
7. Slo Brew Holding Company, LLC (owns 80%).....\$ -0-
8. Abacus Investment Group, Inc. (owns 50%).....\$ unknown
9. Business Related Property.....\$ No
10. Acres Imperial, LLC.....\$ unknown

Dckt. 22.

On Schedule I, Debtor lists that he is employed as a “real property owner and manager,” and

has been so employed for five years. *Id.* Debtor states that he has \$1,500 a month in net income from operation of his business and \$1,400 in Social Security income. No profit and loss statement are attached to Schedule I for the business(es) that generates the \$1,500 a month net income for Debtor.

On Schedule J, Debtor reports having only (\$1,510) in monthly expenses. *Id.* No provision is made for payment of rent/insurance or a mortgage/taxes/insurance, or home maintenance. For food and housekeeping supplies, Debtor lists only (\$300) a month. Allowing (\$50) a month for housekeeping supplies, that leave (\$250) for food, which is (\$2.78) a meal in a thirty day month.

Debtor also states that he pays (\$0) for clothing, laundry, or dry cleaning. While listing two cars on Schedule A/B, Debtor has (\$0) for vehicle insurance on Schedule J.

Though Debtor is self-employed, no provision is made for payment of self-employment taxes, income taxes, or business insurance on Schedule J.

On the Statement of Financial Affairs, Debtor states that he had \$1,500 in business income in 2020 (bankruptcy filed in January 2020), \$0.00 in 2019, and \$4,500 in 2018. *Id.* at 39. For non-business income, Debtor states having received \$1,400 in 2020 and \$14,000 (starting March 2019) in 2019 of Social Security income. *Id.*

Debtor's Atty: Douglas B. Jacobs

Notes:

5/14/20 Motion for Compromise continued as a status conference

The Status Conference is xxxxxxxxxxxx

This Motion relates to the attempted sale of property of the bankruptcy estate by the Trustee, which was authorized by the prior judge in this case, but that order was reversed by the Bankruptcy Appellate Panel. When remanded, the Trustee dropped the sale, returned the monies paid by the buyer, and everyone was put back in their pre-sale positions. The Trustee reports having approximately \$13,000.00 in other monies in the bankruptcy estate.

Essex Bank asserts a lien on all of the assets that the Trustee was attempting to sell. The order selling the property by the prior judge was not free and clear of Essex Bank lien as provided in 11 U.S.C. § 362(f), but a sale pursuant to 11 U.S.C. § 363(b), which does not strip off any liens. The prior judge commented that he did not believe that the lien asserted by Essex Bank was sufficient grounds to deny the motion to sell. See this judge's discussion of the prior ruling in the Civil Minutes from the April 23, 2020 Status Conference (Dckt. 134).

As previously addressed by the parties to this court, the possible source for payment of the requested attorney's fees would have been from the proceeds of the sale in which Essex Bank asserted a lien, as well as the assets that had been sold As-Is pursuant to 11 U.S.C. § 362(b), plus the \$13,000 of other monies held by the Trustee. However, that sale order having been reversed and the Trustee not pursuing the sale in light of the Essex Bank opposition, those proceeds do not exist. As with the proceeds of the sale, Essex Bank asserts its lien on the \$13,000 held by the Trustee.

Essex Bank has filed an updated Status Conference Statement (Dckt. 137). The Bank first states that the Bankruptcy Appellate Panel has ruled that it has a perfected lien. Though that issue was not on appeal, the Panel discussed the issue and notes "Thus, the lien appears to be prima facie valid." Quote of BAP Decision cited in Status Report, p. 2:16-17; Dckt. 137. While not appearing to have been determined by a final judgment or order, the Bankruptcy Appellate Panel's analysis may be persuasive for the Parties.

Essex Bank states that while it has made settlement proposals to the Trustee, Trustee's Counsel, the purchaser in the now unwound sale, and counsel for said purchaser, Essex Bank reports that they refuse to settle.

Essex Bank then states that it has a lien on all estate assets and it is entitled to recovery of such assets. It appears that the only thing standing in the way of Essex Bank enforcing its lien rights is the automatic stay in this case, which has not been terminated by order of the court or operation of law (this case not yet being closed or the property not yet being abandoned by the Trustee).

Essex Bank then states that the burden is on the Trustee and the purchaser of the unwound sale to provide evidence to the court. If there is a bona fide dispute with Essex Bank over its lien, then such would need to be determined through an Adversary Proceeding (Fed. R. Bankr. P. 7001) or, with the consent of all parties, a Contested Matter, especially if there were only legal issues to be determined (avoiding the cost, expense, and delay of an adversary proceeding just to adjudicate the legal issues on a summary judgment motion).

The Status Report then further asserts that the Trustee, Trustee's Counsel, and the purchaser of the unwound sale will be liable for more legal fees and expenses if Essex Bank has to enforce its rights through legal proceedings.

In concluding, Essex Bank states that the matter can simply be resolved if the Trustee "turns over" (presumably stipulates to relief from the stay and distributes the monies subject to the asserted Essex Bank lien) the \$13,000 and the purchaser of the unwound sale agrees to re-do the unwound sale (presumably the new sale would be free and clear of the Essex Bank lien) for the \$20,000 purchase price and that money is paid to Essex Bank as proceeds from the sale of its collateral.

Discussion with the Parties at the July 1, 2020 Hearing

It is interesting that the court is presented with a finite number of issues and finite assets in which Essex Bank claims its lien. If the Trustee has a bona fide dispute as to the asserted lien, it can be litigated. If not, then there should be little dispute as to relief from the stay with respect to the \$13,000 and to allow Essex Bank to pursue its collateral that is not in the possession of the Trustee.

At the hearing, **XXXXXXXXXX**

HUSTED V. MEPCO LABEL SYSTEMS
ET AL

Plaintiff's Atty: J. Russell Cunningham; Kristen Ditlevsen

Defendant's Atty:

Charles L. Hastings [Laura Strombom]

Scott G. Beattie [Carol L. Gassner; Alfred M. Gassner; Mepco Label Systems]

Adv. Filed: 1/7/19

Answer: 2/5/19 [Alfred M. Gassner; Carol L. Gassner; Mepco Label Systems]

2/5/19 [Laura Strombom]

1st Amd Compl Filed: 6/3/20

Answer: 6/17/20 [Laura Strombom]

6/19/20 [Alfred M. Gassner; Carol L. Gassner; Mepco Label Systems]

Counterclaim: 6/19/20 [Alfred M. Gassner; Carol L. Gassner; Mepco Label Systems]

Answer: none

Nature of Action:

Recovery of money/property - turnover of property

Notes:

Continued from 4/22/20 to afford the Parties time to get the necessary counterclaim on file and their diligent prosecution of this Adversary Proceeding.

The Status Conference is ~~XXXXXXXXXX~~

JULY 1, 2020 STATUS CONFERENCE

The Parties to this Adversary Proceeding have presented the court with a factual and legal issue rich set of matters to address. This Adversary Proceeding has afforded the Parties the opportunity to address all of these issues, claims, and rights involving what is asserted to be property of the bankruptcy estate to this court.

Plaintiff-Trustee has her First Amended Complaint (Dckt. 98) seeking the turnover share of stock in MEPCO Label Systems ("MEPCO") from Laura Strombom, trustee of the Gassner Trust ("Strombom") asserted to property of the bankruptcy estate, which is a core proceeding, in the First Cause of Action. The Second Cause of Action is for the dissolution of MEPCO based on the asserted ownership of the stock in that corporation, which is a related to, non-core, proceeding. The Third Cause of Action is an objection to the claim of Carol and Alfred Gassner; and the Fourth Cause of Action is an Objection to the Claim of MEPCO, both of which are core matters. It appears that the Plaintiff-Trustee consents to the bankruptcy judge issuing all orders and final judgment on the non-core matter Second Cause of Action.

Defendant Strombom has filed her Answer to the Amended Complaint. Answer, Dckt. 102, admitting and denying specific allegations in the First Amended Complaint. Defendant Strombom does not clearly consent to or not consent to the bankruptcy judge issuing final orders and judgment for the non-core matter claim, to the extent that she is a party in interest for that Cause of Action.

Defendants MEPCO, Carol Gassner, and Alfred Gassner have filed their Answer, Dckt. 103, which admits and denies specific allegations in the Complaint. In the Answer it is asserted that determining whether the MEPCO stock is property of the bankruptcy estate is a related proceeding and that these Defendants do not consent to the bankruptcy judge issuing final orders and judgment in determining what is property of the bankruptcy estate pursuant to 11 U.S.C. § 541 pursuant to the exclusive federal jurisdiction granted by Congress in 28 U.S.C. § 1334(e) for property of the bankruptcy estate.

For the Second Cause of Action, the involuntary dissolution of MEPCO, it is asserted that such is beyond the “related to” grant of federal court jurisdiction.

In Paragraph 5 of the Answer, these Defendants state:

The answering defendants do not consent to entry of final orders or judgment by the Bankruptcy Court. Donors are the Founders of MEPCO who formed the corporation on September 23, 1975 (under the name of Mark-Ease Products, later known as MEPCO LABEL SYSTEMS).

Answer, p. 3; Dckt. 103.

This statement appears to read as these Defendants stating that they do not consent to the issuance of final orders and judgment by the bankruptcy judge on both core and non-core matters. Consent is required only for non-core matters for the bankruptcy judge to issue final orders and judgment. The bankruptcy judge issues the final orders and judgment on all core matter proceedings, 28 U.S.C. § 157(b), with no consent of a party required. It is only for the non-core proceedings in which consent is required. 11 U.S.C. § 157(c). If non-core, the trial is handled in a similar recommendation to the district court as when a magistrate judge hears a matter but not all of the parties consent.

MEPCO, Carol Gassner, and Alfred Gassner have filed a Counterclaim asserting rights and interests in the MEPCO stock and that it is not property of the bankruptcy estate. The claims and rights they assert includes the right to reform the trust documents by which the Plaintiff-Trustee asserts that the MEPCO stock is property of the bankruptcy estate.

At the hearing the court addressed with all the Parties the issue of core matter jurisdiction, related to jurisdiction, the determination of core matter proceedings issuance of the final judgment thereon by the bankruptcy judge, as well as the procedure for non-core, related to matters heard by the bankruptcy judge and the recommendations to the district court judge.

The following issues were identified and the procedure for addressing them was set by the court at the Status Conference:

- A.
- B.
- C.
- D.
- E.
- F.
- G.
- H.

Plaintiff-Trustee Status Conference Statement

Plaintiff-Trustee Kimberly Husted filed her Status Conference Statement on June 3, 2020. Dckt. 98. The Statement repeats much of what is stated in the Complaint.

Defendants MEPCO, Carol Gassner, and Alfred Gassner Status Conference Statement

These three Defendants filed their Status Conference Statement on June 26, 2020. Dckt. 123. In their Statement, these Defendants address the providing of initial disclosures and that discovery is “underway.”

With respect to the related proceeding brought by the successor in interest to the Debtor, Thomas Gassner, asserting violations of the automatic stay for both the Debtor and the bankruptcy estate (having been assigned those rights by the bankruptcy trustee), Defendants focus on the conduct of Debtor Thomas Gassner and note the age of the individual defendants mitigates in proceeding with both the related proceeding and this Adversary Proceeding at the same time.

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 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 -----, **2020**.
- c. Expert Witnesses shall be disclosed on or before -----, **2020**, and Expert Witness Reports, if any, shall be exchanged on or before -----, **2020**.
- d. Discovery closes, including the hearing of all discovery motions, on -----, **2020**.
- e. Dispositive Motions shall be heard before -----, **2020**.
- f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at ----- **p.m. on --** -----, **2020**.

GASSNER V. GASSNER ET AL

Plaintiff's Atty: Holly A. Estioko

Defendant's Atty:

Scott G. Beattie [Carol L. Gassner; Alfred M. Gassner]

Charles L. Hastings [Laura Strombom]

Adv. Filed: 3/12/19

Answer: 4/11/19 [Laura Strombom]

4/11/19 [Alfred M. Gassner; Carol L. Gassner]

Amd. Cmplt. Filed: 7/12/19

Answer: 8/5/19 [Alfred M. Gassner; Carol L. Gassner]

8/13/19 [Laura Strombom]

Amd. Answer: 8/13/19 [Alfred M. Gassner; Carol L. Gassner]

8/26/19 [Alfred M. Gassner; Carol L. Gassner]

Nature of Action:

Sanctions for willful violation of automatic stay (against Settlor and Strombom)

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

Declaratory judgment

Injunctive relief - other

Notes:

Continued from 5/27/20

The Status Conference is XXXXXXXXXX

JULY 1, 2020 STATUS CONFERENCE

The First Amended Complaint (Supplemented) was filed on December 19, 2019. Dckt. 92. This was pursuant to an order of the court, with the Amended Answer (Supplemented), if any, filed and served on or before January 30, 2020. Order, Dckt. 91. The First Amended Complaint (Supplemented) asserts claims for violation of the automatic stay as they relate to the shares of MEPCO stock which are asserted to be owned by the late Thomas Gassner, and now Plaintiff Georgene Gassner, as his successor, and the Gassner bankruptcy estate. Claims are asserted against Carol Gassner, Alfred Gassner, and Laura Strombom. The third cause of action asserts a claim for breach of fiduciary duty against Defendant Strombom in connection with the Thomas Gassner Trust. In the Fourth Cause of Action, Plaintiff Georgene seeks a declaratory judgment that the acts taken in state court in violation of the automatic stay are void. Injunctive relief to ameliorate the alleged violations of the stay are requested in the Fifth Cause of Action. The Sixth Cause of Action asserts a claim for violation of the discharge injunction by Carol and Alfred Gassner.

Answer of MEPCO, Carol Gassner, and Alfred Gassner to First Amended Complaint, Dckt. 29.

The Answer begins with a statement about the bankruptcy court having jurisdiction over the “bankruptcy case” but no other matters, such as those which are subject to the jurisdiction of the Probate Court. It appears that the grant of federal court jurisdiction as provided in 28 U.S.C. § 1334 and § 157 are not fully appreciated, as well as the federal rights created in 11 U.S.C. § 362, § 524, and § 541.

The Answer admits and denies specific allegations in the First Amended Complaint.

Answer of Defendant Laura Strombom, Dckt. 27

Defendant Strombom does not address the required issues of federal jurisdiction and whether the matters are core or non-core proceedings.

The Answer admits and denies specific allegations in the complaint, many based on Defendant Strombom’s lack of any information or belief concerning the allegations made in the First Amended Complaint.

Status Conference Statements

Plaintiff Georgene filed her updated Status Conference Report on June 24, 2020. Dckt. 121. She reports that the court continuing to stay this Adversary Proceeding while the Trustee’s Adversary Proceeding to adjudicate the ownership of the MEPCO stock is appropriate.

Plaintiff Georgene reports that a discovery conference was conducted.

Defendants filed their updated Status Conference Statement, Dckt. 123, making it a joint statement that was also used in the Trustee’s Adversary Proceeding. Defendants advocate for proceeding with this Adversary Proceeding due to the age of the individual defendants.

At the hearing the court addressed with all the Parties the issue of core matter jurisdiction, related to jurisdiction, the determination of core matter proceedings issuance of the final judgment thereon by the bankruptcy judge, as well as the procedure for non-core, related to matters heard by the bankruptcy judge and the recommendations to the district court judge.

The following issues were identified to and the procedure for addressing them was set by the court at the Status Conference:

- A.
- B.
- C.
- D.

- E.
- F.
- G.
- H.

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 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 -----, **2020.**
- c. Expert Witnesses shall be disclosed on or before -----, **2020**, and Expert Witness Reports, if any, shall be exchanged on or before -----, **2020.**
- d. Discovery closes, including the hearing of all discovery motions, on -----, **2020.**
- e. Dispositive Motions shall be heard before -----, **2020.**
- f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at ----- **p.m.** on -----, **2020.**

FINAL RULINGS

7. [17-26202-E-7](#) WILLIAM/FRAYBA TIPTON CONTINUED PRE-TRIAL
[17-2235](#) CONFERENCE
NATIONWIDE INSURANCE COMPANY RE: AMENDED COMPLAINT FOR
OF AMERICA V. TIPTON ET AL DETERMINATION OF
DISCHARGEABILITY AND
OBJECTING TO DEBTORS'
DISCHARGE
1-5-18 [8]

ADVERSARY PROCEEDING
DISMISSED: 6/11/20

Final Ruling: No appearance at the July 1, 2020 Status Conference is required.

Plaintiff's Atty: Benjamin M. Carson, Tuyet Tran, Christine M. Emanuelson
Defendant's Atty: David Ashley Smyth

Adv. Filed: 12/11/17

Notes:

Order Granting Stipulation and Joint Motion to Dismiss Adversary Proceeding filed 6/11/20 [Dckt 110]

<p>The Adversary Proceeding having been dismissed by prior order of the court, the Status Conference is concluded and removed from the calendar.</p>

8. [19-20284-E-7](#) DUANE/CAROL ZANON
[19-2047](#)
ZANON ET AL V. EDUCATIONAL
CREDIT MANAGEMENT CORPORATION

PRE-TRIAL CONFERENCE RE:
COMPLAINT TO DETERMINE DEBT
DISCHARGEABLE
4-1-19 [\[1\]](#)

ADVERSARY PROCEEDING CLOSED:
6/5/20

Plaintiff's Atty: David N. Chandler
Defendant's Atty: Barry H. Spitzer

Adv. Filed: 4/1/19

Notes:
Judgment entered 5/17/20 [Dckt 41]

Final Judgment having been entered and the Adversary Proceeding closed, **the Pre-Trial Conference is concluded and removed from the calendar.**

PEDRAZA V. WELLS FARGO BANK,
N.A. ET AL

Final Ruling: No appearance at the July 1, 2020 Status Conference is required.

Plaintiff's Atty: Peter G. Macaluso

Defendant's Atty:

Adam N. Barasch [Wells Fargo Bank, N.A., dba Wells Fargo Auto]

John D. Rochelle [Auto Star Motors, Inc.]

Adv. Filed: 3/24/20

Answer: none [stipulated to deadline of 5/26/20]

Nature of Action:

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

Notes:

Continued from 5/27/20

The Status Conference is continued to 2:00 p.m. on August 5, 2020, to afford the Parties the opportunity to consummate their settlement and get the Adversary Proceeding dismissed.

JULY 1, 2020 STATUS CONFERENCE

Plaintiff-Debtor Marco Pedraza filed a Status Report on June 27, 2020. Dckt. 14. He reports that the Parties have settled this Adversary Proceeding, and a continuance of the Status Conference is requested. Dckt. 14. No answer has been filed by Defendant Wells Fargo Bank, N.A., which would be consistent with the Parties having resolved this Adversary Proceeding.

The Status Conference is continued.

10. [19-26112-E-13](#) [20-2030](#) MARCO PEDRAZA

CONTINUED STATUS CONFERENCE
RE: COMPLAINT
3-24-20 [1]

PEDRAZA V. WELLS FARGO BANK,
N.A. ET AL

Final Ruling: No appearance at the July 1, 2020 Status Conference is required.

Plaintiff's Atty: Peter G. Macaluso

Defendant's Atty:

Adam N. Barasch [Wells Fargo Bank, N.A.]

John D. Rochelle [Auto Star Motors, Inc.]

Adv. Filed: 3/24/20

Answer: none

Nature of Action:

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

Notes:

Continued from 5/27/20, the Parties having stipulated to an extension for the filing of an answer and a Reissued Summons setting the Status Conference for 7/1/20 [Dckt 10]

This duplicative Status Conference calendaring event caused by the reissuance of a summons in this Adversary Proceeding is removed from the Calendar.

11. [17-26125-E-7](#) [19-2117](#) FIRST CAPITAL RETAIL,
LLC

CONTINUED STATUS CONFERENCE
RE: COMPLAINT
9-11-19 [1]

HUSTED V. ACE FUNDING SOURCE
LLC

Final Ruling: No appearance at the July 1, 2020 Status Conference is required.

Plaintiff's Atty: Aaron A. Avery
Defendant's Atty: Stephen C. Breuer

Adv. Filed: 9/11/19
Answer: none

Nature of Action:
Recovery of money/property - preference
Recovery of money/property - fraudulent transfer
Recovery of money/property - other

Notes:
Continued from 4/22/20

The Status Conference is continued to 2:00 p.m. on August 5, 2020.

JULY 1, 2020 STATUS CONFERENCE

The court entered its order on May 26, 2020, approving the settlement between the Plaintiff-Trustee and Defendant Ace Funding Source, LLC. 17-26125; Order, Dckt. 601. The Stipulation provided for a modest settlement payment to be made to the Plaintiff-Trustee and then the Plaintiff-Trustee shall dismiss this Adversary Proceedings.

On June 30, 2020, Plaintiff-Trustee filed a Status Report advising the court that the settlement payment has been made and the Plaintiff-Trustee is verifying one aspect of the other performance, and anticipates dismissing the Adversary Proceeding "in the coming days." Dckt. 20.

APRIL 22, 2020 STATUS CONFERENCE

On April 14, 2020, Plaintiff-Trustee filed a Second Status Report, advising the court that the Parties have resolved their disputes and, a motion to approve a settlement will be filed in the First Capital Retail, LLC bankruptcy case. Dckt. 17.

It being reported that the Parties have resolved this matter, the Status Conference is continued a period sufficient to allow for the documentation of the settlement and filing of the motion to approve the compromise by the Plaintiff-Trustee.

12. [20-20972-E-11](#) **ROBERT/SHERRY MCLEAN** **CONTINUED STATUS CONFERENCE
RE: VOLUNTARY PETITION
2-23-20 [1]**

Final Ruling: No appearance at the July 1, 2020 Status Conference is required.

SUBCHAPTER V case

Debtor's Atty: Stephen M. Reynolds

Notes:

Continued from 4/22/20. Debtor/Debtor in Possession is actively working on a sale of the residential property, which may be consummated before confirmation.

Operating Reports filed: 5/14/20 [Apr]

[RLC-4] Application to Approve Employment of Real Estate Broker filed 5/6/20 [Dckt 44]; Order granting filed 5/8/20 [Dckt 51]

[RLC-5] Motion for Sale of Real Property of The Estate Free & Clear of Liens and for Payment of Sales Commissions and Expenses filed 5/13/20 [Dckt 55]; Order granting filed 6/14/20 [Dckt 71]

[RLC-3] Order Confirming Chapter 11 Subchapter V Plan filed 5/22/20 [Dckt 63]

[RLC-7] *Ex Parte* Application to Approve Stipulation Resolving Secured Claim of Thomas Swain filed 6/16/20 [Dckt 73]; Order approving filed 6/22/20 [Dckt 76]

The Status Conference is continued to 10:30 a.m. on July 9, 2020, to be conducted in conjunction with the Motion for Final Allowance of Fees for Counsel for the Debtor in Possession and the Revested Debtor.

The Debtor in Possession and counsel have diligently prosecuted this Subchapter V Case, not only having confirmed the plan, but substantially performing the plan through the orderly sale of real properties. The court continues the Status Conference to be heard in conjunction with the pending motion for fees.

CAMPOS ET AL V. ALLY BANK

Final Ruling: No appearance at the July 1, 2020 Status Conference is required.

Plaintiff's Atty: Douglas B. Jacobs
Defendant's Atty: unknown

Adv. Filed: 1/29/20
Answer: none

Nature of Action:
Validity, priority or extent of lien or other interest in property
Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

Notes:
Continued from 4/22/20 to afford the Parties the opportunity to finalize the settlement and dismiss this Adversary Proceeding.

The Status Conference is continued to 2:00 p.m. on August 5, 2020.

JULY 1, 2020 STATUS CONFERENCE

On June 26, 2020, the Plaintiffs filed their Status Conference Statement. Dckt. 9. Plaintiffs report that the Parties have successfully addressed the issues in this Adversary Proceeding, and with the assistance of their respective counsel have documented their settlement, a copy of which is filed as Exhibit A with the Status Conference Statement.

The Parties and their counsel having diligently prosecuted this Adversary Proceeding and resolved all issues therein, the court continues the Status Conference to afford them the time to have this Adversary Proceeding dismissed.