

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Chief Bankruptcy Judge

Sacramento, California

August 10, 2026 at 2:30 p.m.

1. [15-28108-E-11](#) **WILLARD BLANKENSHIP** **CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
10-17-15 [\[1\]](#)**

Final Ruling: No appearance at the August 10, 2016 Status Conference is required.

Debtor's Atty: Stephen M. Reynolds

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| The Status Conference is continued to 3:00 p.m. on September 21, 2016, to be conducted in conjunction with the confirmation hearing. |
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Notes:

Continued from 4/20/16

Operating Reports filed: 5/17/16; 6/15/16; 7/14/16

[KES-1] Order denying Motion to Dismiss Case filed by Creditors Mike Kletchko and Pat Ruedin 6/1/16 [Dckt 109]

[RLC-6] First Amended Plan of Reorganization Dated June 1, 2016 filed 6/6/16 [Dckt 111]; Disclosure Statement filed 6/6/16 [Dckt 113]

[RLC-6] First Amended Plan of Reorganization Dated June 17, 2016 filed 6/17/16 [Dckt 117]

[RLC-6] First Amended Plan of Reorganization Dated July 15, 2016 filed 7/20/16 [Dckt 121]; Disclosure Statement filed 7/20/16 [Dckt 122]

[RLC-6] First Amended Plan of Reorganization Dated July 21, 2016 filed 7/22/16 [Dckt 123]; Disclosure Statement filed 7/22/16 [Dckt 125]; Order Approving Disclosure Statement filed 7/26/16 [Dckt 128], to be heard 9/21/16 at 3:00 p.m.

August 10, 2016 at 2:30 p.m.

2. [15-28108-E-11](#) WILLARD BLANKENSHIP
[16-2010](#)
KLETCHKO ET AL V. BLANKENSHIP
ET AL

CONTINUED STATUS CONFERENCE
RE: AMENDED COMPLAINT
1-29-16 [[11](#)]

Final Ruling: No appearance at the August 10, 2016 Status Conference is required.

Plaintiff's Atty: Marc Y. Lazo

Defendant's Atty:

Stephen M. Reynolds [Willard Blankenship]

Unknown [Charles Hoffmeister]

Yury Galperin [Gary Labin, Stanley Lieber, Lieber Williams and Labin LLP, Howard Williams]

Adv. Filed: 1/19/16

Answer: none

Amd Cmplt Filed: 1/27/16

Answer: none

2nd Amd Cmplt Filed: 1/29/16

Answer: 2/29/16 [Willard Blankenship]

Nature of Action:

Objection/revocation of discharge

Dischargeability - false pretenses, false representation, actual fraud

Dischargeability - willful and malicious injury

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| The Status Conference is continued to 3:00 p.m. on September 21, 2016, to be conducted in conjunction with the confirmation hearing. |
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Notes:

Continued from 4/20/16

August 10, 2016 at 2:30 p.m.

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3. [16-23712-E-13](#) **MIKE HAMMER**
[16-2117](#)
**HAMMER V. HAWAII ELECTRIC
LIGHT COMPANY**

STATUS CONFERENCE
RE: COMPLAINT
6-8-16 [1]

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

Adv. Filed: 6/8/16
Answer: none

Nature of Action:
Injunctive relief - imposition of stay
Subordination of claim or interest
Declaratory judgment

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| The Status Conference is XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. |
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Notes:

SUMMARY OF COMPLAINT

Mike Hammer, aka Michael Hammer, ("Plaintiff") has used a state court complaint form to file a Complaint which states that it is for claims based on contract. Dckt. 1 The Complaint names Hawaii Electric Light Company and K. Noa Dettweiler, Associate General Counsel as defendants ("Defendants").

It is stated in the Complaint that this court is the proper court based on the following: "Principal location of debtor's business assets, per USBC Stipulation." A review of the Plaintiff's bankruptcy schedules show that Plaintiff has no assets.

The Claim is for "Breach of Contract" and "Common Counts," without the Complaint stating the "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a) and Fed. R. Bankr. P. 7008.

The damages demanded in the prayer is stated as "\$9,000.00 to settle debt claim."

SUMMARY OF ANSWER

No answer has been filed. There is no Certificate of Service filed for the service of the Summons and Complaint.

4. [07-27123](#)-E-13 **DOREEN GASTELUM**
PMG-6

CONTINUED STATUS CONFERENCE
RE: MOTION TO MODIFY ORDER FOR
EVIDENTIARY HEARING
6-12-15 [186]

Debtor's Atty: Peter G. Macaluso

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| The Status Conference is XXXXXXXXXXXXXXXXXXXXXXXXXXXX. |
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Notes:

Continued from 4/20/16. On or before 8/1/16 Parties are to file either a joint updated status report or unilateral updated status reports.

City of Chicago's Status Conference Statement filed 7/29/16 [Dckt 213]

Status Conference Statement [Debtor] filed 8/3/16 [Dckt 215]

AUGUST 10, 2016 STATUS CONFERENCE

Defendant City of Chicago filed its updated Status Report on July 29, 2016. Dckt. 213. Defendant requests that the court continue the Status Conference while it pursues its judicial foreclosure in the Illinois court. On July 26, 2016, the Illinois court granted leave for the Defendant to amend its complaint, which now necessitates the giving of ninety days notice and publication of a sale.

Plaintiff-Debtor echos this request in her updated Status Report. Dckt. 215.

What neither party explains is why this Adversary Proceeding cannot be concluded with a settlement and enforceable order of the court, rather than continuing to continue this continued Status Conference and Contested Matter that was commenced on June 12, 2015.

5. [10-33944-E-13](#) **ALAN/JILL MORI**
[16-2027](#)
MORI ET AL V. WELLS FARGO
BANK, N.A.

CONTINUED STATUS CONFERENCE
RE: COMPLAINT
2-15-16 [1]

Plaintiff's Atty: Peter G. Macaluso
Defendant's Atty: unknown

Adv. Filed: 2/15/16
Answer: none

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

Notes:
Continued from 5/18/16. Wells Fargo Bank, N.A.'s time to file a responsive pleading to the Complaint extended to 7/29/16. Response not filed as of 8/2/16.

Plaintiffs' 3rd Status Statement filed 8/1/16 [Dckt 17]

AUGUST 10, 2016 STATUS CONFERENCE

In an updated Status Report Plaintiff-Debtor reports that it's application for a loan modification has been denied. Dckt. 17. Counsel for Plaintiff-Debtor has been advised that Defendant Wells Fargo Bank, N.A. "will participate in this case by August 5, 2016."

The court does not understand the intention behind this language. Wells Fargo Bank, N.A. has been "participating" in this Adversary Proceeding since it was served with the Summons and Complaint.

A review of the Docket for this Adversary Proceeding reveals that as of August 8, 2016, there has been no new "participation" by Wells Fargo Bank, N.A.

6. [11-27845-E-11](#) IVAN/MARETTA LEE
[15-2194](#)
LEE ET AL V. CITY OF
SACRAMENTO COMMUNITY

CONTINUED MOTION FOR
JUDGMENT ON THE PLEADINGS
6-17-16 [[113](#)]

Tentative Ruling: The Motion for Judgment on the Pleadings was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Consequently, the Debtor, Creditors, the Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(iii).

Local Rule 9014-1(f)(2) Motion - Final Hearing.

Sufficient Notice Provided. The matter has been served, noticed, opposed, and set for final hearing by order of the court.

The Motion for Judgment on the Pleadings is granted and the court determines that the confirmed Chapter 11 Plan provides for the revesting of property of the estate in the Debtors, who are the Plan Administrators, and does not place title or require that titled be placed in the creditors, including the Defendants, or that creditors, including Defendants, are required to conduct non-judicial foreclosure sales.

OVERVIEW OF ADVERSARY PROCEEDING

This Adversary Proceeding was commenced on September 30, 2015 by Ivan and Maretta Lee, the revested Plan Administrator Debtors under their confirmed Chapter 11 Plan, ("Plaintiff-Plan Administrators). The Original Complaint sought injunctive relief and a declaratory judgment that the confirmed Chapter 11 Plan required the defendant creditors to take real property collateral in satisfaction of their claims, that the creditors could not foreclose on the collateral, and the creditors were to transfer title to the collateral (which title is vested in the Plaintiff-Plan Administrators) from the Plaintiff-Plan Administrators to the creditors. Dckt. 1. The allegations centered around language in the confirmed Chapter

11 Plan which provides for the “surrender and abandonment,” “surrender,” and termination of the automatic stay with respect to the collateral. Plaintiff-Plan Administrators asserted that the defendants were in violation of the Chapter 11 Plan in their attempts to conduct non-judicial foreclosure sales on their collateral.

Defendant Bank of America, N.A. filed a Motion to Dismiss the Complaint, which was granted without prejudice. Order, Dckt. 28. On January 8, 2016, Plaintiff-Plan Administrators filed a First Amended Complaint (“FAC”), again alleging that defendants’ actions to conduct non-judicial foreclosure sales were in violation of the Chapter 11 Plan and that defendants were required to transfer title from the Plaintiff-Plan Administrators to the creditors without conducting non-judicial foreclosure sales. Plaintiff-Plan Administrators further asserted that they were not responsible to the City of Sacramento for the properties that secured the creditors’ claims, as the properties had been “surrendered and abandoned” and “surrendered” under the terms of the confirmed Chapter 11 Plan. FAC, Dckt. 34. FN.1.

FN.1. This contention of the Plaintiff-Plan Administrators is summarized in the January 15, 2016, Status Report they filed as:

“8. Based on the facts stated in the First Amended Complaint, the pending adversary proceeding should proceed as against Bank of America, N.A., because (1) since Bank of America, N.A., was the creditor of the two properties that were surrendered and abandoned at the time Bank of America, N.A., was the creditor, Bank of America, N.A., violated the bankruptcy court confirmation of the Chapter 11 Plan surrendering and abandoning the two properties by assigning the loans to IndyMac and Shellpoint after the properties were surrendered and abandoned and (2) since Bank of America, N.A., was the creditor of the two properties that were surrendered and abandoned at the time Bank of America, N.A., was the creditor, **Bank of America, N.A., violated the bankruptcy court confirmation of the Chapter 11 Plan surrendering and abandoning the two property by not transferring the deeds of the properties from Plaintiffs to Bank of America, N.A.**

9. There is no apparent dispute as to any material facts in this case.

10. Based on the absence of any relevant disputed material facts, if the parties do not execute a stipulation resolving this adversary proceeding, Plaintiffs intend to file a motion for summary judgment in this case **for the issuance of a judgment confirming Defendants’ violation of the Court order approving the loan modification, injunctive relief**, and for the damages, attorneys fees and costs Plaintiffs have been forced to incur due to Defendants’ actions in violation of the applicable Bankruptcy laws.”

Status Report, Dckt. 40 (emphasis added).

On January 22, 2016, the City of Sacramento filed a Motion to Dismiss (Dckt. 45) and a Motion to Strike (Dckt. 50) the First Amended Complaint. Bank of America, N.A. filed a Motion to Dismiss (Dckt. 56) the First Amended Complaint. Pursuant to the stipulation of the parties, the above motions were dismissed without prejudice, and Plaintiff-Plan Administrators were to file a Second Amended Complaint.

The Second Amended Complaint was filed on March 14, 2016. Dckt. 92. In the Second Amended Complaint it is alleged that the court “did not direct” the Plan Administrators to execute deeds to transfer the property to be “surrendered and abandoned” and “surrendered” to the creditors. The Second Amended Complaint now alleges that Bank of America, N.A. failed to transfer the collateral by non-judicial foreclosure by a trustee (no longer contending that non-judicial foreclosure sales were barred by the confirmed Chapter 11 Plan). The Second Amended Complaint alleges that by not proceeding with non-judicial foreclosure sales the creditors are in violation of the Chapter 11 Plan. The Second Amended Complaint continues to allege that the transfers of the underlying claims between the original creditor and an assignee of the original creditor are a violation of the confirmed Chapter 11 Plan. The Second Amended Complaint seeks to “avoid” the transfer of the notes on which the claims are based from the original creditor to the assignee creditor.

The Second Amended Complaint resulted in an Answer, Counterclaim, and Cross Claim from the City of Sacramento. Dckt. 100. Bank of America, N.A. filed a Motion to Dismiss the Second Amended Complaint. Dckt. 98. That Motion was dismissed without prejudice (Dckt. 108) and the current Motion For Judgment on the Pleadings as to the meaning of the words “surrender and abandon” and “surrender” as used in the confirmed Chapter 11 Plan was filed.

The filing of the present Motion was addressed by the Parties at the May 18, 2016 Status Conference.

“The determination of the legal effect of these provisions effect the rights and obligations of all parties to this Adversary Proceeding and a single determination of that legal question is necessary in this Adversary Proceeding. Therefore, the Parties agreed that Bank of America, N.A. would file a motion for judgment on the pleadings for the issue of the legal effect of confirming the plan which provides for the “surrender” and “surrender and abandonment” of Bank of American, N.A.’s collateral for satisfaction of the Bank’s claim.

Federal Rule of Civil Procedure 12(c) provides that after all pleadings have closed, a party may move for judgment on the pleadings. Though Bank of America, N.A. has not yet filed an answer to the Second Amended Complaint (the motion to dismiss having been filed), the parties agreed on the record to allow Bank of America, N.A. to file a motion for judgment on the pleadings on the issue of the legal effect of the provisions for the ‘surrender’ and ‘surrender and abandon’ provisions of the plan. The court concurs and so orders.”

Civil Minutes, Dckt. 106.

REVIEW OF MOTION FOR JUDGMENT ON THE PLEADINGS Determination of Meaning of “Surrender and Abandon” and “Surrender”

Bank of America, N.A. (“Defendant”) filed the a combined Notice of Motion and Motion for Judgment on the Pleadings on June 17, 2016. Dckt. 113. The Motion states the following grounds with particularity pursuant to Federal Rule of Civil Procedure 7(b) and Federal Rule of Bankruptcy Procedure 7007, upon which the request for relief is based:

Defendant BANK OF AMERICA, N.A. (“BANA” or “Defendant”) will move the Court pursuant to Fed. R. Civ. P. 12(c) and the Court’s Order of May 20, 2016 for a judgment as to the meaning of the terms “surrender” and “surrender and abandon” as used in the debtors’ Chapter 11 Plan as follows . [sic]

- 1) The terms “surrender [sic] and “surrender and abandon” have the same meaning.
- 2) The terms “surrender [sic] and “surrender and abandon” mean that the debtors relinquish their rights to the subject properties and will make them available to the mortgage lenders and/or their servicers by not contesting foreclosure. These terms do not mean that the lenders/servicers are obligated to foreclose or to foreclose in any particular time frame or otherwise assume title to or possession of the properties. Further these terms do not constrain the lenders/servicers from transferring their interest in the mortgages secured by the properties or the rights to service those mortgages to third parties.

Dckt. 113. The Memorandum of Points and Authorities includes further “grounds,” which are otherwise required to be stated in the Motion with particularity. While not complying with the requirements of Federal Rule of Bankruptcy Procedure 9013, Local Bankruptcy Rule 9004-1, and the Revised Guidelines for Preparation of Documents (which requires that the motion and the points and authorities be separate pleadings), in light of the history of this Adversary Proceeding, the stipulation of the parties to present this issue to the court, the limited scope of the issue, and the ability of Plaintiff-Plan Administrators to present their Opposition, the court waives this failure to comply with the pleading rules.

RULING

On a motion for judgment on the pleadings under Federal Rule of Civil Procedure 12(c), the allegations of the non-moving party must be accepted as true, while the allegations of the moving party which have been denied are assumed to be false. *Hal Roach Studios, Inc. v. Richard Feiner and Co., Inc.*, 896 F.2d 1542, 1548 (9th Cir. 1989). Judgment on the pleadings is proper when the moving party clearly establishes on the face of the pleadings that no material issue of fact remains to be resolved and that it is entitled to judgment as a matter of law. *Id.* Dismissal is proper only if it appears beyond a doubt that the plaintiff can prove no set of facts in support of its claim which would entitle him to relief. *New.Net, Inc. V. Lavasoft*, 356 F.Supp.2d 1090, 1115 (C.D. Cal. 2004). While the court must construe the complaint and resolve all doubts in the light most favorable to the plaintiff, the court does not need to accept as true conclusory allegations or legal characterizations. *Id.* (citing *General Conference corp. of Seventh-Day Adventists v. Seventh-Day Adventist Congregational Church*, 887 F.2d 228, 230 (9th Cir. 1989); *McGlinchy v. Shell Chemical Co.*, 856 F.2d 802, 810 (9th Cir. 1988)).

As the Parties have previously addressed for the court in connection with other Motions and at Status Conferences, the fundamental issue is to determine the effect of the language used in the plan “surrender” and “surrender and abandoned” which has been confirmed by the court. Plaintiff’s interpretation has varied, from meaning that the title to the property was transferred by the Plan, that Bank of America, N.A. was to sign a deed transferring title, to now asserting that Bank of America, N.A. was ordered by confirmation of the plan to conduct non-judicial foreclosure sales. The Parties have agreed to the present Motion process to determine this issue in the Adversary Proceeding.

The present Motion and Opposition reaffirm this contention by Plaintiff, asserting that the plain language of the plan means that Bank of America, N.A. is ordered (compelled) by the Plan to foreclose. The Opposition goes further to assert that the plain language of the Plan prohibits Bank of America, N.A. from transferring the underlying notes and the person acquiring the notes conducting the foreclosure sale. In substance, Plaintiff asserts that confirmation of the Plan overrides the California Commercial Code and renders the notes non-negotiable, non-transferable.

In the Opposition, Plaintiff-Plan Administrators offers no legal authorities relevant to the court interpreting the terms of the Plan, which Plan becomes the contract between the parties modifying their original agreement. Rather, Plaintiff-Plan Administrators continue in arguing that such should be the interpretation of the Plan. Plaintiff-Plan Administrators do not direct the court to any language in the Plan, Disclosure Statement, or the confirmation record, other than the words “surrender and abandon” and “surrender” in the confirmed Chapter 11 Plan, in support of this argument.

Upon review of the initial pleadings and in light of this issue potentially determining the outcome of the Adversary Proceeding, the court continued the original July 7, 2016 hearing to August 10, 2016. The reasoning of the court in continuing the hearing includes the following from the court’s Civil Minutes from the July 7, 2016 hearing:

“Because granting the Motion would bring this Adversary Proceeding to an end, the court wants to insure that both Defendant and Plaintiff have fully addressed all issues for the court. While both Parties have addressed to the extent they deemed appropriate what the Bankruptcy Code allows and does not allow, neither has addressed the rules of construction used by the court in interpreting the terms of the Plan. While Defendant cites the court to cases which say that a plan may include provisions “vesting title” in the creditor and other cases saying that it may not forcibly put “title into a creditor,” it has not address how the rules of construction the court uses in interpreting the “surrender” and “surrender and abandon” language used by Plaintiff in the Chapter 11 Plan.

Neither does Plaintiff provide the court with any rules of construction, merely quoting the terms of the Plan.”

Civil Minutes, Dckt. 120.

Review of Arguments and Authorities Presented By the Parties

The court finds that a summary of the arguments and authorities presented by the Parties is instructive. For the Defendant, it first cites the court to other bankruptcy cases in which courts have determined that “surrender” or “abandon” is not a forced transfer of title to a creditor with a secured claim. Defendant has also cited the court to cases in which title was vested, reading those cases as ones in which the plan being confirmed expressly provided for confirmation of the plan to provide for transfer of title. Points and Authorities, p. 10:7-16. These include:

A. *In re Zair*, 535 B.R. 15 (Bankr. E.D. N.Y. 2015). This decision was reversed and remanded,

HSBC Bank USA, N.A. v. Zair, 2016 U.S. Dist. Lexis 49032 (E.D. N.Y. 2016), reversing confirmation of the plan in light of Creditor's opposition to attempted vesting by "surrender."

B. *In re Williams*, 542 B.R. 514, 521 (Bankr. Kan. 2015), holding that pursuant to 11 U.S.C. § 1322(b)(9) a Chapter 13 Plan may allow vesting of title in a creditor as part of a plan treatment, 11 U.S.C. § 1325(b)(5) does not permit it over the objection of the creditor. In addressing this issue, the court determined,

1. "Surrender and vesting are not equivalent: "Surrender means making the property available to be taken; vesting means transferring title."38 The parties agree that these distinct meanings are applicable. Section 1322(b)(9) includes vesting as a discretionary term of a plan, but it does not assure confirmation of a plan providing for vesting." *Id.* at 521.
2. Debtor modified the confirmed plan to provide for the "surrender" of debtor's residence. Debtor then sought to interpret the term "surrender" to mean that title was vested in the creditor. The court rejected this interpretation, stating,
 - a. "But to construe surrender to include vesting would impair the state law rights of the secured creditor without providing any corresponding protective limitation in the confirmation standards. The enactment of § 1322(b)(9), providing that a Chapter 13 plan may provide for property of the estate to vest in an entity other than the debtor, is an insufficient basis for the Court to conclude that Congress intended to alter the state law rights of secured creditors in the manner Debtor proposes." *Id.*, 522.

Defendant directs the court to Bankruptcy Code in 11 U.S.C. § 1322(b)(9) [emphasis added] states that the a Chapter 13 plan may:

"(9) provide for the **vesting of property of the estate**, on confirmation of the plan or at a later time, in the debtor or in any other entity;...."

noting that the Chapter 11 Plan does not provide for the "vesting" of the property in any person other than the Plaintiff-Plan Administrators. At this juncture, the court notes that the confirmed Chapter 11 Plan provides, with respect to vesting of property, the following:

" D. Vesting. On the Effective Date, **all property of the estates shall vest in the Reorganized Debtor** pursuant to Section 1141 (b) of the Bankruptcy Code, provided that the vesting of said property shall be without prejudice and shall not act as a bar to a post confirmation motion to convert this case to one under Chapter 7 of Title 11 by the United States Trustee or any other party in interest on any appropriate grounds, and upon the granting of such motion the Plan shall terminate and the Chapter 7 estate shall consist of an remaining property of the Chapter 11 estate not already administered. Such remaining property shall be administered by the Chapter 7 Trustee as prescribed in Chapter 7 of the Bankruptcy Code. The Reorganized Debtor reserves the right to oppose any such motion."

11-27845; Confirmed Chapter 11 Plan, pg. 16:5-13 (attached as exhibit to Order Confirming Plan), Dckt. 283.

Defendant Bank of America, N.A. filed a supplemental memorandum of points and authorities on August 2, 2016. Dckt. 125. The Defendant provides the following legal arguments and cites:

1. The decisional law on this issue is uniform and holds that because a Chapter 11 Plan is a contract between a debtor and its creditors, it should be interpreted as would any agreement. *In re Affordable Housing Corp.*, 175 B.R. 324, 329 (9th Cir. BAP 1994); *In re Bartleson*, 253 B.R. 75, 78 (9th Cir. BAP 2000); *Hillis Motors, Inc. v. Hawaii Automobile Dealers' Association*, 997 F. 2d 581, 588 (9th Cir. 1993).
2. The law of the state in which the plan was confirmed governs its interpretation. *Kamen v. Kemper Financial Serv. Inc.*, 500 U.S. 90, 97-99 (1991); *Hillis Motors, Inc. supra*, at 588.
3. Under California law, a contract must be interpreted to give effect to the mutual intention of the parties as it existed at the time of contracting. Cal. Civ. Code § 1636.
4. The intention of the parties is to be ascertained from the language of the contract where the language is clear and explicit and does not involve an absurdity. Cal. Civ. Code § 1638.
5. The whole of a contract is to be taken together so as to give effect to every part, if reasonably practical, each clause helping to interpret the other. Cal. Civ. Code § 1642.
6. A contract must be interpreted so as to make it lawful, definite, reasonable, and capable of being carried into effect. Cal. Civ. Code § 1643.
7. In interpreting a contract, its words are to be understood in their ordinary and popular sense, rather than according to their strict legal meaning, unless used by the parties in a technical sense or unless a special meaning is given to them by usage, in which case the latter must be followed. Cal. Civ. Code § 1644.

Defendant argues that there is no language anywhere in the Plan which would prohibit Defendant from transferring the underlying notes and security interests (upon which the secured claims are based) to others. In this regard, there is language in the Plan which provides that: “[T]he **rights duties and obligations of any Entity named or referred to in the Plan** shall be **binding upon**, and shall inure to the benefit of the **successors and assigns of such entity**.” (Emphasis added.).

The Defendant argues that the Plaintiffs interpretation would essentially read the term binding successors and assigns out of the agreement and for that reason violate the tenant that the contract be read as a whole so as to give effect to all of its provisions. The Defendant argues that the proper construction is that the Plan expressly permits Defendant to assign its interests. The Defendant asserts that since the Plan clearly permitted Defendant to assign its rights as a lien holder, there can have been no intent that it somehow was prohibited from transferring its interest in the liens encumbering the properties to others.

As to the Plaintiff's argument that the Plan required Defendant to accomplish a transfer of ownership through a non-judicial foreclosure, it is true that the language of the Plan lifting the automatic stay clearly permits Defendant or its successors to pursue foreclosure. The Plan does not, however, contain any term which expressly mandates that any affirmative steps be taken to that end. The terms "surrender" and "surrender and abandon" construed in their ordinary and popular sense mean only that the debtor has relinquished their rights but do not compel any action on the part of a creditor or anyone else and certainly do not denote a transfer of title. *In re White*, 282 B.R. 418, 423 (Bankr. N.D. Ohio 2002); *Arsenault v. JP Morgan Chase Bank, N.A. (In re Arsenault)*, 456 B.R. 627 (Bankr. S.D. Ga. 2011).

Plaintiff-Plan Administrator's Pleadings

Ivan and Maretta Lee, the Plan Administrator Plaintiff, ("Plaintiff") filed an Opposition to the Motion. Dckt. 115. The court summarizes the Opposition [emphasis added] as follows:

A. "Plaintiffs' Plan of Reorganization (the "Plan") was confirmed pursuant to an order of the above-entitled Court filed on May 4, 2012. Pursuant to the Confirmed Plan, with regards to the real property located at 272 Christine Drive, Sacramento, CA this property was to be surrendered on the effective date of the Plan. The confirmation order will constitute an order for relief from stay." Opposition, ¶ 2.

B. The Confirmed Chapter 11 Plan provides for the "surrender and abandon" of 2323/2331 Grove Ave., Sacramento, California property ("Grove Property") to The Bank of New York Mellon fka The Bank of New York, as Trustee for the Certificate holders of the CWMBS, Inc., CHL Mortgage Pass-Through Trust 2006-OA5, Mortgage Pass Through Certificates, Series 2006-OA5, its assignees and/or successors in interest. Opposition, *Id.* ¶ 3.

C. "The confirmation order will constitute an order for relief from stay. The 14-day stay provided by Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived." *Id.*

D. "Pursuant to the confirmed Plan as of the effective date of the Plan 272 Christine Drive, Sacramento, CA was surrendered and 2323-2331 Grove Avenue, Sacramento, CA was surrendered and abandoned." *Id.* ¶ 4.

E. "[D]efendant Bank of America, N.A., did not transfer the property, 272 Christine Drive, Sacramento, CA from Plaintiffs to Bank of America, N.A., by non-judicial foreclosure by a trustee. Defendant Bank of America, N.A., **improperly claims that it was not compelled to pursue foreclosure.**" *Id.* ¶ 5.

F. "After the issuance of the confirmed Plan and the abandonment and surrender of the property with the full satisfaction of the secured claim, **Defendant Bank of America, N.A., did not transfer the property, 2323-2331 Grove Avenue, Sacramento, CA from Plaintiffs to Bank of America, N.A., by non-judicial foreclosure by a trustee. Defendant Bank of America, N.A., improperly claims that it was not compelled to pursue foreclosure.** *Id.* ¶ 6.

G. "Defendant Bank of America, N.A., has not complied with the terms and provisions of the

confirmed Plan regarding the surrender and abandonment of 272 Christine Drive, Sacramento, CA and 2323-2331 Grove Avenue, Sacramento, CA. After the issuance of the confirmed Plan, Defendant Bank of America, N.A., assigned the loan for 272 Christine Drive, Sacramento, CA to Defendant IndyMac. After the issuance of the confirmed Plan, Defendant Bank of America, N.A., assigned the loan for 2323-2331 Grove Avenue, Sacramento, CA to be serviced by Defendant Shellpoint. *Id.* ¶ 7.

H. “Contrary to the allegations of Bank of America, N.A., in its motion, since it was the creditor of the two properties that were surrendered and abandoned at the time Bank of America, N.A., was the creditor, **Bank of America, N.A., violated the bankruptcy court confirmation of the Chapter 11 Plan surrendering and abandoning the two properties by assigning the loans to IndyMac and Shellpoint after the properties were surrendered and abandoned and not proceeding with the foreclosure, improperly claiming that it was not compelled to proceed with foreclosure.**”

Though provided the opportunity, Plaintiff-Plan Administrators did not avail themselves of the opportunity to provide the court with supplemental briefing on the issues of constructed identified by the court.

Plaintiff-Plan Administrators did file an updated Status Report in this Adversary Proceeding on August 1, 2016. Dckt. 123. It does not appear to be a supplemental brief relating to the present motion, as no legal points or authorities are cited in the Status Report. This Report does not provide an update on the status of the Adversary Proceeding, but merely restates the arguments that Plaintiff-Plan Administrators were required to do nothing and it is the creditors who have violated the Plan.

DISCUSSION

While long on argument, Plaintiff-Plan Administrators are short on any authority or providing the court with a basis for concluding that the “surrender and abandon” and “surrender” language in the Chapter 11 Plan precluded the creditors from conducting a non-judicial foreclosure sale, mandated that the creditors issue deeds or otherwise transfer title from the Plaintiff-Plan Administrators to the creditors, or, as now asserted in the Second Amended Complaint mandated that the creditors conduct non-judicial foreclosure sales. Additionally, Plaintiff-Plan Administrators fail to provide the court with any basis for concluding that the “surrender and abandon” and the “surrender” terms of the plan enjoin the original creditors from assigning the notes upon which the claims are based, and the related security.

The Parties are correct, the Plan becomes the new “contract” between the parties. Under the general rules of construction, the court attempts to interpret the contract to give effect to the mutual intention of the parties. Cal. Civ. 1626. This is modernly interpretation of this provision is for the court to look at the expressed intent of the parties, applying an objective standard. *Blumenfeld v. R. H. Macy & Co.*, 92 Cal. App. 3d 38, 46 (1979). As with the “plain meaning” standard for interpreting statutes under federal and state law, words of a contract are given their ordinary and popular meaning, unless used by the parties in a technical sense or a defined special meaning. Cal. Civ. § 1644.

In considering these contentions, the court begins with the plain language of the Chapter 11 Plan terms at issue.

“2d. Bank of America, NA for 272 Christine Dr., Sacramento, CA

Debtor will surrender the collateral at 272 Christine Dr., Sacramento, CA, to Bank of America, NA, on the Effective Date of the Plan. **The confirmation order will constitute an order for relief from stay.** Any secured claim is satisfied in full through surrender of the collateral. Due to the 11 U.S.C. Section 1111(b) election of Bank of America, NA, there will be no deficiency claim treated as a general unsecured claim.”

Chapter 11 Plan, p. 11:11-16 (emphasis added).

“2e. Bank of America, NA for 2323/2331 Grove Ave., Sacramento, CA

Debtor will surrender and abandon the collateral at 2323/2331 Grove Ave., Sacramento, CA, to The Bank of New York Mellon fka The Bank of New York, as Trustee for the Certificate holders of the CWMBS, Inc., CHL Mortgage Pass-Through Trust 2006-0A5, Mortgage Pass Through Certificates, Series 2006-0A5, **its assignees and/or successors in interest,** on the Effective Date of the Plan. **The confirmation order will constitute an order for relief from stay. The 14-day stay provided by Federal Rule of Bankruptcy Procedure 4001 (a)(3) is waived.** Any secured claim is satisfied in full through surrender of the collateral. Due to the 11 U.S.C. Section 1111(b) election of The Bank of New York Mellon fka The Bank of New York, as Trustee for the Certificate holders of the CWMBS, Inc., CHL Mortgage Pass-Through Trust 2006-0A5, Mortgage Pass Through Certificates, Series 2006-0A5, its assignees and/or successors in interest, there will be no deficiency claim treated as a general unsecured claim.”

Id., p. 11:17-28 (emphasis added).

The plan states that the Debtor “surrenders” the collateral. The Plan does not define this term. Common definitions of “surrender” includes:

“1a : to yield to the power, control, or possession of another upon compulsion or demand <surrendered the fort>

b : to give up completely or agree to forgo especially in favor of another

2a : to give (oneself) up into the power of another especially as a prisoner

b : to give (oneself) over to something (as an influence)”

<http://www.merriam-webster.com/dictionary/surrender>.

For “abandon,” a common definition is:

“1 a : to give up to the control or influence of another person or agent

b : to give up with the intent of never again claiming a right or interest in <abandon property>

2 : to withdraw from often in the face of danger or encroachment <abandon ship>

3 : to withdraw protection, support, or help from <he abandoned his family>

4 : to give (oneself) over unrestrainedly

5 a : to cease from maintaining, practicing, or using <abandoned their native language>

b : to cease intending or attempting to perform <abandoned the escape>”

<http://www.merriam-webster.com/dictionary/abandon>.

The Plan terms does not state that upon confirmation title to the property is transferred by operation of law to the creditor. It does not state that the creditors must foreclose on the collateral. It says that Debtor shall “surrender,” such as stop fighting or to allow creditor to exercise the creditor’s rights. The original versions of the Plan provided for Debtor to retain these properties and the secured claims to be repaid. 11-27845; Civil Minutes for Confirmation Hearing, Dckt. 285. The Second Amended Plan changed the treatment, with the Plaintiff-Plan Administrator deciding to cease performing on the obligations.

The Plan does not define the terms “surrender” or “abandon.” 11-27845; See Defined Terms, Chapter 11 Plan p. 3:5-28, 4-6:1-5; Dckt. 283. The Plan continues to state that any undefined term, which is defined in the Bankruptcy Code, shall have the meaning given that term under the Bankruptcy Code. *Id.*, p. 6:6-8. The term “abandon” is a term used in the Bankruptcy Code, with 11 U.S.C. § 554 providing for “abandonment” of property from the bankruptcy estate. As stated in Collier on Bankruptcy, 16th Edition, ¶ 554.02[3] (emphasis added):

“[3] Effect of Abandonment

“Upon abandonment under section 554, the trustee is divested of control of the property because it is no longer part of the estate. Thus, abandonment constitutes a divestiture of all of the estate's interests in the property. **Property abandoned under section 554 reverts to the debtor, and the debtor's rights to the property are treated as if no bankruptcy petition was filed.** 23 Although section 554 does not specify to whom property is abandoned, **property may be abandoned by the trustee to any party with a possessory interest in it.** 24 **Normally, the debtor is the party with a possessory interest.** However, in some cases, it may be some other party, such as a secured creditor who has possession of the property when the trustee abandons the estate's interest. In any event, property abandoned under subsection (c) (scheduled

but not administered property) is deemed abandoned to the debtor.

Abandonment should not be considered a judicial sale of the property. Therefore, when property is subject to a security interest, abandonment does not take the place of a proper foreclosure sale. Even if the secured party is given possession, it will still have to comply with any nonbankruptcy law requirements for sale. 25 Abandonment also should not be considered to divest the court of jurisdiction to enforce the rights of a debtor to claim an exemption under section 522. 26

Footnote 23. *In re Dewsnap*, 908 F.2d 588, 590 (10th Cir. 1990) , aff'd, 502 U.S. 410, 112 S. Ct. 773, 116 L. Ed. 2d 903 (1992) .

Footnote 24. H.R. Rep. No. 595, 95th Cong., 1st Sess. 377 (1977), reprinted in App. Pt. 4(d)(I) infra; S. Rep No. 989, 95th Cong., 2d Sess. 92 (1978), reprinted in App. Pt. 4(e)(I) infra; see also *Miller v. Generale Bank Nederland, N.V. (In re Interpictures, Inc.)*, 217 F.3d 74 (2d Cir. 2000) , cert. denied, 532 U.S. 906, 121 S. Ct. 1229, 149 L. Ed. 2d 139 (2001) (no abuse of discretion in refusal to order abandonment to debtor's creditor and shareholder, who did not have possessory interest); *In re Dewsnap*, 908 F.2d 588, 590 (10th Cir. 1990) , aff'd sub nom. *Dewsnap v. Timm*, 502 U.S. 410, 112 S. Ct. 773, 116 L. Ed. 2d 903 (1992) .

Footnote 25. See, e.g., U.C.C. Revised §§ 9-610-9-624.”

The Disclosure Statement approved by the court does not contain a descriptions of the treatment of the classes of claims as provided in the confirmed Plan. 11-27845, Dckt. 178.

Plaintiff-Plan Administrators fail to provide the court with any authority that the beneficiary under the deeds of trust (basis for having the secured claims) imposed an obligation on the creditors to foreclose on the collateral. The language of the Plan does not impose such an obligation, nor do the terms of the Plan state a mandatory injunction ordering the creditors to foreclose on the collateral.

The plain language, the common meaning language, of the Plan calling for the “surrender” and to “surrender and abandon” the collateral is to allow the creditors to foreclose. There is no language transferring title to the collateral to the creditors. There is no language overriding the right of a creditor to foreclose, which will wipe out any junior liens and encumbrances placed on the property by the Debtor - a very valuable right of a creditor with a secured claim. There is no language requiring the creditor to foreclose and take title to the collateral. In some situation, creditors elect not to foreclose. Sometimes it is because there are senior liens on the property. Sometimes it is because the property may be contaminated or the subject of regulatory encumbrances. The creditor may elect to take a loss and release its collateral, or may elect to delay foreclosure before taking title. There is no plain language (or even ambiguous language) imposing the obligation on the creditors to take title to the collateral.

The court grants the Motion and determines that the language providing for the “surrender” and the to “surrender and abandon” the collateral for the claims in Classes 2d. and 2e. of the confirmed Second Amended Chapter 11 Plan (11-27845, Dckt. 283) in the Plaintiff-Plan Administrators’ Chapter 11 Bankruptcy Case only provides for the termination of any stay on the right to foreclose on the collateral and

the only provision for payment for those claims will be through, if and when any may occur, non-judicial foreclosure sales by the respective creditors, including assignees of such creditors, holding such claims.

Further, the court finds that these provisions do not transfer title of the collateral to the creditors, do not prohibit the creditors from foreclosing on the collateral, do not mandate the creditors to foreclose on the collateral, do not impose any mandatory or prohibitory injunctions on the creditors with respect to their collateral, and does not enjoin, stay, or prohibit the transfer of any of the claims, including the security interest in the collateral for the claims provided for in Classes 2d. and 2e. of the confirmed Second Amended Chapter 11 Plan.

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

The Motion for Judgment of the Pleadings filed by Defendant(s) 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 Motion is granted and the court determines and makes the following findings of fact and conclusions of law in this Adversary Proceeding, which are binding on all parties hereto, for all purposes relating to this Adversary Proceeding:

The terms of the confirmed Chapter 11 Plan in Bankruptcy Case No. 11-27845, Ivan S. And Maretta P. Lee, Debtors, providing for the “surrender” and the to “surrender and abandon” the collateral as the treatment for the Classes 2d. and 2e. secured claim (11-27845, Dckt. 283) in the Plaintiff-Plan Administrators’ Chapter 11 Bankruptcy Case provides for the termination of any stay on the right to foreclose on the collateral, that the creditors holding such secured claims may foreclose on their respective collateral, and that the payment for those claims will be through, if and when any may occur, non-judicial foreclosure sales by the respective creditors, including assignees of such creditors, holding such claims.

Further, the court finds that these provisions and the confirmed Second Amended Chapter 11 Plan, with respect to the Class 2d. and 2e. secured claims, do not transfer title of the collateral to the creditors, do not prohibit the creditors from foreclosing on the collateral, do not mandate the creditors to foreclose on the collateral, do not impose any mandatory or prohibitory injunctions on the creditors with respect to their collateral, and does not enjoin, stay, or prohibit the transfer of any of the claims, including the security interest in the collateral for the claims provided for in Classes 2d. and 2e. of the confirmed Second Amended Chapter 11 Plan.

7. [11-27845-E-11](#) IVAN/MARETTA LEE
[15-2194](#)
LEE ET AL V. CITY OF
SACRAMENTO COMMUNITY

CONTINUED STATUS CONFERENCE
RE: AMENDED COMPLAINT
3-14-16 [\[92\]](#)

Plaintiff's Atty: Raymond E. Willis

Defendant's Atty:

Tim G. Ceperley [Bank of America, N.A.]

Beau E. Parkhurst [City of Sacramento; City of Sacramento Community
Development Department]

Gregory K. Jones [CIT Bank, N.A.-formerly known as OneWest Bank, N.A.]

B. Ben Mohandesi [New Penn Financial, LLC dba Shellpoint Mortgage
Servicing]

Adv. Filed: 9/30/15

Answer: 10/30/15 [City of Sacramento; City of Sacramento Community
Development Department]

11/18/15 [CIT Bank, N.A.-formerly known as OneWest Bank, N.A.]

11/18/15 [New Penn Financial, LLC dba Shellpoint Mortgage
Servicing]

Amd. Compl. Filed: 1/8/16

Answer: none

2nd Amd. Compl. Filed: 3/14/16

Answer: 3/31/16 [City of Sacramento; City of Sacramento Community
Development Department]

Counter-Claim/Cross-Claim Filed: 3/31/16 [City of Sacramento; City of Sacramento Community
Development Department]

Answer: 4/12/16 [Ivan Lee and Maretta Lee]

Nature of Action:

Injunctive relief - other

Declaratory judgment

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Notes:

Continued from 5/18/16

[TGC-3] Order dismissing Motion to Dismiss Adversary Proceeding filed 5/19/16 [Dckt 108]

Scheduling Order for Motion for Judgment on the Pleadings and Order Staying City of Sacramento from

August 10, 2016 at 2:30 p.m.

- Page 19 of 26 -

Prosecution of California Superior Court Case *City of Sacramento v. Maretta Dunigan* filed 5/20/16 [Dckt 109]

[TGC-3] Bank of America, N.A.'s Notice of Motion for Judgment on the Pleadings filed 6/17/16 [Dckt 113], set for hearing 8/10/16 at 2:30 p.m.

Plaintiffs' Status Conference Statement filed 8/1/16 [Dckt 123]

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| 8. | <u>10-49649-E-13</u> NANCY ROBERTS <u>16-2044</u> ROBERTS V. WELLS FARGO BANK, N.A. ADV. PROCEEDING DISMISSED: 07/13/2016 | CONTINUED STATUS CONFERENCE RE: COMPLAINT 3-9-16 <u>1</u> |
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Final Ruling: No appearance at the August 10, 2016 Status Conference is required.

Plaintiff's Atty: David M. Brady
Defendant's Atty: unknown

Adv. Filed: 3/9/16
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)

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| The Complaint having been dismissed, the Status Conference is removed from the Calendar. |
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Notes:
Continued from 6/22/16

Order Granting Dismissal of Adversary Complaint filed 7/13/16 [Dckt 11]

9. [10-29750-E-13](#) **ANTONIO/MARIA RAMIREZ**
[16-2096](#)
RAMIREZ ET AL V. BANK OF
AMERICA, N.A.

STATUS CONFERENCE RE:
COMPLAINT
5-11-16 [1]

Plaintiff's Atty: Peter G. Macaluso
Defendant's Atty: unknown

Adv. Filed: 5/11/16
Answer: none

Nature of Action:
Declaratory judgment
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)

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| The Status Conference is XXXXXXXXXXXXXXXXXXXXXXXXXXXX. |
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Not
es:
Plaintiffs' Status Statement filed 8/3/16 [Dckt 17]

Plaintiffs' Discovery Plan filed 8/3/16 [Dckt 9]

AUGUST 10, 2016 STATUS CONFERENCE

Plaintiff-Debtor has filed a Status Report requesting that the court set a discovery schedule and pretrial conference. Dckt. 9. A review of the Docket discloses that Defendant Bank of America, N.A. has not responded to the Complaint, Certificate of Service, Dckt. 6.

Given that there is no opponent for Plaintiff-Debtor, there is little reason for the court to set a discovery schedule and a pretrial conference.

If Plaintiff-Debtor desires to prosecute this Adversary Proceeding, Plaintiff-Debtor may have the default of the Bank entered and seek a default judgment.

10. [16-20852](#)-E-11 **MATHIOPOULOS 3M FAMILY
LIMITED PARTNERSHIP** **CONTINUED STATUS CONFERENCE
RE: VOLUNTARY PETITION
2-16-16 [1](#)**

Debtor's Atty: J. Luke Hendrix

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| The Status Conference is XXXXXXXXXXXXXXXXXXXXXXXXXXXX. |
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Notes:

Continued from 4/20/16

Operation Reports filed: 5/16/16; 6/15/16; 7/15/16

[DNL-1] Supplemental Request to Extend Use of Cash Collateral Through July 31, 2016 filed 4/21/16 [Dckt 40]; Order granting and continuing hearing to 7/21/16 at 10:30 a.m. filed 5/6/16 [Dckt 49]

[DNL-1] Order granting and continuing hearing to 9/20/16 at 1:30 p.m. on Request to Extend Use of Cash Collateral filed 7/27/16 [Dckt 71]

11. [08-30669-E-13](#) CRECYNTHIA MCLUCAS
[16-2094](#)
MCLUCAS V. NATIONAL CITY BANK
ET AL

STATUS CONFERENCE RE:
COMPLAINT
5-11-16 [[1](#)]

Plaintiff's Atty: Peter G. Macaluso
Defendant's Atty: unknown

Adv. Filed: 5/11/16
Answer: none

Nature of Action:
Declaratory judgment
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)

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| The Status Conference is XXXXXXXXXXXXXXXXXXXXXXXXXXXX. |
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otes:
Plaintiff's Status Conference Statement filed 8/3/16 [Dckt 8]

Plaintiff's Discovery Plan filed 8/3/16 [Dckt 9]

AUGUST 10, 2016 STATUS CONFERENCE

Plaintiff-Debtor has filed a Status Report requesting that the court set a discovery schedule and pretrial conference. Dckt. 8. A review of the Docket discloses that Defendant National City Bank has not responded to the Complaint, Certificate of Service, Dckt. 7.

Given that there is no opponent for Plaintiff-Debtor, there is little reason for the court to set a discovery schedule and a pretrial conference.

If Plaintiff-Debtor desires to prosecute this Adversary Proceeding, Plaintiff-Debtor may have the default of the Bank entered and seek a default judgment.

12. [15-21172](#)-E-13 TATIANA DUBROVINA
[15-2101](#)
DEL DEBBIO V. DUBROVINA

**PRE-TRIAL CONFERENCE RE:
COMPLAINT TO EXCEPT FROM
DISCHARGE THE DEBT DUE TO
PLAINTIFF
5-26-15 [1]**

ADV. PROCEEDING CLOSED: 07/18/2016

Final Ruling: No appearance at the August 10, 2016 Pretrial Conference is required.

Plaintiff's Atty: Ognian A. Gavrilov
Defendant's Atty: Pro Se

Adv. Filed: 5/26/15
Answer: 6/24/15

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

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| The Complaint having been dismissed, the Pretrial Conference is removed from the Calendar. |
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Notes:
Joint Stipulation for Dismissal filed 6/29/16 [Dckt 15]; Notice of Entry of Order/Judgment in an Adversary Proceeding filed 6/29/16 [Dckt 16]

13. [12-20173-E-7](#) LAVALLE/MARILYN GARY
[16-2039](#)
GARY ET AL V. AT&T ET AL

CONTINUED STATUS CONFERENCE
RE: COMPLAINT
3-2-16 [\[1\]](#)

ADV. PROCEEDING CLOSED: 07/18/2016

Final Ruling: No appearance at the August 10, 2016 Pretrial Conference is required.

Plaintiff's Atty: Peter G. Macaluso
Defendant's Atty: unknown

Adv. Filed: 3/2/16
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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| The Complaint having been dismissed, the Status Conference is removed from the Calendar. |
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Notes:
Stipulation to Dismiss Adversary Proceeding filed 6/29/16; Order to Dismiss Adversary Proceeding filed 6/30/16 [Dckt 20]

14. [16-21089-E-13](#) STEPHEN MAR
[16-2051](#)
MAR V. UNIFUND CCR, LLC ET AL

CONTINUED STATUS CONFERENCE
RE: COMPLAINT
3-15-16 [[1](#)]

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

Adv. Filed: 3/15/16
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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| The Status Conference is XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. |
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Notes:
Continued from 5/18/16. The court advised that Parties are in active settlement negotiations and anticipate the matter to be resolved.

Notice of Settlement of Entire Case filed 6/6/16 [Dckt 10]

AUGUST 10, 2016 STATUS CONFERENCE

On June 6, 2016, Plaintiff-Debtor filed a Notice of Settlement of Entire Case. Dckt. 10. Plaintiff-Debtor states in the Status Report that a motion to approve the compromise and settlement will be filed. As of this court's August 8, 2016 review of the docket, nothing further has been filed and no settlement has been approved by the court.