

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Thomas Holman
Bankruptcy Judge
Sacramento, California

August 21, 2013 at 9:30 A.M.

-
1. [12-38022](#)-B-13 DEBRA LOCKHART CONTINUED STATUS CONFERENCE RE:
[13-2134](#) COMPLAINT
LOCKHART V. APEX RECOVERY INC. 4-19-13 [[1](#)]

Tentative Ruling: The status conference is continued to October 30, 2013, at 9:30 a.m. to allow the plaintiff time to file and set for hearing a motion for entry of default judgment. If the adversary proceeding is not resolved by October 1, 2013, the parties shall comply with the court's Order to Confer on Initial Disclosures and Setting Deadlines (Dkt. 5) (the "OTC") as if October 30, 2013 were the status conference date set in the original summons (Dkt. 3). Failure to comply with the orders herein or with the OTC may result in the imposition of sanctions under Fed. R. Bankr. P. 7016, incorporating Fed. R. Civ. P. 16(f). Such sanctions may include any of the sanctions listed in F.R.Civ.P. 37(b)(2)(A)(ii)-(vii), including dismissal of the action for plaintiff's failure to comply.

For the plaintiff's reference, a motion for entry of default judgment must comply with all requirements of Local Bankruptcy Rule 9014-1. Without limiting the scope of the preceding sentence, the motion should include the following:

- 1.) The motion, which must set forth each claim for relief alleged by the plaintiff and should address the legal authority and evidence which justifies the relief the plaintiff seeks.
- 2.) Evidence in the form of supporting declarations or documentary evidence which shows that the plaintiff is entitled to relief. Supporting declarations and exhibits should be filed as separate items for entry on the docket.
- 3.) A notice of hearing which complies with the requirements of Local Bankruptcy Rule 9014-1(f)(1). The notice of hearing should set a hearing on the motion on no less than 28 days' notice from the date of filing and service of the motion. The hearing should be set on the earliest regular law and motion calendar for motions filed in adversary proceedings that provides the required notice; a copy of the court's self-set hearing dates is available on the court's web site. The notice of hearing should also advise potential respondents that written opposition to the motion is required and must be filed and served no less than 14 days' before the date of the hearing on the motion. The notice of hearing should further advise potential respondents of the names and addresses of persons on whom written opposition must be served, and that a failure to respond to the motion may result in the respondents' default being taken and the motion being granted.

4.) A certificate of service which shows that the motion was served on the defendant in a manner consistent with the requirements of Federal Rule of Bankruptcy Procedure 9014.

5.) Finally, the plaintiff must assign the motion a docket control number as required by Local Bankruptcy Rule 9014-1(c). The docket control number should be included on the face of all papers filed in connection with the motion. The court uses docket control numbers to determine which papers filed on the docket of the case relate to the motion at issue.

The court is aware that on July 23, 2013, the plaintiff filed a "Motion Establishing Liability in Support of Default Judgment" (Dkt. 27), but that motion was not set for a hearing on any calendar. The court is also aware of a motion for summary judgment filed by the plaintiff on August 12, 2013, (Dkt. 32) which purported to set a hearing on that motion on August 20, 2013. However, the motion for summary judgment was filed without a notice of hearing and on insufficient notice to the defendant, without a request for shortened time.

The court will issue a minute order.

2. [13-20226](#)-B-13 SHIRAZ ALI CONTINUED STATUS CONFERENCE RE:
[13-2089](#) COMPLAINT
PLUMAS BANK V. ALI 3-20-13 [[1](#)]

Tentative Ruling: The status conference is concluded. The court will issue a scheduling order based on the schedule set forth in the joint status report filed by the parties on August 7, 2013 (Dkt. 22).

3. [12-30834](#)-B-7 GILBERT MAINES CONTINUED STATUS CONFERENCE RE:
[12-2695](#) AMENDED COMPLAINT
MAINES V. AURORA BANK FSB ET AL 4-16-13 [[33](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The status conference is removed from calendar. By order entered August 12, 2013 (Dkt. 66), the adversary proceeding was dismissed as to all claims for relief and as to all defendants without leave to amend.

4. [13-23535](#)-B-7 JOHN LEE STATUS CONFERENCE RE: COMPLAINT
[13-2205](#) 6-20-13 [[1](#)]
AMERICAN EXPRESS BANK, FSB V. LEE

Disposition Without Oral Argument: The status conference is continued to October 30, 2013, at 9:30 a.m. to allow the plaintiff time to file and set for hearing a motion for entry of default judgment. If the adversary

proceeding is not resolved by October 1, 2013, the parties shall comply with the court's Order to Confer on Initial Disclosures and Setting Deadlines (Dkt. 5) (the "OTC") as if October 30, 2013 were the status conference date set in the original summons (Dkt. 3). Failure to comply with the orders herein or with the OTC may result in the imposition of sanctions under Fed. R. Bankr. P. 7016, incorporating Fed. R. Civ. P. 16(f). Such sanctions may include any of the sanctions listed in F.R.Civ.P. 37(b)(2)(A)(ii)-(vii), including dismissal of the action for plaintiff's failure to comply.

The court will issue a minute order.

5. [13-20645](#)-B-7 ROBERT/TRISTINA KITAY CONTINUED STATUS CONFERENCE RE:
[13-2125](#) COMPLAINT
SAECHAO V. KITAY 4-15-13 [[1](#)]

Tentative Ruling: The adversary proceeding is dismissed.

The adversary proceeding is dismissed pursuant to Bankruptcy Rule 7041, incorporating F.R.Civ.P. 41(b), for failure to prosecute and failure to obey an order of the court (Dkt. 9).

The court will issue a minute order.

6. [13-20645](#)-B-7 ROBERT/TRISTINA KITAY CONTINUED STATUS CONFERENCE RE:
[13-2126](#) COMPLAINT
GONZALEZ V. KITAY ET AL 4-15-13 [[1](#)]

Tentative Ruling: The defendant debtor's answer filed on May 15, 2013 (Dkt. 13) is stricken. The clerk of the court shall enter defendant's default on forming EDC 003-727, requiring plaintiff to apply for a default judgment via a noticed motion for entry of default judgment set for hearing on one of the court's regularly scheduled law and motion calendars. The status conference is continued to October 30, 2013, at 9:30 a.m. to allow the plaintiff time to file and set for hearing a motion for entry of default judgment. If the adversary proceeding is not resolved by October 1, 2013, the parties shall comply with the court's Order to Confer on Initial Disclosures and Setting Deadlines (Dkt. 5) (the "OTC") as if October 30, 2013 were the status conference date set in the original summons (Dkt. 3). Failure to comply with the orders herein or with the OTC may result in the imposition of sanctions under Fed. R. Bankr. P. 7016, incorporating Fed. R. Civ. P. 16(f). Such sanctions may include any of the sanctions listed in F.R.Civ.P. 37(b)(2)(A)(ii)-(vii), including dismissal of the action for plaintiff's failure to comply.

The debtor's answer is stricken and his default is entered pursuant to Bankruptcy Rule 7041, incorporating Fed. R. Civ. P. 41(b) due to his failure to comply with the court's order entered June 20, 2013 (Dkt. 15), which continued this status conference and required compliance with the OTC if the adversary proceeding was not resolved by July 23, 2013.

11. [13-24369](#)-B-7 NAEEM/WIZMA AMIRI STATUS CONFERENCE RE: COMPLAINT
[13-2202](#) 6-19-13 [[1](#)]
FUKUSHIMA V. AMIRI

Tentative Ruling: None.

12. [13-24369](#)-B-7 NAEEM/WIZMA AMIRI STATUS CONFERENCE RE: COMPLAINT
[13-2203](#) 6-19-13 [[1](#)]
FUKUSHIMA V. AMIRI ET AL

Tentative Ruling: None.

13. [06-22976](#)-B-7 KEVIN ARCHBOLD CONTINUED STATUS CONFERENCE RE:
[13-2143](#) COMPLAINT
ARCHBOLD ET AL V. SUDANO ET AL 4-26-13 [[1](#)]
CASE DISMISSED 7/12/13

Disposition Without Oral Argument: The status conference is removed from the calendar. By order entered July 15, 2013, (Dkt. 45) the adversary proceeding was dismissed. The adversary proceeding was closed on August 19, 2013.

14. [13-25191](#)-B-7 AJAY CHANDRA STATUS CONFERENCE RE: COMPLAINT
[13-2204](#) 6-20-13 [[1](#)]
CENTRAL VALLEY CONCRETE, INC.
V. CHANDRA

Tentative Ruling: The status conference is continued to October 30, 2013, at 9:30 a.m. On or before August 27, 2013, the plaintiff shall obtain a reissued summons. On or before August 27, 2013, the plaintiff shall also properly serve the defendant and the defendant's bankruptcy attorney with the complaint and reissued summons in accordance with Fed. R. Bankr. P. 7004(b)(9) and (g). If the adversary proceeding is not resolved by twenty-eight days before the date of the status conference set in the reissued summons, the parties shall also comply with the court's Order to Confer on Initial Disclosures and Setting Deadlines (Dkt. 5) (the "OTC") as if the date of the status conference set in the reissued summons were the status conference date set in the original summons (Dkt. 3). Failure to comply with the orders herein or with the OTC may result in the imposition of sanctions under Fed. R. Bankr. P. 7016, incorporating Fed. R. Civ. P. 16(f). Such sanctions may include any of the sanctions listed in F.R.Civ.P. 37(b)(2)(A)(ii)-(vii), including dismissal of the action for plaintiff's failure to comply or

