

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Chief Bankruptcy Judge

Modesto, California

August 25, 2016 at 2:00 p.m.

1. [09-94269-E-7](#) SUSHIL/SUSEA PRASAD CONTINUED STATUS CONFERENCE
[15-9018](#) RE: AMENDED COMPLAINT
6-8-16 [[156](#)]

FERLMANN V. MEYER WILSON CO.,
LPA ET AL

Final Ruling: No appearance at the August 25, 2016, Status Conference is required.

Plaintiff's Atty: Matthew J. Olson; Roxanne Bahadurji; Iain A. MacDonald

Defendant's Atty:

William A. Munoz; Kristin L. Iversen [Meyer Wilson Co., LPA]

Steve Altman [Sushil Prasad; Susea S. Prasad]

Holly Estioko [Transamerica Financial Advisors, Inc.]

Third Amd. Cmpl. Filed: 6/8/16

Answer: 7/5/16

Nature of Action:

Recovery of money/property - other

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

The court having set judicially supervised mediation for September 14, 2016, the Status Conference is continued to 2:00 p.m. on September 29, 2016.

Notes:

Continued from 6/2/16. Parties agreed to the Plaintiff-Trustee filing a third amended complaint. Third amended complaint to be filed and served on or before 6/3/16. Responsive pleadings to the third amended complaint to be filed and served on or before 7/5/16.

Third Amended Complaint for Avoidance of Post-Petition Transfers; Violation of the Automatic Stay; for Turnover and Accounting; and for Legal Malpractice filed 6/8/16 [Dckt 156]

[MF-2] Order granting Motion to Compel/Motion for Sanctions filed 6/8/16 [Dckt 159]

August 25, 2016 at 2:00 p.m.

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Order for Judicial Mediation filed 7/1/16 [Dckt 163]

Meyer Wilson Co., LPA's Answer to Third Amended Complaint for Avoidance of Post-Petition Transfers; Violation of the Automatic Stay; for Turnover and Accounting; and for Legal Malpractice filed 7/5/16 [Dckt 165]

Defendants' Status Conference Statement filed 8/15/16 [Dckt 169]

AUGUST 25, 2016 STATUS CONFERENCE

The court, at the request of the parties, has ordered a judicially supervised mediation/settlement conference, which is scheduled for September 14, 2016, before the Hon. Christopher M. Klein. The Plaintiff-Trustee has filed a status conference statement (Dckt. 173) which states that while agreeing to a judicial mediation, Plaintiff-Trustee expects to file a motion for summary judgment "which will focus the issues for mediation and possibly resolve some or all the outstanding issues." It appears to the court that the law and undisputed facts that would be placed in a summary judgment motion (at a significant expenditure of time by counsel for the Plaintiff-Trustee) may be inconsistent with the spirit of parties working diligently in good faith to resolved disputes. Such "clear grounds" can be much more cost effectively (both dollars and judicial time) in the mediation statements and in pre-mediation communications between the respective attorneys.

Defendant Meyer Wilson Co., LPA also filed a Status Report. Dckt. 174. Defendant concurs with Plaintiff-Trustee that the pleadings are complete and a discovery schedule may be set. Defendant notes that a summary judgment motion may be advanced at this early stage of the pleadings. The court cannot tell if this is a reference to the Plaintiff-Trustee's intention, whether the parties believe that they can stipulate to the facts and file cross motions for summary judgment, or a separate motion by Defendant. As with Plaintiff-Trustee, it appears early for such a motion, and the cost and expense, in light of the parties good faith efforts to proceed with a judicial mediation.

Given the pending judicial mediation, the court continues the Status Conference and will not set discovery deadlines at this time.

The parties may submit short updated Status Reports on or before September 26, 2016, providing the court with the status or then current outcome of the mediation, and suggested discovery schedule (if one has not already been provided in an earlier status report or such schedule needs to be modified) as appropriate.