

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Bankruptcy Judge

Sacramento, California

September 10, 2014 at 2:30 p.m.

-
1. [14-20708-E-13](#) NOEL ORLANDO CONTINUED STATUS CONFERENCE RE:
[14-2083](#) COMPLAINT
SNIDER LEASING CORP V. ORLANDO 3-20-14 [[1](#)]

Final Ruling: No appearance at the September 10, 2014 Status Conference is required.

Plaintiff's Atty: John A. Britton
Defendant's Atty: unknown

Adv. Filed: 3/20/14
Answer: none

Nature of Action:
Dischargeability - fraud as fiduciary, embezzlement, larceny
Dischargeability - willful and malicious injury

The Status Conference is continued to 2:30 p.m. on October 15, 2014.

Notes:

Continued from 5/28/14 to allow the Plaintiff to prosecute the entry of a default judgment in this Adversary Proceeding.

Motion for Entry of Default Judgment filed 8/21/14 [Dckt 18], set for hearing 9/25/14 at 1:30 p.m.

Plaintiff's Status Conference Statement filed 8/21/14 [Dckt 23]

SEPTEMBER 10, 2014 STATUS CONFERENCE

The default of the Defendant having been entered and a Motion for Entry of Default Judgment set for hearing, the Status Conference is continued.

September 10, 2014 at 2:30 p.m.

- Page 1 of 25 -

2. [14-20309-E-13](#) PATRICK/JENNIFER RESTORI
[14-2187](#)
RESTORI ET AL V. NATIONSTAR
MORTGAGE LLC

STATUS CONFERENCE RE: AMENDED
COMPLAINT
8-15-14 [[11](#)]

Final Ruling: No appearance at the September 10, 2014 Status Conference is required.

Plaintiff's Atty: Peter L. Cianchetta
Defendant's Atty: Bernard J. Kornbert

Adv. Filed: 6/26/14
Amd Complaint Filed: 8/15/14

Answer: none

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 Status Conference is continued to 1:30 p.m. on October 9, 2014, to be conducted in conjunction with Defendant's Motion to Dismiss the First Amended Complaint.

Notes:

[BJK-1] Nationstar Mortgage, LLC's Motion to Dismiss Adversary Proceeding for Failure to State a Claim filed 8/11/14 [Dckt 7], set for hearing 9/25/14 at 1:30 p.m.; Withdrawal filed 8/18/14 [Dckt 14]

[BJK-2] Nationstar Mortgage, LLC's Motion to Dismiss First Amended Adversary Proceeding for Failure to State a Claim filed 8/11/14 [Dckt 7], set for hearing 10/9/14 at 1:30 p.m.

3. [10-26415-E-13](#) IGNACIO/ANNA ADAM
[14-2145](#)
ADAM ET AL V. SUNTRUST
MORTGAGE, INC.

STATUS CONFERENCE RE: COMPLAINT
5-29-14 [[1](#)]

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

Adv. Filed: 5/29/14
Answer: none

Nature of Action:
Validity, priority or extent of lien or other interest in property
Declaratory judgment

The Status Conference is continued to 2:30 p.m. on xxxxxxxxxxxx, 2014

Notes:

SEPTEMBER 10, 2014 STATUS CONFERENCE

Plaintiff states in the Status Conference Statement that no response to the summons and complaint has been filed, and that the Adversary Proceeding is "ripe" for entry of a default judgment. Plaintiff has not requested entry of the Defendant's default.

In reviewing the Certificate of Service, Dckt. 6, the court notes that Defendant Suntrust Mortgage, Inc. was served by First Class United States mail as follows:

SUNTRUST MORTGAGE, INC.
Officer, managing or general agent,
or person authorized to receive service of process
BANKRUPTCY DEPARTMENT, RVW 3034
PO BOX 27767
RICHMOND, VA 23261

This attempted service as required by Federal Rule of Bankruptcy Procedure 7004(b)(3) is problematic for several reasons. First, service upon a post office box is deficient. *Beneficial Cal., Inc. v. Villar (In re Villar)*, 317 B.R. 88, 92-93 (B.A.P. 9th Cir. 2004) (holding that service upon a post office box does not comply with the requirement to serve a pleading to the attention of an officer or other agent authorized as provided in Federal Rule of Bankruptcy Procedure 7004(b)(3)); see also *Addison v. Gibson Equipment Co., Inc., (In re Pittman Mechanical Contractors, Inc.)*, 180 B.R. 453, 457 (Bankr. E.D. Va. 1995) ("Strict compliance with this notice provision in turn serves to protect due process rights as well as assure that bankruptcy matters proceed expeditiously.").

Second, the California Secretary of State (<http://kepler.sos.ca.gov>) lists Suntrust Mortgage, Inc. as having an address of 1001 Szemmes Avenue, VA-RVW-6045, Richmond, VA 23224. Further, the Secretary of State lists the corporation's agent for service of process as "Corporation Service Company Which Will Do Business In California As CSC-Lawyers Incorporating Service, 2710 Gateway Oaks Dr STE 150, Sacramento, California." The Corporation was not served at the Richmond Address and the registered Agent for Service of Process was not served. This Adversary Proceeding is not "ripe" for entry of a default judgment.

4. [13-34223-E-13](#) NAOMI LEBUS
[14-2049](#)

LEBUS V. S.B.S. TRUST NETWORK
ET AL

STATUS CONFERENCE RE: AMENDED
COMPLAINT
6-20-14 [[29](#)]

Final Ruling: No appearance at the September 10, 2014 Status Conference is required.

Plaintiff's Atty: William F. Abbott
Defendant's Atty: Nick I. Iezza

Adv. Filed: 2/6/14 [jury demand]
Amd Complaint Filed: 6/20/14
Summons Reissued: 6/23/14

Answer: none

The Court having issued an order abstaining from conducting any further hearing in this Adversary Proceeding, **the Status Conference is removed from the calendar.**

Nature of Action:

Notes:

Status conference on original complaint heard 4/16/14 [Dckt 13]

[KAS-1] Order granting motion to dismiss complaint filed 2/6/14 [Dckt 36]

[RHS-1] Order to Show Cause Why Court Should Not Abstain filed 7/11/14 [Dckt 37]; Order sustaining order to show cause filed 8/29/14 [Dckt 45] - Clerk of the Court to close file

5. [10-53637-E-13](#) [11-2122](#) G./KATHLEEN ULBERG
ULBERG, JR. ET AL V. BANK OF
AMERICA, N.A. ET AL

CONTINUED PRE-TRIAL CONFERENCE
RE: COMPLAINT
2-22-11 [[1](#)]

Final Ruling: No appearance at the September 10, 2014 Status Conference is required.

Plaintiffs' Atty: John G. Downing

Defendants' Atty:
Adam N. Barasch [Bank of America, N.A.]
Scott A. CoBen [Pacific Crest Partners, Inc.; John Mudgett]
unknown [Recontrust Company, N.A.]

Adv. Filed: 2/22/11
Amd Cmplt Filed: 3/15/11

Answer: 5/10/11 [Pacific Crest Partners, Inc.; John Mudgett]
Counterclaim: 5/10/11

Nature of Action:
Recovery of money/property - other
Injunctive relief - other
Declaratory judgment

The Status Conference is continued to 2:30 p.m. on October 15, 2014.

Notes:

Continued from 6/5/14

[SAC-5] Order granting in part, denying in part, motion for summary judgment filed 6/9/14 [Dckt 251]

[SW-5] Order granting motion for summary judgment filed 6/9/14 [Dckt 252]; Judgment filed 6/18/14 [Dckt 255]

[SAC-6] Order granting motion to vacate preliminary injunction filed 6/9/14 [Dckt 253]

[SAC-7] Stipulation Extending Deadlines Regarding Motion for Costs and Damages filed 7/7/14 [Dckt 258]; Order approving filed 7/8/14 [Dckt 259]

6. [13-24745-E-13](#) LORI SWAIN
[14-2055](#)
SWAIN V. GREEN TREE SERVICING,
LLC ET AL
ADV. CASE DISMISSED 8/19/14

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
2-17-14 [[1](#)]

Final Ruling: No appearance at the September 10, 2014 Status Conference is required.

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

Adv. Filed: 2/17/14
Answer: none

Nature of Action:
Declaratory judgment

The Complaint having been dismissed, the Status Conference is removed from the Calendar.

Notes:

Case dismissed 8/19/14

7. [11-27845-E-11](#) IVAN/MARETTA LEE
[14-2060](#)
LEE ET AL V. SELECT PORTFOLIO
SERVICING, INC. ET AL

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
2-20-14 [[1](#)]

Plaintiff's Atty: Raymond E. Willis
Defendant's Atty:
Sanford Shatz [Select Portfolio Servicing, Inc.]
Adam N. Barasch [Bank of America, N.A.]

Adv. Filed: 2/20/14
Answer: none

Nature of Action:
Injunctive relief - other
Declaratory judgment



Notes:

Continued from 7/9/14:

On or before July 11, 2014 Select Portfolio Servicing will send the current accounting of the payments to the Plan Administrators/Debtors.

On or before July 16, 2014, the Plan Administrators/Debtors will provide Select Portfolio Servicing with a response to the accounting.

On or before July 18, 2014, Select Portfolio Servicing shall transmit to the Plan Administrators/Debtors a proposal for paying the escrow advances which are in excess of the impound amounts.

On or before July 18, 2014, the Plan Administrators/Debtors will confirm in writing to Select Portfolio Servicing the monies they have for the lump sum payment to bring the principal and interest installments on the loan current for the August 2013 - July 2014 period.

SEPTEMBER 10, 2014 STATUS CONFERENCE

Plaintiff's Updated Status Conference Statement reports that the parties have not resolved this matter. Further, it appearing that there is no dispute as to any material fact, Plaintiffs intend to proceed with a summary judgment motion.

8. [14-20352-E-11](#) PATRICK GREENWELL

CONTINUED STATUS CONFERENCE RE:
PETITION
1-9-14 [[1](#)]

Debtor's Atty: Patrick B. Greenwell

Notes:

Continued from 5/28/14

Operating Report filed: 7/16/14 [May] [Jun]



STATUS CONFERENCE SUMMARY

2014 SEPTEMBER STATUS CONFERENCE

Debtor in Possession ("ΔIP") states in his Chapter 11 Status Report filed September 8, 2014 (Dckt. 54) that he intends to file a plan within 60 days. He has been attempting to have the Internal Revenue Service file an amended proof of such. Such amended claim not being filed, he will now object to the existing claim.

2014 MAY 28 STATUS CONFERENCE

In his May 22, 2014 Status Report the ΔIP states that he is waiting for the Internal Revenue Service to file an amended proof of claim taking into account the filed 2013 tax returns (which reduce the IRS claim by approximately \$15,000). The ΔIP projects having a plan and disclosure statement filed withing 60 days and set for hearing.

2014 FEBRUARY 19 STATUS CONFERENCE

In his Status Conference Report, the Debtor in Possession notifies the court that there are only two general unsecured claims - the federal and state income taxing agencies. The Debtor in Possession intends to use a combined Disclosure Statement and Plan due to the very limited number of creditors and the nature of their claims. The Estate income is generated by the Debtor operating his professional corporation.

For creditors, there is one secured claim (airplane purchased

as an investment). The two taxing agencies have non-priority general unsecured claims. There are no other creditors listed on the Schedules.

MONTHLY OPERATING REPORT SUMMARY

August, 2014 Report		Filed: September 8, 2014	
INCOME	Current		Cumulative
Income From Business	\$ 2,540		\$ 48,805
Misc.	_____		_____
Total	\$ 2,540		\$ 48,805
EXPENSES	\$ (2,540)		\$ (48,805)
PROFIT/(LOSS)	\$ 0		\$ 0
Specific Expenses			
Misc Living Expenses		(\$1,879)	(\$34,920)
Taxes, Other			(\$8,834)
Secured Debt Payments		(\$490)	(\$3,430)
Insurance		(\$171)	(\$1,621)
ACCOUNTS RECEIVABLE			
ACCOUNTS PAYABLE			

July 2014 Monthly Operating Report Filed September 8, 2014 – Untimely

June 2014 Monthly Operating Report Filed July 16, 2014 ----- Timely

May 2014 Monthly Operating Report Filed July 16, 2014 -----Untimely

April 2014 Monthly Operating Report Filed May 16, 2014 -----Timely

March 2014 Monthly Operating Report Filed April 15, 2014 -----Timely

February 2014 Monthly Operating Report Filed March 14, 2014 ---Timely

January 2014 Monthly Operating Report Filed February 14, 2014 -Timely

SUMMARY OF SCHEDULES

Real Property Schedule A	FMV	LIENS	

Personal Property Schedule B	FMV	LIENS	
Cash	\$2,000		
Bank Account	\$12		
529 Savings Plan	\$1,919		
Professional Corporation Stock	\$3,500		
2010 Toyota Camry	\$9,750		
1994 Chevy 2500 Pickup	\$1,500		
50% Interest in Piper Comanche 250	\$17,000	(\$17,000)	

Secured Claims Schedule D	TOTAL CLAIM AMOUNT	FMV	UNSECURED CLAIM PORTION
Internal Revenue Service Tax Lien	(\$27,831)	\$27,831	
Steve Oliveira - Piper Comanche	(\$17,000)	\$17,000	

PRIORITY UNSECURED CLAIMS SCHEDULE E	TOTAL CLAIM AMOUNT	PRIORITY	GENERAL UNSECURED
Internal Revenue Service 2011 TY	(\$3,941)	(\$3,941)	
Internal Revenue Service 2012 TY	(\$3,854)	(\$3,854)	

GENERAL UNSECURED CLAIMS SCHEDULE F	TOTAL CLAIM AMOUNT	GENERAL UNSECURED
	(\$492,247)	
Internal Revenue Service		(\$347,681)
Franchise Tax Board		(\$143,624)

PROOFS OF CLAIM FILED

Proofs of Claim	TOTAL CLAIM AMOUNT	
Internal Revenue Service - Amended August 14, 2014	(\$364,234)	
Secured		(\$47,331)
Priority Unsecured		(\$10,630)
General Unsecured		(\$306,273)

STATEMENT OF FINANCIAL AFFAIRS

Question 1 Income

2013 YTD	\$56,525	
2012	\$33,990	
2011	\$38,858	

9. [14-23471-E-11](#) ERROL/SUZANNE BURR
[14-2184](#)
BURR ET AL V. SHINE ET AL

STATUS CONFERENCE RE: NOTICE OF
REMOVAL
6-24-14 [1]

Continued to 10/15/14 at 2:30 p.m. by order dated 8/13/14 [Dckt 22]

Final Ruling: No appearance at the September 10, 2014 Status Conference is required.

Plaintiff's Atty: Steven A. White

Defendant's Atty:

Betsy S. Kimball [Raymond E. Shine]

Unknown [Shine & Compton; Shine, Compton & Nelder]

Real Party in Interest:

J. Luke Hendrix [Susan K. Smith]

Adv. Filed: 6/24/14

Answer:

Raymond E. Shine 7/7/14

Nature of Action:

Determination of removed claim or cause

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

Declaratory judgment

The Status Conference has been continued by prior order of the court to 2:30 p.m. on October 15, 2014.

Notes:

[BSK-1] Raymond E. Shine's Notice of Motion and Motion to Remand Removed Action filed 7/14/14 [Dckt 12], set for hearing 10/9/14 at 1:30 p.m. and Status Conference continued to 10/15/14 at 2:30 p.m.

10. [10-23577-E-11](#) GLORIA FREEMAN

CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
2-16-10 [[1](#)]

Debtor's Atty: Reno F.R. Fernandez

The Status Conference is continued to xxxxx.

Notes:

Continued from 5/28/14 to be heard in conjunction with other matters on calendar.

Operating Reports filed: 7/9/14 [2013 Oct, Dec]; 7/9/14 [2014 Mar, Jun]

[WFH-45] Plan Administrator's Motion to Approve Compromise Between Liquidating Trust, Gloria Freeman and Laurence Freeman filed 8/7/14 [Dckt 1466]; Granted 8/28/14 [Dckt 1487]

[WFH-31] Application for Order to Show Cause Why Attorney Austin Cooper Should Not Be Ordered to Disgorge Fees filed 2/13/13 [Dckt 549]; Order to Show Cause filed 3/1/13 [Dckt 571]; Evidentiary hearing scheduled for 10/1/14 at 9:30 a.m.

[WFH-31] Plan Administrator's Application for Entry of Default of W. Austin Cooper, A Law Corporation filed 8/20/14 [Dckt 1475]; clerk requested proposed order

11. [10-23577-E-11](#) GLORIA FREEMAN
WFH-36

CONTINUED OBJECTION TO DEBTOR'S
CLAIM OF EXEMPTIONS
6-21-13 [[784](#)]

Local Rule 9014-1(f)(1) Motion - Opposition Filed.

Correct Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor (*pro se*), Chapter 11 Trustee, and Office of the United States Trustee on June 21, 2013. By the court's calculation, 69 days' notice was provided. 28 days' notice is required.

The Objection to Debtor's Claim of Exemptions has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(ii) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

The Hearing on the Objection to Claim of Exemption is xxxx.

SEPTEMBER 10, 2014 HEARING

At the hearing,

JULY 1, 2014 HEARING

At the July 1, 2014 hearing the parties reported that Laurence Freeman and Gloria Freeman had provided the Plan Administrator with documents and information which raised further questions. After discussion and review the Plan Administrator believe that his questions have been resolved and the settlement terms can be finalized. Counsel for the Plan Administrator has the responsibility to draft the settlement documents.

The Parties represented to the court at the May 28, 2014 Status Conference that they believed the matter had been settled. Further, they would be filing a motion in the Gloria Freeman bankruptcy case to approve the settlement. No motion has been filed and it appears that this Adversary Proceeding, notwithstanding the court having made a competency determination and Laurence Freeman being represented by an experienced bankruptcy and litigation counsel, that this Adversary Proceeding appears adrift in the doldrums, the regal albatross of resolution seemingly having been shot and hanging about the necks of the parties as they descend further into the litigation abyss. FN.1.

FN.1. As analogized from Samuel Taylor Coleridge's *The Rime of the Ancient Mariner*, "Ah! well-a-day! what evil looks; Had I from old and young! Instead of the cross, the Albatross About my neck was hung."

The court reminded the parties and counsel, including Laurence Freeman's current counsel, of the significant legal issues previously raised

concerning whether Laurence Freeman is legally competent to proceed in this bankruptcy case and adversary proceedings, or whether a personal representative must be appointed by this court. Further, that Debtor Gloria Freeman and her prior counsel, W. Austin Cooper, had directed Laurence Freeman to file declarations stating that he was not legally competent and that his prior settlement with the Chapter 11 Trustee establishing that his assets of substantial monetary value were his separate property and not community property as the Debtor Gloria Freeman and her attorney, W. Austin Cooper had previously asserted.

At the request of the parties and the representations by counsel for the Plan Administrator, Laurence Freeman, and Gloria Freeman that a settlement is being finalized, the court continues the hearing on the Objection to Claim of Exemption.

MAY 28, 2014 HEARING

The Parties reported that this matter may be resolved as part of a larger settlement between the Trustee/Plan Administrator and Laurence Freeman, and between the Trustee/Plan Administrator and Gloria Freeman. The court continued the hearing to allow for further negotiations.

MARCH 19, 2014 HEARING

At the hearing, the court continued the hearing to allow MacDonald Fernandez, LLP, proposed counsel to substitute in for Debtor on limited issues. The court approved substitution of counsel for limited scope of representation on April 1, 2014. Dckt. 1395.

FEBRUARY 27, 2014 HEARING ON DEBTOR'S MOTION TO COMPEL

At the hearing on Debtor's Motion to Compel DCN GMF-19 (held in conjunction with the Plan Administrator's Motion to Abandon WFH-43), the parties agreed that the issues arising from this Objection to Exemptions so intertwined with the pending adversary (Case No. 13-2027) that the two should be conducted in conjunction with the testimony presented once. See Official Transcript, Dckt. 1377.

DECEMBER 12, 2013 HEARING

At the hearing the Trustee confirmed that there remains only one exemption as set forth in the Fifth Amended Schedule C for which there is an exemption, which exemption is described as follows:

2003 - 2005 tax refunds of appx. \$52,857.09 resulting from overpayment by Non-filing spouses corporation; this refund and all other refunds were disposed of pursuant to the July 19, 2012 settlement in this case - already given to non-filing spouse no value to the estate; debtor properly exempted her interest in the taxes with all remaining b(5) wildcard

C.C.P. § 703.140(b) (5)

Amount Claimed as Exempt: \$19,899.06

Value of Asset: \$0.00

The court issued an order which (1) determines that the only remaining objection to exemptions, for those as stated in the Fifth Amended Schedule C, is for the 2003-2005 tax return and (2) continuing the hearing, as the Objection is intertwined with the pending adversary proceeding between the Plan Administrator and Laurence Freeman, which includes whether the remaining asset (a tax refund) for which the Plan Administrator objections to the claim of exemption.

12. [10-23577-E-11](#) [13-2027](#) **GLORIA FREEMAN**
FREEMAN V. FLEMMER

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
1-29-13 [1]

Plaintiff's Atty: Craig A. Simmermon, Barry H. Spitzer
Defendant's Atty: Daniel L. Egan
Third Party Defendant's Atty: Reno F.R. Fernandez III

Adv. Filed: 1/29/13
Answer: 2/27/13
Counterclaim Filed: 2/27/13
Answer to Counterclaim:
3/20/13 [Laurence Freeman]
3/27/13 [Gloria Freeman]
4/24/13 [Gloria Freeman - First Amended]

Nature of Action: Declaratory judgment

The Status Conference is continued to xxxxx.

Notes: Continued from 7/1/14

13. [13-21878-E-7](#) THOMAS EATON
[14-2106](#)
RICE V. EATON

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
4-16-14 [[1](#)]

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

Adv. Filed: 4/16/14
Summons Reissued: 4/30/14
Answer: none

Nature of Action:
Dischargeability - domestic support
Recovery of money/property - preference
Objection/revocation of discharge
Validity, priority or extent of lien or other interest in property



Notes:

Continued from 7/9/14 by special order of the court dated 7/15/14 [Dckt 11] requiring appearance of counsel for Defendant Debtor and Order to Show Cause why the court does not order Thomas Eaton to pay the travel costs, expenses, and lost wages and earnings of Plaintiff relating to the 7/9/14 status conference. Plaintiff to file and serve on or before 8/15/14 a declaration itemizing all expenses and lost wages and earnings incurred in connection with her attending the 7/9/14 status conference.

Plaintiff declaration not filed as of 9/3/14.

SUMMARY OF COMPLAINT

Plaintiff Lorain Rice, in pro se, has filed the present complaint which is titled "Complaint to Determine Non Dischargeability, Revoke Discharge and 2004 Exam." Dckt. 1. Plaintiff asserts that she is a creditor of the Debtor, having a claim of \$125,000.00 for delinquent child support payments, and that there are current payments which continue to come due. Plaintiff asserts that Defendant-Debtor did not list her claim and hid the existence of the child support obligation from the court.

It is alleged that there is a settlement agreement by which the \$100,000.00 remains to be paid in four \$25,000.00 annual payments. Plaintiff further alleges that Defendant-Debtor failed to truthfully and accurately disclose his assets on Schedules filed in this case.

First Count - The debt owed to Plaintiff is for child support and should be determined non-dischargeable and paid in priority to other claims. Plaintiff, having learned of the bankruptcy case, has filed her Proof of Claim.

Second Count - Judgment is requested for the court to order the \$100,000 paid pursuant to the settlement.

Third Count - The court should order the Trustee to examine the Defendant-Debtor concerning his alleged failure to disclose assets. Further, Plaintiff should be allowed to conduct a Rule 2004 examination.

Fourth Count - The court should order an investigation into the discrepancies in the Schedules and omission of Plaintiff's child support claim in the Defendant-Debtor's bankruptcy case.

Fifth Count - The court should not allow the Trustee to abandon the Defendant-Debtor's dental equipment.

SUMMARY OF ANSWER

In the Answer, Thomas Eaton (the Defendant-Debtor) asserts that this Adversary Proceeding is a core matter, admits being indebted to Plaintiff, and denies each and every other allegation of the Complaint (other than "procedural facts" regarding the filing of the bankruptcy petition).

FINAL BANKRUPTCY COURT JUDGMENT

The Complaint states that Plaintiff seeks a determination of nondischargeability under 11 U.S.C. § 523(a)(5) and revoke the Defendant-Debtor's discharge pursuant to 11 U.S.C. § 727(d)(1). Jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b)(2). This is a , and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I). Complaint introduction and ¶ 4 Dckt. 1. In his answer, Thomas Eaton, the Defendant-Debtor admits the allegations of jurisdiction and that this is a core matter. Answer Introduction (the court construing the allegation that this is a "core proceeding" to also be an allegation or admission that the underlying jurisdiction for this bankruptcy court exists pursuant to 28 U.S.C. §§ 1334 and 157, and the reference to this bankruptcy court by the United States District Court for the Eastern District of California.

14. [13-21878-E-7](#) THOMAS EATON
[14-2106](#) RHS-1
RICE V. EATON

ORDER TO SHOW CAUSE WHY THE
COURT DOES NOT ORDER THOMAS
EATON TO PAY THE TRAVEL COSTS,
EXPENSES, AND LOST WAGES AND
EARNINGS OF PLAINTIFF
7-15-14 [[11](#)]

Tentative Ruling: 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. If the court's tentative ruling becomes its final ruling, the court will make the following findings of fact and conclusions of law:

Notice Provided: The Order to Show Cause was served by the Clerk of the Court through the Bankruptcy Noticing Center on Lorain Rice, Thomas Eaton, David Foyil, and the Office of the U.S. Trustee on July 16, 2013. 56 days notice of the hearing was provided.

The court's tentative decision is to xxxx the Order to Show Cause and xxxx.

The Order to Show Cause was issued on July 16, 2014. The Order asked why the court does not order Thomas Eaton to pay the travel costs, expenses, and lost wages and earnings of Plaintiff relating to the July 9, 2014 Status Conference.

ORDER TO SHOW CAUSE

The Order to Show Cause stated, in relevant part:

1. IT IS FURTHER ORDERED that David Foyil, counsel of record for the Defendant-Debtor shall appear in person, no telephonic appearances permitted, at the September 10, 2014 Status Conference. Counsel for Defendant-Debtor failed to appear at the July 9, 2014 Status Conference. The Plaintiff, having traveled from Illinois for the conference, and the court were unable to proceed due to the absence of Counsel. Further, that if Thomas Eaton fails to timely pay the reasonable sanctions, if any, for such expenses, why the court should not strike his answer and have the Clerk of the Court enter his default.
2. IT IS FURTHER ORDERED that David Foyil and Thomas Eaton shall show cause why the court does not order Thomas Eaton to pay all of the travel expenses and lost wages or earnings of Plaintiff Lorain Rice for the July 9, 2014 Status Conference which Thomas Eaton and his counsel failed to attend.
3. IT IS FURTHER ORDERED that Lorain Rice, on or before August 15, 2014, shall file with the court and serve on Counsel for Thomas Eaton a declaration itemizing all of the expenses and lost

wages and earnings incurred in connection with her attending the July 9, 2014 Status Conference.

SEPTEMBER 10, 2014 HEARING - STATUS CONFERENCE

At the hearing, -----

DISCUSSION

The court's docket reflects that David Foyil and Thomas Eaton have not provided any explanation or declaration on why the court does not order Thomas Eaton to pay all of the travel expenses and lost wages or earning of Plaintiff Lorain Rice for the July 9, 2014 Status Conference which Thomas Eaton and his counsel failed to attend.

Lorain Rice has also not filed with the court a declaration itemizing all of the expenses and lost wages and earning incurred in connection with her attending the July 9, 2014 Status Conference.

Based on the hearing, ----

The court shall issue a minute order substantially in the following form holding that:

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

The Order to Show Cause 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 Order to Show Cause is -----

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15. [12-28879-E-11](#) ANNETTE HORNSBY

**CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
5-8-12 [1]**

Debtor's Atty: Sunita Kapoor
Notes:



Continued from 4/16/14

Operating Reports filed: 4/25/14, 5/27/14, 6/24/14, 7/22/14, 8/27/14 [Amended May, Amended Jun, Jul]

[SK-51] Amended Disclosure Statement filed 4/15/14 [Dckt 236], hearing

continued to 9/16/14 at 1:30 p.m.

[SK-3] Creditor Stan Shore's Election Pursuant to 111 U.S.C. 1111(b) filed 7/28/14 [Dckt 260]

16. [14-22679-E-7](#) DENNIS FLORES STATUS CONFERENCE RE: COMPLAINT
[14-2193](#) 7-1-14 [[1](#)]
FLORES V. NATIONSTAR MORTGAGE,
LLC ET AL

Plaintiff's Atty: Mark Lapham
Defendant's Atty: unknown

Adv. Filed: 7/1/14
Answer: none

No Certificate of Service Filed.

Nature of Action:
Recovery of money/property - preference
Recovery of money/property - fraudulent transfer
Validity, priority or extent of lien or other interest in property
Dischargeability - willful and malicious injury
Injunctive relief - other
Declaratory judgment



Notes:

SUMMARY OF COMPLAINT

The Complaint States Four Express Causes of Action. The First Cause of Action is for a fraudulent conveyance pursuant to 11 U.S.C. § 548. The Second Cause of Action is for a declaration of the respective interests and rights of the parties. In the body of this cause of action, Plaintiff discusses injunctive relief under the California Code of Civil Procedure.

The Third Cause of Action is for willful and malicious injury. The Fourth Cause of Action is titled "Injunctive Relief." It is asserted that there can be no valid foreclosure by the Defendants. The Fifth Cause of Action is titled Declaratory Relief.

For all of the causes of action, other than the reference to 11 U.S.C.

§ 548, all of the other statutory references in the enumerated causes are to the California Code of Civil Procedure, not substantive law.

SUMMARY OF ANSWER

No answers have been filed.

CONVERSION OF PLAINTIFF'S BANKRUPTCY CASE

Plaintiff is the Debtor in case no. 14-22679 pending in this court. On July 1, 2014, Plaintiff elected to convert his Chapter 13 reorganization to a Chapter 7 liquidation. Upon conversion, all property of the bankruptcy estate (11 U.S.C. § 541) was under the exclusive control of the bankruptcy trustee. 11 U.S.C. § 323(a). As the representative of the estate, the Chapter 7 trustee's duties include collecting and reducing to money the property of the estate. 11 U.S.C. § 704(a) (1).

This Adversary Proceeding was filed by Plaintiff (former Chapter 13 debtor and current Chapter 7 debtor) the same day he voluntarily converted his bankruptcy case to one under Chapter 7.

17. [12-36884-E-7](#) JENNY PETTENGILL STATUS CONFERENCE AMENDED
VOLUNTARY PETITION
7-16-13 [[112](#)]

Debtor's Atty: Richard A. Hall



Notes:

Set by special order of the court dated 8/11/14 [Dckt 202]

[MF-1] Declaration of Terry A. Szucsko in Support of Corrigan Finance Limited's Assertion of Its Existence and Authority filed 8/22/14 [Dckt 208]

18. [14-22186-E-11](#) HOLISTIC ANIMAL CARE
SERVICES, INC. A NEVADA

CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
3-4-14 [[1](#)]

Final Ruling: No appearance at the September 10, 2014 Status Conference is required.

Debtor's Atty: C. Anthony Hughes

The Status Conference is continued to 10:30 a.m. on September 25, 2014, to be conducted in conjunction with the motion by the U.S. trustee to convert or dismiss this case.

Notes:

Continued from 4/16/14

Operating Reports filed: 6/3/14 [Mar, Apr], 6/14/14, 7/28/14

[JTK-1] Order Granting Motion for Relief with Leave to Foreclose on Deed of Trust and Obtain Possession of Real Property filed 5/15/14 [Dckt 54]

[JTK-1] Order determining that this case is one as defined pursuant to 11 U.S.C. § 362(d)(3) to be a single asset real estate case filed 5/15/14 [Dckt 55]

[UST-1] United States Trustee's Motion to Convert or Dismiss Case filed 8/25/14 [Dckt 63], set for hearing 9/25/14 at 10:30 a.m.

19. [11-27087-E-13](#) CRUZ CARRILLO AND
[14-2202](#) HORTENCIA SORIA
CARRILLO ET AL V. BANK OF THE
WEST
ADV. CASE DISMISSED 8/18/14

STATUS CONFERENCE RE: COMPLAINT
7-10-14 [[1](#)]

Final Ruling: No appearance at the September 10, 2014 Status Conference is required.

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

Adv. Filed: 7/10/14
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)

The Adversary Proceeding having been previously dismissed, the Status Conference is removed from the Calendar.

Notes:

Notice of Dismissal of Plaintiff's Adversary Proceeding filed 8/18/14 [Dckt 8]

20. [08-35291-E-13](#) VICTOR/PATRICIA GUZMAN
[10-2141](#)
GUZMAN ET AL V. ONEWEST BANK,
FSB ET AL

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
3-15-10 [[1](#)]

Plaintiff's Atty: Mark A. Wolff

Defendant's Atty:

Joshua A. del Castillo [OneWest Bank, FSB; IndyMac Mortgage Servicing]
unknown [IndyMac Federal Bank]

Adv. Filed: 3/15/10

Answer: 4/14/10 [OneWest Bank, FSB; IndyMac Mortgage Servicing]

Amd Cmplt filed: 5/29/12

Answer to Amd Cmplt: 6/29/12 [OneWest Bank, FSB; IndyMac Mortgage Servicing]

Nature of Action:

Injunctive relief - other

Recovery of money/property - other

Validity, priority or extent of lien or other interest in property



Notes:

Continued from 7/9/14 to allow the parties to file a new motion to have the settlement approved in related case before Judge Holman.