

[4] Dismissing Creditors contention that the recording of their judgment lien was not based on an ‘antecedent debt,’ Creditors cannot ignore the statutory presumption of insolvency under 11 U.S.C. § 547, the contention of forbearance was not supported by the evidence, and Creditors asserted “baseless grounds” in requesting relief; Civil Minutes, p. 6–8, Dckt. 62;

[5] Dismissal of Creditor’s complaint against non-debtor third-parties for relief under 11 U.S.C. § 523 for failing to state a claim for which relief could be granted against nondebtors under that provision of the Bankruptcy Code; Adv. Pro. 16-2010, Civil Minutes, p. 13–14; and

[6] Creditors failing to show any legal basis for trying to unilaterally exercise the powers of a debtor in possess/trustee under 11 U.S.C. §§ 547 and 548; *id.*, p. 15–16;

In Adversary Proceeding 16-2010 the court perceived the litigation conduct of Plan Administrator/Debtor and Creditors to be ‘sandbox litigation,’ well below that required in federal court proceedings. 16-2010; Civil Minutes, p. 15–16, Dckt. 38. The court observed that the pleadings disclosed a ‘toxic, less than professional, relationship between [Creditors and Plan Administrator/Debtor] in the State Court [proceedings that set the stage for the bankruptcy case filing].’ *Id.*, p. 17. The Civil Minutes include extensive quotations of the less than professional conduct that one expects from parties engaging in litigation, even in state court...

...
Based on the testimony of Plan Administrator/Debtor’s Counsel, the Plan Administrator/Debtor was fully aware that he was not able to perform the Plan as confirmed through the refinance. Rather than coming back to court and addressing the issue, Plan Administrator/Debtor found it to be to his advantage to elect a path that would give him a \$63,774.33 benefit and divert that amount away from Creditors. Adopting the adage, “It is better to seek forgiveness rather than request permission” is not an effective, productive strategy in bankruptcy proceedings. FN.2.

...
It appears that between the litigation strategy of the Plan Administrator/Debtor, Creditors, and their respective counsel, they have driven this case to one in which it probably will have to be converted or dismissed. It appears that conversion may well be the better option so that an independent fiduciary can figure out how the strategies and conduct of these Parties and their counsel have damaged the bankruptcy estate and other creditors. At the time, the Motion is denied.”

Id.

At the Status Conference, **XXXXXXXXXXXXXXXXXXXXXXXXXXXX**

JULY 26, 2017 STATUS CONFERENCE

In connection with the hearing on a motion to approve proposed distribution under the Chapter 11 Plan (Civil Minutes, Dckt. 210) the court was afforded the opportunity to address the status of this bankruptcy case and prosecution thereof. On July 21, 2017, the Plan Administrator/Debtor filed a Status Report. Dckt. 213. The Plan Administrator/Debtor reports about an agreement to modify the confirmed plan to address the financial issues identified post-confirmation.

The court continues the Status Conference to afford the Parties to continue in their good faith efforts to keep a confirmed plan in this case moving forward.

2. [13-24610-E-13](#) **DAX/TINA CHAVEZ** **CONTINUED STATUS CONFERENCE**
[17-2076](#) **CHAVEZ ET AL V. GREGORY** **RE: AMENDED COMPLAINT**
FUNDING LLC ET AL **8-10-17 [30]**

Final Ruling: No appearance at the November 1, 2017 Status Conference is required.

Plaintiffs' Atty: Peter G. Macaluso
Defendants' Atty: Joshua Scheer

Adv. Filed: 5/10/17
Answer: none

Amd. Cmplt. Filed: 8/10/17
Answer: none

The Status Conference is continued to 2:00 p.m. on January 17, 2018.

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

Notes:
Continued from 7/27/17 to allow the Parties to engage the services of a mediator to facilitate communications, the filing of an amended complaint, if necessary, and responses to the amended complaint, if any, to be filed prior to the continued status conference.

[JLS-1] Substitution of Attorney for [Defendants] filed 8/7/17 [Dckt 27]; Order granting filed 8/8/17 [Dckt 29]

Amended Complaint filed 8/10/17 [Dckt 30]

Joint Stipulation to Extend Time for Defendants to Answer the First Amended Complaint filed 10/3/17 [Dckt 46]

Joint Stipulation to Extend Time for Defendants to Answer the First Amended Complaint filed 10/10/17 [Dckt 48]

Joint Stipulation to Extend Time for Defendants to Answer the First Amended Complaint filed 10/20/17 [Dckt 50]

Stipulated Request for Order Continuing Status Conference and Staying Matter While Settlement is Documented filed 10/20/17 [Dckt 50]; order [Dckt. 55]

Plaintiffs' 2nd Status Statement filed 10/23/17 [Dckt 53]

5. [11-41628-E-13](#) **EDDIE DAKI** **CONTINUED STATUS CONFERENCE**
[17-2122](#) **DAKI V. J.P. MORGAN CHASE BANK** **RE: COMPLAINT**
7-11-17 [1]

Plaintiff's Atty: Peter G. Macaluso
Defendant's Atty: Matthew S. Henderson

Adv. Filed: 7/11/17
Answer: none

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

The Status Conference is XXXXXXXXXXXXXXXXXXXX.

Notes:
Continued from 9/6/17

[PIB] Notice of Motion to Dismiss Adversary Complaint by Defendant JPMorgan Chase Bank, N.A. filed 9/28/17 [Dckt 12], set for hearing 11/16/17 at 11:00 a.m.

NOVEMBER 1, 2017 STATUS CONFERENCE

This Adversary Proceeding was filed on July 11, 2017. No Answer has been filed, but Defendant JPMorgan Chase Bank, N.A. has filed a Motion to Dismiss (Dckt. 12). Though Federal Rule of Civil Procedure 7(b) and Federal Rule of Bankruptcy Procedure 7007 requires that a motion state with particularity the grounds upon which the requested relief is based, JPMorgan Chase Bank, N.A. states only the following in its "motion:"

- A. Notice of the hearing date.
- B. The legal conclusion that the federal courts “lacks jurisdiction” because this is a “non-core” matter.
- C. The legal conclusion that the first cause of action fails to state a claim for relief.
- D. The legal conclusion that the second cause of action fails to state a claim for relief.
- E. The legal conclusion that the third cause of action fails to state a claim for relief.
- F. The legal conclusion that the fourth cause of action fails to state a claim for relief.
- G. The court is instructed by JPMorgan Chase Bank, N.A. to read the Notice of Motion (which JPMorgan Chase Bank, N.A. files in lieu of a motion), the points and authorities, the request for judicial notice, all of the pleadings filed in this “action,” and whatever else JPMorgan Chase Bank, N.A. decides to present at the hearing (without regard to the Federal Rules of Civil Procedure and the Local Bankruptcy Rules), and from that the court is to assemble the grounds to be stated in a motion for JPMorgan Chase Bank, N.A.

Dckt. 12.

In substance, the grounds stated by JPMorgan Chase Bank, N.A. are nothing more than JPMorgan Chase Bank, N.A. instructing the court to enter the order as demanded.

In looking at JPMorgan Chase Bank, N.A.’s legal conclusions, the court is somewhat bewildered. On the one hand JPMorgan Chase Bank, N.A. admits that this is a “non-core matter” for which federal court jurisdiction exists, but on the other hand, contends that since it is non-core, then federal court jurisdiction does not exist. In looking at the points and authorities, it appears that JPMorgan Chase Bank, N.A. confuses the concept of federal jurisdiction and the identification of the proper federal judicial officer to enter the final orders and judgment, the Article III district court judge or the Article I bankruptcy judge, and related to federal court jurisdiction.

JPMorgan Chase Bank, N.A. has filed a Status Conference Statement. Dckt. 18. In it, counsel for JPMorgan Chase Bank, N.A. recounts unsuccessful attempts to communicate with counsel for Plaintiff. JPMorgan Chase Bank, N.A. then states that “Moreover, Chase does not consent to jurisdiction.” Federal court jurisdiction is not something that parties may “consent to.” *Ins. Corp. of Ir. v. Compagnie Des Bauxites De Guinee*, 456 U.S. 694, 702, 1982. More significantly, it is not something that a party can “opt-out of.”

The conduct of JPMorgan Chase Bank, N.A. in this Adversary Proceeding appears to be part of a larger pattern of conduct manifesting itself in unrelated adversary proceedings, contested matters, and bankruptcy cases in which JPMorgan Chase Bank, N.A. has determined that it and its attorneys need not comply with the Federal Rules of Civil Procedure, Federal Rules of Bankruptcy Procedure, and Local Bankruptcy Rules. This appears to be creating a mosaic of a federal litigation strategy developed by JPMorgan Chase Bank, N.A. and dictated to its local lawyers of advancing arguments and positions not

based on any good faith application of the law (FED. R. CIV. P. 11, FED. R. BANKR. P. 9011), but one intended to cause otherwise unwarranted cost and expense to other parties.

It also appears that JPMorgan Chase Bank, N.A. has chosen to present the court with somewhat “dated” Ninth Circuit decisions in “support” of its contention that no “federal jurisdiction” can exist to address the issues in this Complaint. The authorities cited do not include, either not having found or intentionally omitting from the points and authorities, the more recent decision of *Wilshire Courtyard v. Cal. Franchise Tax Bd. (In re Courtyard)*, 729 F.3d 1279 (9th Cir. 2013). In that decision, the Ninth Circuit Court of Appeals states:

We disagree with the BAP’s holding that the bankruptcy court did not have “related to” jurisdiction over the present dispute. “A bankruptcy court’s ‘related to’ jurisdiction is very broad, including nearly every matter directly or indirectly related to the bankruptcy.” *Sasson v. Sokoloff (In re Sasson)*, 424 F.3d 864, 868 (9th Cir. 2005) (internal quotation marks omitted).

The test for post-confirmation “related to” jurisdiction was modified from the seminal pre-confirmation *Pacor* test for “related to” jurisdiction, which had been previously adopted by the Ninth Circuit in *Fietz v. Great W. Savings (In re Fietz)*, 852 F.2d 455, 457 (9th Cir. 1988) (citing *Pacor, Inc. v. Higgins*, 743 F.2d 984, 994 (3d Cir. 1984)). Surveying the courts that had applied a limited version of the *Pacor* test in the post-confirmation context, we recognized that the *Pacor* test of whether “the outcome of the proceeding could conceivably have any effect on the estate being administered in bankruptcy. . . . [I]f the outcome could alter the debtor’s rights, liabilities, options, or freedom of action . . . and which in any way impacts upon the handling and administration of the bankrupt estate” was “somewhat overbroad in the post-confirmation context.” *Pegasus Gold Corp.*, 394 F.3d at 1193, 1194 (quoting *In re Fietz*, 852 F.2d at 457).

The “close nexus” test determines the scope of bankruptcy court’s post-confirmation “related to” jurisdiction. *Pegasus Gold Corp.*, 394 F.3d at 1194. As adopted from the Third Circuit, the test encompasses matters “affecting the ‘interpretation, implementation, consummation, execution, or administration of the confirmed plan.’” *Id.* (quoting *Binder v. Price Waterhouse & Co. (In re Resorts Int’l, Inc.)*, 372 F.3d 154, 166–67 (3d Cir. 2004)). The close nexus test “recognizes the limited nature of post-confirmation jurisdiction but retains a certain flexibility.” *Id.*

Applying the close nexus test in *Pegasus Gold*, we held that “related to” jurisdiction existed because some claims concerning post-confirmation conduct—specifically, alleged breach of the liquidation/reorganization plan and related settlement agreement as well as alleged fraud in the inducement at the time of the plan and agreement—would “likely require interpretation of the [settlement agreement and plan].” *Id.* The claims and remedies could also “affect the implementation and execution” of the as-yet-unconsummated plan itself. *Id.*...

Id. at 1287.

In the points and authorities JPMorgan Chase Bank, N.A. argues to the court that the issue in dispute is the effect of and enforcement of the Chapter 13 Plan confirmed in this case, the application of 11 U.S.C. § 506(a) of the Bankruptcy Code, and the effect those federal provisions and confirmation of a Chapter 13 Plan have on state law contractual and statutory obligations concerning the rights and obligation of a creditor holding a claim, which was the subject of the bankruptcy plan and orders of this court, in this bankruptcy case under the confirmed Chapter 13 Plan. The Complaint expressly states that the relief is based on 11 U.S.C. § 506, which includes the provisions of § 506(d).

See also, *HSBC Bank USA, N.A. v. Blendheim (in re Blendheim)*, 803 F.3d 447, 489-490, 501, (9th Cir. 2015), stating:

“The most straightforward reading of the text suggests that if a creditor’s claim has not been “allowed” in the bankruptcy proceeding, then “such lien is void.” “Void” means “[o]f no legal effect” or “null.” Black’s Law Dictionary (10th ed. 2014). Accordingly, Congress’s language appears unequivocal: § 506(d)’s clear and manifest purpose is to nullify a creditor’s legal rights in a debtor’s property if the creditor’s claim is “not allowed,” or disallowed.

...

[D]ewsnup’s holding clarifies that § 506(d)’s avoidance mechanism turns on claim allowance. See *Bank of America, N.A. v. Caulkett*, 135 S. Ct. 1995, 1999, 192 L. Ed. 2d 52 (2015) (affirming *Dewsnup’s* interpretation of § 506(d) in the context of wholly underwater liens; ‘Because the Bank’s claims here are both secured by liens and allowed under § 502, they cannot be voided under the definition given to the term ‘allowed secured claim’ [*490] by *Dewsnup*’); see also 4 Collier on Bankruptcy ¶ 506.06[1][a] (“*[Dewsnup]* determined that section 506(d) does not void liens on the basis of whether they are secured under section 506(a), but on the basis of whether the underlying claim is allowed or disallowed”).

...

We therefore affirm the bankruptcy court’s conclusion that § 506(d) authorized the avoidance of HSBC’s lien. These facts present a straightforward application of § 506(d)’s textual command....

...

We conclude that the bankruptcy court properly voided HSBC’s lien under § 506(d), confirmed the Blendheims’ Chapter 13 plan offering permanent avoidance of HSBC’s lien upon successful plan completion, and found no due process violation or bad faith purpose in filing the Chapter 13 petition. Accordingly, we affirm the bankruptcy court’s lien-avoidance order, plan confirmation order, and plan implementation order.”

However, JPMorgan Chase Bank, N.A. appears to state that the issues in the Complaint have nothing to do with the bankruptcy case, its secured claim in the bankruptcy case, the confirmed Chapter 13 Plan, and the uniform federal bankruptcy law enacted by Congress as mandated by Article I of the U.S. Constitution.

6. [16-20734-E-13](#) EUGENE SPENCER
[16-2059](#)
SPENCER V. SPENCER, III

CONTINUED STATUS CONFERENCE
RE: COMPLAINT
3-25-16 [1]

Final Ruling: No appearance at the November 1, 2017 Status Conference is required.

Plaintiff's Atty: Mark A. Serlin

Defendant's Atty: Pro Se

Adv. Filed: 3/25/16

Answer: 4/25/16

Counterclaim & Jury Demand Filed: 4/25/16

Answer: 5/9/16

Amd. Answer: 5/10/16

Nature of Action:

Dischargeability - fraud as fiduciary, embezzlement, larceny

The Status Conference is continued to 2:00 p.m. on January 17, 2017, to afford the Parties time for the entry of the State Court Judgment and the filing of any dispositive pleadings (in whole or in part) concerning issues in this Adversary Proceeding.

Notes:

Continued from 7/26/17 to allow the Parties to diligently prosecute the pending state court proceeding.

Status Conference Report of Plaintiff Disarie Ranessa Spencer [and exhibits] filed 10/23/17 [Dckt 48 & 49]

NOVEMBER 1, 2017 STATUS CONFERENCE

On October 23, 2017, Plaintiff Disarie Spencer filed an updated Status Report. Dckt. 48. In the Status Report, Plaintiff advises the court that California Superior Court has now entered a decision in favor of Plaintiff and against Defendant-Debtor on the issue of breach of fiduciary duty. Further, the Status Report states that the judgment thereon has not yet been entered, but should be in the near future.

Filed as Exhibit A is a document identified as the State Court Decision in favor of Plaintiff. For purposes of the Status Conference, the court has reviewed the unauthenticated exhibit that is titled "Ruling on Petitioner's [Plaintiff] Request for Order Regarding Omitted Assets, Respondent's [Defendant-Debtor] Breach of Fiduciary Duties, Attorney's Fees, and Family Code § 721 Sanctions." That Ruling includes the following:

November 1, 2017, at 2:00 p.m.

- Page 10 of 25 -

“The secret account was not listed in [Defendant-Debtor]’s August 2, 2007 preliminary and final declaration of disclosure. [Defendant-Debtor] testified that he though the secret account had been closed when he completed his disclosure, but the court finds that testimony is not credible. The July 2007 bank statement shows 53 withdrawals and seven deposits during the month of July 2007. The August 2007 statement lists 14 withdrawals and two deposits. In fact, the August statement shows an August 2, 2007 withdrawal of \$40 having occurred at 3341 Power Inn Road (which is the street number of the Sacramento Superior Court family law division). The court finds [Defendant-Debtor] was fully aware of the existence of the secret account when he completed his inaccurate declaration of disclosure.

...

The court finds nothing extraordinary in [Defendant-Debtor]’s failure to identify the source of all funds deposited into the secret account considering the considerable passage of time since the events occurred. However, the court finds his testimony convincing the payments from the secret account were used for community purposes.

...

[Plaintiff] has met her burden to establish [Defendant-Debtor] failed to disclose all assets. He failed to disclose the secret account which at the date of separation had a balance of \$5,951.64. He failed to disclose the existence of his Nationwide 401(k) and 457 deferred compensation plans which had a combined balance of \$8,564.42. Thus, the court will award [Plaintiff] one-half of the value of the accounts, to wit: the sum of 7,258.03 [sic] plus legal interest at the rate of 10% from August 14, 2006, i.e., the sum of \$8,104.76. Additionally, the court will award [Plaintiff] sanctions for [Defendant-Debtor]’s breach of fiduciary duty for his failure to fully disclose community property under his sole possession and control in the amount of \$6,000. [Plaintiff]’s separate for attorney’s fees pursuant to Family Code §2030 is denied.”

Exhibit A.

7. [13-24069-E-13](#) **DAWN LAWSON**
[17-2119](#)
LAWSON V. JPMORGAN CHASE BANK,
N.A.

CONTINUED STATUS CONFERENCE
RE: COMPLAINT
7-11-17 [[1](#)]

Final Ruling: No appearance at the November 1, 2017 Status Conference is required.

Plaintiff's Atty: Aubrey L. Jacobsen
Defendant's Atty: unknown

Adv. Filed: 7/11/17
Answer: none
Nature of Action:
Validity, priority or extent of lien or other interest in property
Declaratory judgment

The Status Conference is continued to 11:00 a.m. on January 17, 2018, to allow Plaintiff-Debtor to prosecute her Motion for Entry of Default Judgment in this Adversary Proceeding.

Notes:
Continued from 9/6/17

Request for Entry of Default by Plaintiff [JPMorgan Chase Bank, N.A.] filed 9/19/17 [Dckt 16]

Entry of Default and Order Re: Default Judgment Procedures [JPMorgan Chase Bank, N.A.] filed 9/20/17 [Dckt 18]

Plaintiff's Application for Default Judgment filed 10/3/17 [Dckt 23], set for hearing 11/16/17 at 11:00 a.m.

SUMMARY OF COMPLAINT

Dawn Larson, the Plaintiff-Debtor, alleges that in her Chapter 13 Case she has completed her Chapter 13 Plan. That Plan provided for the secured claim of JPMorgan Chase Bank, N.A., which was valued at \$0.00 pursuant to 11 U.S.C. § 506(a). Though the Plan has been completed and the secured claim of JPMorgan Chase Bank, N.A. having been provided for, JPMorgan Chase Bank, N.A. has not reconveyed the deed of trust for which there is no remaining obligation to be secured.

The First Cause of Action is titled Declaratory Relief. The requested relief is a declaration that the law requires the voiding and release of the deed of trust. The court does not provide a declaration of who is right and who is wrong, but adjudicates the actual rights and interests, entering a judgment thereon. Declaratory relief, 28 U.S.C. § 2201, is proper when it [b]rings to the present a litigable controversy, which

otherwise might only be tried in the future. *Societe de Conditionnement v. Hunter Eng. Co., Inc.*, 655 F.2d 938, 943 (9th Cir. 1981). However, it is a controversy in which the litigation may not yet require the award of damages. *Id.*

Here, all of the bells have been rung and conduct taken by which Plaintiff-Debtor asserts her rights to have the void deed of trust removed from the property and have a judicial determination that the deed of trust is void and does not encumber the property.

The court reads (for this complaint) the First Cause of Action to be one seeking a judgment quieting title as between Plaintiff-Debtor and JPMorgan Chase Bank, N.A. and for a judgment determining that the Deed of Trust is void and does not encumber the Property. This is based on the confirmed Chapter 13 Plan, the order of this court valuing the secured claim pursuant to 11 U.S.C. § 506(a), and the completion of the Chapter 13 Plan.

In the Second Cause of Action, Plaintiff-Debtor asserts her rights under California Civil Code § 2841(d) for statutory damages, attorneys fees, and costs.

SUMMARY OF ANSWER

No answer or other responsive pleadings has been filed.

FINAL BANKRUPTCY COURT JUDGMENT

Plaintiff-Debtor alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157, and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Plaintiff-Debtor asserts that the core proceeding grounds include these determinations being based on the claim of Defendant in the bankruptcy case, the court's order valuing the secured claim pursuant to 11 U.S.C. § 506(a), the effect of confirmation of the Chapter 13 Plan pursuant to 11 U.S.C. § 1325, and the effect under federal law by the completion of the Chapter 13 Plan. Complaint 2, 3, and 4, Dckt. 1. In addition, the court notes that 11 U.S.C. § 506(d) also provides a federal basis for determining that a lien is void through a bankruptcy case.

The Certificate of Service filed on July 12, 2017, states that service was made on JPMorgan Chase Bank, N.A. at 1111 Polaris Parkway, Columbus, Ohio. Dckt. 8. A summons was reissued on August 16, 2017. The reissued summons and Complaint were served on JPMorgan Chase Bank, N.A. at the 1111 Polaris Parkway address again on August 18, 2017, but by certified mail the second time. Dckt. 10. The Polaris Parkway address is the one listed by the FDIC on its website bank information page.

STATUS

The reissued summons is dated August 16, 2017, and Defendant JPMorgan Chase Bank, N.A. is given thirty days from that date to file an answer or other responsive pleading. As of the September 6, 2017 Status Conference that thirty-day period had not expired.

At the Status Conference, Counsel for Plaintiff-Debtor reported that the deed of trust has been reconveyed, with the only issue being the statutory and contractual damages and attorneys fees.

8. [17-21173](#)-E-13 ODETE CABRAL CONTINUED STATUS CONFERENCE
[17-2056](#) RE: AMENDED COMPLAINT
CABRAL V. NATIONSTAR MORTGAGE, 9-6-17 [33]
LLC

Final Ruling: No appearance at the November 1, 2017 Status Conference is required.

Plaintiff's Atty: Peter G. Macaluso
Defendant's Atty: Dane W. Exnowski

Adv. Filed: 4/11/17
Answer: none

Amd. Cmpl. Filed: 9/6/17
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)

The Status Conference is continued to 11:00 a.m. on November 16, 2017, to be conducted in conjunction with the pending motion to dismiss this adversary proceeding.

Notes:

Continued from 8/17/17, the Defendant's motion to dismiss having been granted and the Plaintiff-Debtor having been granted leave to file an amended complaint.

[ETL-1] Order Granting Motion to Dismiss Adversary Proceeding filed 8/20/17 [Dckt 31]

Amended Complaint filed 9/6/17 [Dckt 33]

[DWE-1] Defendant's Motion to Dismiss Plaintiff's Amended Complaint Without Leave to Amend filed 10/6/17 [Dckt 36], set for hearing 11/16/17 at 11:00 a.m.

Final Ruling: No appearance at the November 1, 2017 Status Conference is required.

Debtor's Atty: Mikalah R. Liviakis

The Status Conference is continued to 11:00 a.m. on November 16, 2017 (specially set date and time) by prior order of this court (Dckt. 38).

Notes:

Operating Reports filed: 9/15/17

[MRL-1] Application to Employ Liviakis Law Firm, PC as Counsel for Debtor filed 8/30/17 [Dckt 11];
Order granting filed 10/9/17 [Dckt 27]

Status Report filed 8/30/17 [Dckt 16]

U.S. Trustee Report at 341 Meeting docketed 9/21/17

Ex Parte Application to Continue Hearing or Excuse Attendance filed 10/10/17 [Dckt 28]; order pending

[MRL-2] Liviakis Law Firm PC's Application for Interim Compensation filed 10/22/17 [Dckt 32], set for hearing 12/7/17 at 10:30 a.m.

NOVEMBER 1, 2017 STATUS CONFERENCE

STATUS CONFERENCE SUMMARY

This Chapter 11 case was commenced by the Debtor on August 23, 2017. No Chapter 11 Status Report has been filed by the Debtor in Possession.

The court has continued this Status Conference pursuant to the ex parte motion of the Debtor in Possession. Dckt. 28. The continuance was necessitated due to out of state work commitments that Debtor in Possession's "employer" would not let him out of.

In reviewing Schedule I, Debtor lists his employer as "Kennedy/Jenks Consultant." On Schedule B Debtor lists having "Stocks in Current Employer," which are valued at \$3,000.00. Dckt .23 at 5. A review of the California Secretary's of State website discloses there being two "Kennedy/Jenks Consultant" corporations:

- A. Kennedy/Jenks Consultants, Engineers & Scientists P.C.; and
- B. Kennedy/Jenks Consultants, Inc.

MONTHLY OPERATING REPORT SUMMARY

| September, 2017 Report | | Filed: October 25, 2017 | |
|--------------------------|----------------------------|-------------------------|---------------|
| INCOME | Current | | Cumulative |
| “Paychecks” | \$ 10,737 | | \$ 10,737 |
| Medical Reimb. | \$ 0 | | \$ 160 |
| Cking Acct Dep. | \$ <u>1</u> | | \$ <u>157</u> |
| Total | \$ 10,738 | | \$ 11,054 |
| | | | |
| EXPENSES | \$ (6,567) | | \$ (8,077) |
| | | | |
| PROFIT/(LOSS) | \$ 4,171 | | \$ 2,977 |
| | | | |
| Specific Expenses | | | |
| | Rent | (\$1,475) | |
| | Legal Fees | (\$1,717) | |
| | Food, Household, Utilities | (\$1,717) | |
| | | | |
| | | | |

SUMMARY OF SCHEDULES

| Real Property Schedule A | FMV | LIENS |
|--------------------------|-----|-------|
| None | | |
| | | |

| Personal Property Schedule B | FMV | LIENS | |
|-------------------------------------|-----------|-------|--|
| Prius | \$8,264 | | |
| Accord | \$4,446 | | |
| 401k | \$155,000 | | |

| Secured Claims Schedule D | TOTAL CLAIM AMOUNT | FMV | UNSECURED CLAIM PORTION |
|----------------------------------|--------------------|-----|-------------------------|
| None | | | |
| | | | |
| | | | |

| PRIORITY UNSECURED CLAIMS SCHEDULE E | TOTAL CLAIM AMOUNT | PRIORITY | GENERAL UNSECURED |
|---|--------------------|------------|-------------------|
| Franchise Tax Board | (\$12,000) | (\$5,600) | (\$6,400) |
| Internal Revenue Service | (\$272,416) | (\$11,000) | (\$261,416) |
| Stacey Macdonald (marital) | (\$45,517) | (\$45,517) | |
| | | | |

| GENERAL UNSECURED CLAIMS SCHEDULE F | TOTAL CLAIM AMOUNT | | GENERAL UNSECURED |
|--|--------------------|---------------|-------------------|
| Total | \$129,048 | | |
| | | Student Loans | (\$113,414) |
| | | Others | (\$15,634) |
| | | | |

| | | |
|------------------------------|--------------------------|---------|
| INCOME, SCHEDULE I | | |
| Total Average Monthly Income | | |
| Wages | \$14,887 | |
| | Voluntary Retirement | (\$710) |
| | Required Repayment Loans | (\$90) |
| | Stock Loan | (\$552) |
| | | |

| | | |
|--------------------------------|-----------|-----------|
| EXPENSES, SCHEDULE J | | |
| Total Average Monthly Expenses | | |
| | (\$4,910) | |
| | | |
| Rent/Mortgage | | (\$1,424) |
| Food/Housekeeping Supplies | | (\$640) |
| | | |
| | | |

STATEMENT OF FINANCIAL AFFAIRS

Question 1 Income

| | | |
|----------|-----------|--|
| 2017 YTD | \$102,000 | |
| 2016 | \$182,000 | |
| 2015 | \$147,000 | |
| | | |

Question 2 Non-Business Income

| | | |
|----------|------|--|
| 2017 YTD | None | |
|----------|------|--|

| | | |
|------|------|--|
| 2016 | None | |
| 2015 | None | |
| | | |

Question 3 Payments within 90 days

| Creditor | Amount | Date |
|----------|--------|------|
| None | | |
| | | |

Payments within one year

| Creditor | Amount | Date |
|-----------------|---------|------------------------------|
| Stacy McDonald | \$4,500 | Monthly payments, Settlement |
| FTB Garnishment | \$8,394 | |

10. [17-23881-E-13](#) TATYANA KRIVOSHEY
[17-2165](#)
KRIVOSHEY V. TRUSTEE CORPS ET
AL
ADVERSARY PROCEEDING
DISMISSED: 10/13/2017

STATUS CONFERENCE RE:
COMPLAINT
8-28-17 [1]

Final Ruling: No appearance at the November 1, 2017 Status Conference is required.

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

Adv. Filed: 8/28/17
Answer: none
Nature of Action:
Recovery of money/property - preference
Recovery of money/property - fraudulent transfer
Recovery of money/property - other
Dischargeability - false pretenses, false representation, actual fraud

The Plaintiff-Debtor having requested that the Adversary Proceeding be dismissed (Dckt. 6), the court orders it dismissed and **the Status Conference is removed from the Calendar.**

Notes:
Debtor's Motion to Dismiss Adversary Proceeding filed 10/13/17 [Dckt 6]

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.

Tatyana Krivoshey, the Plaintiff-Debtor having filed a request for an order dismissing this Adversary Proceeding (Dckt. 6), no responsive pleading having been filed, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Adversary Proceeding is dismissed without prejudice.

The Clerk of the Court may close the file for this Adversary Proceeding.

11. [17-22489-E-13](#) EUGENE NIERI
[17-2126](#)
LBS FINANCIAL CU V. NIERI

STATUS CONFERENCE RE:
COMPLAINT
7-14-17 [1]

Final Ruling: No appearance at the November 1, 2017 Status Conference is required.

Plaintiff's Atty: Karel Rocha
Defendant's Atty: unknown

Adv. Filed: 7/14/17
Answer: none

Nature of Action:
Dischargeability - willful and malicious injury

Notes:
Request for Entry of Default by Plaintiff filed 9/8/17 [Dckt 11]; Memorandum Re: Default Papers filed 9/13/17 [Dckt 13]

The Plaintiff-Debtor having requested that the Adversary Proceeding be dismissed (Dckt. 14), the court orders it dismissed and **the Status Conference is removed from the Calendar.**

Notes:
Debtor's Motion to Dismiss Adversary Proceeding filed 10/13/17 [Dckt 6]

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.

LBS FINANCIAL CU, the Plaintiff having filed a request for an order dismissing this Adversary Proceeding with prejudice (Dckt. 14), no responsive pleading having been filed, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Adversary Proceeding is dismissed with prejudice.

The Clerk of the Court may close the file for this Adversary Proceeding.

12. [17-25091-E-13](#) **JULIET DACPANO**
[17-2166](#)
U.S. TRUSTEE V. DACPANO

STATUS CONFERENCE RE:
COMPLAINT
8-28-17 [1]

Plaintiff's Atty: Judith C. Hotze
Defendant's Atty: Pro Se

Adv. Filed: 8/28/17
Answer: 9/27/17

Nature of Action:
Injunctive relief - other

Notes:
Joint Discovery Plan filed 10/17/17 [Dckt 8]

SUMMARY OF COMPLAINT

The U.S. Trustee ("Plaintiff") seeks the court issuing a three year mandatory pre-filing review injunction barring Defendant-Debtor from commencing a bankruptcy case without first obtaining authorization from the chief bankruptcy judge in the district in which the filing of such petition is sought. The Complaint identifies nine bankruptcy cases filed by Defendant-Debtor and her husband, which cases have all been dismissed, except for two Chapter 7 cases in which Defendant-Debtor and her husband received discharges in their respective separately filed Chapter 7 cases.

SUMMARY OF ANSWER

Juliet Ramos Dacpano ("Defendant-Debtor") has filed an Answer. Dckt. 7. In the pro se Answer, Defendant-Debtor does not admit and deny specific allegations in the Complaint. The "Answer" is a narrative of Defendant-Debtor's contentions concerning a debt secured by her home, an asserted right to modify that debt, and the effect of the bankruptcy filings (and automatic stay) on such creditor. In substance, the "Answer" has little to do with the Complaint and the ineffective exercise of rights under the Bankruptcy Code.

FINAL BANKRUPTCY COURT JUDGMENT

The U.S. Trustee, Plaintiff alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b)(2), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Complaint ¶ 2, Dckt. 1. In her pro se Answer, Juliet Ramos Dacpano, the Defendant-Debtor, does expressly admit that this Adversary Proceeding is a core matter, and to the extent not core, consents to the bankruptcy judge issuing all orders and the final judgment herein. Answer, ¶ 5; Dckt. 7.

To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this Adversary Proceeding are “related to” matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.

JOINT DISCOVER PLAN

The Parties have met and conferred concerning his Adversary Proceeding and have presented their joint discovery plan. Dckt. 8.

ISSUANCE OF PRE-TRIAL SCHEDULING ORDER

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

a. The U.S. Trustee, Plaintiff alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b)(2), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Complaint ¶ 2, Dckt. 1. In her pro se Answer, Juliet Ramos Dacpano, the Defendant-Debtor, does expressly admit that this Adversary Proceeding is a core matter, and to the extent not core, consents to the bankruptcy judge issuing all orders and the final judgment herein. Answer, ¶ 5; Dckt. 7.

The relief requested in this Adversary Proceeding is a core matter, arising under the provisions of the United States Bankruptcy Code. 11 U.S.C. §§ 101 et seq. All orders and final judgment are issued by the Bankruptcy Judge, as an officer of the United States District Court. 28 U.S.C. § 1334(a), § 151, and § 157(b), and the referral of bankruptcy cases and all related matters to the bankruptcy judges in this District. ED Cal. Gen Order 182, 223. To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this Adversary Proceeding are “related to” matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.

b. Initial Disclosures shall be made on or before **November 8, 2017**.

c. Discovery closes, including the hearing of all discovery motions, on **January 18, 2018**.

d. Dispositive Motions shall be heard before **March 9, 2018**.

e. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at **11:00 a.m. on April 19, 2018** (specially set due to court calendar scheduling conflicts).

13. [11-36992-E-13](#) [17-2157](#) DANNIE/JARIS BLANTON
BLANTON ET AL V. WELLS FARGO
BANK, N.A.
ADVERSARY PROCEEDING
DISMISSED: 10/18/2017

STATUS CONFERENCE RE:
COMPLAINT
8-19-17 [1]

Final Ruling: No appearance at the November 1, 2017 Status Conference is required.

Plaintiff's Atty: Peter G. Macaluso
Defendant's Atty: Adam N. Barasch

Adv. Filed: 8/19/17
Answer: none

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

**The Adversary Proceeding having been dismissed pursuant to prior order of the court,
the Status Conference is removed from the Calendar.**

Notes:
Stipulation to Dismiss Adversary Proceeding filed 10/17/17 [Dckt 9]; Order [Dckt. 10]

14. [12-40398-E-7](#) HECTOR CHACON
[17-2098](#)
CHACON V. EMC MORTGAGE
CORPORATION ET AL

CONTINUED STATUS CONFERENCE
RE: COMPLAINT
6-7-17 [1]

Final Ruling: No appearance at the November 1, 2017 Status Conference is required.

Plaintiff's Atty: Thomas O. Gillis
Defendants' Atty: John M. Sorich, Matthew S. Henderson

Adv. Filed: 6/7/17
Answer: 7/10/17

Nature of Action:
Validity, priority or extent of lien or other interest in property
Declaratory judgment
Recovery of money/property - other
Injunctive relief - other

The Status Conference has been continued to 11:00 a.m. on December 21, 2017.

Notes:

Continued from 9/12/17 to allow the Parties to pursue the ongoing settlement discussions.

Order Transferring Adversary Proceeding [to Judge Ronald H. Sargis] filed 9/18/17 [Dckt 24]

Joint Status Conference Report and Request for Continuance filed 10/25/17 [Dckt 29];