

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Chief Bankruptcy Judge
Sacramento, California

November 18, 2020 at 2:00 p.m.

1. [18-27720-E-13](#) DAVID RYNDA CONTINUED MOTION TO DISMISS
[DPC-3](#) CASE
1-13-20 [[256](#)]

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor’s Attorney, and Office of the United States Trustee on January 13, 2020. By the court’s calculation, 51 days’ notice was provided. 28 days’ notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party’s failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties’ pleadings.

The Motion to Dismiss is ~~XXXXX~~.

The Chapter 13 Trustee, David Cusick (“Trustee”), seeks dismissal of the case on the basis that:

1. The debtor, David Rynda (“Debtor”), is delinquent in plan payments.
2. Debtor has failed to file an amended plan and set it for confirmation.

On February 26, 2020, Trustee filed a Status Report admitting that the second ground for dismissal, that of no plan filed, was in error but requests the court to dismiss on delinquency grounds.

DISCUSSION

Debtor was, as of the Trustee's Declaration filed on March 17, 2020, \$17,878.52, with another monthly payment of \$2,470.52 due on March 25, 2020. Opposition and Declaration; Dckts. 268, 269. The regular monthly plan payment is \$2,470.52. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Questions of conversion or dismissal must be dealt with a thorough, two-step analysis: “[f]irst, it must be determined that there is ‘cause’ to act[;] [s]econd, once a determination of ‘cause’ has been made, a choice must be made between conversion and dismissal based on the ‘best interests of the creditors and the estate.’” *Nelson v. Meyer (In re Nelson)*, 343 B.R. 671, 675 (B.A.P. 9th Cir. 2006) (citing *Ho v. Dowell (In re Ho)*, 274 B.R. 867, 877 (B.A.P. 9th Cir. 2002)).

With respect to Chapter 13 cases, the Bankruptcy Code provides:

[O]n request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause....

11 U.S.C. § 1307(c). The court engages in a “totality-of-circumstances” test, weighing facts on a case by case basis in determining whether cause exists, and if so, whether conversion or dismissal is proper. *In re Love*, 957 F.2d 1350 (7th Cir. 1992). Bad faith is one of the general “for cause” grounds under 11 U.S.C. § 1307. *Nady v. DeFrantz (In re DeFrantz)*, 454 B.R. 108, 113 FN.4, (B.A.P. 9th Cir. 2011), citing *Leavitt v. Soto (In re Leavitt)*, 171 F.3d 1219, 1224 (9th Cir. 1999).

The major asset in this Bankruptcy Case is real property commonly known as 9436 Windrunner Lane, Elk Grove, California. On Schedule A/B Debtor states that it has a value of \$399,334. The ownership of this Property is in dispute, with Elina Machado asserting an interest of at least 1/3 of the net proceeds from the sale of the Property.

The property is encumbered by the secured claims of PHH Mortgage Corporation (transferee of claim from Ocwen Loan Servicing, LLC), which was (\$168,986.90), Proof of Claim No. 4-1, as of the commencement of this case (with there being more than \$20,000.00 of post petition unpaid amounts), and Lakeside Community Owners Association of (\$22,871.00, plus post-petition interest), Proof of Claim No. 6-1.

Using the Debtor's valuation, there is potentially \$185,000 of value in the Property for creditors, if the Debtor is the owner. That value has been diminishing as Debtor and Elina Machado have engaged in non-protective adversary proceeding litigation.

During this time, Debtor has defaulted on the Plan payments, which includes the payments for the current monthly mortgage payments and arrearage cure payments on the PHH Mortgage Corporation claim.

In the Adversary Proceeding with Elina Machado, Debtor has testified with respect to the Property:

I am currently facing an emergency because eight unlawful tenants have entered my home, six of them without my permission, and are residing in my home as squatters since July 2019, and refuse to leave, and refuse to pay rent, claiming they do not need to pay rent because I am not the owner of the property.

19-2023; Declaration, p. 1:25.5-28.5, Dckt. 128.

In the past few months I have filed two Unlawful Detainer complaints in Sacramento County Court, in pro per, against dead beat tenants and squatters that refuse to leave my home. The Unlawful Detainer judge checked the County records online and found Elina M. Machado and Gabriel Machado listed as the owners, refused to look at the copy of my quitclaim, nor my proof of bankruptcy filing, nor my complaint filed and pending in the bankruptcy court for quiet title, told me bankruptcy courts do not hear claims for quiet title, and told me until I come back with order for quiet title, he will not evict anyone for me.

Id., p. 2:1-7. Debtor does not indicate who is representing him, as the fiduciary of the bankruptcy estate, in acting to protect the Property, which is property of this bankruptcy estate.

Without the ability to evict these non-paying tenants and squatters, and bring in two reliable tenants, I cannot afford to make my Chapter 13 Trustee's payment, and I have fallen behind over \$15,000 on my payments, and the Trustee has filed a motion to dismiss my case set for hearing 03/04/2020.

Id., p. 2:11.5-14.5.

In addition, these tenants are doing illegal drugs in my home, making it a filthy mess, they are very noisy, fighting, screaming and yelling at all hours of the night, and they often break into my room and garage and have stolen over \$1,000 of property from me. Police have been called to my home several times due to theft and disturbance caused by these tenants.

Id., p. 2:19-22.

The Debtor and his counsel in this case, owing their respective duties to the bankruptcy estate, appear to have been "lost" in the State Court, allowing the Property, as property of the bankruptcy estate to be used for illegal drug use, fighting, screaming, and break-ins. Though this federal court has exclusive jurisdiction over property of the bankruptcy estate, 11 U.S.C. § 1334(e) (from which it may elect to abstain) and Congress has created a specific federal right for the Debtor, in exercising the powers and responsibilities of a bankruptcy trustee, to obtain possession of all property of the bankruptcy estate from third-parties, 11 U.S.C. § 542, Debtor has not sought to so do.

In an earlier Declaration in the Adversary Proceeding Debtor testified that he had taken eight (8) persons in as tenants in the Property. *Id.*; Declaration, p. 2:6-8, Dckt. 107.

In this bankruptcy case Debtor state under penalty of perjury that he granted to his brother on the eve of the bankruptcy filing (eleven days before filing) a deed of trust to secure an asserted obligation of \$100,000 that dates back to ten years. Declaration, p. 3:24-27; Dckt. 119.

Debtor's brother, John Rynda, has filed a declaration in which he confirms under penalty of perjury that the "obligation" arises out of an attempt he made to provide funding to buy the Debtor's ex-wife's shares in the Debtor's insurance business in the ex-wife's bankruptcy case in 2009. Declaration, p. 2:5.5-14.5. John Rynda testified that he was the successful high bidder at \$100,000.00. However, he was unable to time pay the \$100,000 so the trustee conducted another auction and sold the shares to someone else. *Id.*, 2:16-20.

John Rynda, though unable to pay the \$100,000.00, "sued for the unpaid contract," but "lost in court." He then had to pay the trustee the difference between the \$100,000 he had contracted to pay and the trustee's legal fees, which John Rynda testifies was another \$153,000. *Id.*, 2:21-25.

John Rynda's testimony corroborates that the obligation for which the deed of trust was recorded on the eve of the bankruptcy filing was a decade old.

The Plaintiff-Debtor has stuck in the court's face a textbook preference or fraudulent conveyance that may be avoided by a bankruptcy trustee or a Chapter 13 debtor who is responsible for exercising the duties, powers, and fiduciary responsibilities over property of the bankruptcy estate to avoid such preferences or fraudulent conveyances. 11 U.S.C. § 544, § 547, § 548, § 550.

APRIL 22, 2020 HEARING

At the April 22, 2020, hearing, counsel for the Debtor and counsel for Elina Machado (a defendant in the Adversary Proceeding to determine the estate's and Ms. Machado's interest in real property) reported to the court that Ms. Machado and the Debtor have entered into a stipulation resolving all issues, including those related to the Property but pending in other courts, and are proceeding with an immediate sale of the property pursuant to 11 U.S.C. § 363. A Status Report has been filed in Adversary Proceeding 19-2023 (Dckt. 155) stating the terms of the Stipulation.

The Debtor is proceeding to have the default of Defendant Gabriel Machado and judgment entered in the Adversary Proceeding pursuant to the Stipulation.

The Chapter 13 Trustee stated that he had no opposition to the continuance of the hearings in the Bankruptcy Case and the related Adversary Proceeding concerning assets of the bankruptcy estate.

JULY 1, 2020 HEARING

As Monday June 29, 2020, the file in this case still reflected that Tracy Wood was seeking to withdraw as counsel believing that the Debtor had fired him. At the recent hearing on the Motion to Approve Compromise, Mr. Wood indicated that the relationship between Mr. Wood and the Debtor may be improving and he could continue as counsel for the Debtor.

Now, eighteen months into this case and no confirmed plan in place and the Debtor having appeared before the court on multiple occasions, it is clear to the court that this Debtor must be represented by counsel (whether Mr. Wood or other bankruptcy attorney) to have any chance of

confirming and performing a plan— including performing the settlement with Ms. Machado.

It may be that with the title issues resolved by the settlement and the judgment of this court, the Debtor may be left with only “friendly” creditors he desires to pay - other than the holder of the mortgage secured by the Property. The “friendly” creditors may not object to the Debtor leaving the protection of the bankruptcy court and address their claims and that of the “non-friendly creditor” mortgage holder in the cold, harsh real world beyond bankruptcy protection.

JULY 1, 2020 HEARING

The Debtor having settled or obtained a default judgment resolving all issues concerning the real property of the estate, he is proceeding with obtaining financing to consummate the settlement. The major creditors in this case are insiders and there is are only two minor claims held by non-insider creditors.

Upon consummating the settlement, the Debtor intends to dismiss this case and address the remaining minor unsecured claims outside of bankruptcy.

The court continues the hearing to monitor Debtor’s performance of the settlement.

OCTOBER 26, 2020 ORDER

The court continued the hearing on this Motion to November 12, 2020, so that parties can update the court as to the performance and funding of the settlement.

NOVEMBER 18, 2020 HEARING

As of the court’s review of the docket on November 16, 2020, no further pleadings or reports have been filed with the court.

At the hearing, **XXXXXXXXXXXXXXXXXX**

2. [20-20430-E-13](#) **RAFAEL DE LA TORRE**
[20-2147](#)
DE LA TORRE V. INDEPENDENCE
BANK

STATUS CONFERENCE RE:
COMPLAINT
8-31-20 [1]

Plaintiff's Atty: Chad M. Johnson
Defendant's Atty: Kristofer R. McDonald

Adv. Filed: 8/31/20
Answer: none

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

Notes:
Stipulation to Extend Deadline for Defendant to File an Answer in Response to Complaint filed 10/9/20 [Dckt 7]

Amended Stipulation to Extend Deadline for Defendant to File an Answer in Response to Complaint filed 10/9/20 [Dckt 8]

The Status Conference is ~~XXXXXXXX~~

NOVEMBER 18, 2020 STATUS CONFERENCE

On October 14, 2020, the Parties filed an Amended Stipulation by which Plaintiff has granted Defendant an extension of time to October 30, 2020.

Nothing further has been filed in this Adversary Proceeding.

It appears that the Parties may well have settled this matter or may be working on a settlement. At the Status Conference, ~~XXXXXXXX~~

3. **09-22754-E-13 VAN/KATHLEEN GORDON**
20-2148
GORDON ET AL V. U.S. BANK N.A.

STATUS CONFERENCE RE:
COMPLAINT
9-8-20 [1]

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

Adv. Filed: 9/8/20
Answer: none

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

Notes:

The Status Conference is continued to 2:00 p.m. on January 6, 2021, to afford Plaintiff the opportunity to have Defendant's default entered and a motion for entry of default judgment filed.

NOVEMBER 18, 2020 STATUS CONFERENCE

Van Gordon and Kathleen Gordon, the "Plaintiff-Debtor," filed the Complaint in this Adversary Proceeding to clear title to real property of a deed of trust stated to have been the subject of Plaintiff-Debtor's completed Chapter 13 Plan and for which no obligation remains secured. Bankruptcy, State Law, and contractual claims are stated, and the recovery of attorney's fees and costs sought.

No answer has been filed by Defendant U.S. Bank, N.A., Trustee. Cert. of Serv., Dckt. 7.

4. **18-27755-E-7** **MARK/RENEE EVANS**
19-2042
SCHREIBER V. EVANS ET AL

CONTINUED STATUS CONFERENCE
RE: COMPLAINT
3-22-19 [1]

Plaintiff's Atty: Peter L. Cianchetta
Defendant's Atty: Peter G. Macaluso

Adv. Filed: 3/22/19
Answer: 4/17/19

Nature of Action:
Dischargeability - false pretenses, false representation, actual fraud
Dischargeability - fraud as fiduciary, embezzlement, larceny
Discharge ability - willful and malicious injury

Notes:
Continued from 9/23/20. The Parties reported to the court that settlement discussions were ongoing.

Defendants' Third Status Report filed 11/10/20 [Dckt 39]

The Status Conference is xxxxxxxx

NOVEMBER 18, 2020 STATUS CONFERENCE

The trial for this Adversary Proceeding has been on hold due to the closure of the Federal Courthouse due to the COVID-19 pandemic. The Parties considered, due to the limited witnesses and parties, having the court grant an exception to the closure for this trial - taking appropriate COVID-19 health precautions in having people in the courtroom. However, due to health concerns of some family members, this option was not pursued. The parties considered switching to a Zoom virtual trial, but opted to wait, anticipating the courthouse reopening by late in the fourth quarter of 2020. Such has not yet occurred.

This matter was set for trial on August 12, 2020. Trial Setting Order, Dckt. 28.

At the Status Conference, **xxxxxxx**

FINAL RULINGS

5. [11-37800-E-13](#) STEVEN/CATHY BARRIE STATUS CONFERENCE RE:
[20-2154](#) BARRIE ET AL V. SUNTRUST COMPLAINT
MORTGAGE INC. 9-23-20 [1]

Final Ruling: No appearance at the November 18, 2020 Status Conference is required.

Plaintiff's Atty: Rick Morin
Defendant's Atty: Daniel K. Fujimoto

Adv. Filed: 9/23/20
Answer: none
1st Amd. Cmplt Filed: 9/24/20
Answer: 10/14/20

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)

Notes:
Joint Status Report filed 11/4/20 [Dckt 10]

The Status Conference is continued to 2:00 p.m. on January 6, 2021, to allow the parties to document and consummate the reported settlement.

NOVEMBER 18, 2020 STATUS CONFERENCE

On November 4, 2020, Plaintiff-Debtor and Defendant filed a Joint Status Report (Dckt. 10) advising the court that a tentative settlement has been reached, which the Parties are in the process of documenting and executing. The Parties request the court continue the Status Conference approximately 60 days so they may complete the settlement and dismiss this Adversary Proceeding.

The Status Conference is continued as requested by the Parties.

6. [20-20715-E-13](#) FOUAD MIZYED
[20-2016](#)
MIZYED V. FAY SERVICING, LLC
ET AL
6 thru 8

CONTINUED STATUS CONFERENCE
RE: AMENDED COMPLAINT
6-8-20 [[25](#)]

Final Ruling: No appearance at the November 18, 2020 Status Conference is required.

Plaintiff's Atty: Rick Morin
Defendant's Atty: Daniel K. Fujimoto

Adv. Filed: 9/23/20
Answer: none
1st Amd. Cmplt Filed: 9/24/20
Answer: 10/14/20

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)

Notes:
Joint Stipulation to Request a Stay of Proceedings for 60-90 Days filed 11/5/20 [Dckt 61]
Order granting stay to 1/29/21 and setting continued status conference to 2/11/21 filed 11/9/20 [Dckt 62]

The court has issued an order continuing the Status Conference to 2:00 p.m. on February 11, 2021 (Order, Dckt. 62), and this duplicate matter is removed from the calendar.

7. [20-20715-E-13](#) **FOUAD MIZYED**
[20-2016](#)
MIZYED V. FAY SERVICING, LLC
ET AL

**STATUS CONFERENCE RE: AMENDED
COMPLAINT**
9-14-20 [49]

Final Ruling: No appearance at the November 18, 2020 Status Conference is required.

Plaintiff's Atty: Rick Morin
Defendant's Atty: Daniel K. Fujimoto

Adv. Filed: 9/23/20
Answer: none
1st Amd. Cmplt Filed: 9/24/20
Answer: 10/14/20

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)

Notes:
Joint Stipulation to Request a Stay of Proceedings for 60-90 Days filed 11/5/20 [Dckt 61]
Order granting stay to 1/29/21 and setting continued status conference to 2/11/21 filed 11/9/20 [Dckt 62]

**Pursuant to prior Order (Dckt. 62) of the Court, the Status Conference has
been continued to 2:00 p.m. on February 11, 2021.**

8. [20-20715-E-13](#) **FOUAD MIZYED**
[20-2016](#)

MIZYED V. FAY SERVICING, LLC
ET AL

PRE-TRIAL CONFERENCE RE:
AMENDED COMPLAINT FOR
DAMAGES AND EQUITABLE RELIEF
6-8-20 [25]

Final Ruling: No appearance at the November 18, 2020 Pre-Trial Conference is required.

Plaintiff's Atty: Rick Morin
Defendant's Atty: Daniel K. Fujimoto

Adv. Filed: 9/23/20
Answer: none
1st Amd. Cmplt Filed: 9/24/20
Answer: 10/14/20

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)

Notes:
Joint Stipulation to Request a Stay of Proceedings for 60-90 Days filed 11/5/20 [Dckt 61]
Order granting stay to 1/29/21 and setting continued status conference to 2/11/21 filed 11/9/20 [Dckt 62]

The Pre-Trial Conference is continued to 2:00 p.m. on February 11, 2021, to be conducted in conjunction with the Status Conference in this Adversary Proceeding.

9. [19-26175-E-11](#) ALMA CHAVEZ-NUNEZ

CONTINUED STATUS CONFERENCE
RE: VOLUNTARY PETITION
10-1-19 [1]

DEBTOR DISMISSED: 10/21/20

Final Ruling: No appearance at the November 18, 2020 Status Conference is required.

Debtor's Atty: John G. Downing

Notes:

Order granting U.S. Trustee's motion to dismiss filed 10/21/20 [Dckt 83]

Order Removing Status Conference from Calendar filed 11/10/20 [Dckt 86]

The bankruptcy case having been dismissed, the Status Conference has been removed from the calendar (Order, Dckt. 86).

10. [20-20175-E-11](#) HERBERT MILLER

CONTINUED STATUS CONFERENCE
RE: VOLUNTARY PETITION
1-13-20 [1]

Final Ruling: No appearance at the November 18, 2020 Status Conference is required.

Debtor's Atty: Judson H. Henry

Notes:

Continued from 7/1/20

Operating Reports filed: 7/17/20, 8/14/20, 9/15/20, 10/8/20

The court issuing its Memorandum Opinion and Decision, and Order dismissing this case, the Status Conference is concluded and removed from the calendar.

11. **20-20978-E-7** **JEFFREY ANDERSEN**
20-2111 **GK-16**
KELLY V. ANDERSEN ET AL

SETTLEMENT STATUS CONFERENCE
RE: MOTION TO COMPEL
10-5-20 [97]

Final Ruling: No appearance at the November 18, 2020 Settlement Status Conference is required.

Plaintiff's Atty: Pro Se
Defendant's Atty: unknown
Adv. Filed: 6/1/20; Jury Trial Demanded
Answer: none
1st Amd Cmplt. Filed: 6/22/20; Jury Trial Demanded
Answer: 7/16/20

Notes:
Set by order of the court filed 11/2/20 [Dckt 141]

The Status Conference is continued to 11:00 a.m. on December 10, 2020, to be conducted in conjunction with motions relating to the Parties settlement of this Adversary Proceeding.

12. **20-21481-E-7** **CAROL PAYNE**
20-2119
CHERI ROBINSON AS TRUSTEE FOR
ARTHUR AND AMRITA RO V. PAYNE

CONTINUED STATUS CONFERENCE
RE: COMPLAINT
6-17-20 [1]

Final Ruling: No appearance at the November 18, 2020 Status Conference is required.

Plaintiff's Atty: Stephen M. Reynolds
Defendant's Atty: unknown

Adv. Filed: 6/17/20
Answer: none

Nature of Action:
Discharge ability - fraud as fiduciary, embezzlement, larceny

Notes:
Continued from 9/23/20 to afford Plaintiff time to prosecute the pending Motion for Entry of Default Judgment

[RLC-2] Order entering default of Defendant Carol Lydia Payne and continuing Motion for Entry of Default Judgment to 11/12/20 at 11:00 a.m. filed 10/16/20 [Dckt 18]

The court having granted Plaintiff's Motion for Entry of Default Judgment, the Status Conference is continued to 2:00 p.m. on January 6, 2021, for court file management purposes during the period Plaintiff is having the judgment entered and pursuing post-judgment matters.

13. [15-20936-E-13](#) **KENT TEIXEIRA**
[20-2117](#)
TEIXEIRA V. TOWD POINT MASTER
FUNDING TRUST C/O SPECIALIZED

CONTINUED STATUS CONFERENCE
RE: COMPLAINT
6-16-20 [1]

ADVERSARY PROCEEDING
DISMISSED: 11/10/20

Final Ruling: No appearance at the November 18, 2020 Status Conference is required.

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

Adv. Filed: 6/16/20
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)

Notes:
Continued from 9/23/20

Notice of Dismissal of Adversary Complaint filed 11/9/20 [Dckt 13]

Order Dismissing Adversary Complaint filed 11/10/20 [Dckt 15]

The Complaint having been dismissed (Order, Dckt. 15), the Status Conference is removed from the Calendar.

14. **19-25936-E-7** **NUR BANO**
20-2152
CARELLO V. NISHA

STATUS CONFERENCE RE:
COMPLAINT
9-15-20 [1]

Final Ruling: No appearance at the November 18, 2020 Status Conference is required.

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

Adv. Filed: 9/15/20
Answer: none

Nature of Action:
Recovery of money/property - preference

Notes:
Request for Entry of Default by Plaintiff [re Ashvin Nisha] filed 11/4/20 [Dckt 17]; Memorandum
Re: Default Papers filed 11/5/20 [Dckt 18]

Amended Request for Entry of Default by Plaintiff [re Ashvin Nisha] filed 11/6/20 [Dckt 19]

Request for Entry of Default by Plaintiff [re Ashvin Nisha] filed 11/10/20 [Dckt 20]

The Status Conference is continued to 2:00 p.m. on January 6, 2021, to allow Plaintiff-Trustee to obtain the entry of default and file a motion for entry of default judgment.

NOVEMBER 18, 2020 STATUS CONFERENCE

Sheri Carello, the Plaintiff-Trustee, commenced this Adversary Proceeding to avoid a preferential transfer as provided in 11 U.S.C. § 547 and obtain a judgment for \$12,000.00 against Defendant Ashvin Nisha. Dckt. 1. It is alleged in the Complaint that Chapter 7 Debtor Nur Bano on August 15, 2019 and September 4, 2019, made payments totaling \$12,000.00 to Defendant. Further, that Defendant is an insider of the Debtor. Debtor filed for bankruptcy on September 23, 2019, which is within 40 days of the two transfers.

No answer has been filed and an Amended Request for Entry of Default was filed by Plaintiff on November 6, 2020. Dckt. 19.

15. [17-22021-E-13](#) CYNTHIA WIGART
[20-2139](#)
WIGART V. WILMINGTON
TRUST, N.A. ET AL

STATUS CONFERENCE RE:
COMPLAINT
8-13-20 [1]

ADVERSARY PROCEEDING
DISMISSED: 10/29/20

Final Ruling: No appearance at the November 18, 2020 Status Conference is required.

Plaintiff's Atty: John G. Downing
Defendant's Atty: Sara L. Markert

Adv. Filed: 8/13/20
Answer: none

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

Notes:
Request for Dismissal filed 10/27/20 [Dckt 10]

Order Dismissing Case filed 10/29/20 [Dckt 11]

The Adversary Proceeding having been dismissed (Dckt. 11), **the Status Conference is removed from the Calendar.**

16. [17-26125-E-7](#) **FIRST CAPITAL RETAIL,**
[18-2030](#) **LLC**
FIRST DATA MERCHANT SERVICES
LLC V. MCA RECOVERY, LLC ET AL

CONTINUED STATUS CONFERENCE
RE: AMENDED COMPLAINT
5-17-18 [39]

Final Ruling: No appearance at the November 18, 2020 Status Conference is required.

Plaintiff's Atty: Randy B. Soref; Andrew Joseph Nazar

Defendants' Atty:

Robert S. McWhorter [MCA Recovery, LLC]

Gabriel E. Liberman [First Capital Retail, LLC]

Jeffrey D. Ganz; J. Russell Cunningham [13th Floor/Pilot, LLC]

Adv. Filed: 3/22/18

Answer: 4/23/18 [First Capital Retail, LLC]

Amd. Cmplt. Filed: 5/17/18

Answer: 7/20/18 [13th Floor/Pilot, LLC]

7/20/18 [First Capital Retail, LLC]

7/20/18 [MCA Recovery, LLC]

Amd. Answer: 8/3/18 [MCA Recovery, LLC]

Cross-Claim Filed [by 13th Floor/Pilot, LLC]: 7/20/18

Answer: none

Cross-Claim Filed [by MCA Recovery, LLC]: 8/3/18

Answer: 8/22/18 [13th Floor/Pilot, LLC]

Amd. Cross-Claim Filed [by 13th Floor/Pilot, LLC]: 8/22/18

Answer: 10/23/18 [MCA Recovery, LLC]

Notes:

Continued from 9/23/20 to allow the Parties to consummate the settlement and dismiss the Adversary Proceeding.

The Status Conference is continued to 2:00 p.m. on January 6, 2021, to allow the Parties additional time to consummate the Settlement and dismiss this Adversary Proceeding.