

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement  
Fresno Federal Courthouse  
2500 Tulare Street, 5<sup>th</sup> Floor  
Courtroom 11, Department A  
Fresno, California

**PRE-HEARING DISPOSITIONS**

**DAY:** THURSDAY

**DATE:** JANUARY 3, 2019

**CALENDAR:** 10:00 A.M. CHAPTER 7 ADVERSARY PROCEEDINGS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

**No Ruling:** All parties will need to appear at the hearing unless otherwise ordered.

**Tentative Ruling:** If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

**Orders:** Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

1. [18-11235](#)-A-7     **IN RE: MITCHELL/COURTNEY CASALE**  
[18-1055](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
8-28-2018    [[1](#)]

CASALE ET AL V. LEVITON LAW  
FIRM LTD. ET AL  
KYLE SCHUMACHER/ATTY. FOR PL.

**No Ruling**

2. [17-10152](#)-A-7     **IN RE: CURTIS DAVIS**  
[18-1068](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
10-5-2018    [[1](#)]

SALVEN V. DAVIS, JR. ET AL  
PETER SAUER/ATTY. FOR PL.

**No Ruling**

3. [16-10469](#)-A-7     **IN RE: JEFFREY BOHN**  
[18-1050](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
8-6-2018    [[1](#)]

SALVEN V. VETTER ET AL  
PETER FEAR/ATTY. FOR PL.  
CONTINUED TO 1/9/19 PER ECF ORDER #28

**Final Ruling**

Pursuant to the court's minutes, ECF #28, the status conference is continued to January 9, 2019, at 9:45 a.m. in Bakersfield.

4. [18-11471](#)-A-7     **IN RE: ARTURO/MARIA DE LOS ANGELES MACIAS**  
[18-1036](#)

CONTINUED STATUS CONFERENCE RE: SECOND AMENDED COMPLAINT  
11-7-2018    [[47](#)]

CLARK V. MACIAS  
BRAD CLARK/ATTY. FOR PL.

**No Ruling**

5. [18-11471](#)-A-7     **IN RE: ARTURO/MARIA DE LOS ANGELES MACIAS**  
[18-1036](#)     [GT-3](#)

MOTION TO DISMISS ADVERSARY PROCEEDING/NOTICE OF REMOVAL  
11-28-2018     [\[51\]](#)

CLARK V. MACIAS  
GRISELDA TORRES/ATTY. FOR MV.  
RESPONSIVE PLEADING

### **Tentative Ruling**

**Motion:** Dismiss Adversary Proceeding Complaint (Rule 12(b)(6))  
**Notice:** Written opposition filed  
**Disposition:** Granted in part without leave to amend, denied in part  
**Order:** Civil minute order

Defendant Arturo Machuca Macias ("Macias") moves to dismiss the Brad Clark ("Clark") Second Amended Complaint, November 7, 2018, ECF # 47, under Rule 12(b)(6). Clark opposes the motion.

### **FACTS**

As pled, Clark owns a residence at 2547 N. Archie, Fresno, California. Defendant Macias does business as "Macias Roofing." Macias performs his work with the assistance of his two sons, Nestor A. Macias and "Aaron Macias." He advertises that he is a licensed roofing contractor. The only written representation of licensure appears to be page 2 of Exhibit 2 to the First Amended Complaint. He advertises that he does "general roofing," "repairs and installation" and "all types of roofing." His business cards state that the work is "100% water proof."

In 2010, Clark hired Macias to re-roof his house. The Second Amended Complaint sets forth two theories of fraud. The first is that on July 13, 2010, Macias orally (speaking through his son Aaron Macias, who interpreted for him) represented that he was a "professional, experienced" and "licensed contractor" working under license no. 908505. These allegations were supported by a business card which described Macias Roofing as performing "general roofing," "repair and installation" and "all types of roofing." The new roof was represented to be 100% waterproof. The price was to be \$9,300. Based on these representations, Clark decided to hire Macias. Second Amended Complaint ¶ 17. Work commenced on October 27, 2010.

The second theory of fraud is that on October 27, 2010, Macias made representations of licensure. Second Amended Complaint ¶ 18. The representations were oral and written. Exh. 2, p. 2 "Lic #908505"). Below it is the name "Jose Flores." The bid price increased to \$9,800. Macias performed the work but (at least according to Clark) did so in a less than workmanlike manner. Clark did not discover that defect until March 2017, apparently when the roof leaked.

When Clark contacted Macias, Macias initially denied responsibility, then agreed to repair the problem and, finally and again, denied responsibility.

Clark sued Macias in Small Claim Court and was awarded a judgment for \$10,075. Macias then petitioned the court, requesting a court-ordered \$25 per month payment plan based on his lack of assets and low-income status. And the Fresno County Superior Court approved that payment plan.

Macias has since filed chapter 7 bankruptcy, and Clark's adversary proceeding followed. The adversary proceeding pleads causes of action under 11 U.S.C. §§ 523(a)(2)(A), (a)(6), 727(a)(3), (4). Clark argues the applicability for § 523(a)(2), (a)(6), because his representations of being a licensed contractor are false and because the contractor's license Macias used belonged to "Jose Flores," who neither knew that Macias was using his contractor's license number, nor authorized Macias to work under it. Clark argues that Macias's representations regarding income and expenses used to secure a court-ordered payment plan by the Fresno County Superior Court are false and a basis to deny discharge under § 727(a)(3), (4).

#### **RULE 12(b)(6)**

Under Federal Rule of Civil Procedure 12(b)(6), a party may move to dismiss a complaint for "failure to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6), *incorporated by* Fed. R. Bankr. P. 7012(b). "A Rule 12(b)(6) dismissal may be based on either a lack of a cognizable legal theory or the absence of sufficient facts alleged under a cognizable legal theory." *Johnson v. Riverside Healthcare Sys., LP*, 534 F.3d 1116, 1121-22 (9th Cir. 2008); *accord Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001).

The Supreme Court has established the minimum requirements for pleading sufficient facts. "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556, 570 (2007)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citing *Twombly*, 550 U.S. at 556).

In ruling on a Rule 12(b)(6) motion to dismiss, the court accepts all factual allegations as true and construes them, along with all reasonable inferences drawn from them, in the light most favorable to the non-moving party. *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001); *Cahill v. Liberty Mut. Ins. Co.*, 80 F.3d 336, 337-38 (9th Cir. 1996). The court need not, however, accept legal conclusions as true. *Iqbal*, 556 U.S. at 678. "A pleading that offers 'labels and conclusions' or 'a formulaic recitation of the elements of a cause of action will not do.'" *Id.* (quoting *Twombly*, 550 U.S. at 555).

In addition to looking at the facts alleged in the complaint, the court may also consider some limited materials without converting the motion to dismiss into a motion for summary judgment under Rule 56. Such materials include (1) documents attached to the complaint

as exhibits, (2) documents incorporated by reference in the complaint, and (3) matters properly subject to judicial notice. *United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003); accord *Swartz v. KPMG LLP*, 476 F.3d 756, 763 (9th Cir. 2007) (per curiam) (citing *Jacobson v. Schwarzenegger*, 357 F. Supp. 2d 1198, 1204 (C.D. Cal. 2004)). A document may be incorporated by reference, moreover, if the complaint makes extensive reference to the document or relies on the document as the basis of a claim. *Ritchie*, 342 F.3d at 908 (citation omitted).

## DISCUSSION

### First Count: 11 U.S.C. § 523(a)(2)(A)

Defendant Macias argues that the First Amended Complaint fails to plead the fraud with particularity, as required by Federal Rule of Civil Procedure 9(b), and/or is barred by the statute of limitations.

To prevail under § 523(a)(2)(A) a creditor must plead and prove that "(1) the debtor made a representation; (2) the debtor knew the representation was false at the time he or she made it; (3) the debtor made the representation with the intent to deceive; (4) the creditor justifiably relied on the representation; and (5) the creditor sustained damage as a proximate result of the misrepresentation having been made." *In re Mbunda*, 484 B.R. 344, 350 (9th Cir. BAP 2012), *aff'd*, No. 13-60002, --- Fed.Appx. ---, 2015 WL 1619469 (9th Cir. Apr. 13, 2015). It is well-settled that misrepresentations regarding professional licenses may form the basis of fraud under 11 U.S.C. § 523(a)(2). *Gem Ravioli, Inc. v. Creta (In re Creta)*, 271 B.R. 214 (1st Cir. BAP 2002); *Torres v. Martinez (In re Martinez)*, No. RS 07-12037 DN, Adv. No. RS 07-01140 DN, 2008 WL 954164 (C.D.Cal.2008); *Willcox v. Carpenter (In re Carpenter)*, 453 B.R. 1, 5-6 (Bankr.D.D.C.2011); *Bottari v. Baiata (In re Baiata)*, 12 B.R. 813 (Bankr.E.D.N.Y.1981).

*In re Hurtado*, No. 09-16160-A-7, 2015 WL 2399665, at \*12 (Bankr. E.D. Cal. May 18, 2015)

Since this is a claim alleging fraud, Rule 9(b) applies. See, e.g., *Chase Bank, U.S.A., N.A. v. Vanarthos (In re Vanarthos)*, 445 B.R. 257, 264 (Bankr. S.D.N.Y. 2011). This rule's heightened pleading standard requires a plaintiff to "state with particularity the circumstances constituting fraud." Fed. R. Civ. P. 9(b), incorporated by Fed. R. Bankr. P. 7009. This standard means that "the complaint must set forth what is false or misleading about a statement, and why it is false." *Rubke v. Capitol Bancorp Ltd.*, 551 F.3d 1156, 1161 (9th Cir. 2009) (quoting *Yourish v. Cal. Amplifier*, 191 F.3d 983, 993 (9th Cir. 1999)) (internal quotation marks omitted). The facts constituting fraud must be pleaded specifically enough to give a defendant sufficient "notice of the particular misconduct" so that defendant may defend against the charge. *Vess v. Ciba-Geigy Corp. U.S.A.*, 317 F.3d 1097, 1106 (9th Cir. 2003). A

plaintiff must include the "who, what, when, where, and how" of the fraud. *Id.*

### *Particularity*

The first theory of fraud (the representations on July 13, 2010) states a cause of action for fraud that satisfies the particularity standards of Rule 9(b).

The July 27, 2010, representation satisfies the particularity requirement: (1) "who" made the representation (Arturo Macias), Second Amended Complaint ¶ 14; (2) "what" was the representation (that Macias Roofing was "professional, experienced and . . . licensed contractor"), *Id.*; (3) "when" was the representation made (July 13, 2010), *Id.*; (4) "where" was it made (2547 N. Archie Avenue, Fresno), *Id.*; and (5) and "how" was it made ("During the meeting Defendant, through his son, Aaron Macias (who acted as English/Spanish interpreter) told Plaintiff. . .), *Id.*

The second theory of fraud fails, but not for lack of particularity. The October 27, 2010, representation fails for lack of reliance. The first cause of action stems from a chronological re-telling of the facts. The key facts are (1) alleged misrepresentations on July 13, 2010, Second Amended Complaint ¶ 16; (2) a decision by Clark to hire Macias based on the July 13, 2010, representation, *Id.* at ¶ 17 ("Based upon Defendant and his son, Aaron Macias's representations as to their licensure status, work experience and recommendation Plaintiff engaged Defendant. . . to perform the repair work on Plaintiff's roof"); (3) commencement of work on October 27, 2010, *Id.*; and (4) October 27, 2010 written representations, *Id.* at ¶ 18. Plaintiff cannot argue he relied on the October 27, 2010, representation because he had already decided to engage the Macias to perform the work.

### *Statute of limitations*

Excepting a debt from discharge under one of the bad act exceptions described in 11 U.S.C. § 523 requires a debt: (1) for which the statute of limitations has not expired, March, Ahart & Shapiro, *California Practice Guide: Bankruptcy*, Discharge and Dischargeability, Excepting Particular Debts from Discharge § 22:1643 (Rutter Group 2018); and (2) that falls within of the exceptions described in 11 U.S.C. § 523(a)(2),(4),(6).

Defendant Macias argues that the state statute of limitations for fraud, Cal. Code of Civ. Proc. 338(d) (3 years from discovery or notice) expired long-ago and, therefore an action under § 523(a)(2) will not lie. He is mistaken.

In most instances, a small claims judgment does not trigger application of the doctrine of collateral estoppel. 7 Witkin, *California Procedure*, Judgments § 352 (5th ed. 2008). But even so, small claims judgments do trigger application of merger and bar. *Id.*; *Sanderson v. Niemann*, 17 C.2d 563, (1941); *Allstate Ins. Co. v. Mel Rapton*, 77 C.A.4th 901, 907 (2000).

Here, the statute of limitations is inapplicable because prior to the date of Macias's bankruptcy petition, Clark obtained a small claims judgment in the amount of \$10,000. Judgment, *Clark v. Macias*, No. 17CESC02561 (Fresno County Small Claims Court). As a consequence, the issue before this court is whether the debt, now liquidated, falls within § 523.

For these reasons, the motion will be denied.

Second Count: 11 U.S.C. § 523(a)(6)

Defendant Macias argues that the First Amended Complaint does not state a cause of action for willful and malicious injury, 11 U.S.C. § 523(a)(6) and has failed to plead facts from which the court can independently conclude that Macias's actions meet the intent elements.

Section 523(a)(6) excepts from discharge a debt "for willful and malicious injury by the debtor to another entity or to the property of another entity." The "malicious" injury requirement is separate from the "willful" injury requirement. *Barboza v. New Form, Inc.* (*In re Barboza*), 545 F.3d 702, 706 (9th Cir. 2008).

A "malicious" injury involves "(1) a wrongful act, (2) done intentionally, (3) which necessarily causes injury, and (4) is done without just cause or excuse." *Petralia v. Jercich* (*In re Jercich*), 238 F.3d 1202, 1209 (9th Cir. 2001) (quoting *In re Bammer*, 131 F.3d 788, 791 (9th Cir. 1997)).

A "willful" injury is a "deliberate or intentional injury, not merely a deliberate or intentional act that leads to injury." *Kawaauhau v. Geiger*, 523 U.S. 57, 61 (1998) (emphases in original). This willful injury requirement is satisfied "only when the debtor has a subjective motive to inflict injury or when the debtor believes that injury is substantially certain to result from his own conduct." *Carrillo v. Su* (*In re Su*), 290 F.3d 1140, 1142, 1144-45 (9th Cir. 2002). By contrast, "debts arising from recklessly or negligently inflicted injuries do not fall within the compass of § 523(a)(6)." *Geiger*, 523 U.S. at 64.

Thus, the standard is a subjective one, where the debtor must have "either a *subjective intent* to harm, or a *subjective belief* [or *actual knowledge*] that harm is substantially certain." *Su*, 290 F.3d at 1144 (emphases added). In determining whether the debtor has actual knowledge, the court can infer that the debtor is usually "charged with the knowledge of the natural consequences of his actions." *Ormsby v. First Am. Title Co.* (*In re Ormsby*), 591 F.3d 1199, 1206 (9th Cir. 2010). "In addition to what a debtor may admit to knowing, the bankruptcy court may consider circumstantial evidence that tends to establish what the debtor must have actually known when taking the injury-producing action." *Su*, 290 F.3d at 1146 n.6.

The key to this analysis is the "willful injury" standard articulated in *Su*. The plaintiff must plead and prove that "the debtor has a subjective motive to inflict injury or when the debtor

believes that injury is substantially certain to result from his own conduct." p. 1142. Most favorably considered for Clark, the Second Amended Complaint alleged that Macias knew (1) he was unlicensed as a contractor; (2) licensure was required under the circumstances; and (3) knew harm to Clark would "certainly result." Second Amended Complaint ¶¶ 55. These allegations do not satisfy the Su standard for willfulness. The Second Amended Complaint does not plead subject intention to injure. It attempts to plead that injury was "substantially certain to result" but falls short. That Macias knew he was unlicensed and did not possess the qualifications for licensure does not give rise to the inference that injury was "substantially certain" to occur.

For these reasons, the motion will be granted.

Third Count: 11 U.S.C. § 727(a)(3)

Defendant Macias argues that the Second Amended Complaint does not state a cause of action for denial of discharge based on a false oath under Rule 727(a)(3) regarding his income.

As one source noted:

Failure to maintain adequate books and records: **A Chapter 7 discharge may be denied if the debtor has concealed, destroyed, mutilated, falsified or failed to keep books and records relevant to the debtor's financial condition or business transactions ... unless the act or failure was "justified under all of the circumstances of the case."** [11 USC § 727(a)(3)]

The **purpose** of § 727(a)(3) is to ensure that the trustee and creditors are provided with **sufficient information to trace the debtor's financial history from a reasonable period in the past to the present.** [In re Cox (9th Cir. 1990) 904 F2d 1399, 1401; In re Caneva (9th Cir. 2008) 550 F3d 755, 761]

. . .

Records relevant to debtor's financial condition or business transactions: The statute is directed at records and documents "from which the debtor's financial condition or business transactions might be ascertained." [11 USC § 727(a)(3)] **A discharge is denied when the concealment, destruction, failure to maintain, etc. (unless justified under the circumstances) has made it impossible to ascertain the debtor's financial condition and/or material business transactions.** [See In re Cox (9th Cir. 1994) 41 F3d 1294, 1296]

March, Ahart and Shapiro, *California Practice Guide: Bankruptcy*, Discharge and Dischargeability, Chapter 7 Discharge § 22:950 et seq. (Rutter Group 2017).



The adequacy, or lack thereof, is a far more nuanced inquiry than either party appreciates:

Fact-specific inquiry: Whether a debtor's books and records are "adequate" is a fact-specific inquiry—i.e., what is reasonably required under the circumstances:

"It is a question in each instance of reasonableness in the particular circumstances. Complete disclosure is in every case a condition precedent to the granting of discharge, and if such a disclosure is not possible without the keeping of books or records, then the absence of such amounts to that failure to which (§ 727(a)(3)) applies." [*In re Schifano* (1st Cir. 2004) 378 F3d 60, 68; *Meridian Bank v. Alten* (3rd Cir. 1992) 958 F2d 1226, 1230]

Id. at § 22:960.

Here, notwithstanding the court's earlier granting of the defendant's Rule 12(b)(6) motion on the issue, the pleading on this issue remains extraordinarily conclusory. After incorporating the first 52 paragraphs of the Second Amended Complaint, the third count states, "The Debtor represented in in the Statement of Financial Affairs attached to his petition that his business Macias Roofing exited from 01/01/2003 through 12/31/2015. However, Plaintiff is under information and belief that Defendant continued to do business as Macias Roofing up to at least December 14, 2017, however, he failed to keep or preserve adequate record of his and his business, Macias Roofing's financial condition and material business transactions." Second Amended Complaint § 59, November 7, 2018, ECF #47. Similar allegations of lack of adequate records are made in ¶ 61. Clark fails to specify what, in particular, records should have been kept and/or were not kept. Moreover, since the standard is not applied in a vacuum, but rather is context specific, Clark has not plead fact from which the court can conclude that the failure was not reasonable. Finally, the allegations are too conclusory to meet the *Iqbal* and *Twombly* standards.

For these reasons, the motion will be granted.

Fourth Count: 11 U.S.C. § 727(a)(4)

Defendant Macias argues that the Second Amended Complaint does not state a cause of action for denial of discharge based on a false oath under Rule 727(a)(4) because he (1) understated his 2017 income in the Statement of Financial Affairs (\$13,500 claimed); (2) understated his 2016 income in the Statement of Financial Affairs (\$3,000 claimed); and (3) represented that Macias Roofing operated from January 1, 2003, through December 31, 2015, when it actually ceased operations December 14, 2017. Second Amended Complaint ¶¶ 66-68.

An objection to discharge under § 727(a)(4)(A) requires the plaintiff to prove that (1) the debtor made a false oath (or account) in connection with his own bankruptcy case; (2) the oath

related to a material fact; (3) the oath was made knowingly; and (4) the oath was made fraudulently. *Retz v. Samson (In re Retz)*, 606 F.3d 1189, 1197 (9th Cir. 2010). **As to the first element, "[a] false statement or an omission in the debtor's bankruptcy schedules or statement of financial affairs can constitute a false oath." *Id.* As to the second element, a fact is material "if it bears a relationship to the debtor's business transactions or estate, or concerns the discovery of assets, business dealings, or the existence and disposition of the debtor's property." *Id.* at 1198 (emphasis added).**

If true, these representations may constitute a false oath justifying denial of discharge. If the debtor continued business operations until December 2017, a period of some four months before Macias's chapter 7 filing, it would bear a sufficient nexus to the estate and its assets, e.g., receivable owed or tools and equipment, to support, at least for pleading purposes, denial of discharge under s 747(a)(4).

For these reasons, the motion will be denied.

#### Leave to Amend

Leave to file an amended complaint should be freely given. Fed. R. Civ. P. 15(a), *incorporated by* Fed. Bankr. P. 7015.

At least once: FRCP 15(a) severely restricts the court's discretion to dismiss without leave to amend. Where a more carefully drafted complaint might state a claim, a plaintiff must be given at least one more chance to amend the complaint before the district court dismisses the action with prejudice. [*National Council of La Raza v. Chagavskis* (9th Cir. 2015) 800 F3d 1032, 1041—"black-letter law" that district court must give at least one chance to amend absent clear showing amendment would be futile; *Davoodi v. Austin Independent School Dist.* (5th Cir. 2014) 755 F3d 307, 310—dismissal after giving plaintiff only one chance to state case "is ordinarily unjustified" (internal quotes omitted)]

O'Connell & Stevenson, *California Practice Guide: Federal Civil Procedure Before Trial*, California & Ninth Cir. Edits., Attacking the Pleadings § 9:287 (Rutter Group 2018).

Here, this is the third iteration of the complaint. And it is the second time the court has granted a motion to dismiss portions of the complaint. As to those causes of action for which the motion is granted, i.e., second and third causes of action, 11 U.S.C. §§ 523(a)(6), 727(a)(3), the quality of the pleading has not measurably improved. And from that the court infers the inability to plead a viable cause of action under these sections. To the extent the motion is granted, it is granted without leave to amend.

## **CIVIL MINUTE ORDER**

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Arturo Machuca Macias's Rule 12(b)(6) motion to dismiss has been presented to the court. Having considered the complaint, the motion, the memorandum of points and authorities, and the opposition,

IT IS ORDERED that the motion to dismiss is granted in part without leave to amend and denied in part as to the Second Amended Complaint, November 7, 2018, ECF # 47.

IT IS FURTHER ORDERED that defendant Arturo Machuca Macias shall file an answer to the first and fourth causes of action in the Second Amended Complaint not later than 21 days after entry of this order.

IT IS FURTHER ORDERED that the parties shall not enlarge time for the filing of a responsive pleading or motion without order of this court. Such an enlargement may be sought by ex parte application, supported by stipulation or other admissible evidence.

IT IS FURTHER ORDERED that if defendant fails to file timely a responsive pleading or motion, forthwith and without delay the plaintiff shall seek entry of the defendant's default.

6. [17-13776-A-7](#)     **IN RE: JESSICA GREER**  
[18-1017](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
4-23-2018    [[1](#)]

SALVEN V. CALIFORNIA  
DEPARTMENT OF FOOD &  
SHARLENE ROBERTS-CAUDLE/ATTY. FOR PL.

### **Final Ruling**

This matter is continued to January 30, 2019, at 10:00 a.m. Not later than January 9, 2019, the plaintiff shall brief the jurisdictional issue described in the civil minutes, November 16, 2018, ECF # 47.

7. [18-10784](#)-A-7      **IN RE: ANDREW/VIRGINIA BERGSTROM**  
[18-1028](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT  
5-23-2018    [[1](#)]

HONARCHIAN V. BERGSTROM  
JAMES MAKASIAN/ATTY. FOR PL.

**No Ruling**