

**UNITED STATES BANKRUPTCY COURT**  
Eastern District of California

**Honorable Ronald H. Sargis**  
Chief Bankruptcy Judge  
Modesto, California

**February 14, 2019 at 2:00 p.m.**

---

1. [17-90346-E-7](#)      ENRIQUEZ/LISA SANCHEZ      **CONTINUED STATUS CONFERENCE RE:**  
[17-9011](#)      **COMPLAINT**

**SANCHEZ V. SANCHEZ ET AL      8-21-17 [1]**

Plaintiff's Atty: Mahanvir S. Sahota  
Defendant's Atty: Len ReidReynoso

Adv. Filed: 8/21/17  
Answer: 9/18/17

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

Notes:  
Continued from 11/29/18, the Parties reporting that a settlement was being prosecuted.

**FEBRUARY 14, 2019 STATUS CONFERENCE**

No updated Status Conference Statement has been filed. While it being reported that a settlement is being prosecuted, no settlement documents have been filed in connection with this Adversary Proceeding.

At the Status Conference it was reported **XXXXXXXXXX**

**NOVEMBER 29, 2018 STATUS CONFERENCE**

At the Status Conference the Parties reported that the settlement is being prosecuted.

**JULY 12, 2018 STATUS CONFERENCE**

At the Status Conference, the Parties reported that the settlement is being concluded and should be resolved in the next sixty days.

### **MARCH 8, 2018 STATUS CONFERENCE**

No further pleadings have been filed in this Adversary Proceeding. At the Status Conference, it was reported that a settlement is being worked on with the Chapter 7 Trustee, which would resolve this Adversary Proceeding.

**Final Ruling: No appearance at the February 14, 2019 Status Conference is required.**  
-----

Debors' Atty: Mark J. Hannon

**The Post-Confirmation Status Conference is continued to 2:00 p.m. on  
October 17, 2019.**

Notes:

Continued from 9/27/18

Operating Report filed: 11/20/18

[MJH-20] Motion of Debtor-In-Possession Mark Anthony Garcia for *Ex Parte* Order Authorizing Debtors-In-Possession to Refinance, Sell, Buy, or Borrow Against Real Property filed 12/19/18 [Dckt 1011]; Order denying filed 12/21/18 [Dckt 1014]

Status Report #4 filed 2/6/19 [Dckt 1015]

#### **FEBRUARY 14, 2019 STATUS CONFERENCE**

Gary Farrar, the Plan Administrator reports that as of the February 6, 2019 filing of Status Report #4, the plan payments were current except for January and February 2019. Dckt. 1015. The Plan Administrator anticipated these payments being current as of the February 2019 Status Conference.

Further, that Debtor has made the payments to creditors holding unsecured claims through the December 2018 payments.

The Plan Administrator addresses Debtor's inability to close two loans to refinance the G Street commercial property secured claims and the funding for property that Debtor acquired by foreclosure through the operation of Debtor's business. The Title Companies involved in the financing requested that court approval be obtained.

The Debtor filed on December 19, 2018, an *ex parte* motion for approval of such financing. The court denied the *ex parte* motion on December 21, 2018. Order, Dckt. 1014.

The Plan Administrator is now filing motions to obtain such orders, with an anticipated hearing date of March 14, 2019.

The Plan Administrator's Fourth Status Report indicating that the Plan is being performed by the Debtors, disbursements are being made to creditors, and the Debtor and Plan Administrator are prosecuting the refinance loans, the court continues the Status Conference by final ruling.

3. [18-90149](#)-E-11      SOUZA PROPERTIES, INC.

**CONTINUED STATUS CONFERENCE RE:  
VOLUNTARY PETITION  
3-8-18 [1](#)**

Debtor's Atty: David C. Johnston

Notes:

Continued from 11/29/18, the Debtor in Possession stated it is attempting to locate counsel to prosecute the breach of lease claim.

Operating Reports filed: 12/14/18, 1/15/19

### **FEBRUARY 14, 2019 STATUS CONFERENCE**

Debtor in Possession ("ΔIP") did not file an updated Status Report for the February 14, 2019 Status Conference. In the prior Status Report filed on November 26, 2018, (Dckt. 123), the ΔIP recounted the ongoing disputes with a creditor with a secured claim. Additionally, the ΔIP anticipated having a Chapter 11 Plan filed by January 31, 2019.

At the Status Conference, Counsel for the ΔIP reported **XXXXXXXXXX**

4. [10-92356-E-7](#)      **HARKRISHAN/MANBIR**  
[18-9017](#)                      **KHATKAR**

**STATUS CONFERENCE RE:**  
**COMPLAINT**  
12-13-18 [[1](#)]

**KHATKAR ET AL V. HOLIDAY  
HOSPITALITY FRANCHISING, LLC**

**Final Ruling: No appearance at the February 14, 2019 Status Conference is required.**  
-----

Plaintiff's Atty: G. Michael Williams  
Defendant's Atty: Leib M. Lerner

Adv. Filed: 12/13/18  
Answer: none

Nature of Action:  
Declaratory judgment

<p><b>The Status Conference has been continued to 2:00 p.m. on March 28, 2019, by prior Order (Dckt. 10) of the Court.</b></p>
--

Notes:

Stipulation Granting Defendant Holiday Hospitality Franchising, LLC Extension to Respond to Complaint  
filed 1/9/19 [Dckt 8]; no order filed

5. [16-90157-E-7](#)      **DARYL FITZGERALD**  
[18-9011](#)

**CONTINUED STATUS CONFERENCE RE:  
COMPLAINT  
6-25-18 [1]**

**FITZGERALD V. TRELIS COMPANY**

Plaintiff's Atty: Richard Kwun  
Defendant's Atty: Robert Scott Kennard

Adv. Filed: 6/25/18  
Answer: 7/26/18

Nature of Action:  
Dischargeability - student loan  
Dischargeability - other

Notes:

Continued from 1/24/19. Robert Scott Kennard, counsel of record for the party identified as "Texas Guaratted Student Loan" to appear personally at the 2/14/19 continued status conference. On or before 2/7/19, Mr. Kennard is to file a statement of identification. On or before 2/10/19, the Parties are to file updated Status Conference Reports.

#### **FEBRUARY 14, 2019 STATUS CONFERENCE**

On January 28, 2019, the court entered its order continuing the Status Conference in this Adversary Proceeding to February 14, 2019. Dckt. 55. Counsel for Defendant "Texas Guaranteed Student Loan" did not appear at the January 28, 2019 Status Conference. The court ordered counsel for said defendant appear in person at the continued Status Conference.

The court further ordered that on or before February 8, 2018, Robert Scott Kennard was to file a statement of identification of his client, whether it was Texas Guaranteed Student Loan as stated in the Answer. No Statement of Identification has been filed.

The court further ordered that the Parties file (jointly or separately) Updated Status Conference Reports with a proposed discovery plan, deadlines, and discovery cut-off. No such reports have been filed by either party.

At the Status Conference **XXXXXXXXXXXX**

**GLADSTEIN V. EDUCATIONAL  
CREDIT MANAGEMENT CORPORATION**

**Final Ruling: No appearance at the February 14, 2019 Pre-Trial Conference is required.**

-----  
Plaintiff's Atty: Randall K. Walton  
Defendant's Atty: Miriam E. Hiser, Randall K. Walton

Adv. Filed: 11/12/17  
Answer: 12/6/17  
Amd. Cmplt Filed: 1/10/18  
Answer: 1/25/18

Nature of Action:  
Dischargeability - student loan

<p><b>The Status Conference is continued to 2:00 p.m. on April 18, 2019.</b></p>
--

Notes:

Continued from 12/20/18, the Joint Status Conference Report stating the Parties are "very close" to settlement. Due to unavailability of counsel, the Parties requested a two month continuance.

**FEBRUARY 14, 2019 PRETRIAL CONFERENCE**

**Request for Continuance**

The Parties filed a Joint Pre-Trial Conference Statement on February 12, 2019. Dckt. 41. In it they report that the Parties productive settlement discussions were derailed by the Government Shutdown in January 2019. The Parties report that they believe that a settlement will be forthcoming based upon their respective investigation of the underlying facts.

The Parties request to continue the Pre-Trial Conference to a date in April 2019. This request is reasonable and consistent with the Parties' diligent prosecution and resolution of this Adversary Proceeding.

**SUMMARY OF COMPLAINT**

Jed Rackson Gladstein ("Plaintiff-Debtor") filed his First Amended Complaint on January 10, 2018. Dckt. 15. Debtor seeks relief in the form of discharge of his student loans. Plaintiff-Debtor asserts that due to his age (70 years old) and medical disabilities, discharge of the debts are proper.

## **SUMMARY OF ANSWER**

Education Credit Management Corporation ("Defendant") has filed an answer admitting and denying specific allegations in the First Amended Complaint. Dckt. 20.

## **FINAL BANKRUPTCY COURT JUDGMENT**

Plaintiff-Debtor alleges in the Corrected First Amended 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). Corrected First Amended Complaint ¶¶ 2, 3, Dckt. 15. In its Answer, Defendant admits the allegations of jurisdiction and core proceedings. Answer ¶ 1, Dckt. 20.

7. [18-90494-E-7](#)                      **MELINDA BROOME**  
[18-9015](#)

**CONTINUED STATUS CONFERENCE RE:  
COMPLAINT  
10-22-18 [1]**

**BILLINGTON WELDING & MFG.,  
INC. V. BROOME**

**Final Ruling: No appearance at the February 14, 2019 Status Conference is required.**  
-----

Plaintiff's Atty: Anthony D. Johnston  
Defendant's Atty: Pro Se

Adv. Filed: 10/22/18  
Answer: 1/18/19

Nature of Action:  
Objection/revocation of discharge  
Dischargeability - false pretenses, false representation, actual fraud  
Dischargeability - priority tax claims  
Dischargeability - fraud as fiduciary, embezzlement, larceny  
Dischargeability - willful and malicious injury

<b>The Status Conference is continued to 2:00 p.m. on xxxxxxxxxxxx</b>
--

Notes:

Continued from 12/20/18 to afford Plaintiff the opportunity to file and prosecute a motion for entry of default judgment.

Answer filed 1/18/19 [Dckt 20]

[ADJ-1] Plaintiff Billington Welding & MFG, Inc.'s Motion for Entry of Default Final Judgment Against Defendant, Melinda Anne Broome filed 12/22/18 [Dckt 12]; heard 1/24/19; Order denying filed 1/28/19

Defendant's Memorandum of Points and Authorities in Support of Motion to Set Aside Clerk's Entry of Default filed 2/7/19 [Dckt 28]

### **FEBRUARY 14, 2019 STATUS CONFERENCE**

The court denied without prejudice Plaintiff's Motion for Entry of Default Judgment. Order, Dckt. 25. On January 18, 2019, Defendant-Debtor, after her default was entered, filed a form document titled "Answer." The "Answer" is a general denial, denying everything in the Complaint other than the filing of the bankruptcy petition. Answer, Dckt. 20.

Defendant-Debtor has not vacated her default in this Adversary Proceeding. On February 7, 2019, Defendant-Debtor filed a pleadings titled “Memorandum of Points and Authorities in Support of a Motion to Set Aside Clerk’s Entry of Default.” The Points and Authorities includes a multi-page statement of various facts.

The Court issued an order that Defendant-Debtor set her motion to set aside the default for a noticed hearing, and file and serve all supporting documents. Order, Dckt. 30. That Order was issued on February 11, 2019.

At the Status Conference **XXXXXXXXXX**

8. [08-92594-E-7](#)      **ROBERT/STEPHANIE**  
[15-9054](#)      **ACHTERBERG MDG-4**

**ACHTERBERG, JR. ET AL V.**  
**CREDITORS TRADE ASSOCIATION,**

**POST-JUDGMENT STATUS**  
**CONFERENCE FOR STIPULATION**  
**RE: MOTION FOR ASSIGNMENT ORDER**  
**AND/OR MOTION FOR ORDER**  
**RESTRAINING JUDGMENT DEBTOR**  
**2-4-19 [[130](#)]**

**ADVERSARY CLOSED: 02/21/2017**

Plaintiff's Atty: Malcolm D. Gross; Steven S. Altman  
Defendant's Atty: Douglas B. Provencher

Adv. Filed: 7/23/15  
Answer: 10/1/15

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

Notes:  
Set by order of the court dated 2/8/19 [Dckt 132]; Telephonic Appearances Permitted

### **FEBRUARY 14, 2019 STATUS CONFERENCE**

At a hearing on January 10, 2019, the Parties reported that payment terms for the judgment have been reached and a stipulation would be filed. A Stipulation was filed on February 4, 2019, and a proposed order was uploaded to the court.

Upon review by the court of the Stipulation and proposed Order, several issues were perceived by the court. The court issued an Order identifying the perceived issues and setting this Post-Judgment Status Conference.

At the Post-Judgment Status Conference **XXXXXXXXXXXX**