

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

Honorable Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 7th Floor
Courtroom 28, Department A
Sacramento, California

DAY: WEDNESDAY
DATE: FEBRUARY 17, 2021
CALENDAR: 1:30 P.M. ADVERSARY PROCEEDINGS

RULINGS

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

"No Ruling" means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

"Tentative Ruling" means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. Non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

"Final Ruling" means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g. nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

1. [18-20906](#)-A-7 **IN RE: VLADIMIR NIKITIN**
[18-2077](#)

CONTINUED PRE-TRIAL CONFERENCE RE: COMPLAINT TO DETERMINE
DISCHARGEABILITY OF DEBTS
5-29-2018 [\[1\]](#)

MOROZOVA V. NIKITIN
ALLA VOROBETS/ATTY. FOR PL.

Final Ruling

The pretrial conference is continued to April 21, 2021, at 1:30 p.m. If a judgment or dismissal has not been filed by that date, the court will set the matter for trial approximately 45-60 days thereafter. The parties first informed this court that a settlement had been negotiated five months ago. Status Report, September 22, 2020, ECF No. 67. No further requests for continuance will be entertained.

2. [19-27507](#)-A-7 **IN RE: KENNETH/LIELANIE STEERS**
[20-2027](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
3-9-2020 [\[1\]](#)

AMERISOURCE FUNDING, INC. V.
STEERS, JR. ET AL
TIMOTHY FLAHERTY/ATTY. FOR PL.

No Ruling

3. [19-27507](#)-A-7 **IN RE: KENNETH/LIELANIE STEERS**
[20-2112](#) [FEC-1](#)

PRE-TRIAL CONFERENCE RE: COMPLAINT FOR DENIAL OF DISCHARGE
6-8-2020 [\[1\]](#)

U.S. TRUSTEE V. STEERS, JR. ET
AL
JARED DAY/ATTY. FOR PL.

No Ruling

4. [19-20518](#)-A-7 **IN RE: MONICA ORDAZ**
[19-2056](#)

PRE-TRIAL CONFERENCE RE: COMPLAINT TO DETERMINE
NON-DISCHARGEABILITY OF DEBT
4-24-2019 [[1](#)]

GONZALEZ V. ORDAZ ET AL
J. EDWARD BROOKS/ATTY. FOR PL.

No Ruling

5. [14-25820](#)-A-11 **IN RE: INTERNATIONAL MANUFACTURING GROUP,**
INC.
[15-2122](#) [IWC-11](#)

CONTINUED MOTION FOR SUMMARY JUDGMENT
10-13-2020 [[539](#)]

MCFARLAND V. CARTER ET AL
IAN CRAIG/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

6. [07-22338](#)-A-13 **IN RE: KEVIN/AMANDA MUNOZ**
[20-2186](#)

STATUS CONFERENCE RE: COMPLAINT
12-22-2020 [[1](#)]

MUNOZ ET AL V. GMAC MORTGAGE,
LLC. ET AL
PETER MACALUSO/ATTY. FOR PL.

Final Ruling

An Amended Complaint having been filed, ECF No. 8, and a Reissued Summons setting a new Status Conference hearing date, ECF No. 9, the Status Conference is continued to March 16, 2021 at 1:30 p.m.

7. [20-24339](#)-A-7 **IN RE: JOSHUA HENRY**
[20-2185](#)

STATUS CONFERENCE RE: COMPLAINT
12-18-2020 [[1](#)]

TORRUELLA V. HENRY
PETER PULLEN/ATTY. FOR PL.
RESPONSIVE PLEADING

No Ruling

8. [15-23746](#)-A-7 **IN RE: GORDON BONES**
[15-2160](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
8-14-2015 [[1](#)]

MELISSA JOSEPH, AS TRUSTEE OF
THE RICHARD W. DE SI V. BONES
MICHAEL SCHAPS/ATTY. FOR PL.
RESPONSIVE PLEADING

No Ruling

9. [20-20853](#)-A-7 **IN RE: RODNEY/DELANI PLACE**
[20-2109](#) [LCO-1](#)

MOTION TO COMPEL
1-25-2021 [[17](#)]

LABOR COMMISSIONER OF THE
STATE OF CALIFORNIA V. PLACE
MATTHEW SIROLLY/ATTY. FOR MV.

No Ruling

10. [20-20853](#)-A-7 **IN RE: RODNEY/DELANI PLACE**
[20-2109](#) [LCO-2](#)

MOTION TO COMPEL
1-25-2021 [[23](#)]

LABOR COMMISSIONER OF THE
STATE OF CALIFORNIA V. PLACE
MATTHEW SIROLLY/ATTY. FOR MV.

No Ruling

11. [09-29162](#)-A-11 **IN RE: SK FOODS, L.P.**
[10-2117](#) [WF-5](#)

MOTION BY STEVEN J. WILLIAMSON TO WITHDRAW AS ATTORNEY
1-15-2021 [\[311\]](#)

SHARP ET AL V. INTERNAL
REVENUE SERVICE ET AL
MEGAN LEWIS/ATTY. FOR MV.

Final Ruling

Motion: Attorney's Withdrawal from Representation of a Client

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by movant pursuant to the instructions below

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

Under California Rule of Professional Conduct 1.16(c), "[i]f permission for termination of a representation is required by the rules of a tribunal,* a lawyer shall not terminate a representation before that tribunal* without its permission."

An attorney's withdrawal from representing a client is governed by LBR 2017-1(e) and the Rules of Professional Conduct of the State Bar of California. LBR 2017-1(e) provides that "an attorney who has appeared may not withdraw leaving the client in propria persona without leave of court upon noticed motion and notice to the client and all other parties who have appeared." This local rule also mandates that the attorney shall provide an affidavit stating the current or last known address or addresses of the client and the efforts made to notify the client of the motion to withdraw.

California Rule of Professional Conduct 1.16(b)(4) provides for permissive withdrawal if "the client by other conduct renders it unreasonably difficult for the lawyer to carry out the representation effectively." The facts asserted in the motion and supporting papers show that continued, effective representation of the client will be unreasonably difficult for the attorney to undertake.

California Rule of Professional Conduct 1.7 titled "Conflict of Interest: Current Clients" provides that:

"(a) A lawyer shall not, without informed written consent from each client and compliance with paragraph

(d), represent a client if the representation is directly adverse to another client in the same or separate matter. ...

(d) Representation is permitted under this rule only if the lawyer complies with paragraphs (a), (b), and (c), and:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client...."

Here, the counsel moves to withdraw as an attorney because his concurrent clients in this adversary proceeding do not agree on how to proceed in this matter. The counsel cannot provide competent and diligent representation to each client when there is a conflict of interest between the concurrent clients. The counsel has informed both clients of his intent to withdraw as their attorney. The counsel has also provided that the proceedings in this case (i.e. Motion to Enforce Settlement Agreement) has been continued at the agreement of the parties to avoid prejudice.

The court finds that the attorney's withdrawal from the representation is proper. In the order's recitals, the order shall state the client's last known address and, if known, the client's phone number. The order's substantive provisions shall include a provision requiring the attorney to comply with California Rule of Professional Conduct 1.16(e)(1), (2) upon the withdrawal.

12. [09-29162](#)-A-11 **IN RE: SK FOODS, L.P.**
[11-2339](#) [WF-5](#)

MOTION BY STEVEN J. WILLIAMSON TO WITHDRAW AS ATTORNEY
1-15-2021 [\[428\]](#)

BANK OF MONTREAL V. CALIFORNIA
FRANCHISE TAX BOARD ET AL
MEGAN LEWIS/ATTY. FOR MV.

Final Ruling

Motion: Attorney's Withdrawal from Representation of a Client

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by movant pursuant to the instructions below

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

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California Rule of Professional Conduct 1.16(b)(4) provides for permissive withdrawal if "the client by other conduct renders it unreasonably difficult for the lawyer to carry out the representation effectively." The facts asserted in the motion and supporting papers show that continued, effective representation of the client will be unreasonably difficult for the attorney to undertake.

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The court finds that the attorney's withdrawal from the representation is proper. In the order's recitals, the order shall state the client's last known address and, if known, the client's phone number. The order's substantive provisions shall include a provision requiring the attorney to comply with California Rule of Professional Conduct 1.16(e)(1), (2) upon the withdrawal.

13. [09-29162](#)-A-11 **IN RE: SK FOODS, L.P.**
[11-2340](#) [WF-5](#)

MOTION BY STEVEN J. WILLIAMSON TO WITHDRAW AS ATTORNEY
1-15-2021 [\[487\]](#)

BANK OF MONTREAL V. COLLINS ET
AL
MEGAN LEWIS/ATTY. FOR MV.

Final Ruling

Motion: Attorney's Withdrawal from Representation of a Client

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by movant pursuant to the instructions below

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

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Here, the counsel moves to withdraw as an attorney because his concurrent clients in this adversary proceeding do not agree on how to proceed in this matter. The counsel cannot provide competent and diligent representation to each client when there is a conflict of interest between the concurrent clients. The counsel has informed both clients of his intent to withdraw as their attorney. The counsel has also provided that the proceedings in this case (i.e. Motion to Enforce Settlement Agreement) has been continued at the agreement of the parties to avoid prejudice.

The court finds that the attorney's withdrawal from the representation is proper. In the order's recitals, the order shall state the client's last known address and, if known, the client's phone number. The order's substantive provisions shall include a provision requiring the attorney to comply with California Rule of Professional Conduct 1.16(e)(1), (2) upon the withdrawal.

14. [20-23975](#)-A-7 **IN RE: PEDRO DIEGO-FLORES AND YESENIA LOPEZ**
[20-2184](#)

STATUS CONFERENCE RE: COMPLAINT
12-12-2020 [\[1\]](#)

FIRST NATIONAL BANK OF OMAHA
V. LOPEZ
CORY ROONEY/ATTY. FOR PL.

Final Ruling

The status conference is continued to April 21, 2021, at 1:30 p.m. to allow the plaintiff to prove up the default. If judgment has not been entered, not later than 14 days prior to the status conference the plaintiff shall file a status report.

15. [20-24783](#)-A-11 **IN RE: GREGORY G. SMITH, M.D., A**
PROFESSIONAL CORPORATION
[21-2003](#) [FEC-1](#)

ORDER TO SHOW CAUSE RE ABSTENTION
1-28-2021 [[7](#)]

SMITH, M.D. ET AL V. FRIEDMAN,
M.D. ET AL

Final Ruling

Order signed February 9, 2021, abstaining from this Adversary proceeding, this matter is dropped as moot.

16. [15-23746](#)-A-7 **IN RE: GORDON BONES**
[15-2160](#)

MOTION FOR SANCTIONS
12-7-2015 [[38](#)]

MELISSA JOSEPH, AS TRUSTEE OF
THE RICHARD W. DE SI V. BONES
MICHAEL SCHAPS/ATTY. FOR MV.

No Ruling