

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

**Honorable Ronald H. Sargis**  
Bankruptcy Judge  
Sacramento, California

**February 22, 2023 at 2:00 p.m.**

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1.	<a href="#"><u>22-22329-E-13</u></a> <b>JIM HICKERSON</b> <a href="#"><u>22-2109</u></a> <b>CAE-1</b>	<b>STATUS CONFERENCE RE:</b> <b>COMPLAINT</b> <b>12-9-22 [<a href="#">1</a>]</b>
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**MUSTYBROOK ET AL V. HICKERSON**

Plaintiff's Atty: Mark H. Harris  
Defendant's Atty: William F. McLaughlin

Adv. Filed: 12/9/22  
Answer: 1/19/23

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

Notes:  
Joint Discovery Plan filed 2/9/23 [Dckt 13]

**SUMMARY OF COMPLAINT**

The Complaint filed by Mark Mustybrook and Dionna Mustybrook ("Plaintiff"), Dckt. 1, asserts claims for determination that debt is nondischargeable as provided in 11 U.S.C. § 362(a)(2)(A), (a)(4), and (a)(6). It is alleged that Grace Home Builders ("GHB"), was a merely shell and sham used by Defendant-Debtor Jim Hickerson to avoid liability for his personal business actions.

Plaintiff signed a California Home Improvement contract with Defendant Debtor, with a contract price of \$400,000. Defendant-Debtor demanded that deposits to be made, with the initial deposit being

\$40,000. The Compliant provides specific allegations of conduct by Defendant-Debtor and his brother relating to the work to be done under the contract.

A first progress payment in the amount \$40,000 was made and a second progress of payment of \$75,000 was made, in addition to the \$40,000 deposit. It is alleged that these were improper and no consistent with California law given the lack of work done on the Property. A third progress payment of \$75,000 was made on or about September 2, 2021. It is alleged that the work had not been completed for the third progress payment. A fourth progress payment of \$50,000 was paid on November 18, 2021. It is alleged that the work relating to the fourth progress payment had not been completed. A fifth progress payment of \$50,000 on February 6, 2022. It is again alleged that none of the work had been completed for the fifth progress payment.

On July 19, 2022, Plaintiff was told that the GHB business was shut down on the instruction of Defendant-Debtor.

The First Claim of Relief is for a determination that the debt owed by Defendant-Debtor to Plaintiff for the monies collected but for which the work was not done, in the amount of \$300,665.50, is nondischargeable pursuant to 11 U.S.C. § 523(a)(2)(A) [fraud, false representations, false pretenses].

The Second Claim for Relief is for a determination that the debtor is nondischargeable pursuant to 11 U.S.C. § 523(a)(4) [larceny]. These grounds include alleged violations of the California and Business & Professions Code.

The Third Claim for Relief is for a determination that the debt is nondischargeable pursuant to 11 U.S.C. § 523(a)(6) [willful and malicious injury] as damages arising from Defendant-Debtor receiving and for recovery of stolen property.

The fourth claim for relief is that the debt be determined nondischargeable pursuant to 11 U.S.C. § 523(a)(6) [willful and malicious injury] for having collected the progress payments when the work for such payments had not been completed.

## **SUMMARY OF ANSWER**

Jim Hickerson (“Defendant-Debtor”) have filed an Answer, Dckt. 10, admitting and denying specific allegations in the Complaint. The Answer also alleges twenty-three (23) Affirmative Defenses.

## **FINAL BANKRUPTCY COURT JUDGMENT**

Plaintiffs Mark and Dionna Mustybrook alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334, and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Complaint ¶¶ 12, Dckt. 1. In the Answer, Defendant-Debtor Jim Hickerson admits the allegations of jurisdiction and that this is a core proceeding. Answer ¶ 12; Dckt. 10.

Both Plaintiff and Defendant-Debtor state that they consent to the entry of final orders or judgement by the Bankruptcy Court. Complaint, ¶ 14; Dckt. 1; and Answer, ¶ 14; Dckt 10.

Plaintiff filed a Demand for Jury Trial for this Adversary Proceeding. Dckt. 6. The issues in this Adversary Proceeding are solely for the determination of a nondischargeable debt, which is a right granted

Plaintiff by Congress through the Bankruptcy Code in the 1970's. No bankruptcy laws existed and no right to have a federal court adjudicate the nondischargeability of debt existed at the time of the enactment of the United States Constitution.

At the Status Conference, **XXXXXXX**

### **Joint Discovery Plan**

Plaintiff and Defendant-Debtor filed their Joint Discovery Plan on February 9, 2023. Dckt. 13. The court has utilized this in setting the Pre-Trial Schedule.

The Parties have been discussing utilizing the Bankruptcy Dispute Resolution Program.

The Parties are working on an agreement to address claims of privilege and how such claims may be asserted.

### **ISSUANCE OF PRE-TRIAL SCHEDULING ORDER**

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

a. Plaintiff Mark and Dionna Mustybrook alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334, and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Complaint ¶¶ 12, Dckt. 1. In the Answer, Defendant-Debtor Jim Hickerson admits the allegations of jurisdiction and that this is a core proceeding. Answer ¶ 12; Dckt. 10.

Both Plaintiff and Defendant-Debtor state that they consent to the entry of final orders or judgement by the Bankruptcy Court. Complaint, ¶ 14; Dckt. 1; and Answer, ¶ 14; Dckt. 10.

b. Initial Disclosures shall be made on or before **XXXXXXX, 2023**.

c. Expert Witnesses shall be disclosed on or before **February 23, 2024**, and Rebuttal Expert Witnesses, if any, shall be disclosed on or before **March 22, 2024**.

d. All expert witness reports shall be served no later than **March 8, 2023**; and all rebuttal expert witness reports shall be served on later than **April 5, 2024**.

e. All written discovery and depositions of percipient witnesses shall be completed by **January 9, 2024**, including the hearing of any discovery motions.

f. Discovery closes, including the hearing of all discovery motions, on **XXXXXXX, 2024**.

g. Dispositive Motions shall be heard before **XXXXXXX, 2024**.

h. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at **2:00 p.m. on XXXXXX, 2024**.

2. [21-23841-E-13](#) [22-2008](#) DENNIS FRAZIER

FIRST TRUST V. FRAZIER

**PRE-TRIAL CONFERENCE RE:  
COMPLAINT TO DETERMINE  
VALIDITY, EXTENT AND PRIORITY  
OF LIEN, AND TO DETERMINE  
NONDISCHARGEABILITY  
2-4-22 [1]**

Plaintiff's Atty: Kirk Steven Rimmer  
Defendant's Atty: Peter G. Macaluso

Adv. Filed: 2/4/22  
Answer: 2/25/22  
Reissued Summons: 3/14/22

Nature of Action:  
Dischargeability - false pretenses, false representations, actual fraud  
Declaratory judgment

Notes:  
Scheduling Order-  
Last date to disclose expert witnesses 10/21/22  
Non-Expert witness discovery closes 11/18/22  
Expert witness discovery closes 12/16/22  
Dispositive motions heard by 1/26/23

Plaintiff's Pretrial Statement filed 2/10/23 [Dckt 32]

Defendant's Pretrial Statement filed 2/10/23 [Dckt 34]

<b>The Pre-Trial Conference is <span style="color: red;">XXXXXXX</span></b>
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## SUMMARY OF COMPLAINT

The Complaint filed by First Trust ("Plaintiff"), Dckt. 1, asserts claims for the nondischargeability of debt. The asserted nondischargeable debt relates to monies advanced to Defendant-Debtor under an asserted agreement providing for a cure of the default in the obligation to the senior lien holder, further advances for the repair and maintenance of the related real property, and the sale of the property for which the advances were made, with the proceeds of the sale used to repay the obligation of Defendant-Debtor to Plaintiff, and then for Plaintiff to share in the net sales proceeds after payment of the senior lien and sales costs.

The dollar amounts of the advances are stated to be \$43,000.00, and the damages sought by Plaintiff are \$130,220.47.

## SUMMARY OF ANSWER

Dennis Frazier ("Defendant-Debtor") have filed an Answer, Dckt. 7, admitting and denying specific allegations in the Complaint.

## FINAL BANKRUPTCY COURT JUDGMENT

Plaintiff First Trust alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I), (K). Complaint ¶¶ 3, 4, Dckt. 1. In the Answer, Defendant Debtor admit the allegations of jurisdiction and that this is a core proceeding for the claims for relief stated in the Complaint. Answer ¶¶ 3, 4; Dckt. 7.

The court shall issue an Trial Setting in this Adversary Proceeding setting the following dates and deadlines:

- A. Evidence shall be presented pursuant to Local Bankruptcy Rule 9017-1.
- B. **Plaintiff** shall lodge with the court and serve their Direct Testimony Statements and Exhibits on or before -----, **2024**.
- C. **Defendant** shall lodge with the court and serve their Direct Testimony Statements and Exhibits on or before -----, **2024**.
- D. The Parties shall lodge with the court, file, and serve Hearing Briefs and Evidentiary Objections on or before -----, **2024**.
- E. Oppositions to Evidentiary Objections, if any, shall be lodged with the court, filed, and served on or before -----, **2024**.
- F. The Trial shall be conducted at ----**x.m. on** -----, **2024**.

The Parties in their respective Pretrial Conference Statements, Dckts.32 and 34, and as stated on the record at the Pretrial Conference, have agreed to and establish for all purposes in this Adversary Proceeding the following facts and issues of law:

Plaintiff(s)	Defendant(s)
Jurisdiction and Venue:  1.  2.  3.	
Plaintiff Undisputed Facts:  1. Dennis Frazier (hereafter "Defendant") is a debtor pursuant to Chapter 13 of Title 11 of the	

United States Code which is currently pending before this Court.

2. Defendant is an individual who filed his voluntary petition for relief on pursuant to Chapter 7 of Title 11 of the United States Code on November 9, 2021, in Eastern District of California Case No. 21-23841 ("the Bankruptcy").

3. Plaintiff is the owner, holder, and beneficiary of the following documents:

a. Contract dated February 10, 2020, between Plaintiff and Defendant ("the Contract").

b. A deed of trust ("Deed of Trust") which was executed in connection with the execution of the Contract. The Deed of Trust was duly recorded as a second deed of trust on March 17, 2020, as Instrument No. 202003171009 in the Office of the County Recorder of Sacramento County secured by Defendant's residence of 2 Odom Court, Sacramento, California 95823 ("the Property"), and reflects that it secures a sum equal to \$75,000.00.

4. The Contract, provided, among other things, the following:

a. That Defendant is the fee owner of the Property.

b. Plaintiff would advance certain sums to cure monetary defaults Defendant had incurred to recorded lien holders on the Property. In fact, Plaintiff did advance a sum equal to \$37,000.00 to the first lienholder on the Property, ("Advance to Lienholder").

c. In consideration of the funds advanced by Plaintiff, Defendant would cooperate with Plaintiffs renovation of the Property, employ a real estate broker chosen by Plaintiff to sell the Property, and thereafter list and sell the Property. In addition to the Advance to Lienholder, Plaintiff has also incurred \$3,000.00 in expenses as and for repairs to the fence to the Property and for a termite report in anticipation of the sale of the Property as required by the Contract.

d. After the sale of the Property, Plaintiff would first receive reimbursement of funds advanced, and thereafter Creditor Trust and Defendant would equally share the net proceeds

e. In the event that there was litigation/arbitration to enforce the terms of the Contract, the prevailing party would be awarded their attorney's fees and costs.

5. If Plaintiff not made the Advance to Lienholder, Defendant would have been rendered homeless as a result of a foreclosure by the Lienholder.

**Defendant Undisputed Facts:**

1. On February 10, 2020, Plaintiff, First Trust ("Plaintiff"), and Defendant, Dennis A. Frazier ("Defendant"), entered into a written contract ("Contract").

2. Defendant is a fee owner of property commonly known as 2 Odom Court, Sacramento, California

("Subject Property").

3. Defendant was behind in monthly payments on the Subject Property, and pending foreclosure.
4. Plaintiff advanced \$37,000.00, which stopped the foreclosure.
5. A Deed of Trust was duly recorded as a Second Deed of Trust on March 17, 2020, as Instrument No. #202003171009 in the Office of the County Recorder of Sacramento County.
6. Plaintiff is a sophisticated creditor.
7. Defendant is not a sophisticated debtor.
8. Defendant's first Deed of Trust had a principle balance of \$108,512.11 on the date of filing case number 21-23841.
9. Carl Dexter represented that he could obtain a loan modification for the Defendant and the Subject Property.
10. Carl Dexter completed the loan modification applications for the Subject Property.
11. The loan modification was denied.
12. The Subject Property went up for an auction scheduled for February 11, 2020.
13. Defendant filed his first bankruptcy, case number 19-24413, on July 15, 2019, and was dismissed on July 26, 2019.
14. Carl Dexter is an agent and/or owner of First Trust, and assisted Defendant in a loan modification process.
15. Defendant filed the second bankruptcy, case number 19-25933, on September 23, 2019, and was dismissed on October 4, 2019.
16. Defendant filed his third bankruptcy, case number 19-24413, on July 15, 2019, and was dismissed on July 26, 2019.
17. The loan modification that Carl Dexter submitted to Freedom Mortgage was denied.
18. The Subject Property went up for auction again.
19. Carl Dexter came to the Defendant's home on February 10, 2020, at 8:00 p.m., and presented the Contract.
20. Carl Dexter had a new idea and presented the Foreclosure Guarantee Contract ("Contract").
21. Carl Dexter then arranged for the payment of \$36,000.00 to prevent the foreclosure of the Subject

Property.

22. Carl Dexter then wired \$37,000.00 to Freedom Mortgage to prevent the foreclosure.
23. The Contract provided for renovation of the Subject Property.
24. The Contract provided for the listing of the Subject Property for sale.
25. The Defendant filed bankruptcy case number 21-23841 on November 9, 2021, which is active.
26. The contract provides for the listing of the Subject Property with a broker chosen by the Plaintiff.
27. The contract provides for the Selling of the Subject Property.
28. Plaintiff prepared and presented a “Foreclosure Cancellation Guaranty” (“Contract”).
29. The Contract included a “Cancellation Clause.”
30. The Subject Property is a single family residence occupied by the homeowner, Defendant Dennis Frazier.
31. The Subject Property was in foreclosure on February 10, 2020, when the Contract was presented.
32. The first Deed of Trust was with Freedom Mortgage.
33. The “Guarantor,” Plaintiff, is a real estate investor.
34. Plaintiff is a “foreclosure consultant.”
35. Plaintiff is not a licensed attorney.
36. Carl Dexter represented Plaintiff First Trust before and after the contract was signed on February 10, 2020.
37. The Guaranty provided a cancellation on or before 11:59 pm on February 10, 2020.
38. The contract terms include the Subject Property to be sold within 50 days of February 11, 2020.
39. Carl Dexter signed the contract for First Trust as Trustee.
40. The Trust and Assignment of Rents securing a promissory note was made on February 12, 2020, and recorded March 17, 2020 at 1:06:58 pm.
41. Section 2.3 of the Contract reads; “Attorney Fees– To appear in and defend any action or proceeding purporting to affect the security, or the rights and powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidencing title ad attorney fees in a reasonable sum, in any such action or proceeding in which Beneficiary of trustee may appear.”



42. On June 4, 2021, First Trust demanded that, “in no event later than 10 days from the date of this letter [June 4, 2021], place the real property...on the market for sale with real estate broker Nathan Adams.”

43. Carl Dexter and First Trust are defined as a “Person.”

44. The Notice of Default was filed June 20, 2019.

45. The contract was recorded March 17, 2020.

**Plaintiff Disputed Facts:**

Whether Defendant has breached the terms of the Contract, by acts and omissions including, but not limited to, the following:

1. Failure of Defendant to reimburse Plaintiff for the \$40,000.00 Advance to Lienholder, and the additional \$3,000.00 in repairs to the Property and termite report.
2. Failure to allow Plaintiff entry to the Property in order to renovate the Property.
3. Failure of Defendant to list the Property with the broker chosen by Plaintiff.
4. Failure of Defendant to sell the Property.
5. Failure to deliver to Plaintiff an equal share of the equity in the Property.
6. Whether Plaintiff has performed all acts and conditions require of it to be performed including, but not limited to, advising Defendant of the name of the broker to list the Property, advancing funds to senior lienholders on the Property, and making a written demand for Defendant to correct his breaches of the Contract.
7. Whether, as a proximate cause of the Defendant's actions, Plaintiff has been damaged in a sum equal to \$130,220.47 as of the date of the filing of the Bankruptcy (and additional sums determined at trial for any increased equity after the petition for Bankruptcy) calculated as follows:

Advance:	\$37,000.00
Repairs to Property and termite report:	\$3,000.00
	\$40,000.00
½ of remaining equity in	\$90,220.47
Property after first deducting advances, repairs, termite report:	

TOTAL DAMAGES  
AND CLAIM:

\$130,220.47

8. Whether of the \$130,220.47 in alleged damages, a sum equal to \$75,000.00, or any sum, is secured by the Deed of Trust.

9. The value of the Property when Defendant filed his Bankruptcy petition, and on October 6, 2022, when Plaintiffs expert witness David Lane examined the Property.

Defendant Disputed Facts:

1. Whether Plaintiff is owed a sum of \$130,220.47, as of the date of filing the Bankruptcy petition.
2. Whether the Deed of Trust is a valid and enforceable Second Deed of Trust lien.
3. Whether Defendant intended to reimburse Plaintiff \$40,000.00, for the expenditures made by Plaintiff.
4. Whether Plaintiff is an “equity purchaser.”
5. Whether a strict reading of the contract includes any of the identified items in California Civ. Code § 2945.1.
6. Whether the Voluntary Petition filed September 23, 2019 was signed and filed by Carl Dexter, Plaintiff’s agent.
7. Whether Defendant is liable based on the Contract.
8. Whether Plaintiff’s Note is non-dischargeable.
9. Whether Plaintiff’s Lien is valid.
10. Whether Carl Dexter or Plaintiff was practicing law.
11. Whether Defendant’s actions could be classified as “unfair, deceptive, or a fraudulent act(s).”
12. Whether the contract was entered into under duress.
13. Whether the fees charged for the services provided were reasonable.
14. Whether the Plaintiff, and its agent Carl Dexter, were practicing law without a license.
15. Whether the Defendant was a victim of a Foreclosure Rescue Scam.
16. Whether the Plaintiff breached its fiduciary duty.

17. Whether Defendant owes arrears to Plaintiff's claim.  18. Whether Defendant owes anything to Plaintiff's Claim.  19. Whether Plaintiff committed Foreclosure Fraud against Defendant.	
Disputed Evidentiary Issues:  1.       None Identified	Disputed Evidentiary Issues:  1.       None
Relief Sought:  1.       Deed of Trust is a valid and enforceable second deed of trust lien against the Property for the Secured Sum.  2.       Additional \$90,220.47 (plus one-half of any post-petition equity), and one-half of equity in the Property as of the date of the judgment.  3.       Determination that debt and damages are non-dischargeable pursuant to 11 U.S.C. § 523(a)(2)(A) of \$40,000.00 plus \$90,220.47 (plus post-petition equity) and one half of equity in the Property.  4.       Costs of Suit  5.       Attorney's Fees	Relief Sought:  1.       "Declaratory Relief"  2.       11 U.S.C. § 523(a)(2)(A)
Points of Law:  1.       11 U.S.C. § 523(a)(2)(A)	Points of Law:  1. Civ. Code § 2945.1  2. Civ. Code § 2945.1(c)  3. Civ. Code § 1695  4. Civ. Code § 1717  5. Civ. Code § 2945.3(b)  6. Civ. Code § 2945.3(c)

	<p>7. Bus. &amp; Prof. Code § 1700 - Unfair and Deceptive Acts and Practices</p> <p>8. 11 U.S.C. § 105(a)</p> <p>9. Civ. Code § 2945.4</p>
<p>Abandoned Issues:</p> <p>1. None</p>	<p>Abandoned Issues:</p> <p>1. None</p>
<p>Witnesses:</p> <p>1. Carl Dexter</p> <p>2. Kirk Rimmer</p> <p>3. Dennis Frazier</p> <p>4. Custodian of Records, Chicago Title</p> <p>5. Jeff Van Valer</p> <p>6. Marty Francis</p> <p>7. Custodian of Record of Dumont Pest Control</p> <p>8. Custodian of Records Banner Bank</p> <p>9. David Lane</p>	<p>Witnesses:</p> <p>1. Defendant, Dennis A. Frazier.</p> <p>2. Plaintiff's Representative, Carl Dexter.</p> <p>3. David Lane, Appraiser</p>
<p>Exhibits:</p> <p>1. <b>Not Listed</b></p> <p>2.</p>	<p>Exhibits:</p> <p>1. . Petition, Case Number 21-23841</p> <p>2. Contract</p>
<p>Discovery Documents:</p>	<p>Discovery Documents:</p>

1. <b>Not Listed</b> Plaintiff's demand to produce documents, requests for admissions, and interrogatories, and Defendant's Responses 2. Appraisals of David Lane 3. <b>Not Listed</b> documents forwarded to Defendant 4. Defendant's Deposition Transcript.	1. Plaintiff's Request for Admissions. 2. Plaintiff's Request for Interrogatories. 3. Plaintiff's Request for Production of Documents.
Further Discovery or Motions: 1. None	Further Discovery or Motions: 1. None
Stipulations: 1. None	Stipulations: 1. None
Amendments: 1. None	Amendments: 1. None
Dismissals: 1. None	Dismissals: 1. None
Agreed Statement of Facts: 1. None	Agreed Statement of Facts: 1. None
Attorneys' Fees Basis: 1. Contractual	Attorneys' Fees Basis: 1. 11 U.S.C. § 523(d)
Additional Items 1. None	Additional Items 1. None
Trial Time Estimation: 1 Day	Trial Time Estimation: 2 Days

3. [18-25851-E-13](#)      **ROBERT HUNTER**  
[22-2087](#)  
CAE-1

**CONTINUED STATUS CONFERENCE RE:**  
**COMPLAINT**  
9-1-22 [[1](#)]

**HUNTER V. FILLMORE GROUP TRUST**

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

Adv. Filed: 9/1/22  
Summons Reissued: 9/15/22 [Dckt 6]  
Answer: none

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

Notes:  
Continued from 11/30/22. The court extended the deadline for service of the summons and complaint to and including 2/23/23.

[PGM-1] *Ex Parte* Application for Order and Publication of Summons filed 12/7/22 [Dckt 10]; Order granting filed 1/5/23 [Dckt 15]

<b>The Status Conference is <span style="color: red;">XXXXXXX</span></b>
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**FEBRUARY 22, 2023 STATUS CONFERENCE**

On January 5, 2023, the court entered an order authorizing that service may be made by publication. Dckt. 16.

No updated Status Report has been filed by Plaintiff-Debtor.

At the Status Conference, XXXXXXX

**NOVEMBER 30, 2022 STATUS CONFERENCE**

The Plaintiff-Debtor has commenced this Adversary Proceeding to quiet title with respect to a deed of trust naming Fillmore Group Trust, et al., as the beneficiary. Plaintiff-Debtor alleges that he has not authorized the deed of trust, is the victim of identity theft, and the deed of trust is void.

On September 15, 2022, a Reissued Summons was issued for Plaintiff. Dckt. 6. No certificate of service has been filed.

At the Status Conference, counsel for Plaintiff-Debtor addressed how they will proceed in trying to identify the Defendant (the entity named in the Deed of Trust) and complete service (including service by publication).

Counsel for the Plaintiff-Debtor further reported that the title company listed as Trustee on the Deed of Trust states that it has no record of this Deed of Trust and is not the trustee thereunder.

Based on the identify theft alleged, the named Defendant not being readily identifiable, and a possible need for service by publication, the court extends the deadline for service of the summons and complaint as provided in Federal Rule of Civil Procedure 4(m) and incorporated into Federal Rule of Bankruptcy Procedure 7004(a), to and including February 23, 2023, which deadline may be extended by further order of the court.

In reviewing the copies of the Deed of Trust alleged to have been forged, the court observes that the named beneficiary, Fillmore Group Trust, is stated to have an address of 12021 Gold Pointe Lane, Gold River, California, which is the same address as the Debtor's residence. Additionally, the co-trustee of the Fillmore Group Trust is stated to be the Debtor, who lives at the Gold Pointe Lane Property.

The Deed of Trust states that the borrower is not the Debtor, the Trustor under the Deed of Trust. However, no borrower or specific obligation is identified in the Deed of Trust

4. [18-25851-E-13](#)      **ROBERT HUNTER**  
[22-2088](#)  
CAE-1

**CONTINUED STATUS CONFERENCE RE:**  
**COMPLAINT**  
9-1-22 [[1](#)]

**HUNTER V. PEACHTREE GROUP  
TRUST**

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

Adv. Filed: 9/1/22  
Summons Reissued: 9/15/22 [Dckt 6]  
Answer: none

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

Notes:  
Continued from 11/30/22. The court extended the deadline for service of the summons and complaint to and including 2/23/23.

[PGM-1] *Ex Parte* Application for Order and Publication of Summons filed 12/5/22 [Dckt 10]; Order granting filed 1/5/23 [Dckt 16]

<b>The Status Conference is <span style="color: red;">XXXXXXX</span></b>
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**FEBRUARY 22, 2023 STATUS CONFERENCE**

On January 5, 2023, the court entered an order authorizing that service may be made by publication. Dckt. 16.

No updated Status Report has been filed by Plaintiff-Debtor.

At the Status Conference, XXXXXXX

**NOVEMBER 30, 2022 STATUS CONFERENCE**

The Plaintiff-Debtor has commenced this Adversary Proceeding to quiet title with respect to a deed of trust naming Peachtree Group Trust et al., as the beneficiary. Plaintiff-Debtor alleges that he has not authorized the deed of trust, is the victim of identity theft, and the deed of trust is void.

On September 15, 2022, a Reissued Summons was issued for Plaintiff. Dckt. 6. No certificate of service has been filed.



At the Status Conference, counsel for Plaintiff-Debtor addressed how they will proceed in trying to identify the Defendant (the entity named in the Deed of Trust) and complete service (including service by publication).

Counsel for the Plaintiff-Debtor further reported that the title company listed as Trustee on the Deed of Trust states that it has no record of this Deed of Trust and is not the trustee thereunder.

Based on the identify theft alleged, the named Defendant not being readily identifiable, and a possible need for service by publication, the court extends the deadline for service of the summons and complaint as provided in Federal Rule of Civil Procedure 4(m) and incorporated into Federal Rule of Bankruptcy Procedure 7004(a), to and including February 23, 2023, which deadline may be extended by further order of the court.

In reviewing the copies of the Deed of Trust alleged to have been forged, the court observes that the named beneficiary, Peachtree Group Trust, is stated to have an address of 12021 Gold Pointe Lane, Gold River, California, which is the same address as the Debtor's residence. Additionally, the co-trustee of the Peachtree Group Trust is stated to be the Debtor, who lives at the Gold Pointe Lane Property.

The Deed of Trust states that the borrower is not the Debtor, the Trustor under the Deed of Trust. However, no borrower or specific obligation is identified in the Deed of Trust.

5. [22-21864-E-11](#)      **DAVID FOYIL**  
[CAE-1](#)

**CONTINUED STATUS CONFERENCE RE:  
VOLUNTARY PETITION  
7-28-22 [1]**

Debtor's Atty: David Foyil

Notes:

Continued from 11/30/22 to allow the Debtor in Possession to address issues relating to getting the pre-petition accounts closed and terms of a Plan shaped up.

Operating Reports filed: 12/22/22; 1/23/23

[CAE-1] Status Report filed 1/27/23 [Dckt 65]

<b>The Status Conference is continued to 2:00 p.m. on <span style="color: red;">xxxxxxx</span> , 2023.</b>
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### **FEBRUARY 22, 2023 STATUS CONFERENCE**

On January 27, 2023, the Debtor in Possession filed a Status Report. Dckt. 65. This appears to be a duplicate of the Original Status Report filed on August 17, 2022 (Dckt. 18), with no current information about the prosecution of this case.

No motions appear on the Docket, and no plan or disclosure statement have been filed.

This Chapter 11 case has been pending for two hundred and nine (209) days.

At the Status Conference, **XXXXXXX**

### **SEPTEMBER 13, 2022 STATUS CONFERENCE**

The U.S. Trustee reports that the Debtor did not appear at the First Meeting of Creditors on September 2, 2022. September 2, 2022 Docket Entry Report. The meeting has been continued to September 12, 2022. The U.S. Trustee reports that the continued meeting was held, and is further continued to September 30, 2022. The U.S. Trustee reported that the debtor in possession accounts have not been set up, and that his law corporation has been suspended.

On August 17, 2022, Debtor in Possession filed a Status Report. Dckt. 18. He reports that the Chapter 11 Plan is to be funded through the operation of his law practice. Additionally, Debtor has been able to resolve his other creditors, modified the loan secured by his residence so that it is current pursuant to a loan modification, and has little in unsecured debt, but for secured tax claims, which the Debtor in Possession sees to address through increased revenues in his law practice.

At the Status Conference, the Debtor in Possession stated that he does not disagree with the amendments that were identified by the U.S. Trustee at the First Meeting of Creditors.

# FINAL RULINGS

6. [22-23331](#)-E-11 DENNIS/BRENDA PINE  
[CAE-1](#)

STATUS CONFERENCE RE:  
PETITION VOLUNTARY  
12-23-22 [[1](#)]

CASE CLOSED: 1/30/23

**Final Ruling: No appearance at the February 22, 2023 Status Conference is required.**  
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Debtors' Atty: Pro Se

Notes:

Order Dismissing Case for Failure to Timely File Documents filed 1/10/23 [Dckt 14]

**The Bankruptcy Case having been dismissed by prior Order of the court (Dckt. 14), the Status Conference is removed from the Calendar.**