

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

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

**March 5, 2025 at 2:00 p.m.**

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1. <a href="#"><u>24-21092</u></a> -E-12 <a href="#"><u>CAE-1</u></a>	<b>RHETT BURGESS</b>	<b>CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION 3-20-24 [1]</b>
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Debtor's Atty: David C. Johnston

Notes:  
Continued from 1/22/25

**The Status Conference is XXXXXXX**

**MARCH 5, 2025 STATUS CONFERENCE**

As of the court's March 3, 2025 review of the Docket, nothing further has been filed by the Debtor in Possession. The prosecution of this case is impacted by the Debtor's dealings with his ex-wife which are keeping the Debtor in Possession from having access to monies to fund a Chapter 12 Plan.

At the Status Conference, XXXXXXX

**JANUARY 22, 2025 STATUS CONFERENCE**

The court conducted the Confirmation Hearing on January 15, 2025. The Motion to Confirm was denied without prejudice. Civ. Minutes; Dckt. 77.

At the Status Conference, the Chapter 12 Trustee reported to the court the progress of the Case.

The Status Conference is continued to 2:00 p.m. on March 5, 2025.

**NOVEMBER 13, 2024 STATUS CONFERENCE**

The Debtor in Possession previously requested that the court continue the confirmation hearing in this Case to November 14, 2024. The court granted that request. Order; Dckt. 64.

Functionally, the court can conduct any Status Conference matters at the continued confirmation hearing.

The Status Conference is continued to 2:00 p.m. on January 22, 2025.

2. [24-24250](#)-E-7      **RONNIE/MARCELLA DAY**      **STATUS CONFERENCE RE:**  
[24-2210](#)      **COMPLAINT**  
 CAE-1      **12-2-24 [1]**

**HUSTED V. CLONTS**

Plaintiff's Atty: Gabriel P. Herrera  
Defendant's Atty: unknown

Adv. Filed: 12/2/24  
Answer: none

Nature of Action:  
Recovery of money/property - fraudulent transfer

Notes:  
[KMT-1] Request for Entry of Default by Plaintiff(s) filed 1/13/25 [Dckt 8]; Entry of Default and Order Re: Default Judgment Proceedings filed 1/14/25 [Dckt 10]; Motion for Default Judgment Against Monica E. Clonts by Trustee filed 2/13/25 [Dckt 13], set for hearing 3/27/25 at 11:00 a.m.

**The Status Conference is continued to 2:00 p.m. on June 4, 2025.**

## MARCH 5, 2025 STATUS CONFERENCE

This Adversary Proceeding to Avoid Fraudulent Conveyance was commenced on December 2, 2025. Dckt. 1. No answer has been filed by the Defendant. On February 13, 2025, Plaintiff Kimberly Husted, the Chapter 7 Trustee in the Ronnie and Marcella Chapter 7 Case, filed a Motion for Entry of Default Judgment. Dckt. 13. Hearing is set on that Motion for March 27, 2025.

At the Status Conference, **XXXXXXX**

3. [24-00203-E-0](#)      WINDSOR TERRACE  
[24-2194](#)      HEALTHCARE, LLC

CONTINUED STATUS CONFERENCE RE:  
NOTICE OF REMOVAL  
10-4-24 [\[1\]](#)

AAERON DELEON, BY AND THROUGH  
HIS SUCCESSOR IN INTEREST,  
LAWONDA DELEON  
V. WINDSOR ELK GROVE CARE AND  
REHABILITATION CENTER

Plaintiff's Atty: unknown  
Defendant's Atty: John L. Supple

Adv. Filed: 10/4/24  
Answer: none

Nature of Action:  
Determination of removed claim or cause

Notes:  
Continued from 1/22/25, no counsel for any of the Parties appearing

<b>The Status Conference is <span style="color: red;">XXXXXXX</span></b>
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### **MARCH 5, 2025 STATUS CONFERENCE**

On February 20, 2025, the court issued three Memorandum Opinions and Decision, and orders thereon in three *Windsor* adversary proceedings explaining why the court concluded that remand to state court was proper. These are Adversary Proceedings are: 24-2188, 24-2190, and 24-2193.

At the Status Conference, XXXXXXX

### **JANUARY 22, 2025 STATUS CONFERENCE**

On October 4, 2024, Defendant-Debtors Windsor Elk Grove and Rehabilitation, LLC and Windsor Skyline Care Center, LLC filed a Notice of Removal California Superior Court, for the County of Sacramento, Case 34-2022-00325930 to this Bankruptcy Court. The State Court Complaint seeks damages for the alleged wrongful death Aaeron Deleon, with claims being asserted under the California Dependant Adult Abuse and Neglect, for Negligence and Violation of the Patients' Bill of Rights Laws.

While the deceased Aaeron Deleon is named as a plaintiff, his successors in interests are also named as Plaintiffs.

## Federal Law Relating to Bankruptcy Judge's Jurisdiction

The court is addressing the appropriateness of these State Court Actions being removed to the Bankruptcy Court to be litigated in connection with motions to remand in other adversary proceedings. In connection with those matters under submission, the court has delved deeper into the issue of Federal jurisdiction and which Federal Judge must exercise such jurisdiction.

In reviewing the proper exercise of federal court jurisdiction in connection with related to matters and the “bankruptcy intrusion” (in a positive way) on the State Court judicial process, the provisions of 28 U.S.C. § 157 are relevant.

### § 157. Procedures

(a) Each district court may provide that any or all cases under title 11 and any or all proceedings arising under title 11 or arising in or related to a case under title 11 shall be referred to the bankruptcy judges for the district.

(b)

(1) Bankruptcy judges may hear and determine all cases under title 11 and all core proceedings arising under title 11, or arising in a case under title 11, referred under subsection (a) of this section, and may enter appropriate orders and judgments, subject to review under section 158 of this title.

(2) Core proceedings include, but are not limited to—

(A) matters concerning the administration of the estate;

(B) allowance or disallowance of claims against the estate or exemptions from property of the estate, and estimation of claims or interests for the purposes of confirming a plan under chapter 11, 12, or 13 of title 11 **but not the liquidation or estimation of contingent or unliquidated personal injury tort or wrongful death claims against the estate for purposes of distribution in a case under title 11;**

(C) counterclaims by the estate against persons filing claims against the estate;

(D) orders in respect to obtaining credit;

(E) orders to turn over property of the estate;

(F) proceedings to determine, avoid, or recover preferences;

(G) motions to terminate, annul, or modify the automatic stay;

(H) proceedings to determine, avoid, or recover fraudulent conveyances;

(I) determinations as to the dischargeability of particular debts;

(J) objections to discharges;

(K) determinations of the validity, extent, or priority of liens;

(L) confirmations of plans;

(M) orders approving the use or lease of property, including the use of cash collateral;

(N) orders approving the sale of property other than property resulting from claims brought by the estate against persons who have not filed claims against the estate;

(O) other proceedings affecting the liquidation of the assets of the estate or the adjustment of the debtor-creditor or the equity security holder relationship, **except personal injury tort or wrongful death claims**; and

(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.

...

**(5) The district court shall order that personal injury tort and wrongful death claims shall be tried in the district court** in which the bankruptcy case is pending, or in the district court in the district in which the claim arose, as determined by the district court in which the bankruptcy case is pending.

(c)

(1) **A bankruptcy judge may hear a proceeding that is not a core proceeding but that is otherwise related to a case under title 11.** In such proceeding, **the bankruptcy judge shall submit proposed findings of fact and conclusions of law to the district court, and any final order or judgment shall be entered by the district judge** after considering the bankruptcy judge's proposed findings and conclusions and after reviewing de novo those matters to which any party has timely and specifically objected.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the district court, with the consent of all the parties to the proceeding, may refer a proceeding related to a case under title 11 to a bankruptcy judge to hear and determine and to enter appropriate orders and judgments, subject to review under section 158 of this title.

....

28 U.S.C. § 157(a)-(c) [emphasis added].

The plain language of 28 U.S.C. § 157(c) expressly states that for non-core matters, while the Bankruptcy Judge may hear the non core proceeding, only proposed findings and conclusions may be issued by the Bankruptcy Judge, which must then be sent to the District Court Judge for actual determination and ruling.

Collier on Bankruptcy discusses this wrongful death and personal injury tort exception from the referral to the bankruptcy court, stating:

(5) The **district court shall order that personal injury tort and wrongful death claims shall be tried in the district court** in which the bankruptcy case is pending, or in the district court in the district in which the claim arose, as determined by the district court in which the bankruptcy case is pending.

It is not at all clear what constitutes a “personal injury tort” claim. **Some courts (those that adopt what is called the “narrow view”) require a trauma or bodily injury;**<sup>1</sup> others more broadly look for **“any injury which is an invasion of personal rights.”**<sup>2</sup> A third viewpoint (which one court has called the “hybrid approach”<sup>2a</sup> finds fault with both of these approaches, and concludes that “in cases where it appears that a claim might be a ‘personal injury tort claim’ under the ‘broader’ view but has earmarks of a financial, business or property tort claim, or a contract claim, the court reserves the right to resolve the ‘personal injury tort claim’ issue by (among other things) a more searching analysis of the complaint.”<sup>3</sup>

1

A persuasive decision adopting the narrow view following a thorough review of the legislative history, is *In re Gawker Media LLC*, 571 B.R. 612 (Bankr. S.D.N.Y. 2017). *See also Massey Energy Co. v. West Va. Consumers for Justice*, 56 C.B.C.2d 1585, 351 B.R. 348, 351 (E.D. Va. 2006) (claims for defamation and business conspiracy are not PITWD claims, a category that “is limited to a narrow range of claims that involve an actual physical injury”); *In re Sheehan Mem’l Hospital*, 377 B.R. 63, 68 (Bankr. W.D.N.Y. 2007) (employment discrimination claim); *In re Cohen*, 107 B.R. 453 (S.D.N.Y. 1989) (claim for statutory violation of state anti-discrimination law); *In re Atron Inc.*, 172 B.R. 541 (Bankr. W.D. Mich. 1994) (civil rights complaint alleging damages for mental and emotional distress does not qualify); *In re Interco, Inc.*, 135 B.R. 359 (Bankr. E.D. Mo. 1991) (age discrimination complaint alleging emotional distress does not qualify).

2

*Control Center, L.L.C. v. Lauer*, 288 B.R. 269, 286 (M.D. Fla. 2002) (“Defamation is a personal injury tort.”); *Unnamed Citizens A thru E v. White (In re White)*, 410 B.R. 195 (Bankr. W.D. Va. 2008) (violation of federal and state housing laws); *Leathem v. Volkmar (In re Volkmar)*, 217 B.R. 561, 566 (Bankr. N.D. Ill. 1998) (“personal injury tort” may include complaint alleging

intentional infliction of emotional distress); *Thomas v. Adams (In re Gary Brew Enters.)*, 198 B.R. 616 (Bankr. S.D. Cal. 1996) (racial discrimination complaint falls within the term).

2a

*In re Residential Capital, LLC*, 536 B.R. 566, 572 (Bankr. S.D.N.Y. 2015), followed by *In re Roman Catholic Church for the Archdiocese of New Orleans*, 2021 U.S. Dist. LEXIS 160497 at \*7 (E. D. La., Aug. 25, 2021).

3

*Parker v. Miller (In re Miller)*, 589 B.R. 550, 563 (Bankr. S.D. Miss. 2018) (**alienation of affection and intentional infliction of emotional distress are PITWD claims**); *In re Residential Capital, LLC*, 536 B.R. 566, 572 (Bankr. S.D.N.Y. 2015) (**emotional distress, whether intentional or negligent**); *Elkes Devel., LLC v. Arnold (In re Arnold)*, 407 B.R. 849 (Bankr. M.D.N.C. 2009); *Stranz v. Ice Cream Liquidation, Inc. (In re Ice Cream Liquidation, Inc.)*, 281 B.R. 154, 161 (Bankr. D. Conn. 2002) (also holding that the provisions regarding personal injury tort and wrongful death claims are not constitutionally mandated); accord *Adelson v. Smith (In re Smith)*, 389 B.R. 902, 908 (Bankr. D. Nev. 2008) (**libel claim is a PITWD claim**). The Supreme Court noted this triad of views in the course of its opinion in *Stern v. Marshall*, 564 U.S. 462, 131 S. Ct. 2594, 180 L. Ed. 2d 475, 65 C.B.C.2d 827 (2011), discussed at ¶¶ 3.02[3][d][i] and 3.03 supra, but did not have to reach the issue.

1 Collier on Bankruptcy, ¶ 3.06 (16<sup>th</sup> Edition) [emphasis added].

Even under the most narrow view (which is not adopted by the trial courts in the Ninth Circuit), one looks to see if the claim is based on a “trauma or physical injury.”

As the court addresses below, the Confirmed Chapter 11 Plan provides the process for the liquidation of the debt that Plaintiffs assert in the Superior Court Judicial Proceeding. In the Chapter 11 Plan itself (counsel for the Debtor, serving as the Debtor in Possession listed as the attorneys in the upper left hand corner of page 1 of the Confirmed Plan), expressly references claims in the nature of Plaintiffs’ asserted in the Superior Court Action as a “Personal Injury Claim.” This is the Plan drafted for the Debtor-Defendant in the Bankruptcy Case.

The following are the “plain language” stated by the Debtor-Defendant in the Chapter 11 Plan relating to Plaintiff’s claim that constitutes the State Court Action:

49. **“Litigation Claim” means an Employment Claim or Personal Injury Claim.**

Confirmed Plan, p. 7:22; Exhibit B, Dckt. 15 (emphasis added)

64. **“Personal Injury Claim” means a General Unsecured Claim that has been scheduled by the Debtors or asserted by a claimant in a timely filed proof of claim for damages for personal injury, wrongful death or related claims.**

*Id.*; p. 8:21-23 (emphasis added).

**Class 4 – General Unsecured Claims.** Each holder of an Allowed Class 4 General Unsecured Claim will have the option (which option will be included in their Plan ballot) of selecting between the following two treatments under this Plan, which (except as set forth immediately below) will be in full settlement and satisfaction of their Allowed General Unsecured Claim against the Debtors. Each Claimant with a Personal Injury Claim who does not accept the Debtors’ proposed Claim settlement amount and who is otherwise not able to reach agreement with the Debtors on a different mutually agreeable Claim settlement amount prior to the date of Plan confirmation (each, a “**Non-Settling Personal Injury Claimant**”) **shall be permitted to proceed with the liquidation of their disputed Personal Injury Claim against the Debtors and any third parties (including the Guarantors) in the manner set forth in Section IV(D)(7) below.**

*Id.*; p. 12:17-27 (emphasis added).

The **Personal Injury Claim** of any claimant who does not accept the Debtors’ proposed Claim settlement amount and who does not reach agreement with the Debtors through mediation or otherwise on a different mutually agreeable Claim settlement amount will be deemed a Disputed Claim, and **the holder of any such Claim will not be entitled to receive any distribution from the Reorganized Debtors unless and until such Claim becomes a liquidated Allowed Claim pursuant to a Final Order from the District Court or, to the extent the District Court elects to abstain, the applicable state court, at which time such Claim will be treated in the same manner as all other Allowed General Unsecured Claims.** For the avoidance of doubt, all rights of holders of Personal Injury Claims and the Reorganized Debtors with respect to any request for abstention by the District Court are expressly preserved and reserved.

*Id.*; p. 32:1-11.

Thus, it appears that the plain language of the Confirmed Chapter 11 Plan, drafted for and prosecuted by the Debtor-Defendant, defines Plaintiffs’ claim as one for “Personal Injury.”

While Federal jurisdiction exists to adjudicate the State Court Complaint and claim therein, Federal Law is very clear on which Federal Judge to which such an adversary proceeding must be assigned.

At the Status Conference, no appearances were may by or counsel for any of the Parties to this Adversary Proceeding.

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As the court addresses below, the Confirmed Chapter 11 Plan provides the process for the liquidation of the debt that Plaintiffs assert in the Superior Court Judicial Proceeding. In the Chapter 11 Plan itself (counsel for the Debtor, serving as the Debtor in Possession listed as the attorneys in the upper left hand corner of page 1 of the Confirmed Plan), expressly references claims in the nature of Plaintiffs’ asserted in the Superior Court Action as a “Personal Injury Claim.” This is the Plan drafted for the Debtor-Defendant in the Bankruptcy Case.

The following are the “plain language” stated by the Debtor-Defendant in the Chapter 11 Plan relating to Plaintiff’s claim that constitutes the State Court Action:

49. **“Litigation Claim” means an Employment Claim or Personal Injury Claim.**

Confirmed Plan, p. 7:22; Exhibit B, Dckt. 15 (emphasis added)

64. “**Personal Injury Claim**” means a General Unsecured Claim that has been scheduled by the Debtors or asserted by a claimant in a timely filed proof of claim for damages **for personal injury, wrongful death or related claims**.

*Id.*; p. 8:21-23 (emphasis added).

**Class 4 – General Unsecured Claims.** Each holder of an Allowed Class 4 General Unsecured Claim will have the option (which option will be included in their Plan ballot) of selecting between the following two treatments under this Plan, which (except as set forth immediately below) will be in full settlement and satisfaction of their Allowed General Unsecured Claim against the Debtors. Each Claimant with a Personal Injury Claim who does not accept the Debtors’ proposed Claim settlement amount and who is otherwise not able to reach agreement with the Debtors on a different mutually agreeable Claim settlement amount prior to the date of Plan confirmation (each, a “**Non-Settling Personal Injury Claimant**”) **shall be permitted to proceed with the liquidation of their disputed Personal Injury Claim against the Debtors and any third parties (including the Guarantors) in the manner set forth in Section IV(D)(7) below.**

*Id.*; p. 12:17-27 (emphasis added).

The **Personal Injury Claim** of any claimant who does not accept the Debtors’ proposed Claim settlement amount and who does not reach agreement with the Debtors through mediation or otherwise on a different mutually agreeable Claim settlement amount will be deemed a Disputed Claim, and **the holder of any such Claim will not be entitled to receive any distribution from the Reorganized Debtors unless and until such Claim becomes a liquidated Allowed Claim pursuant to a Final Order from the District Court or, to the extent the District Court elects to abstain, the applicable state court, at which time such Claim will be treated in the same manner as all other Allowed General Unsecured Claims.** For the avoidance of doubt, all rights of holders of Personal Injury Claims and the Reorganized Debtors with respect to any request for abstention by the District Court are expressly preserved and reserved.

*Id.*; p. 32:1-11.

Thus, it appears that the plain language of the Confirmed Chapter 11 Plan, drafted for and prosecuted by the Debtor-Defendant, defines Plaintiffs’ claim as one for “Personal Injury.”

While Federal jurisdiction exists to adjudicate the State Court Complaint and claim therein, Federal Law is very clear on which Federal Judge to which such an adversary proceeding must be assigned.

At the Status Conference, no appearances were made by or counsel for any of the Parties to this Adversary Proceeding.

Debtor's Atty: Richard L. Jare

Notes:

Continued from 12/5/24 to allow the Debtor in Possession and counsel for the Debtor in Possession to focus on the diligent prosecution of this case.

Operating Reports filed: 2/3/25 [for 10/31/24; 11/30/24; 12/31/24], 2/14/25

[BPC-2] Motion of David Pick Family Partnership, L.P. for Relief from the Automatic Stay filed 1/31/25 [Dckt 53]; set for hearing 2/27/25 at 10:00 a.m.

<b>The Status Conference is <span style="color: red;">XXXXXXX</span></b>
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### **MARCH 5, 2025 STATUS CONFERENCE**

On February 28, 2025, the court entered an order continuing the hearing on the Motion for Relief From the Automatic Stay filed by David Pick Family Partnership, L.P. ("Creditor") to April 24, 2025. The Debtor in Possession has commenced making the monthly interest payments, commencing with the January 2025 payment to Creditor.

The Debtor commenced this voluntary Chapter 11 Case on September 9, 2024. Petition; Dckt. 1. In reviewing the latest Monthly Operating Report (Dckt. 65), it states that since this Case was filed the total receipts received by the Debtor in Possession are \$2,790.

The property of the Bankruptcy Estate consists of two unimproved parcels of land, which Debtor states on Schedule A/B have a combined value of \$1,320,000. Dckt. 1 at 8-9. The Debtor had no other assets as of the commencement of this Bankruptcy Case. See Schedule A/B; Dckt. 1. Several liens encumber these unimproved parcels of land.

At the Status Conference, XXXXXXX

### **DECEMBER 5, 2024 STATUS CONFERENCE**

The court having determined this to be a single asset real estate case, the Status Conference is continued to 2:00 p.m. on March 5, 2025, to allow the Debtor in Possession and counsel for the Debtor in Possession to focus on the diligent prosecution of this Case.

### **OCTOBER 24, 2024 STATUS CONFERENCE**

This voluntary Chapter 11 Case was filed by Next Hill Enterprises, LLC on September 9, 2024, and the Debtor is serving as the Debtor in Possession. The Schedules show that the only assets of the Debtor, and now the Bankruptcy Estate, are the two Parcels, which Debtor schedules as having a value of \$1,320,000. As shown on Schedule A/B the Debtor, and now the Bankruptcy Estate are devoid of any other assets - not even two nickels to rub together. Dckt. 1 at 7-10.

Looking at the Statement of Financial Affairs, Part 1, filed by Debtor, it states that there no gross revenue from the operation of the Debtor's business. Dckt. 1 at 20.

The Monthly Operating Report for September 2024 has been filed by the Debtor in Possession. Dckt. 35. It states that the was \$0.00 cash balance at the start of the month and that \$25 was received in September 2024. Further, that there were no disbursements.

At the Status Conference, the Parties addressed the prosecution of this Case. The U.S. Trustee reported that the Meeting of Creditors has been continued to October 30, 2024.

The hearing on the Motion for the Court to Designate this a Single Asset Real Estate Case has been continued to 10:30 a.m. on December 5, 2024.

The Status Conference is continued to 10:30 a.m. on December 5, 2024 (Specially Set Time).

**The court shall issue an order in substantially the following form:**

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Chapter 11 Status Conference having been conducted by the court, and upon review of the pleadings, reports of counsel, and good cause appearing,

**IT IS ORDERED** that the Status Conference is continued to **2:00 p.m. on XXXXXX, 2025.**

5. [25-20329-E-11](#)      **CALIFORNIA ENVIRONMENTAL STATUS CONFERENCE RE:**  
[CAE-1](#)      **SYSTEMS, INC. VOLUNTARY PETITION**  
1-27-25 [1](#)

Item 5 thru 6

Debtor's Atty: Gabriel E. Liberman

Notes:

[GEL-1] Motion to Use Cash Collateral and Grant Adequate Protection; Scheduling Deadlines Relating to a Final Hearing on Use of Cash Collateral filed 1/30/25 [Dckt 8]; Interim Order filed 2/20/25 [Dckt 48]

[GEL-2] Motion (I) Authorizing the Debtors to (A) Continue Insurance Coverage Entered Into Prepetition and Satisfy Prepetition Obligations Related Thereto, Including Broker Fees, and (B) Renew, Supplement, or Purchase Insurance Policies filed 2/6/25 [Dckt 21]; Order granting filed 2/18/25 [Dckt 45]

[GEL-3] Motion for Order to (I) Pay Prepetition Wages, Salaries, Withholding Obligations, and Other Compensation and Benefits; (II) Maintain Employee Benefits Programs filed 2/6/25 [Dckt 26]; Order granting filed 2/18/25 [Dckt 46]

[GEL-4] *Ex Parte* Application of Debtor and Proposed Debtor in Possession to Employ Gabriel E. Liberman as Bankruptcy Counsel filed 2/14/25 [Dckt 39]; Order granting filed 2/18/25 [Dckt 47]

[CAE-1] Status Conference Statement filed 2/14/25 [Dckt 42]

<b>The Status Conference is <span style="color: red;">XXXXXXX</span></b>
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**MARCH 5, 2025 STATUS CONFERENCE**

This Chapter 11 Case was filed on January 27, 2025. The Debtor in Possession filed a Status Conference Statement on February 14, 2025. Dckt. 42. In it the Debtor in Possession states the cash reserves the estate started with and projected additional net income for February 2025. The Debtor also lists a substantial amount of pre-petition accounts receivable.

At the Status Conference, XXXXXXX



6. [25-20329-E-11](#)  
[GEL-1](#)

CALIFORNIA ENVIRONMENTAL  
SYSTEMS, INC.  
Gabriel Liberman

CONTINUED MOTION TO USE CASH  
COLLATERAL AND/OR MOTION FOR  
ADEQUATE PROTECTION , MOTION  
SCHEDULING DEADLINES RELATING  
TO A FINAL HEARING ON USE OF  
CASH COLLATERAL  
1-30-25 [8]

**Tentative Ruling:** Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

**Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).**

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Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on all creditors and parties in interest on January 30, 2025. By the court's calculation, 14 days' notice was provided. 14 days' notice is required. FED. R. BANKR. P. 4001(b)(2) (requiring fourteen days' notice).

The Motion for Authority to Use Cash Collateral was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor in Possession, creditors, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion.

No opposition was stated at the hearing.

**The Motion for Authority to Use Cash Collateral is granted, and the hearing is continued to **xxxxxxx**. Supplemental Pleadings for the further use of cash collateral shall be filed and served on or before June 27, 2025.**

## MARCH 5, 2025 HEARING

The court continued the hearing on this Motion, having granted the prior Motion on an interim basis. On or before February 21, 2025, opposition was to be filed. A review of the Docket on February 28, 2025 reveals nothing regarding the Motion has been filed with the court.

At the hearing, **xxxxxxx**

## REVIEW OF MOTION

California Environmental Systems, Inc. (“Debtor in Possession”) moves for an order approving the use of cash collateral in form of account receivables, equipment, machinery, tools and materials which may be used to generate post-petition proceeds, and to grant adequate protection to the secured creditors, Bank of America, N.A., Zurich American Insurance Company, Great American Insurance Company, Collectronics of California, assignee for Gary Looney dba Aaction Rents, Internal Revenue Service and Employment Development Department, that may have an interest in the Cash Collateral.

Debtor in Possession is a full-service mechanical contractor specializing in the installation and design/build of plumbing, heating, and air conditioning systems. With a focus on serving the healthcare, institutional, commercial, and industrial sectors across the western United States. At its peak, Debtor once employed 115 team members and experienced steady growth, fueled by a dedication to its employees, customers, and the construction industry. As of the Petition Date, Debtor employs a team of 55 professionals. Mot. 2:18-23.

Debtor in Possession provides the following table for which security interests are asserted in the cash collateral and the amount of corresponding adequate protection payments:

<b>No.</b>	<b>Recorded</b>	<b>Creditor</b>	<b>Claim Amount</b>	<b>Proposed Adequate Protection Payment</b>
1	2/10/2020	Bank of America, N.A.	\$814,213.55	\$7,000.00
2	12/3/2021	Zurich American Insurance Company	\$332,045.10	\$1,000.00
3	11/17/2023	Great American Insurance Company	\$12,100,034.47	\$2,500.00
4	2/15/2024	Collectronics of California, assignee for Gary Looney dba Aaction Rents	\$7,994.89	\$500.00
5	5/10/2024	Internal Revenue Service (940/941) for periods 09/30/2023, 12/31/2023	\$961,332.89	\$1,000.00

6	8/5/2024	Employment Development Department	\$223,586.45	\$1,000.00
7	11/25/2024	Internal Revenue Service (941) for period 06/30/2024	\$40,052.86	\$1,000.00
8	1/6/2025	Internal Revenue Service (941) for period 03/31/2024	\$142,504.85	\$1,000.00
			\$14,621,765.06	\$15,000.00

Debtor in Possession additionally proposes to use cash collateral for the expenses related to operating the business including equipment expenses, insurance expenses, payroll expenses, and other customary expenses associated with running the business. Interim Budget, Ex. A, Docket 11.

Debtor in Possession proposes that the cash collateral be approved on an interim basis through February 28, 2025, pending a final hearing, with a 15% variance permitted.

#### **APPLICABLE LAW**

Pursuant to 11 U.S.C. § 1101, a debtor in possession serves as the trustee in the Chapter 11 case when so qualified under 11 U.S.C. § 322. As a debtor in possession, the debtor in possession can use, sell, or lease property of the estate pursuant to 11 U.S.C. § 363. In relevant part, 11 U.S.C. § 363 states:

(b)(1) The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate, except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

(A) such sale or such lease is consistent with such policy; or

(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.

Federal Rule of Bankruptcy Procedure 4001(b) provides the procedures in which a trustee or a debtor in possession may move the court for authorization to use cash collateral. In relevant part, Federal Rule of Bankruptcy Procedure 4001(b) states:

(b)(2) Hearing

The court may commence a final hearing on a motion for authorization to use cash collateral no earlier than 14 days after service of the motion. If the motion so requests, the court may conduct a preliminary hearing before such 14-day period expires, but the court may authorize the use of only that amount of cash collateral as is necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

## DISCUSSION

At the hearing, counsel for the Debtor in Possession addressed the rent expense of \$15,000.00, excluding it from the interim budget. The Landlord is the Debtor's principal's Father and that matter will be addressed further, the U.S. Trustee having objected to the payment.

Counsel for the Debtor in Possession also stated that a second amendment to the budget was to increase the adequate protection payment to Bank of America to \$8,000 (from the original budget amount of \$7, 000). Counsel for Bank of America concurred with the amendment.

Debtor in Possession has shown that the proposed use of cash collateral is in the best interest of the Estate. The proposed use provides for making expenses to continue operating the business and reorganize in Chapter 11. The Motion is granted, and Debtor in Possession is authorized to use the cash collateral for the period January 27, 2025, through February 28, 2025, including required adequate protection payments to the various creditors. The court does not pre-judge and authorize the use of any monies for "plan payments" or use of any "profit" by Debtor in Possession. All surplus cash collateral is to be held in a cash collateral account and accounted for separately by Debtor in Possession.

The court continues the hearing to 2:00 p.m. on March 5, 2024, for a final hearing.

The court shall issue an order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Authority to Use Cash Collateral filed by California Environmental Systems, Inc. ("Debtor in Possession") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is granted, pursuant to this order, for the period January 27, 2025, through July 31, 2025, and the cash collateral may be used to pay the expenses detailed in the Budget filed as Exhibit A, Docket 11, granting Debtor in Possession a variance of 15% in any individual line item expense as long as the total amount used does not exceed five percent of the monthly total budget,

subject to the following: (1) the payment of the \$15,000.00 rent, or any portion thereof, is not authorized, and (2) the adequate protection payment to Bank of America is increased to \$8,000.00 a month.

**IT IS FURTHER ORDERED** that the hearing on the Motion is continued to **XXXXXXX**, to consider a supplement for further use of cash collateral. On or before **XXXXXXX**, opposition pleadings, if any shall be filed and served. Supplemental pleading in support of continued use of cash collateral shall be filed and served by June 27, 2025.

**IT IS FURTHER ORDERED** that the creditors having an interest in the cash collateral are given replacement liens in the post-petition proceeds in the same priority, validity, and extent as they existed in the cash collateral expended, to the extent that the use of cash collateral resulted in a reduction of a creditor's secured claim.

**IT IS FURTHER ORDERED** that Debtor in Possession shall make the following monthly adequate protection payments:

No.	Recorded	Creditor	Claim Amount	Proposed Adequate Protection Payment
1	2/10/2020	Bank of America, N.A.	\$814,213.55	\$8,000.00
2	12/3/2021	Zurich American Insurance Company	\$332,045.10	\$1,000.00
3	11/17/2023	Great American Insurance Company	\$12,100,034.47	\$2,500.00
4	2/15/2024	Collectronics of California, assignee for Gary Looney dba Aaction Rents	\$7,994.89	\$500.00
5	5/10/2024	Internal Revenue Service (940/941) for periods 09/30/2023, 12/31/2023	\$961,332.89	\$1,000.00
6	8/5/2024	Employment Development Department	\$223,586.45	\$1,000.00

7	11/25/2024	Internal Revenue Service (941) for period 06/30/2024	\$40,052.86	\$1,000.00
8	1/6/2025	Internal Revenue Service (941) for period 03/31/2024	\$142,504.85	\$1,000.00
			\$14,621,765.06	\$15,000.00

7. [24-24542-E-11](#) **MONALISA SILAPAN** **STATUS CONFERENCE RE: VOLUNTARY PETITION 10-9-24 [1]**

Debtor's Atty: Mark A. Wolff

Notes:

[WW-1] Order converting Chapter 13 case to Chapter 11 filed 1/24/25 [Dckt 65]

Amended Notice of Meeting of Creditors [to be held on 3/3/25] filed 2/12/25

[CAE-1] Debtor's Status Report filed 2/18/25 [Dckt 84]

[RPM-1] Motion for Relief from the Automatic Stay filed 2/20/25 [Dckt 85]; set for hearing 3/27/25 at 10:00 a.m.

[CAE-1] Creditors' Status Report filed 2/20/25 [Dckt 92]

**The Status Conference is XXXXXXX**

### **MARCH 5, 2025 STATUS REPORT**

The Debtor commenced this Case as one under Chapter 13 on October 9, 2024. On January 24, 2025, the court entered an order converting the Case from Chapter 13 to a Subchapter V Case. Order; Dckt. 65.

On February 20, 2025, Creditors Michael Harrington, as Trustee and several other creditors, filed a Status Report. Dckt. 92. In it Creditors make reference to approximately (\$690,000) in claims they assert. Creditors assert that Debtor does not generate sufficient income to fund a Subchapter V Plan.

Creditors also state that they intend to conduct extensive discovery concerning the Debtor's business operations, including those with related entities and family members.

On February 8, 2025, the Debtor/Debtor in Possession filed a Status Report. Dckt. 84. Debtor/Debtor in Possession states that there are ongoing discussion with Creditors relating to a possible resolution of an Adversary Proceeding and Subchapter V Plan that could be confirmed in this Case.

At the Status Conference, **XXXXXXX**

8. [24-24147-E-11](#)      **RAYANI HOLDINGS, LLC**      **CONTINUED STATUS CONFERENCE RE:**  
[CAE-1](#)      **VOLUNTARY PETITION**  
**9-17-24 [1]**

Debtor's Atty: Stephen M. Reynolds

Notes:

Continued from 11/13/24, counsel for the Debtor in Possession reporting that the Property is being actively marketed.

Operating Reports filed: 2/4/25 [for 12/2024; 1/2025; 9/2024; 1/2025; 11/2024]

U.S. Trustee Report at 341 Meeting lodged: 11/21/24

[RLC-4] Debtor's Plan of Reorganization Dated December 12, 2024 filed 12/13/24 [Dckt 42]; Disclosure Statement to Debtor's Plan of Reorganization Dated December 12, 2024 filed 12/13/24 [Dckt 43]

[RLC-4] Motion for Order Approving Debtor's Disclosure Statement and Fixing Various Deadlines Relating to Plan Confirmation filed 12/22/24 [Dckt 44]; heard 1/23/25 and continued to 3/27/25 at 11:30 a.m.

[UST-1] Motion of the United States Trustee to Convert or Dismiss Chapter 11 Case filed 1/30/25 [Dckt 54]; set for hearing on 3/27/25 at 10:30 a.m.

[CAE-1] March 5 Status Conference Report filed 2/19/25 [Dckt 64]

<b>The Status Conference is <b>XXXXXXX</b></b>
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### **MARCH 5, 2025 STATUS CONFERENCE**

The Debtor in Possession filed an updated Status Report on February 19, 2025. Dckt. 64. At the Status Conference, **XXXXXXX**

### **NOVEMBER 13, 2024 STATUS CONFERENCE**

On October 30, 2024, the Debtor in Possession filed a Status Report. Dckt. 31. The Debtor in Possession notes that this is a single asset real estate case. The real property is located in Lincoln, California. When the Debtor purchased the Property, the seller was paid \$1,000,000 cash and a \$4,500,000 note secured by the Property.

The Debtor obtained a tentative map to divide the two parcels into six parcels. The Debtor in Possession is now actively marketing the Property for sale, with the court having authorized the employment of the real estate broker. Order; Dckt. 29.

At the Status Conference, counsel for the Debtor in Possession reported that the Property is being actively marketed. For a Plan, it will be for the prompt liquidation of the Property of the Bankruptcy Estate.

Counsel for Rayani Holdings, LLC noted that if the Debtor in Possession is actively working to sell the property, that is good news.

The Status Conference is continued to 2:00 p.m. on March 5, 2025

**The court shall issue an order in substantially the following form:**

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Chapter 11 Status Conference having been conducted by the court, and upon review of the pleadings, reports of counsel, and good cause appearing,

**IT IS ORDERED** that the Status Conference is continued to **2:00 p.m. on XXXXXX, 2025.**



9. [24-23053-E-7](#)  
[24-2187](#)  
CAE-1

NICHOLAS/KIMBERLY  
CORNETT

CONTINUED STATUS CONFERENCE RE:  
COMPLAINT  
9-23-24 [\[1\]](#)

**SCHAMBER V. CORNETT**

Plaintiff's Atty: Robert D. Hillshafer; Kevin P. Carter  
Defendant's Atty: Pro Se

Adv. Filed: 9/23/24  
Answer: 10/23/24

Nature of Action:  
Dischargeability - false pretenses, false representation, actual fraud

Notes:  
Continued from 1/22/25 by request of the Parties by Order filed 1/13/25 [Dckt 39]

[CAE-1] Order to File Status Conference Statements filed 2/11/25 [Dckt 43]

[CAE-1] Plaintiff Dayna Lee Schamber's Status Conference Statement filed 2/25/25 [Dckt 45]

[CAE-1] Status Hearing Statement [by Defendant] filed 2/26/25 [Dckt 47]

<b>The Status Conference is <span style="color: red;">XXXXXXX</span></b>
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**SUMMARY OF COMPLAINT**

The Complaint filed by Dayna Schamber ("Plaintiff"), Dckt. 1, asserts claims for nondischargeability of debt pursuant to 11 U.S.C. § 523(a)(2)(A).

**SUMMARY OF ANSWER**

Nicholas Cornett ("Defendant-Debtor"), in *pro se*, filed an Answer, Dckt. 10. In it Defendant-Debtor provides denials of the allegations of fraud and misrepresentation.

**STATUS REPORTS FILED BY THE PARTIES**

The Plaintiff and Defendant-Debtor have filed Status Conference Reports. Dckts. 45, 47, respectively.

Defendant-Debtor states that he has been contacting counsel to represent him in this Adversary Proceeding. Due to upcoming surgery (scheduled for March 19, 2025), Defendant-Debtor projects having counsel retained by May 1, 2025.

## **FINAL BANKRUPTCY COURT JUDGMENT**

Plaintiff Schamber alleges in the 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)(I). Complaint ¶¶ 2, 3, Dckt. 1. In the Answer, Defendant does not directly admit or deny the Federal Court jurisdiction, and request relief from the court.

Federal Court jurisdiction for an action to determine the nondischargeability of debt (11 U.S.C. § 523) exists pursuant to 28 U.S.C. § 1334 and § 157, and this is a core matter proceeding for with the bankruptcy judge issues all final orders and judgment, 28 U.S.C. § 157(b)(2)(I).

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

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

a. Plaintiff Schamber alleges in the 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)(I). Complaint ¶¶ 2, 3, Dckt. 1. In the Answer, Defendant does not directly admit or deny the Federal Court jurisdiction, and request relief from the court.

Federal Court jurisdiction for an action to determine the nondischargeability of debt (11 U.S.C. § 523) exists pursuant to 28 U.S.C. § 1334 and § 157, and this is a core matter proceeding for with the bankruptcy judge issues all final orders and judgment, 28 U.S.C. § 157(b)(2)(I).

b. Initial Disclosures shall be made on or before **xxxxxxx, 2025**.

c. Expert Witnesses shall be disclosed on or before **xxxxxxx, 2025**, and Rebuttal Expert Witnesses, if any, shall be disclosed on or before **xxxxxxx, 2025**.

d. Discovery closes, including the hearing of all discovery motions, on **xxxxxxx, 2025**.

e. Dispositive Motions shall be heard before **xxxxxxx, 2025**.

f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at **2:00 p.m. on xxxxxx, 2025**.

10. [25-20053-E-11](#)  
[CAE-1](#)

MOORE HOLDINGS, LLC

STATUS CONFERENCE RE:  
VOLUNTARY PETITION  
1-7-25 [\[1\]](#)

Debtor's Atty: Stephan M. Brown

Notes:

Operating Reports filed: 2/14/25

Trustee Report at 341 Meeting lodged: 2/14/25

[UST-1] Motion of the United States Trustee to Convert or Dismiss Chapter 11 Case filed 2/19/25 [Dckt 15]; set for hearing 3/27/25 at 10:30 a.m.

[CAE-1] Preliminary Status Report filed 2/19/25 [Dckt 20]

<b>The Status Conference is <span style="color: red;">XXXXXXX</span></b>
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### MARCH 5, 2025 STATUS CONFERENCE

This voluntary Chapter 11 Case was commenced on January 7, 2025, by Moore Holdings, LLC, which is serving as the Debtor in Possession. On February 19, 2025, the U.S. Trustee filed a Motion to Convert or Dismiss this Case. Dckt. 5. The basis for the requested relief is that the Debtor in Possession has failed to provide the U.S. Trustee with evidence of the appropriate insurance coverage for the Bankruptcy Estate's real property.

Poppy Bank has filed a "Joinder" in which it states that it supports the U.S. Trustee's Motion. The hearing on the Motion is set for March 27, 2025.

On February 27, 2025, the Debtor filed an Amended Schedule A/B. Dckt. 31. The major asset of the Bankruptcy Estate is real property identified as the 2<sup>nd</sup> Floor at 2151 Professional Drive, Roseville, California. Dckt. 41 at 5. However, in response to the question to state the Nature and Extend of the Debtor's Interest in this real property, the response by Debtor is "None." The Debtor does list several Commercial Leases on Amended Schedule G. *Id.* at 8.

The Debtor in Possession has not filed a Status Report for the March 5, 2025 Status Conference.

At the Status Conference, XXXXXXX

11. [24-24173-E-13](#)      **JESUS/ALISHA GUTIERREZ**  
[24-2216](#)  
CAE-1

**STATUS CONFERENCE RE:**  
**COMPLAINT**  
12-26-24 [[1](#)]

**RYAN V. GUTIERREZ ET AL**

Plaintiff's Atty: Bradley Richard Bowles; Jacob M. Barlev  
Defendant's Atty: Peter G. Macaluso

Adv. Filed: 12/26/24

Answer: 1/24/25

1<sup>st</sup> Amended Answer: 1/24/25

2<sup>nd</sup> Amended Answer: 1/31/25

Nature of Action:

Dischargeability - fraud

Dischargeability - willful and malicious injury

Notes:

Defendant's Status Statement filed 2/4/25 [Dckt 18]

Plaintiff's Status Statement filed 2/10/25 [Dckt 19]

<b>The Status Conference is <span style="color: red;">XXXXXXX</span></b>
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### **MARCH 5, 2025 STATUS CONFERENCE**

#### **SUMMARY OF COMPLAINT**

The Complaint filed by Samantha Ryan ("Plaintiff"), Dckt. 1, asserts claims for nondischargeability of debt pursuant to 11 U.S.C. § 523(a)(2)(A), fraud, and 11 U.S.C. § 523(a)(6), willful and malicious injury. The Parties entered into a Settlement Agreement in connection with a pre-petition State Court Action. An initial payment was made under the Settlement Agreement (1.3% of the settlement amount), with the 98.7% due to be paid on or before 18 months after the date of the Settlement Agreement. The 98.7% of the settlement amount was not timely paid, and Defendant-Debtor's Chapter 13 Bankruptcy Case was filed.

#### **SUMMARY OF ANSWER**

Jesus Gutierrez and Alish Gutierrez ("Defendant-Debtors") have filed their Second Amended Answer to the Complaint. Dckt. 16. The Defendant-Debtors first make a "General Denial" of everything alleged in the Motion. Such is not proper in Federal Court. See Fed. R. Civ. P. 8(b)(3) and Fed. R. Bankr.

P. 7008, as it is clear that Defendant-Debtors cannot deny the allegations of federal court jurisdiction for this Complaint to determine the nondischargeability arising under Federal Law - 11 U.S.C. § 523.

Defendant-Debtors do admit and deny specific allegations in the Complaint, not relying on the “General Denial.”

## **FINAL BANKRUPTCY COURT JUDGMENT**

Plaintiff Samantha Ryan alleges in the 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)(I). Complaint ¶¶ 5, 7, Dckt. 1. In the Second Amended Answer, Defendant-Debtors admit the allegations of jurisdiction and that this is a core proceeding. Answer ¶¶ 5,7; Dckt. 16. **To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this Adversary Proceeding are “related to” matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.**

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

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

- a. Plaintiff Samantha Ryan alleges in the 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)(I). Complaint ¶¶ 5, 7, Dckt. 1. In the Second Amended Answer, Defendant-Debtors admit the allegations of jurisdiction and that this is a core proceeding. Answer ¶¶ 5,7; Dckt. 16. **To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this Adversary Proceeding are “related to” matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.**
- b. Initial Disclosures shall be made on or before **xxxxxxx, 2025**.
- c. Expert Witnesses shall be disclosed on or before **xxxxxxx, 2025**, and Rebuttal Expert Witnesses, if any, shall be disclosed on or before **xxxxxxx, 2025**.
- d. Discovery closes, including the hearing of all discovery motions, on **xxxxxxx, 2025**.
- e. Dispositive Motions shall be heard before **xxxxxxx, 2025**.
- f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at **2:00 p.m. on xxxxxx, 2025**.

Debtor's Atty: Robert S. Marticello, Mark S. Melickian, David M. Madden

Notes:

Continued from 1/15/25

Operating Reports filed: 1/21/25

Trustee Report at 341 Meeting filed: 1/21/25; 2/4/25

[RFL-1] Order Granting Motion for Joint Administration filed 1/17/25 [Dckt 61]

[RFL-5] Application to Employ Real Estate Broker (The Oppenheim Group) filed 1/21/25 [Dckt 67]; Order granting filed 2/14/25 [Dckt 91]

[RFL-6] Application to Employ Real Estate Broker (Chico Ginter & Brown) filed 1/27/25 [Dckt 76]; Order granting filed 2/24/25 [Dckt 92]

<b>The Status Conference is <span style="color: red;">XXXXXXX</span></b>
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### **MARCH 5, 2025 STATUS CONFERENCE**

The Chapter 11 Cases for Kamaljit Kalkat, 24-25180, and Diamond K, LLC, 24-25181, are being jointly administered, with the Kamaljit Kaur Kalkat case being the lead case in which substantially all ongoing pleadings are to be filed. Joint Administration Orders; 24-25180, Dckt. 61, and 24-25181, Dckt. 101.

No Status Reports have been filed by either Debtor in Possession.

At the Status Conference, XXXXXXX

#### **January 15, 2025 Status Conference**

At the Status Conference, counsel for the two Debtors in Possession whose cases are being jointly administered reported that the individual Debtor has operated real estate ventures through two entities. They are working on a liquidation plan from which the two Debtor's in Possession can reorganize and fund the plan through the operation of the orchards.

Counsel for the U.S. Trustee reported that the 341 Meeting has been continued. The proof of insurance has not yet been provided. Counsel for the Debtors in Possession reported that they are working to get insurance, and their agent tells them that they should have a quote within a week. Some of the properties are insured.

Counsel for Creditor Arch West reported that they have forced place insurance in plan. This Creditor is discussing the with the Debtor in Possession whether this property should be sold.

Counsel for Rabo Agrifinance reported that on their loans with the individual Debtor and two other persons.

The two Debtors in Possession are now prosecuting the two jointly administered cases.

The Status Conference is continued to 2:00 p.m. on March 5, 2025

**The court shall issue an order in substantially the following form:**

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Chapter 11 Status Conference having been conducted by the court, and upon review of the pleadings, reports of counsel, and good cause appearing,

**IT IS ORDERED** that the Status Conference is continued to **2:00 p.m. on XXXXXXXX, 2025.**

Debtor's Atty: Robert S. Marticello, Mark S. Melickian, David M. Madden

Notes:

Continued from 1/15/25

Operating Reports filed: 1/21/25

Trustee Report at 341 Meeting filed: 1/21/25; 2/4/25

[RFL-1] Order Granting Motion for Joint Administration filed 1/17/25 [Dckt 101]

[RFL-3] Order Granting Application to Employ Real Estate Broker filed 1/21/25 [Dckt 105]

[RFL-6] Order Granting Motion for Order (1) Authorizing Sale of Real Property Located at 623 N. Rexford Dr., Beverly Hills, California; (2) Approving Buyer as Good Faith Purchaser; and (3) Authorizing Payment of Ordinary Costs of Sale filed 1/23/25 [Dckt 113]

<b>The Status Conference is <span style="color: red;">xxxxxxx</span></b>
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### **MARCH 5, 2025 STATUS CONFERENCE**

The Chapter 11 Cases for Kamaljit Kalkat, 24-25180, and Diamond K, LLC, 24-25181, are being jointly administered, with the Kamaljit Kaur Kalkat case being the lead case in which substantially all ongoing pleadings are to be filed. Joint Administration Orders; 24-25180, Dckt. 61, and 24-25181, Dckt. 101.

No Status Reports have been filed by either Debtor in Possession.

At the Status Conference, xxxxxxx

#### **January 15, 2025 Status Conference**

At the Status Conference, counsel for the two Debtors in Possession whose cases are being jointly administered reported that the individual Debtor has operated real estate ventures through two entities. They are working on a liquidation plan from which the two Debtor's in Possession can reorganize and fund the plan through the operation of the orchards.

Counsel for the U.S. Trustee reported that the 341 Meeting has been continued. The proof of insurance has not yet been provided. Counsel for the Debtors in Possession reported that they are working



to get insurance, and their agent tells them that they should have a quote withing a week. Some of the properties are insured.

Counsel for Creditor Arch West reported that they have forced place insurance in plan. This Creditor is discussing the with the Debtor in Possession whether this property should be sold.

Counsel for Rabo Agrifinance reported that on their loans with the individual Debtor and two other persons.

The two Debtors in Possession are now prosecuting the two jointly administered cases.

The Status Conference is continued to 2:00 p.m. on March 5, 2025

**The court shall issue an order in substantially the following form:**

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Chapter 11 Status Conference having been conducted by the court, and upon review of the pleadings, reports of counsel, and good cause appearing,

**IT IS ORDERED** that the Status Conference is continued to **2:00 p.m. on**  
**XXXXXXX, 2025.**

# FINAL RULINGS

14. [23-24382-E-13](#)  
[24-2023](#)  
CAE-1

VICTOR/ELMY HOPPER

CONTINUED STATUS CONFERENCE RE:  
COMPLAINT  
3-11-24 [\[1\]](#)

**ADVERSARY PROCEEDING**  
**DISMISSED: 02/12/25**

**Final Ruling: No appearance at the March 5, 2025 Status Conference is required.**

-----  
Plaintiff's Atty: Raffi Khatchadourian  
Defendant's Atty: Douglas B. Jacobs

Adv. Filed: 3/11/24  
Answer: 4/16/24

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

Notes:  
Request for Dismissal of Adversary Proceeding filed 2/6/25 [Dckt 35]; Order granting filed 2/12/25 [Dckt 37]

<p><b>This Adversary Proceeding having been dismissed (Order; Dckt. 37), the Status Conference is concluded and removed from the Calendar.</b></p>
--

15. [23-23292-E-7](#) IAN LONG  
[24-2025](#)  
CAE-1

CONTINUED STATUS CONFERENCE RE:  
COMPLAINT  
3-21-24 [\[1\]](#)

HAMILTON V. LONG

**Final Ruling: No appearance at the March 5, 2025 Status Conference is required.**  
-----

Plaintiff's Atty: Robert L. Hamilton  
Defendant's Atty: unknown

Adv. Filed: 3/21/24  
Reissued Summons: 7/18/24  
Answer: none

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

Notes:  
Continued from 1/22/25 for case management purposes.

[CAE-1] Order granting Motion for Entry of Default Judgment filed 2/14/25 [Dckt 34]

<b>The Status Conference is continued to 2:00 p.m. on April 16, 2025.</b>
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### **MARCH 5, 2025 STATUS CONFERENCE**

On February 14, 2025, the court entered its order granting Plaintiff's Motion for Entry of a judgment in the amount of \$97,476.00, and that such judgment is nondischargeable pursuant to 11 U.S.C. § 523(a)(2)(A) and (a)(6). Order; Dckt. 34.

As of the court's March 3, 2025 review of the proposed order inbox, Plaintiff had not yet lodged a proposed judgment with the court. See Order Granting Motion for Default Judgment, last paragraph, which states:

Plaintiff shall prepare and lodge with the court a proposed judgment consistent with this Order. The judgment shall provide that attorney's fees and costs allowed by the court shall be enforced as part of the judgment.

*Id.*

The Status Conference is continued to 2:00 p.m. on April 16, 2025.

**The court shall issue an order in substantially the following form:**

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Adversary Proceeding Status Conference having been conducted by the court, an order granting the Plaintiff's Motion for Entry of Default Judgment having been entered (Order; Dckt. 34), Plaintiff not having lodged a proposed judgment with the court, and upon review of the pleadings, reports of counsel, and good cause appearing,

**IT IS ORDERED** that the Status Conference is continued to **2:00 p.m. on April 16, 2025.**

This court's Order Granting Motion for Default Judgment, last paragraph, expressly directs Plaintiff to lodge with the court a proposed judgment, stating:

Plaintiff shall prepare and lodge with the court a proposed judgment consistent with this Order. The judgment shall provide that attorney's fees and costs allowed by the court shall be enforced as part of the judgment.

Order; Dckt. 34.

16. [24-00203-E-0](#)  
[24-2188](#)

WINDSOR TERRACE  
HEALTHCARE, LLC

CONTINUED STATUS CONFERENCE RE:  
NOTICE OF REMOVAL  
9-26-24 [\[1\]](#)

BRANDY RUSSELL,  
SUCCESSOR-IN-INTEREST TO  
DECEDENT DEBORAH WASHINGTON  
V. WINDSOR EL CAMINO CARE CENTER, LLC

**Final Ruling: No appearance at the March 5, 2025 Status Conference is required.**  
-----

Plaintiff's Atty: Robert J. Pfister; Paul Anthony Saso  
Defendant's Atty: Thomas E. Beach

Adv. Filed: 9/26/24  
Answer: none

Nature of Action:  
Determination of removed claim or cause

Notes:  
Continued from 1/22/25

Memorandum Opinion and Decision Remand to State Court filed 2/20/25 [Dckt 29]; Order filed 2/20/25 [Dckt 27]

**The Status Conference is continued to 2:00 p.m. on April 16, 2025, for court adversary proceeding management purposes pending the Clerk of the Court completing the remand to State Court.**

On February 20, 2025, this court entered its order remanding this Action back to the California Superior Court for the County of Sacramento. Order; Dckt 27.

**The court shall issue an order in substantially the following form:**

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Adversary Proceeding Status Conference having been conducted by the court, the court having entered an order for the State Court Action to be remanded to the State Court, and upon review of the pleadings, reports of counsel, and good cause appearing,

17. <a href="#"><u>24-00203-E-0</u></a> <a href="#"><u>24-2190</u></a>	WINDSOR TERRACE HEALTHCARE, LLC	CONTINUED STATUS CONFERENCE RE: NOTICE OF REMOVAL 9-26-24 <a href="#"><u>[1]</u></a>
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**Final Ruling: No appearance at the March 5, 2025 Status Conference is required.**

**March 5, 2025 at 2:00 p.m.**  
**Page 38 of 46**

The Adversary Proceeding Status Conference having been conducted by the court, the court having entered an order for the State Court Action to be remanded to the State Court, and upon review of the pleadings, reports of counsel, and good cause appearing,

**IT IS ORDERED** that the Status Conference is continued to **2:00 p.m. on April 16, 2025**, for court adversary proceeding management purposes pending the Clerk of the Court completing the remand to State Court.

18. [24-00203-E-0](#)  
[24-2193](#)

WINDSOR TERRACE  
HEALTHCARE, LLC

CONTINUED STATUS CONFERENCE RE:  
NOTICE OF REMOVAL  
10-4-24 [\[1\]](#)

DONALD KNESTRICK BY AND  
THROUGH HIS SUCCESSOR-IN-INTEREST,  
KATHERINE FELKINS  
V. WINDSOR OXFORD HOLDING COMPANY, LLC

**Final Ruling: No appearance at the March 5, 2025 Status Conference is required.**

-----

Plaintiff's Atty: Robert J. Pfister; Paul Anthony Saso  
Defendant's Atty: John L. Supple

Adv. Filed: 10/4/24  
Answer: none

Nature of Action:  
Determination of removed claim or cause

Notes:  
Continued from 1/22/25

Memorandum Opinion and Decision Remand to State Court filed 2/20/25 [Dckt 36]; Order filed 2/20/25 [Dckt 34]

**The Status Conference is continued to 2:00 p.m. on April 16, 2025, for court adversary proceeding management purposes pending the Clerk of the Court completing the remand to State Court.**

On February 20, 2025, this court entered its order remanding this Action back to the California Superior Court for the County of Sacramento. Order; Dckt 34.

**The court shall issue an order in substantially the following form:**

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Adversary Proceeding Status Conference having been conducted by the court, the court having entered an order for the State Court Action to be remanded to the State Court, and upon review of the pleadings, reports of counsel, and good cause appearing,



**IT IS ORDERED** that the Status Conference is continued to **2:00 p.m. on April 16, 2025**, for court adversary proceeding management purposes pending the Clerk of the Court completing the remand to State Court.

19. [24-00203-E-0](#)  
[24-2195](#)

WINDSOR TERRACE  
HEALTHCARE, LLC

CONTINUED STATUS CONFERENCE RE:  
NOTICE OF REMOVAL  
10-4-24 [\[1\]](#)

**RICHARD HOLBEN, AS HEIR-AT-LAW  
AND SUCCESSOR-IN-INTEREST OF  
DAVID HOLBEN  
V. WINDSOR EL CAMINO CARE  
CENTER, LLC**

**Final Ruling: No appearance at the March 5, 2025 Status Conference is required.**  
-----

Plaintiff's Atty: Estee Lewis  
Defendant's Atty: John L. Supple

Adv. Filed: 10/4/24  
Answer: none

Nature of Action:  
Determination of removed claim or cause

Notes:  
Continued from 1/22/25

**The Status Conference is continued to 2:00 p.m. on April 16, 2025, for court adversary proceeding management purposes pending the Clerk of the Court completing the remand to State Court.**

On March 5, 2025, this court signed its order remanding this Action back to the California Superior Court for the County of Sacramento.

**The court shall issue an order in substantially the following form:**

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Adversary Proceeding Status Conference having been conducted by the court, the court having entered an order for the State Court Action to be remanded to the State Court, and upon review of the pleadings, reports of counsel, and good cause appearing,

**IT IS ORDERED** that the Status Conference is continued to **2:00 p.m. on April 16, 2025**, for court adversary proceeding management purposes pending the Clerk of the Court completing the remand to State Court.

20. [23-21407-E-7](#)      **BELLA VIEW CAPITAL, LLC**      **CONTINUED STATUS CONFERENCE RE:**  
[24-2185](#)      **COMPLAINT**  
**CAE-1**      **9-16-24 [1]**

**FARRIS V. FOSTER**

**Final Ruling: No appearance at the March 5, 2025 Status Conference is required.**

-----  
Plaintiff's Atty: Gabriel P. Herrera  
Defendant's Atty: unknown

Adv. Filed: 9/16/24  
Answer: none

Nature of Action:  
Recovery of money/property - fraudulent transfer

Notes:  
Continued from 1/22/25 for docket management purposes.

<p><b>The court having entered judgment in this Adversary Proceeding, the Status Conference is concluded and removed from the Calendar.</b></p>
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21. [23-22217-E-13](#)      WLODZIMIERZ LITWIN  
[24-2042](#)  
CAE-1

CONTINUED STATUS CONFERENCE RE:  
COMPLAINT  
5-1-24 [\[1\]](#)

LITWIN V. MEB TRUST IV, U.S.  
BANK TRUST NATIONAL

**Final Ruling: No appearance at the March 5, 2025 Status Conference is required.**

-----  
Plaintiff's Atty: Peter G. Macaluso  
Defendant's Atty: Jacqueline D. Serrao

Adv. Filed: 5/1/24  
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 1/22/25 for case management purposes.

The court having dismissed this Adversary Proceeding pursuant to the Stipulation of the Parties, **the Status Conference is concluded and removed from the Calendar.**

U.S. TRUSTEE V. AK  
INVESTMENTS, LLC

**Final Ruling: No appearance at the March 5, 2025 Status Conference is required.**

-----

Plaintiff's Atty: Jason M. Blumberg  
Defendant's Atty: unknown

Adv. Filed: 12/11/24  
Answer: none

Nature of Action:  
Injunctive relief - other

Notes:

Request for Entry of Default by Plaintiff(s) filed 1/29/25; Entry of Default and Order Re: Default Judgment Procedures filed 2/3/25 [Dckt 12]; Plaintiff's Application for Entry of Default Judgment filed 2/13/25 [Dckt 15]; set for hearing 4/1/25 at 11:00 a.m.

**The Status Conference is continued to 11:00 a.m. on April 10, 2025 (Specially Set Day and Time), to be conducted in conjunction with the hearing on the Motion for Entry of Default Judgment.**

### **MARCH 5, 2025 STATUS CONFERENCE**

On December 11, 2024, the U.S. Trustee filed a Complaint for Injunctive Relief. The U.S. Trustee requests that the court enjoin Defendant-Debtor AK Investments, Inc. from filing a further bankruptcy case for two-years without first obtaining authorization to file from the Chief Bankruptcy Judge in the District where the Defendant-Debtor seeks to file another bankruptcy case.

The grounds stated include there being multiple bankruptcy cases filed by Defendant-Debtor and related entities to stop a foreclosure sale on a property. The Complaint does not seek relief against the principal of the Defendant-Debtor and the related debtor who has filed the bankruptcy cases for the limited liability company debtors in *pro se*.

No answer has been filed and a hearing on the U.S. Trustee's Motion for Entry of Default Judgment is set for April 10, 2025.

The Status Conference is continued to 11:00 a.m. on April 10, 2025 (Specially Set Day and Time), to be conducted in conjunction with the hearing on the Motion for Entry of Default Judgment.

**The court shall issue an order in substantially the following form:**

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Adversary Proceeding Status Conference having been conducted by the court, and upon review of the pleadings, reports of counsel, and good cause appearing,

**IT IS ORDERED** that the Status Conference is continued to **11:00 a.m. on April 10, 2025 (Specially Set Day and Time)**, to be conducted in conjunction with the hearing on the Motion for Entry of Default Judgment.