

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

**Honorable Ronald H. Sargis**

Chief Bankruptcy Judge

Sacramento, California

**March 21, 2019 at 11:30 a.m.**

1. [16-90157-E-7](#) **DARYL FITZGERALD**  
[18-9011](#)

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

**FITZGERALD V. TRELLIS COMPANY**

Plaintiff's Atty: Richard Kwun

Defendant's Atty: Robert Scott Kennard

Adv. Filed: 6/25/18

Answer: 7/26/18

Nature of Action:

Dischargeability - student loan

Dischargeability - other

**The Status Conference is ~~XXXXXXXXXXXXXXXXXXXX~~**

Notes:

Continued from 2/14/19 [specially set to 3/21/19 at 11:30 a.m.]. Richard Kwun, counsel for Plaintiff, and Robert Kennard, counsel for Defendant, and each of them, shall appear in person - No Telephonic Appearances for said counsel permitted. Counsel to meet and confer by noon on 2/28/19 to conduct previously ordered Discovery Conference. On or before 3/12/19, Parties to file and serve joint or separate Status Conference Reports.

Parties' Joint Status Conference Report filed 3/12/19 [Dckt 60]

**STATUS CONFERENCE**

On March 12, 2019, the Parties filed their Joint Status Conference Statement identifying the scheduling of discovery and pre-trial setting conference matters. Dckt. 60. They have also included the following Stipulated Facts in this Adversary Proceeding;

**March 21, 2019 at 11:30 a.m.**

1. Plaintiff filed for Chapter 7 Bankruptcy on February 29, 2016, case number 16-90157-E-7, in the Eastern District of California, Fresno Division. This bankruptcy case was discharged on July 5, 2016.
2. The bankruptcy case was reopened on June 25, 2018. The Adversary Proceeding was filed on June 25, 2018, case number 18-09011. Plaintiff has alleged that the student loan held by Texas Guarantee Student Loans should be discharged in the bankruptcy.
3. On or about March 31, 1997, Vanessa Fitzgerald, the former spouse of Plaintiff, entered into a contract secured by a promissory note with SallieMae where by SallieMae extended a loan to Vanessa Fitzgerald for the purpose of her attending California State University, Chico.
4. The application for the student loan and promissory note contain Plaintiff's personal information, together with an indication that he agrees to be held liable for the student loan that is the subject of this litigation. Appearing on the application is a signature allegedly rendered by Plaintiff, dated March 31, 1997.
5. The contract and promissory note which are the subject of this adversary proceeding were assigned to Texas Guarantee Student Loan, the defendant in this case.

Joint Status Conference Statement, p. 2:2-23; *Id.*

## **SUMMARY OF COMPLAINT**

Daryl Fitzgerald, the Plaintiff-Debtor, has filed a Complaint to have his student loan obligation determined dischargeable. The named defendants are Navient Solutions, Inc., Wilkes-Barre, and Trellis Company. The court has dismissed Navient Solutions, Inc. from this Adversary Proceeding.

## **SUMMARY OF ANSWER**

Trellis Company, fka Texas Guarateed [sic] Student Loan filed an Answer (Dckt 18) that admits and denies specific allegations in the Complaint.

## **FINAL BANKRUPTCY COURT JUDGMENT**

Plaintiff seeks in the complaint a determination of the dischargeability of specified student loan debt pursuant to 11 U.S.C. § 523(a)(8). This is a core proceeding arising under the Bankruptcy Code, which has been assigned to this Bankruptcy Court by the District Court.

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

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

**March 21, 2019 at 11:30 a.m.**

- a. Plaintiff seeks in the complaint a determination of the dischargeability of specified student loan debt pursuant to 11 U.S.C. § 523(a)(8). This is a core proceeding arising under the Bankruptcy Code, which has been assigned to this Bankruptcy Court by the District Court. 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 proceedings, 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 claims and issues in this Adversary Proceeding referred to the bankruptcy court.
- b. Initial Disclosures shall be made on or before **March 28, 2019**.
- c. Expert Witnesses shall be disclosed on or before -----, **2019**, and Expert Witness Reports, if any, shall be exchanged on or before -----, **2019**.
- d. Discovery closes, including the hearing of all discovery motions, on **June 14, 2019**.
- e. Dispositive Motions shall be heard before **August 16, 2019**.
- f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at **2:00 p.m. on September 25, 2019**.