

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

**Honorable Ronald H. Sargis**

Chief Bankruptcy Judge

Modesto, California

**March 23, 2017, at 2:00 p.m.**

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1. [13-91315-E-7](#)      **APPLEGATE JOHNSTON, INC.**      **CONTINUED PRE-TRIAL**  
[15-9032](#)           **CONFERENCE RE: AMENDED**  
           **COMPLAINT FOR (1) AVOIDANCE**  
           **OF PREFERENTIAL TRANSFERS;**  
           **(2) RECOVERY OF AVOIDED**  
           **TRANSFERS AND (3) OBJECTION TO**  
           **CLAIM**  
           **7-13-15 [7]**

Plaintiff's Atty: Daniel L. Egan

Defendant's Atty: Matthew P. James; R. Scott Moore

Adv. Filed: 7/9/15

Answer: none

Amd Cmplt Filed: 7/13/15

Answer: 9/2/15

Nature of Action:

Recovery of money/property - preference

<b>The Pretrial Conference is <span style="color: red;">XXXXXXXXXXXXXXXXXXXXXX</span>.</b>
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Notes:

Continued from 2/23/17 to allow the Parties to work on developing a stipulated set of facts which will reduce the exhibits and witnesses necessary for trial.

**MARCH 23, 2017 PRETRIAL CONFERENCE**

A review of the Docket does not reveal a statement of stipulated facts. At the Pretrial Conference, XXXXXXXXXXXXXXXXXXXXXX.

**SUMMARY OF COMPLAINT**

The Plaintiff-Trustee alleges that Defendant Graybar Electric Company, Inc. received payments totaling \$246,762.09 within ninety days of the commencement of the Debtor's bankruptcy case. It is asserted

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that this transfer may be avoided pursuant to 11 U.S.C. 547 and recovered by the estate as provided in 11 U.S.C. § 550. The Plaintiff-Trustee also includes a Third Cause of Action objection to Proof of Claim No. 75-1 filed by Defendant.

## **SUMMARY OF ANSWER**

An Answer to the Amended Complaint was filed on September 2, 2015. In the Answer, the Defendant admits the allegations of federal jurisdiction. Answer 3, Dckt. 11.

With respect to this Adversary Proceeding for the avoidance of a preference pursuant to 11 U.S.C. § 547, Defendants do not admit that this is a core proceeding, and also do not consent to the bankruptcy judge entering order or final judgment.

## **FINAL BANKRUPTCY COURT JUDGMENT**

The Plaintiff alleges 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)(A), (E), and (O). Complaint 3, 4, Dckt. 1. At the hearing, Defendant Graybar Electric Company, Inc. stated on the record that it concurred with the allegations that the claims asserted under 11 U.S.C. §§ 547 and 550 in the Complaint are core matters. Further, to the extent that any issues in the existing Complaint in this Adversary Proceeding are “related to” matters, the parties consented on the record to this bankruptcy court entering the final orders and judgment 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.

2. [17-90129](#)-E-12      **J & B DAIRY**

**STATUS CONFERENCE RE :**  
**VOLUNTARY PETITION**  
2-23-17 [[1](#)]

**Final Ruling:** No Appearance at the March 23, 2017 Status Conference Required.

**CASE DISMISSED: 03/15/17**

**The bankruptcy case having been dismissed, the Status Conference is removed from the Calendar.**

Debtor's Atty: Patrick B. Greenwell

Notes:

Order Dismissing Case for Failure to Timely File Document(s) filed 3/15/17 [Dckt 26]; [documents due 3/9/17]

Ex Parte Application for Extension of Time to File Schedules, SOFA and Related Documents filed 3/15/17  
[Dckt 27]

3.	<a href="#"><u>16-90634</u></a> -E-7	LESTER/ANA RODRIGUEZ	CONTINUED STATUS CONFERENCE
	<a href="#"><u>16-9018</u></a>		RE: COMPLAINT
	CHAIRES V. RODRIGUEZ ET AL		11-14-16 [1]

**Final Ruling:** No Appearance at the March 23, 2017 Status Conference Required.

Plaintiff's Atty: Wilber Manuel Salgado  
Defendant's Atty: Mario Blanco

Adv. Filed: 11/14/16  
Answer: none

The court having granted Defendant's Motion to Dismiss and having granted leave to file an amended complaint, **the Status Conference is continued to 2:00 p.m. on May 18, 2017.**

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

Notes:  
Continued from 1/26/17 to allow for Defendant to file a responsive pleading and the Parties prepare for the Status Conference.  
[MB-2] Motion to Dismiss Adversary Proceeding of Margarita Chairez filed 1/31/17 [Dckt 18], set for hearing 3/23/17 at 10:30 a.m.

Debtors' Atty: Edward A. Smith; Stephen M. Brown

**The Status Conference is XXXXXXXXXXXXXXXXXXXXXXX.**

Notes:

Continued from 12/1/16

Operating Report filed: 12/14/16, 1/13/17, 2/14/17, 3/14/17

Stipulation for Interim Use of Cash Collateral filed 1/5/17 [Dckt 45]; court ordered hearing set for 1/26/17 at 10:30 a.m.; Order granting filed 2/1/17 [Dckt 63]

[TBG-3] Motion of Debtors in Possession for Order Authorizing the Employment of Cook CPA Group as Accountant for Debtors in Possession filed 1/12/17 [Dckt 46]; Amended Motion filed 2/3/17 [Dckt 64]; Amended Motion filed 2/5/17 [Dckt 66]

[TBG-5] Amended Stipulation for Interim Use of Cash Collateral filed 2/21/17 [Dckt 72]

### **MARCH 23, 2017 STATUS CONFERENCE**

A review of the Monthly Operating Report for February 2017, discloses that the total cash receipts in this case since the August 2016 filing have been \$88,534. No Chapter 11 Plan has been filed by the Debtor in Possession.

At the Status Conference, XXXXXXXXXXXXXXXXXXXXXXX.

### **DECEMBER 1, 2016 STATUS CONFERENCE**

The Debtor in Possession is working on a cash collateral stipulation and is working on a valuation of the collateral. Bank of America, N.A.'s counsel concurs that they are working together.

### **MONTHLY OPERATING REPORT SUMMARY**

October 2016 Report		Filed: November 14, 2016		
INCOME	Current		Cumulative	
Rents	\$ 3,200		\$ 6,400	
Salaries	\$ 8,035		\$ 20,628	

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Salary Emerg. Clinic	\$ 2,807		\$ 4,793	
Profit Dist.	\$ (200)		\$ 3,400	
<b>Total</b>	\$ 13,842		\$ 35,221	
<b>EXPENSES</b>	\$ (8,998)		\$ (28,028)	
<b>PROFIT/(LOSS)</b>	\$ 4,844		\$ 7,193	
<b>Specific Expenses</b>	Current			Cumulative
Principal Payments on Mtg		(\$684)		(\$2,030)
Principal Payments on Jennison Loan		(\$549)		(\$1,637)
Principal Payments on Auto Loan		(\$562)		(\$1,121)
Interest Payment		(\$2,774)		(\$7,870)
Real Property Rent		(\$244)		(\$533)
Mortgage Pmt to Escrow		(\$350)		(\$1,057)
Insurance		(\$509)		(\$1,307)
Misc. Household		(\$2,676)		(\$11,823)
US Trustee Fees		(\$650)		(\$650)
Net Increase/Decrease		\$4,844		\$7,192
Cash Balance, Beginning of Period		\$2,364		\$16
Cash Balance, End of Period		\$7,208		\$7,208

## SUMMARY OF SCHEDULES

<b>Real Property Schedule A</b>	<b>FMV</b>	<b>LIENS</b>	
Adams Rd Prop.	\$375,000		
Yosemite Blvd Prop (Clinic)	\$90,000		
Las Vegas Blvd Prop (Timeshare)	\$1,000		

<b>Personal Property Schedule B</b>	<b>FMV</b>	<b>LIENS</b>	
Total	\$66,086		
Significant Assets			
Veterinary Clinic Furniture and Equipment	\$10,620		
2015 Dodge Ram	\$35,096		
2007 Chevy Silverado	\$3,417		
2007 Chevy Trailblazer	\$2,468		

<b>Secured Claims Schedule D</b>	<b>TOTAL CLAIM AMOUNT</b>	<b>FMV</b>	<b>UNSECURED CLAIM PORTION</b>
Jennison Yosemite Blvd Prop	(\$76,059)	\$90,000	
Bank of America Yosemite Blvd Prop	(\$290,413)	(above)	(\$276,473)
Jennison S Abbie Prop	(\$27,380)	\$80,000	
Lendmark 2007 Chevy Silverado	(\$5,558)	\$3,417	(\$2,141)
Wells Fargo Dealer Services 2015 Dodge Ram	(\$37,219)	\$35,096	(\$2,123)
Wells Fargo Home Mtg Adams Road Prop.	(\$366,676)	\$375,000	
Wells Fargo Bank, N.A. Adams Road Prop.	(\$42,476)	(above)	(\$34,152)
Stanislaus Co. Tax Collector Yosemite Blvd Prop.	(\$3,876)		

<b>PRIORITY UNSECURED CLAIMS SCHEDULE E</b>	<b>TOTAL CLAIM AMOUNT</b>	<b>PRIORITY</b>	<b>GENERAL UNSECURED</b>
Employment Development Dept.	(\$2,422)	(\$2,422)	
Franchise Tax Board	(\$4,552)	(\$4,552)	
Franchise Tax Board	(\$1,367)	(\$1,367)	
Internal Revenue Service	(\$28,246)	(\$28,246)	
Internal Revenue Service	(\$32,827)	(\$32,827)	
Internal Revenue Service	(\$31,691)	(\$31,691)	
Internal Revenue Service	(\$16,073)	(\$16,073)	
Internal Revenue Service	(\$9,846)	(\$9,846)	
Internal Revenue Service	(\$15,830)	(\$15,830)	
Internal Revenue Service	(\$3,590)	(\$3,590)	
Internal Revenue Service	(\$164)	(\$164)	

<b>GENERAL UNSECURED CLAIMS SCHEDULE F</b>	<b>TOTAL CLAIM AMOUNT</b>		
Total	(\$235,397)		
Specific Debt			
American Express		(\$22,759)	
Bank of America		(\$24,794)	
Bank of the West		(\$25,304)	
Can Capital Asset Servicing		(\$50,201)	

<b>INCOME, SCHEDULE I</b>		
Total Average Monthly Income		
Wages	\$15,630	
Equipment Lease	\$450	



<b>EXPENSES, SCHEDULE J</b>		
Total Average Monthly Expenses		
Total	(\$9,085)	
Specific Expenses		
Mortgage	(\$3,079)	
Food/Housekeeping	(\$1,348)	
Clothing/Laundry	(\$250)	
Medical/Dental Exp.	(\$580)	
Entertainment	(\$450)	
Health Ins.	\$0	
Car Payment	(\$654)	
Car Payment	(\$225)	
Travel	(\$208)	

## STATEMENT OF FINANCIAL AFFAIRS

### Part 2, Question 4 Income

2016 YTD	\$41,577	
2015	\$108,380	
2014	\$158,249	

### Part 2, Question 5 Non-Business Income

2016 YTD	\$0	
2015	\$58,827	[\$58,779 life insurance income]
2014	\$55	[Interest/Dividends]

5. [16-91096](#)-E-12 J & B DAIRY

CONTINUED STATUS CONFERENCE  
RE: CHAPTER 12 VOLUNTARY  
PETITION  
12-9-16 [1](#)

CASE DISMISSED: 02/13/2017

**Final Ruling:** No Appearance at the March 23, 2017 Status Conference Required.

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**The bankruptcy case having been dismissed, the Status Conference is removed from the Calendar.**

Debtor's Atty: David C. Johnston

Notes:

Order Dismissing Case for Failure to Timely File Document(s) filed 2/13/17 [Dckt 43]; [documents due 12/23/16; extended to 1/13/17]

[RHS-1] Notice of Pending Dismissal of Chapter 12 Case filed 2/1/17 [Dckt 40], notice set 2/10/17 deadline to file documents