

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

**Honorable Ronald H. Sargis**

Bankruptcy Judge  
Sacramento, California

**April 16, 2025 at 2:00 p.m.**

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1. [24-24173](#)-E-13      **JESUS/ALISHA GUTIERREZ**      **CONTINUED STATUS CONFERENCE RE:**  
[24-2216](#)      **COMPLAINT**  
CAE-1      **12-26-24 [1]**

**DOE 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 - priority tax claim

Dischargeability - willful and malicious injury

Notes:

Continued from 3/5/25. The Parties reporting they have agreed to consolidate Plaintiff's related adversary proceeding against the Defendant-Debtor's son with this Adversary Proceeding.

[CAE-1] Defendant's Status Statement filed 3/27/25 [Dckt 24]

[CAE-1] Plaintiff's Status Statement filed 4/4/25 [Dckt 28]

<p><b><del>The Status Conference is continued to 11:00 a.m. on June 26, 2025 (Specially Set Day and Time).</del></b></p>
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**APRIL 16, 2025 STATUS CONFERENCE**

**April 16, 2025 at 2:00 p.m.**

**Page 1 of 26**

Defendant filed an updated Status Report on March 27, 2025. Dckt. 24. In it Defendant states they are willing to try BDRP, but request the court set this matter for trial in May 2024.

The court entered an Order on March 30, 2025, appointing BDRP Mediators. Order; Dckt. 25.

Plaintiff filed an updated Status Report on April 4, 2025. Dckt. 28. Plaintiff states that there is no agreement to put this matter to trial in May 2025. With respect to the BDRP process, the Parties have agreed to Walter Dahl, Esq. as a mediator and the mediation is set for May 22, 2025.

Plaintiff requests that the court continue the Status Conference until after the May 22, 2025 BDRP Mediation.

~~The Status Conference is continued to 11:00 a.m. on June 26, 2025 (Specially Set Day and Time).~~

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

### **SUMMARY OF COMPLAINT**

The Complaint filed by DOE (“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.”

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

At the Status Conference counsel for Plaintiff and counsel for Defendant-Debtor reported that they have agreed to consolidate Plaintiff’s related adversary proceeding against the Defendant-Debtors’ son, Doe v. Sebastian Gutierrez, with this Adversary Proceeding to have them jointly tried in the Sacramento Division of this Bankruptcy Court.

To allow for the filing of the Joint *Ex Parte* Motions to Consolidate the case and the Parties further discussion of possible mediation and scheduling deadlines, 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, 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 June 26, 2025 (Specially Set Day and Time). The Status Conference is continued to allow the Parties to conduct their BDRP Mediation, which is currently scheduled for May 22, 2025.

2.	<a href="#"><u>25-20106-E-7</u></a>	JESSICA TIBBETTS	STATUS CONFERENCE RE:
	<a href="#"><u>25-2002</u></a>		COMPLAINT
	CAE-1		1-13-25 [ <a href="#"><u>1</u></a> ]

**TIBBETTS V. UNITED STATES  
DEPARTMENT OF EDUCATION**

Plaintiff's Atty: Pro Se  
Defendant's Atty: unknown

Adv. Filed: 1/13/25  
Answer: none

Nature of Action:  
Dischargeability - student loan

Notes:

<b>The Status Conference is <span style="color: red;">xxxxxxx</span></b>
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**APRIL 16, 2025 STATUS CONFERENCE**

On January 13, 2025, Jessica Tibbits, the Plaintiff-Debtor filed a Complaint to Determine Dischargeability of Student Loans. Dckt. 1. In it Plaintiff-Debtor identifies 11 student loans, asserts that

she currently does not have the income to meet her basic living expenses and pay back the student loan debt. Further, she requests the court accept the presumption of hardship criteria outline in the Department Guidance Regarding Student Loan Bankruptcy Litigation.

The Complaint includes information concerning health issues facing the Plaintiff Debtor. Additionally, it asserts that Plaintiff-Debtor has made good faith efforts to pay the student loan debt.

The Summons was issued in this Adversary Proceeding on January 13, 2025. Dckt. 3. There is no Certificate of Service filed documenting service on the Department of Education, the U.S. Attorney, the Department of Justice, and any others who must be served.

The Summons must be served within seven (7) days after it was issued. Fed. R. Bankr. P. 7004(e). If not so timely served, a new summons may be issued. *Id.* Additionally, Federal Rule of Civil Procedure 4(m) is incorporated into Federal Rule of Bankruptcy Procedure 7004(a)(1), and provides that if a summons is not served within 90 days of the filing of the complaint, the court must dismiss the action or set a specific time in which the summons and complaint must be served.

Here, the Complaint was filed on January 13, 2025. Ninety days from January 13, 2025 expired on April 13, 2025.

At the Status Conference, **XXXXXXX**

3. [23-23523-E-7](#)      **THE RETREAT AT ROYAL**      **CONTINUED STATUS CONFERENCE RE:**  
[23-2098](#)      **GREEN, LLC.**      **NOTICE OF REMOVAL**  
**CAE-1**           **11-27-23 [1]**

**FARRIS V. THE RETREAT AT ROYAL  
GREEN LLC ET AL**

Plaintiff's Atty: Michael J. Harrington  
Defendant's Atty: unknown

Adv. Filed: 11/27/23  
Answer: none

Nature of Action:  
Determination of removed claim or cause

Notes:  
Continued from 11/13/24. Counsel for the successor Plaintiff-Trustee requesting that this matter be continued in light of the individual adversary proceedings commenced relating to this one to be conducted.

<b>The Status Conference is <span style="color: red;">XXXXXXX</span></b>
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#### **APRIL 16, 2025 STATUS CONFERENCE**

As of the court's April 14, 2025 review of the Docket, no updated status reports had been filed.

At the Status Conference, XXXXXXX

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

The court has stayed this Adversary Proceeding to allow the Plaintiff-Trustee, to pursue the focused Related Adversary Proceedings.

At the Status Conference, counsel for the successor Plaintiff-Trustee requested that this matter be continued in light of the individual adversary proceedings commenced relating to this one to be conducted. All of the claims against multiple defendants were asserted in this one action which was commenced by a creditor of the Debtor in State Court. This action was removed from State Court and the Chapter 7 Trustee has been substituted in this action in place of the original creditor. This action has been maintained to preserve the filing date for computing recovery and avoidance of transfer time periods. The Chapter 7 Trustee and various defendants agreed to break the claims into separate adversary proceedings for judicial and party economy as not all claims were asserted against all defendants.

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

## **SEPTEMBER 18, 2024 STATUS CONFERENCE**

On August 16, 2024, the court entered its order staying this Adversary Proceeding while the Parties address these issues in related adversary proceedings Order; Dckt. 50. The Order provides that the respective counsel shall address at the September 18, 2024 Status Conference how this matter should be continued to allow for the court's adversary proceeding management.

At the Status Conference, counsel for the Plaintiff-Trustee provided a summary of how the claims are being prosecuted in related adversary proceedings.

The Status Conference is continued to 2:00 p.m. on November 13, 2024, to be conducted with Status Conferences in related adversary proceedings.

4. <a href="#"><u>19-22025</u></a> -E-12 <a href="#"><u>CAE-1</u></a>	<b>JEFFREY DYER AND JAN WING-DYER</b>	<b>CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION 4-1-19 <a href="#"><u>1</u></a></b>
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Debtors' Atty: Stephen M. Reynolds

Notes:

Continued from 11/14/24. The Trustee requesting that a Joint Status Report be filed by the Debtor and the Trustee by the end of January 2025.

Operating Reports filed: 12/17/24; 1/16/25; 2/18/25; 3/18/25

[RLC-25] Order on Motion to Modify Confirmed Chapter 12 Plan filed 12/19/24 [Dckt 519]

[CAE-1] Chapter 12 Joint Post-Confirmation Status Report filed 2/3/25 [Dckt 521]

<b>The Post-Confirmation Status Conference is <span style="color: red;">XXXXXXX</span></b>
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## **APRIL 16, 2025 STATUS CONFERENCE**

No updated Status Conference Report has been filed with the court.

## **NOVEMBER 14, 2024 STATUS CONFERENCE**

At the Status Conference, the Chapter 12 Trustee addressed the follow up by the Trustee under the Amended Plan. Specifically, having the authority to seek authorization for the Chapter 12 Trustee replace the Debtor-Plan Administrator for the marketing and sale of the Lamb Property.

Additionally, the Trustee requested that a Joint Status Report be filed by the Debtor and Trustee by the end of January 2025.

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

## **OCTOBER 3, 2024 STATUS CONFERENCE**

The Status Conferences is continued to 11:30 a.m. on November 14, 2024, to be conducted in conjunction with the continued hearing on the Motion to Confirm Modified Plan. The Debtor in Possession is attempting to further modify the Plan to extend the time for the marketing and sale of the Lamb Property.

5. [22-22625-E-7](#)      JASON/CHRISTINE EATMON      STATUS CONFERENCE RE: AMENDED  
[23-2086](#)      COMPLAINT  
CAE-1      12-26-23 [\[27\]](#)

**LOCKWOOD ET AL V. EATMON ET AL**

Plaintiff's Atty: Jamie P. Dreher, Sandra L. Sava  
Defendant's Atty: Patricia Wilson

Adv. Filed: 10/30/23  
Reissued Summons: 12/20/23  
Answer: none

Amd. Complaint: 12/26/23  
Reissued Summons: 12/27/23  
Answer: 1/8/24

Nature of Action:  
Objection/revocation of discharge

Notes:  
Set by order of the court filed 3/21/25 [Dckt 100] - Order Continuing Adversary Proceeding Trial and Oral Decision Date and Setting Status and Scheduling Conference

[DWL-7] Order Appointing Judicial Mediator and Setting Mediation to be Conducted at 10:00 a.m. on April 18, 2025 filed 4/3/25 [Dckt 103]

**The Continued Post-Trial Status Conference is continued to 11:00 a.m. on April 24, 2025, for an updated report on the Status of Mediation.**

**APRIL 16, 2025 POST-TRIAL STATUS CONFERENCE**

On March 6, 2025, the court concluded the Trial in this Adversary Proceeding and set a continued trial date for orally rendering the decision on the record on March 26, 2025. Civ. Min.; Dckt. 97. After the trial and prior to the decision being issued, the Parties requested a post-trial/pre-decision judicial mediation. The court entered the Order granting the Motion and setting a judicial mediation before the Hon. Christopher D Jaime. Order; Dckt. 103. The Judicial Mediation is set for 10:00 a.m. on April 18, 2025.

The court continues the Post-Trial Status Conference to 11:00 a.m. on April 24, 2025, for court administrative purposes to keep a timely eye on this matter. If the Parties conclude after the first mediation session that additional time is required, or they simply need time to document a mutually agreeable settlement, they may file a simple request for further continuance of the Post-Trial Status Conference and suggestion continuance period.



The continuance does not have to be a day for which the court has a calendar already set, but may be specially set to a date and time that the parties deem to be the most conducive for their good faith, production settlement discussions. (With the use of digital recording for the hearings, the court has much more flexibility in accommodating the schedules of the parties and their counsel.

The Post-Trial Status Conference is continued to 11:00 a.m. on April 24, 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 Post-Trial Pre-Decision 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 24, 2025**. As the court notes in the Civil Minutes:

The court continues the Post-Trial Status Conference to 11:00 a.m. on April 24, 2025, for court administrative purposes to keep a timely eye on this matter. If the Parties conclude after the first mediation session that additional time is required, or they simply need time to document a mutually agreeable settlement, they may file a simple request for further continuance of the Post-Trial Status Conference and suggestion continuance period.

The continuance does not have to be a day for which the court has a calendar already set, but may be specially set to a date and time that the parties deem to be the most conducive for their good faith, production settlement discussions. (With the use of digital recording for the hearings, the court has much more flexibility in accommodating the schedules of the parties and their counsel.

6. [25-20029-E-13](#)      SANDRA DAVIS  
[25-2005](#)  
CAE-1

STATUS CONFERENCE RE:  
COMPLAINT  
1-13-25 [\[1\]](#)

**DAVIS V. ESA MANAGEMENT, LLC**

Plaintiff's Atty: Pro Se  
Defendant's Atty: unknown

Adv. Filed: 1/13/25  
Answer: none

Nature of Action:  
Declaratory judgment

Notes:

<b>The Status Conference is <span style="color: red;">XXXXXXX</span></b>
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**APRIL 16, 2025 STATUS CONFERENCE**

On January 13, 2025, Plaintiff-Debtor Sandra Davis filed a Complaint in which ESA Management, LLC is named as the Defendant. Dckt. 1. The Complaint alleges that the Defendant violated the automatic stay by locking Plaintiff-Debtor out of her apartment and having personal property possessions moved. Plaintiff-Debtor asserts that this occurred after Defendant had knowledge of the automatic stay and Plaintiff-Debtor's bankruptcy case.

The Clerk of the Court issued the Summons in this Adversary Proceeding on January 13, 2025. Dckt. 3. No Certificate of Service has been filed documenting services of the summons, Complaint, and other documents on the Defendant.

The Summons must be served within seven (7) days after it was issued. Fed. R. Bankr. P. 7004(e). If not so timely served, a new summons may be issued. *Id.* Additionally, Federal Rule of Civil Procedure 4(m) is incorporated into Federal Rule of Bankruptcy Procedure 7004(a)(1), and provides that if a summons is not served within 90 days of the filing of the complaint, the court must dismiss the action or set a specific time in which the summons and complaint must be served.

Here, the Complaint was filed on January 13, 2025. Ninety days from January 13, 2025 expired on April 13, 2025.

The Plaintiff-Debtor's Bankruptcy Case, 25-20029, was dismissed on January 24, 2025. 25-20029; Dismissal Order for Failure to File Documents, Dckt. 13.

At the Status Conference, XXXXXXX

7. [25-20833-E-12](#)      **PATRICK/PATRICIA MCCAULEY**      **STATUS CONFERENCE RE:**  
[CAE-1](#)      **VOLUNTARY PETITION**  
2-26-25 [[1](#)]

Debtors' Atty: Pro Se

Notes:

Trustee Report at 341 Meeting lodged 3/28/25

Order to Show Cause - Failure to Pay Fees filed 4/2/25 [Dckt 12]

<b>The Status Conference is <span style="color: red;">XXXXXXX</span></b>
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Patrick and Patricia McCauley commenced this voluntary Chapter 12 Case on February 25, 2025. A hearing on an Order to Show Cause why the Case should not be dismissed due to the failure to pay filing fees is set for April 24, 2025. Dckt. 12.

The Chapter 12 Trustee reports that the Debtors appeared at the March 28, 2025 341 Meeting of Creditors and that the Meeting has been continued to March 28, 2025. March 28, 2025 Docket Entry Report.

In reviewing the Schedules, it appears that the Bankruptcy Estate has a substantial real estate asset in which there is surplus equity for the Debtors. From a review of the Schedules and Statement of Financial Affairs, it is not clear the income to be generated from farming operations by the Debtor in Possession post-petition or through a Chapter 12 Plan.

At the Status Conference, XXXXXXX

8. [24-24542-E-11](#)      **MONALISA SILAPAN**  
[25-2012](#)  
**CAE-1**

**STATUS CONFERENCE RE:**  
**COMPLAINT**  
**1-21-25 [1]**

**MICHAEL J. HARRINGTON AS  
TRUSTEE OF THE MICHAEL J.  
HARRINGTON LIVING TRUST  
ET AL V. SILAPAN**

Plaintiff's Atty: Michael J. Harrington  
Defendant's Atty: Mark A. Wolff

Adv. Filed: 1/21/25  
Answer: none

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

Notes:  
[WW-1] Stipulation to Stay Adversary Proceeding for 90 Days filed 1/29/25 [Dckt 7]; Order granting filed 1/29/25 [Dckt 8]

<b>The Status Conference is <span style="color: red;">XXXXXXX</span></b>
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#### **APRIL 16, 2025 STATUS CONFERENCE**

On January 21, 2025, the Plaintiffs filed a Complaint for a determination of nondischargeability of debt and for a monetary judgment. Dckt. 1. On January 29, 2025, Plaintiffs and Defendant-Debtor filed a joint request for the court to stay these proceedings while they continued their settlement discussions and terms for a Subchapter V Plan. Stipulation; Dckt. 7. The court granted the request, issuing its order on January 29, 2025. Dckt. 8.

As of the court's April 14, 2025 review of the Docket, a status report in this Adversary Proceeding had not yet been filed. However, in the Bankruptcy Case the Defendant-Debtor filed a Status Report in her Subchapter V Bankruptcy Case, which includes the following:

1. Debtor has made progress in negotiations with creditors. Debtor and her main creditors have agreed upon treatment of claims (as of April 8, 2025) and Debtor is completing the drafting of the Chapter 11 Plan to incorporate the agreed upon treatment of claims.

2. The treatment of claims agreed upon by the parties is anticipated to resolve the pending adversary proceeding.

24-24542; Status Report, Dckt. 138. Clearly the Parties knew the court would check both the adversary proceeding and the bankruptcy case files in looking for status reports and thus the Parties have effectively provided the information to the court.

At the Status Conference, **XXXXXXX**

9. [24-20649-E-7](#) SHANE SIEGEL  
[25-2020](#)  
CAE-1

STATUS CONFERENCE RE:  
COMPLAINT  
1-31-25 [\[1\]](#)

**BIRNBERG V. CARSON**

Plaintiff's Atty: Gabriel P. Herrera  
Defendant's Atty: Pro Se

Adv. Filed: 1/31/25  
Answer: 2/25/25

Nature of Action:  
Recovery of money/property - turnover of property  
Recovery of money/property - fraudulent transfer  
Approval of sale of property of estate and of a co-owner

Notes:

[CAE-1] Status Conference Statement filed 4/9/25 [Dckt 10]

<b>The Status Conference is <b>XXXXXXX</b></b>
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## SUMMARY OF COMPLAINT

The Complaint filed by Ethan Birnberg, Chapter 7 Trustee in Bankruptcy Case 24-20649 "Plaintiff-Trustee"), Dckt. 1, asserts claims to avoid alleged fraudulent transfers, turnover of property, and

for the sale of real property. The legal basis for asserting the fraudulent transfers arises under Florida Law and the Bankruptcy Code. The Complaint seeks for court authorization pursuant to 11 U.S.C. § 363(h) to sell property in which the Bankruptcy Estate holds a partial interest and a third-party holds the other partial interest.

## **SUMMARY OF ANSWER**

Sean Carson (“Defendant”) filed an Answer in pro se, Dckt. 7 , admitting and denying specific allegations. In the Answer, Defendant asserts having a lease/purchase option to purchase the property at issue.

## **STATUS CONFERENCE STATEMENT**

On April 9, 2025, the Plaintiff-Trustee filed a Status Conference Statement advising the court that the Parties have conferred and suggest the following dates and deadlines:

- A. Rule 26 disclosures April 30, 2025;
- B. Close of Discovery August 31, 2025;
- C. Expert Discovery September 26, 2025;
- D. Dispositive Motions September 26, 2025; and
- E. Pretrial Statements 14 days prior to pretrial conference.

## **FINAL BANKRUPTCY COURT JUDGMENT**

Plaintiff-Trustee alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b)(2), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(H). Complaint ¶¶ 1, 3, 4, Dckt. 1. In the Answer, Defendant admits the allegations of jurisdiction and that this is a core proceeding. Answer ¶ 1; Dckt. 7. **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-Trustee alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b)(2), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(H). Complaint ¶¶ 1, 3, 4, Dckt. 1. In the Answer, Defendant admits the allegations of jurisdiction and that this is a core proceeding. Answer ¶ 1; Dckt. 7. **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 **April 30, 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**. Expert witness discovery closes, including the hearing of discovery motions, on September 30, 2025.

d. Non-Expert Discovery closes, including the hearing of all discovery motions, on **August 31, 2025**.

e. Dispositive Motions shall be heard before **September 30, 2025**.

f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at **DATE AND TIME BY THE JUDGE TO WHO THIS ADVERSARY PROCEEDING IS ASSIGNED**.

10. [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 3/5/25. Plaintiff agreeing to continue the status conference to allow Defendant-Debtor to get counsel on board, discussion of possible mediation, and to make sure that the proceeding is advancing properly.

<b>The Status Conference is xxxxxxx</b>
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#### APRIL 16, 2025 STATUS CONFERENCE

No updated Status Conference Statement has been filed and no counsel has substituted in to represent Defendant-Debtor.

## **SUMMARY OF COMPLAINT**

The Complaint filed by Dayna Schmaber (“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).

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

At the Status Conference the Defendant-Debtor addressed with the court his health issues, upcoming procedures, and his active efforts to obtain counsel. Upon such information Plaintiff agreed to continue the Status Conference to allow Defendant-Debtor to get counsel on board, discussion possible mediation, and make sure that the proceeding was advancing properly.

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

## **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 XXXXXXXX, 2025.**

11. 25-20969-E-11 <a href="#">CAE-1</a>	AZUCAR RESTAURANTS LLC	STATUS CONFERENCE RE: VOLUNTARY PETITION 3-3-25 [1]
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## SUBCHAPTER V

Debtor's Atty: David C. Johnston

Notes:

Meeting of Creditors set for 4/11/25 [Dckt 10]

[CAE-1] Debtor's Chapter 11 Status Report filed 4/8/25 [Dckt 16]

[DCJ-1] Application of Debtor in Possession for Authority to Employ Attorney filed 4/8/25 [Dckt 20]; Order granting filed 4/9/25 [Dckt 22]

**The Status Conference is xxxxxxx**

## **APRIL 16, 2025 STATUS CONFERENCE**

The Debtor in Possession filed its Status Report on April 8, 2025. Dckt. 16. There are three operating restaurants in the Bankruptcy Estate. It also includes a summary of a dispute with the California Labor Commissioner concerning the Debtor's managing member and who is her husband, which relates to whether the business is a successor of a failed restaurant operation.

The Status Report states that a creditor who is believed to have a security interest in cash collateral is consenting to the Debtor in Possession using cash collateral to operate the business, so long as the Debtor in Possession is making monthly payments on the note to that Creditor.

It is not clear how, without an order of the court, the Debtor in Possession is choosing to pay one creditor and not the other creditors.

At the Status Conference, **XXXXXXX**

**TULLY V. TULLY**

Plaintiff's Atty: Pro Se  
Defendant's Atty: Eric John Schwab

Adv. Filed: 5/28/24  
Answer: 8/7/24

Nature of Action:  
Recovery of money/property - preference  
Objection/revocation of discharge  
Dischargeability - domestic support  
Dischargeability - divorce or separation obligation (other than domestic support)  
Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

Notes:  
Scheduling Order filed 8/16/24 -  
Initial disclosures by 8/27/24  
Close of discovery 1/27/25  
Dispositive motions heard by 3/28/25

**The Pre-Trial Conference is XXXXXXX**

**APRIL 16, 2025 PRE-TRIAL CONFERENCE**

**SUMMARY OF COMPLAINT**

The Complaint filed by Heather Tully, the Plaintiff, in pro se, seeks to have debts arising out of a divorce determined nondischargeable. Dckt. 1

**SUMMARY OF ANSWER**

Christopher Tully, the Defendant-Debtor, has filed an Answer, Dckt. 14. In it he denies that the Plaintiff is bringing a preference action under 11 U.S.C. § 547. He further denies that the complaint is properly brought to deny discharge pursuant to 11 U.S.C. § 727.

Defendant-Debtors then asserts that the allegations does not support relief pursuant to 11 U.S.C. § 523(a)(5) and 11 U.S.C. § 523(a)(15).

**STATUS REPORT**

A Joint Status Report was filed on August 8, 2024. Dckt. 16. In it the Parties state that they have agreed to a close of discovery that is four months after the Status Conference.

## **FINAL BANKRUPTCY COURT JUDGMENT**

To the extent that Plaintiff alleges in the Complaint relief pursuant to 11 U.S.C. §§ 523 or 727, jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b)(2), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I) and (J).

## **PRETRIAL CONFERENCE ORDER**

On August 16, 2024, the court entered its Pretrial Conference Scheduling Order. In addition to discovery deadlines, Pretrial Conference statements are required to be file no later than seven court days prior to this Pretrial Conference. Order, p. 4:4-7; Dckt. 21.

As of the court's April 14, 2025 review of the Docket, neither the Plaintiff nor the Defendant-Debtors had filed Pretrial Conference Statements.

### Late Filed Pre-Trial Statement

Though late, Defendant-Debtor filed a Pre-Trial Statement on April 15, 2025. Dckt. 25. The key point in dispute is that Defendant-Debtor states that he owes no obligation to Plaintiff for any support arrearage. Defendant-Debtor identifies the following Exhibits:

- a. The Judgement of Dissolution issued in Yolo County Superior Court on July 30, 2022.
- b. A Court Order issued by Yolo County Superior Court on December 11, 2024 which confirms that Defendant does not owe support or support arrears to Plaintiff.
- c. Defendants' bankruptcy schedules, statements, Chapter 13 Plan and Motions filed by Defendant objecting to the bankruptcy claim of Plaintiff and Defendants' Motion to Confirm his Chapter 13 Plan.

Defendant-Debtor also directs the court to his underlying Bankruptcy Case, 24-22102, in which he has filed an Objection to Plaintiff's Claim and set it for hearing on April 22, 2025. In the Objection to Claim, the assertions include:

4. The Marital Settlement Agreement in Exhibit A, at Page 5 clearly states that Heather Tully has no interest in the Debtor's residential vessel effective on the date of the Family Law Judgement on March 18, 2022, secured or otherwise. Debtor owns the residential vessel free and clear of any other interest.
5. The Marital Settlement Agreement in Exhibit A, at page 9 shows that temporary spousal support would be owed by Debtor to Heather Tully until further court order. A subsequent Court Order issued December 11, 2024, denied spousal support and/or arrearages and spousal support to be paid by Christopher Tully was terminated. That Order is provided as Exhibit C.

6. The Marital Settlement Agreement in Exhibit A, at page 5 shows that Debtor owes an amount to Heather Tully based on valuation of the vessel during the divorce proceedings and the rental value of the vessel, the combined total being \$52,000.00 including interest on the date of the bankruptcy petition. Debtor has scheduled and provided for this claim as general unsecured in class 7 pursuant to 11U.S.C. 523 (a) (15) and 1328 (a) (2). This claim should also be offset by the \$5,000.00 recently awarded to the Debtor by the Superior Court in the order issued in December, Exhibit C, for a total allowed claim of \$47,000.00.

24-22192; Objection to Claim, ¶¶ 4-6, Dckt. 69.

At the Pretrial Conference, **XXXXXXX**

# FINAL RULINGS

13. [04-00203-E-0](#)  
[24-2194](#)

WINDSOR TERRANCE  
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

ADVERSARY PROCEEDING  
DISMISSED: 03/07/25

**Final Ruling: No appearance at the April 16, 2025 Status Conference is required.**

Plaintiff's Atty: Carl A. McMahan  
Defendant's Atty: John L. Supple

Adv. Filed: 10/4/24

Nature of Action:  
Determination of removed claim or cause

Notes:  
Notice of Settlement and Request for Dismissal filed 3/5/25 [Dckt 14]

Order Dismissing Adversary Proceeding with Prejudice filed 3/9/25 [Dckt 18]

**The Adversary Proceeding having been dismissed (Order; Dckt. 18), the Status Conference is concluded and removed from the Calendar.**

**Final Ruling: No appearance at the April 16, 2025 Hearing is required.**

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Local Rule 9014-1(f)(3) Motion—Hearing Required.

Sufficient Notice Provided. The court issued the Order setting this hearing on January 31, 2025, setting the hearing for February 27, 2025. Dckt. 30.

The Motion to Delay Discharge and to Extend Deadline to File a Reaffirmation Agreement was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(3). Debtor, creditors, the Chapter 7 Trustee, 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.

**The Status Conference for the Motion to Delay Discharge and to Extend Deadline to File a Reaffirmation Agreement is concluded and removed from the Calendar.**

**The court order granting the Motion was entered on February 28, 2025.**

**The Reaffirmation Agreement was Timely Filed on April 1, 2025.**

#### REVIEW OF MOTION

On October 15, 2024, Rose McNulty, Debtor, commenced this voluntary Chapter 7 Case. Petition; Dckt. 1. The Debtor has filed a Motion to Delay Entry of Discharge and Extend Deadline for Filing Reaffirmation Agreement. Dckt. 28. Debtor reports that she has contacted the Creditor, Capital One, to reaffirm the debt, but that Creditor has identified the vehicle as a “total loss” and that it would not proceed with a reaffirmation. *Id.* Debtor reports that this “total loss” is in error and she continues to attempt to communicate with Creditor to correct this error and enter into an reaffirmation agreement.

The court set this hearing and extended the deadline to file a Reaffirmation Agreement to February 27, 2025. Docket 30. A review of the Docket on February 24, 2025 reveals nothing new has been filed with the court.

At the hearing, Debtor reports that Capital One has corrected the information concerning the vehicle, not stating it as a “total loss, and that Capital One will enter into a Reaffirmation Agreement with the Debtor. However, Capital One has not forwarded the Reaffirmation Agreement documents to the Debtor.

The court grants the Motion, and the Clerk of the Court shall not enter a discharge in this Bankruptcy Case until after April 24, 2025.

The deadline for filing a Reaffirmation Agreement is extended to and including April 1, 2025.

The hearing on the Motion is continued to 2:00 p.m. on April 16, 2025, for the court to monitor the status of the Reaffirmation Agreement, and if so filed to address whether such Reaffirmation Agreement should be approved by the court.

In light of the information provided, the court finds it proper to order Capital One and its counsel to appear at the continued hearing – Telephonic Appearances Permitted – if the Reaffirmation Agreement has not been on or before April 1, 2025.

#### **April 16, 2025 Hearing**

The court granted this Motion and ordered the discharge be delayed until April 24, 2025. Order, Docket 34 The court continued the hearing to monitor the status of the Reaffirmation Agreement.

The Reaffirmation Agreement was filed with the court on April 1, 2025. Docket 36.

The Status Conference is concluded and this Matter is removed from the Calendar.



15. [24-24250-E-7](#)  
[24-2210](#)  
CAE-1

RONNIE/MARCELLA DAY

CONTINUED STATUS CONFERENCE RE:  
COMPLAINT  
12-2-24 [\[1\]](#)

HUSTED V. CLONTS

**Final Ruling: No appearance at the April 16, 2025 Status Conference is required.**

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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:  
Continued from 3/5/25 to afford Plaintiff the time to obtain an order granting a default judgment and lodging a proposed order with the court.

[KMT-2] Judgment Against Defendant Monica Clonts filed 3/31/25 [Dckt 27]

<p><b>The Status Conference is continued to 2:00 p.m. on June 1, 2025, to afford Plaintiff-Trustee time to have a proposed judgment lodged with the court.</b></p>
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#### APRIL 16, 2025 STATUS CONFERENCE

On April 1, 2025, the court entered its Order granting the Motion for Default Judgment and for the entry of a judgment avoiding the transfer of the 250 San Joaquin Drive, Red Bluff California Property. Order; Dckt. 30.

As of the April 14, 2025 review of the court's proposed order inbox, a proposed judgment had not yet been uploaded to the court.

The Status Conference is continued to 2:00 p.m. on June 1, 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 scheduled by the court, an order for entry of default judgment having been issued by the court (Dckt. 30), the proposed judgment not yet having been uploaded to the court, and upon review of the pleadings and good cause appearing,

**IT IS ORDERED** that the Status Conference is continued to **2:00 p.m. on June 1, 2025**.

16. [23-23292-E-7](#) IAN LONG  
[24-2025](#)  
CAE-1

**CONTINUED STATUS CONFERENCE RE:  
COMPLAINT  
3-21-24 [1]**

**HAMILTON V. LONG**

**ADVERSARY PROCEEDING  
CLOSED 3/25/25**

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:  
Judgment filed 3/9/25 [Dckt 37]

<p><b>Judgment having been entered (Dckt. 37), the Status Conference is concluded and the Status Conference is removed from the Calendar.</b></p>
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