

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Bankruptcy Judge
Modesto, California

May 1, 2025 at 2:00 p.m.

1.	<u>24-90219-E-7</u> <u>24-9008</u> KOSTKAS V. CASEY, JR ET AL	JESSE/AMBER CASEY RHS-1	ORDER TO SHOW CAUSE 4-7-25 <u>[53]</u>
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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. If the court's tentative ruling becomes its final ruling, then the court will make the following findings of fact and conclusions of law:

The Order to Show Cause was served by the Clerk of the Court on parties in interest as stated on the Certificate of Service on April 8, 2025. The court computes that 23 days' notice has been provided.

The court issued an Order to Show Cause based on Plaintiff's failure to appear and prosecute this adversary proceeding.

The Order to Show Cause is sustained, and the adversary proceeding is dismissed.

On July 25, 2025, Plaintiff Richard Kostkas commenced this Adversary Proceeding by filing a Complaint for Nondischargeability of Debt pursuant to 11 U.S.C. § 523(a)(2). Plaintiff is prosecuting this Adversary Proceeding *pro se*. In the Amended Complaint, Plaintiff states some very clear grounds upon which the claim for nondischargeability is based. Amended Complaint; Dckt. 1. The alleged misstatement is that Defendant-Debtors Amber Casey and Jesse Casey, Jr. misrepresented the purchase price of real property for which Plaintiff was making a loan. It is alleged in the Complaint that the purchase price was closer to \$280,000.00, because the repairs upon which the higher valuation was made, and not the \$410,000.00 amount which Plaintiff alleges was stated to him in Defendant-Debtors seeking the loan.

The initial Status Conference was conducted by the court on December 12, 2024. Plaintiff and Counsel for the Defendant-Debtors appeared at the First Continued Status Conference. Civ. Min.; Dckt 33. There had been pending a Motion to Dismiss, which the court denied. The Status Conference was continued to January 30, 2025, to allow for the filing of the Answer and the Parties preparing for the Status Conference.

For the First Continued Status Conference, Counsel for the Defendant-Debtors appeared, but no appearance was made by Plaintiff. Civ. Min.; Dckt. 45. As stated in the Civil Minutes for the January 30, 2025 First Continued Status Conference, Plaintiff filed a Status Report advising the court that he was proceeding with discovery. With the absence of Plaintiff, the court continued the Status Conference to April 3, 2025.

At the Second Continued Status Conference conducted on April 3, 2025, Counsel for the Defendant-Debtors appeared, however, Plaintiff did not appear at the Second Continued Status Conference. At the Second Continued Status Conference the court was able to set a schedule for discovery deadlines, dispositive motions, and a pre-trial hearing date given that the Amended Complaint and Answer state facts upon which the claim of nondischargeability, many of the grounds based on documents that had been identified.

Counsel for Defendant-Debtors reported that no discovery has been commenced and he has not heard from Plaintiff regarding any discovery to take place.

The Plaintiff having missed two Continued Status Conferences causes the court concern. It appears that Plaintiff is not prosecuting this Adversary Proceeding. If Plaintiff has determined that this Adversary Proceeding will not be prosecuted, then it should be dismissed.

At the hearing, **XXXXXXX**

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 Order to Show Cause 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 Order to Show Cause is sustained, no other sanctions are issued pursuant thereto, and the adversary proceeding is dismissed.

Debtor's Atty: Brian S. Haddix

Notes:

Continued from 1/30/25. Counsel for the Debtor/Debtor in Possession reporting that they are working on an amended plan with the SBA.

[BSH-3] Stipulation for Continuing Adequate Protection and Use of Cash Collateral filed 2/14/25 [Dckt 83]; Order granting and continuing hearing to 6/12/25 at 10:30 a.m. filed 2/26/25 [Dckt 88]

The Status Conference is XXXXXXX
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MAY 1, 2025 STATUS CONFERENCE

On April 29, 2025, the Debtor in Possession filed an updated Status Report. It is reported that the Subchapter Plan (Dckt. 89) has been filed at the same time as the Status Report. The Plan provides for selling substantially all of the property of the Bankruptcy Estate. The Debtor in Possession anticipates filing several motions to value secured claims.

At the Status Conference, XXXXXXX

OCTOBER 31, 2024 STATUS CONFERENCE

Heritage Home Furnishing, LLC commenced this voluntary Subchapter V Case on September 10, 2024. As of the filing of this Bankruptcy Case the Debtor's major assets were its inventory of furniture and two vehicles. Schedule A/B; Dckt. 18. Looking at Schedule D, the vehicles appear to be fully encumbered and the SBA is the creditor encumbering the inventory. *Id.* There also appears to be a substantial unsecured priority claim. *Id.*; Schedule E/F. The Statement of Financial Affairs indicates that the Debtor had robust gross income in 2022, 2023, and 2024 prior to the filing of this Bankruptcy Case.

At the Status Conference, counsel the Debtor/Debtor in Possession reported that there is a cash collateral issue, with the SBA. The assets of the estate do not exceed in value the secured claim of the SBA. The Plan in this case is likely to be a liquidating Plan. The Subchapter V Trustee concurred with the counsel for the Debtor/Debtor in Possession.

The Status Conference is continued to 2:00 p.m. on January 30, 2025.

3. [25-90173-E-11](#) **MONTFER PROPERTY**
[CAE-1](#) **INVESTMENTS LLC**

STATUS CONFERENCE RE:
VOLUNTARY PETITION
3-10-25 [1]

SUBCHAPTER V

Debtor's Atty: David D. Johnston

Notes:

[DCJ-1] Application of Debtor in Possession for Authority to Employ Attorney filed 4/8/25 [Dckt 19]; Order approving filed 4/10/25 [Dckt 21]

Trustee Report at 341 Meeting lodged 4/17/25

[CAE-1] Debtor's Chapter 11 Status Report filed 4/23/25 [Dckt 22]

The Status Conference is xxxxxxx
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MAY 1, 2025 STATUS CONFERENCE

The Debtor in Possession filed its updated Status report on April 23, 2025. Dckt. 22. The Debtor in Possession reports that there are two homes in the Bankruptcy Estate at this time. One is in Stockton, California which is intended to be retained as a rental property. The second is in Monterey, California, for which there is remaining work to do. At the time the Bankruptcy Case was filed, the Monterey Property was facing imminent foreclosure.

At the Status Conference, xxxxxxx

SUBCHAPTER V

Debtor's Atty: David C. Johnston

Notes:

Continued from 1/30/25. Counsel for the Reorganized Debtor reported that the Subchapter V Trustee has been paid in full. Counsel stated that he will have his fee application filed and served on or before 2/28/25.

The Status Conference is XXXXXXXX

MAY 1, 2025 POST-CONFIRMATION STATUS REPORT

It does not appear that counsel for the Debtor in Possession has filed his Motion for Allowance of Professional fees for having successfully navigated this case to a confirmed Plan.

At the Status Conference, XXXXXXXX

JANUARY 30, 2025 POST-CONFIRMATION STATUS CONFERENCE

A review of the Docket indicates that counsel for the Debtor/Debtor in Possession, who has diligently represented his client and confirmed the Subchapter V Plan, has not yet filed a Motion for Allowance of Fees.

At the Status Conference, counsel for the Reorganized Debtor reported that Subchapter V Trustee has been paid in full for her allowed fees and expenses.

Counsel stated that he will have his fee application filed and served on or before February 28, 2025.

The Status Conference is continued to 2:00 p.m. on May 1, 2025.

AUGUST 29, 2024 POST-CONFIRMATION STATUS CONFERENCE

On August 23, 2024, the Subchapter V Trustee filed a report stating that she has received the \$9,402.15 in fees allowed her as Subchapter V Trustee.

At the Status Conference, counsel for the Reorganized Debtor reported that the Plan was consensually confirmed. The only remaining matter to address before closing is that Debtor/Debtor in Possession counsel needs to file his fee application.

The Post-Confirmation Status Conference is continued to 2:00 p.m. on November 21, 2024.

JUNE 27, 2024 POST-CONFIRMATION STATUS CONFERENCE

The court's June 25, 2024 review of the Docket indicates that nothing further has been filed in this case since the court allowed the fees of the Subchapter V Trustee.

At the Status Conference, counsel for the Debtor/Debtor in Possession reported that the only remaining matter is counsel's fee application, which has been delayed due to health issues.

The Plan has been completed, with a 100% dividend to creditors holding general unsecured claims.

The Status Conference is continued to 2:00 p.m. on August 29, 2024.²⁰

MARCH 28, 2024 POST-CONFIRMATION STATUS CONFERENCE

On January 26, 2024, the court entered its order allowing compensation for the Subchapter V Trustee. Dckt. 146. No compensation has been allowed for counsel for the Debtor/Debtor in Possession.

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 Post-Confirmation 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 Status Conference is continued to **2:00 p.m. on May 1, 2025**.

FINAL RULINGS

5. [19-90461](#)-E-7 LORRAINE ESCOBAR CONTINUED STATUS CONFERENCE RE:
[19-9014](#) CAE-1 AMENDED COMPLAINT
REYES V. ESCOBAR 9-30-19 [\[25\]](#)

Final Ruling: No appearance at the May 1, 2025 Status Conference is required.

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

Adv. Filed: 8/12/19
Answer: 9/4/19
Amd. Answer: 9/6/19
Amd. Cmplt Filed: 9/30/19
Answer: none

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

Notes:
Continued from 4/3/25. The Parties continuing in their prosecution of the State Court Action, the Status Conference was continued to 5/1/25 at 2:00 p.m. On or before 4/29/25, Emilio Reyes, the Plaintiff, and Lorraine Escobar, the Defendant-Debtor, and each of them, shall file either separate Status Conference Statements or one Joint Status Conference Statement.

[CAE-1] Defendant's Status Conference Statement filed 4/16/25 [Dckt 130]

The Status Conference is continued to 2:00 p.m. on July 9, 2025, which is the court's next regularly schedule Status Conference date.

The Status Conference, and all further proceedings in the Bankruptcy Case and Adversary Proceedings, will be conducted in the Sacramento Division Courthouse at 501 I Street, Sixth Floor Courtroom 33, Sacramento, California, with Telephonic Appearances permitted.

MAY 1, 2025 STATUS CONFERENCE

On April 16, 2025, Defendant-Debtor filed her updated Status Report. Dckt. 130. Defendant-Debtor states that the final hearing in the State Court Action is now set for June 5, 2025. She request that the Status Conference be continued past that time. Additionally, she believes that if the Plaintiff should lose in the State Court Action, he is likely to appeal, further delaying this proceeding.

The Status Conference is continued to 2:00 p.m. on July 9, 2025, which is the court's next regularly schedule Status Conference date. The Status Conference, and all further proceedings in the Bankruptcy Case and Adversary Proceedings after May 31, 2025, will be conducted in the Sacramento Division Courthouse at 501 I Street, Sixth Floor Courtroom 33, Sacramento, California, with Telephonic Appearances permitted.

As of June 1, 2025, there will no longer be any hearing, proceedings, or any other Bankruptcy Court matters conducted at what has been the Modesto Division Courthouse. That Courthouse has been permanently closed as of June 1, 2025, with all of the formerly Modesto Division Cases transferred to the Sacramento Division.

APRIL 3, 2025 STATUS CONFERENCE

Updated Status Reports have been filed by the Parties. Defendant-Debtor's Status Report was filed on March 31, 2025. Dckt. 125. She reports that the State Court Trial commenced on March 24, 2025 and continued through March 26, 2025. The trial has been continued to April 2, 2025. Defendant-Debtor requests that the court continue the Status Conference until the period between April 23, 2025 and May 6, 2025, and between May 12, 2025 and June 9, 2025.

Plaintiff Emilio Reyes updated Status Report was filed on March 27, 2025. Dckt. 124. Plaintiff also reports that the trial is continuing, subject to the schedule of the State Court. Plaintiff reports that the will not be able to attend the April 3, 2025 Status Conference.

The Parties continuing in their prosecution of the State Court Action, which will effectively resolve the underlying claims in this nondischargeability action, the Status Conference is continued to 2:00 p.m. on May 1, 2025.

NOVEMBER 21, 2024 STATUS CONFERENCE

No updated Status Reports have been filed by the Parties. No persons appeared at the November 21, 2024 Status Conference.

The Status Conference is continued to 2:00 p.m. on January 16, 2025. The court shall order each of the parties to appear - Telephonic Appearances Permitted.

JULY 18, 2024 STATUS CONFERENCE

The Parties have reported that the State Court Action will have further proceedings in October 2024, and request that this Status Conference be continued. Dckt. 104.

The Status Conference is continued to 2:00 p.m. on November 21, 2024.

FEBRUARY 22, 2024 CONTINUED STATUS CONFERENCE

No updated Status Reports have been filed advising the court of the current status of the litigation in the Los Angeles Superior Court to which this Adversary Proceeding relates. In the last Status Report, as part of a request to continue the Status Conference, the court was advised that the Superior Court Action was set for trial on May 17, 2024.

In the order continuing the prior Status Conference (Dckt. 94), the court ordered the parties to file a short updated status report on or before February 1, 2024, advising the court of any changes in the State Court trial scheduling, and whether a further continuance of the February 22, 2024 Status Conference was requested. No such updated status reports have been filed.

At the Status Conference, Lorraine Escobar appeared and advised the court that the State Court Trial is set for May 17, 2024.

The Status Conference is continued to 2:00 p.m. on July 18, 2024.

NOVEMBER 10, 2022 STATUS CONFERENCE

On November 7, 2022, Plaintiff Emilio Reyes filed an Updated Status Report (Dckt. 87), advising the court that the Second District Court of Appeal reversed the ruling on the Motion to Strike the State Court Action, and that Plaintiff will now proceed with prosecuting that State Court Action to establish the asserted liability of Defendant-Debtor. A copy of the District Court of Appeal Decision (which is 33 pages in length) is filed as Exhibit A. Dckt. 87.

Defendant-Debtor Lorraine Escobar filed her Updated Status Report and Request for a Continuance on November 8, 2022. Dckt. 88. Defendant-Debtor states that she suffered from COVID-19 which has delayed her ability to request a rehearing before the District Court of Appeal, but she intends to pursue such request.

In her Status Report Defendant-Debtor takes “swipes” at the Plaintiff, asserting he is making misstatements, obfuscating the facts, and argues some of the underlying facts.

Adversary Proceeding Stayed

By prior Order of this Court, this Adversary Proceeding has been stated pending entry of a final judgment in the State Court Action in which Plaintiff asserts his claims against Defendant Debtor for which he seeks to have this court determine that such claims are nondischargeable. Order, Dckt. 50; Civil Minutes, Dckt. 49.

Further Continuance of the Status Conference

The one thing that Plaintiff and Defendant-Debtor agree on is that there is ongoing litigation in the State Court Action which must be completed to final judgment before this court can proceed on the issue of whether any obligation of Defendant-Debtor determined therein is nondischargeable in Defendant-Debtor’s bankruptcy case.

The court continues the Status Conference to 2:00 p.m. on May 25, 2023

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 continued 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 July 9, 2025**, which is the court's next regularly schedule Status Conference date. The Status Conference, will be conducted in the Sacramento Division Courthouse at 501 I Street, Sixth Floor Courtroom 33, Sacramento, California, with Telephonic Appearances permitted.

As of June 1, 2025, there will no longer be any hearings, proceedings, or any other Bankruptcy Court matters conducted at what has been the Modesto Division Courthouse. That Courthouse has been permanently closed as of June 1, 2025, with all of the formerly Modesto Division Cases transferred to the Sacramento Division. All hearings and proceedings in the Bankruptcy Case and Adversary Proceedings after May 31, 2025, **will be conducted in the Sacramento Division Courthouse at 501 I Street, Sixth Floor Courtroom 33, Sacramento, California**, with Telephonic Appearances permitted.

6. [25-90091](#)-E-7
[25-9002](#)

STEVEN BRUGGMAN
CAE-1

STATUS CONFERENCE RE:
COMPLAINT
3-4-25 [\[1\]](#)

BRUGGMAN V. UNITED STATES
DEPARTMENT OF EDUCATION

Final Ruling: No appearance at the May 1, 2025 Status Conference is required.

Plaintiff's Atty: Carl R. Gustafson
Defendant's Atty: Jeffrey J. Lodge

Adv. Filed: 3/4/25
Answer: none

Nature of Action:
Dischargeability - student loan

Notes:
[USA-1] Stipulation for Extension of Time to Respond to Complaint filed 3/27/25 [Dckt 7]

The Status Conference is continued to 1:30 p.m. on June 10, 2025 (Specially Set Day and Time). The Status Conference will be conducted in the **Sacramento Division Courthouse at 501 I Street, Sixth Floor Courtroom 33, Sacramento, California**, with Telephonic Appearances permitted.

As of June 1, 2025, there will no longer be any hearings, proceedings, or any other Bankruptcy Court matters conducted at what has been the Modesto Division Courthouse. That Courthouse has been permanently closed as of June 1, 2025, with all of the formerly Modesto Division Cases transferred to the Sacramento Division.

MAY 1, 2025 STATUS CONFERENCE

SUMMARY OF COMPLAINT

The Complaint filed by Steven bruggman, the Plaintiff-Debtor, Dckt. 1, asserts claims for determination that student loan debt is dischargeable.

Extension of Time to Answer

On March 27, 2025, a Stipulation for Extension of Time for the Department of Education to file an answer was filed with the court. Dckt. 7. The Parties have agreed to extend the response date to May 20, 2025. The Parties request a continued Status Conference date in June 2025.

The Status Conference is continued to 1:30 p.m. on June 10, 2025 (Specially Set Day and Time). The Status Conference will be conducted in the **Sacramento Division Courthouse at 501 I Street, Sixth Floor Courtroom 33, Sacramento, California**, with Telephonic Appearances permitted.

As of June 1, 2025, there will no longer be any hearings, proceedings, or any other Bankruptcy Court matters conducted at what has been the Modesto Division Courthouse. That Courthouse has been permanently closed as of June 1, 2025, with all of the formerly Modesto Division Cases transferred to the Sacramento Division. All hearings and proceedings in the Bankruptcy Case and Adversary Proceedings after May 31, 2025, **will be conducted in the Sacramento Division Courthouse at 501 I Street, Sixth Floor Courtroom 33, Sacramento, California**, with Telephonic Appearances permitted.

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 1:30 p.m. on June 10, 2025 (Specially Set Day and Time). The Status Conference will be conducted in the **Sacramento Division Courthouse at 501 I Street, Sixth Floor Courtroom 33, Sacramento, California**, with Telephonic Appearances permitted.

As of June 1, 2025, there will no longer be any hearings, proceedings, or any other Bankruptcy Court matters conducted at what has been the Modesto Division Courthouse. That Courthouse has been permanently closed as of June 1, 2025, with all of the formerly Modesto Division Cases transferred to the Sacramento Division. All hearings and proceedings in the Bankruptcy Case and Adversary Proceedings after May 31, 2025, **will be conducted in the Sacramento Division Courthouse at 501 I Street, Sixth Floor Courtroom 33, Sacramento, California**, with Telephonic Appearances permitted.