

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

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

**May 10, 2023 at 2:00 p.m.**

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1. <a href="#"><u>18-25851</u></a> -E-13	<b>ROBERT HUNTER</b>	<b>CONTINUED STATUS CONFERENCE RE:</b>
<a href="#"><u>22-2087</u></a>		<b>COMPLAINT</b>
CAE-1		9-1-22 [ <a href="#"><u>1</u></a> ]

**HUNTER V. FILLMORE GROUP TRUST**

Plaintiff's Atty: Peter G. Macaluso  
Defendant's Atty: Unknown

Adv. Filed: 9/1/22  
Summons Reissued: 9/15/22 [Dckt 6]  
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 2/22/23. Plaintiff-Debtor requested a continuance so that the response period of the service by Publication could end and the Plaintiff-Debtor proceed with a motion for entry of default judgment if no responses are filed.

Proof of Publication filed 3/22/23 [Dckt 22]

<b>The Status Conference is <span style="color:red">XXXXXXX</span></b>
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**MAY 10, 2023 STATUS CONFERENCE**

On May 4, 2023, Plaintiff-Debtor filed an updated Status Report. Dckt. 24. Plaintiff-Debtor reports that no answer has been filed to the Complaint and Defendant has not communicated with Plaintiff-Debtor's counsel. Additionally, no answer having been filed, Plaintiff-Debtor requests a sixty (60) day continuance so he may prosecute the entry of a default judgment.

Plaintiff-Debtor's Certificate of Service by Publication, U.S. Mail, and electronic was filed on February 21, 2023. Dckt. 18. The service made is stated to have been made as follows:

1. Pursuant to Court Order (Doc 15), service by Publication has been ordered in The Daily Recorder in Sacramento, California, and the publication dates are 2/23/23, 3/2/23, 3/9/23, and 3/16/23. The Proof of Publication will be mailed to Plaintiff's counsel's office after the last date of publication (see attachment A);
2. Pursuant to Court Order (Doc 15), service by U.S. Mail, First Class, postage prepaid, has been made to the address stated on the Deed of Trust: 12021 Gold Pointe Lane, Gold River, CA 95670;
3. Pursuant to Court Order (Doc 15), service has been made via email to the <LienServices@hotmail.com> email address.

Cert. of Serv.; Dckt 18 at 6.

At the Status Conference, **XXXXXXX**

## **FEBRUARY 22, 2023 STATUS CONFERENCE**

On January 5, 2023, the court entered an order authorizing that service may be made by publication. Dckt. 16.

No updated Status Report has been filed by Plaintiff-Debtor.

At the Status Conference, Plaintiff-Debtor reported that service by Publication has been made.

Plaintiff-Debtor requested the Status Conference be continued so that the response period could end and Plaintiff-Debtor proceed with a motion for entry of default judgment if no responses are filed.

## **NOVEMBER 30, 2022 STATUS CONFERENCE**

The Plaintiff-Debtor has commenced this Adversary Proceeding to quiet title with respect to a deed of trust naming Fillmore Group Trust, et al., as the beneficiary. Plaintiff-Debtor alleges that he has not authorized the deed of trust, is the victim of identity theft, and the deed of trust is void.

On September 15, 2022, a Reissued Summons was issued for Plaintiff. Dckt. 6. No certificate of service has been filed.

At the Status Conference, counsel for Plaintiff-Debtor addressed how they will proceed in trying to identify the Defendant (the entity named in the Deed of Trust) and complete service (including service by publication).

Counsel for the Plaintiff-Debtor further reported that the title company listed as Trustee on the Deed of Trust states that it has no record of this Deed of Trust and is not the trustee thereunder.

Based on the identify theft alleged, the named Defendant not being readily identifiable, and a possible need for service by publication, the court extends the deadline for service of the summons and complaint as provided in Federal Rule of Civil Procedure 4(m) and incorporated into Federal Rule of Bankruptcy Procedure 7004(a), to and including February 23, 2023, which deadline may be extended by further order of the court.

In reviewing the copies of the Deed of Trust alleged to have been forged, the court observes that the named beneficiary, Fillmore Group Trust, is stated to have an address of 12021 Gold Pointe Lane, Gold River, California, which is the same address as the Debtor's residence. Additionally, the co-trustee of the Fillmore Group Trust is stated to be the Debtor, who lives at the Gold Pointe Lane Property.

The Deed of Trust states that the borrower is not the Debtor, the Trustor under the Deed of Trust. However, no borrower or specific obligation is identified in the Deed of Trust

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 Status Conference having been conducted by the court, Plaintiff-Debtor proceeding with service by publication, and good cause appearing,

**IT IS ORDERED** that the Status Conference is **XXXXXXX**

**HUNTER V. PEACHTREE GROUP  
TRUST**

Plaintiff's Atty: Peter G. Macaluso  
Defendant's Atty: Unknown

Adv. Filed: 9/1/22  
Summons Reissued: 9/15/22 [Dckt 6]  
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 2/22/23. Plaintiff-Debtor requested a continuance so that the response period of the service by Publication could end and the Plaintiff-Debtor proceed with a motion for entry of default judgment if no responses are filed.

Proof of Publication filed 3/22/23 [Dckt 23]

<b>The Status Conference is <span style="color: red;">XXXXXXX</span></b>
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**MAY 10, 2023 STATUS CONFERENCE**

On May 4, 2023, Plaintiff-Debtor filed an updated Status Report. Dckt. 25. Plaintiff-Debtor reports that no answer has been filed to the Complaint and Defendant has not communicated with Plaintiff-Debtor's counsel. Additionally, no answer having been filed, Plaintiff-Debtor requests a sixty (60) day continuance so he may prosecute the entry of a default judgment.

Plaintiff-Debtor's Certificate of Service by Publication, U.S. Mail, and electronic was filed on February 21, 2023. Dckt. 19. The service made is stated to have been made as follows:

1. Pursuant to Court Order (Doc 16), service by Publication has been ordered in The Daily Recorder in Sacramento, California, and the publication dates are 2/23/23, 3/2/23, 3/9/23, and 3/16/23. The Proof of Publication will be mailed to Plaintiff's counsel's office after the last date of publication (see attachment A);

2. Pursuant to Court Order (Doc 16), service by U.S. Mail, First Class, postage prepaid, has been made to the address stated on the Deed of Trust: 12021 Gold Pointe Lane, Gold River, CA 95670;
3. Pursuant to Court Order (Doc 16), service has been made via email to the <LienServices@hotmail.com> email address.

Cert. of Serv.; Dckt 19 at 6.

At the Status Conference, **XXXXXXX**

## **FEBRUARY 22, 2023 STATUS CONFERENCE**

On January 5, 2023, the court entered an order authorizing that service may be made by publication. Dckt. 16.

No updated Status Report has been filed by Plaintiff-Debtor.

At the Status Conference, Plaintiff-Debtor reported that service by Publication has been made.

Plaintiff-Debtor requested the Status Conference be continued so that the response period could end and Plaintiff-Debtor proceed with a motion for entry of default judgment if no responses are filed.

## **NOVEMBER 30, 2022 STATUS CONFERENCE**

The Plaintiff-Debtor has commenced this Adversary Proceeding to quiet title with respect to a deed of trust naming Peachtree Group Trust et al., as the beneficiary. Plaintiff-Debtor alleges that he has not authorized the deed of trust, is the victim of identity theft, and the deed of trust is void.

On September 15, 2022, a Reissued Summons was issued for Plaintiff. Dckt. 6. No certificate of service has been filed.

At the Status Conference, counsel for Plaintiff-Debtor addressed how they will proceed in trying to identify the Defendant (the entity named in the Deed of Trust) and complete service (including service by publication).

Counsel for the Plaintiff-Debtor further reported that the title company listed as Trustee on the Deed of Trust states that it has no record of this Deed of Trust and is not the trustee thereunder.

Based on the identify theft alleged, the named Defendant not being readily identifiable, and a possible need for service by publication, the court extends the deadline for service of the summons and complaint as provided in Federal Rule of Civil Procedure 4(m) and incorporated into Federal Rule of Bankruptcy Procedure 7004(a), to and including February 23, 2023, which deadline may be extended by further order of the court.

In reviewing the copies of the Deed of Trust alleged to have been forged, the court observes that the named beneficiary, Peachtree Group Trust, is stated to have an address of 12021 Gold Pointe Lane, Gold

River, California, which is the same address as the Debtor's residence. Additionally, the co-trustee of the Peachtree Group Trust is stated to be the Debtor, who lives at the Gold Pointe Lane Property.

The Deed of Trust states that the borrower is not the Debtor, the Trustor under the Deed of Trust. However, no borrower or specific obligation is identified in the Deed of Trust.

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 Status Conference having been conducted by the court, Plaintiff-Debtor proceeding with service by publication, and good cause appearing,

**IT IS ORDERED** that the Status Conference is **XXXXXXX**.

3. <a href="#"><u>17-26064-E-13</u></a> <a href="#"><u>23-2023</u></a> CAE-1	<b>MARTIN/MARIA ORTEGA</b>	<b>STATUS CONFERENCE RE: COMPLAINT 2-27-23 [1]</b>
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**ORTEGA ET AL V. TEDESCHI**

Plaintiff's Atty: Peter G. Macaluso  
Defendant's Atty: unknown

Adv. Filed: 2/27/23  
Answer: none

Nature of Action:  
Other (e.g. other actions which would have been brought in state court if unrelated to bankruptcy case)

Notes:

**The Status Conference is XXXXXXX**

## **SUMMARY OF COMPLAINT**

The Complaint filed by Martin and Maria Ortega ("Plaintiff-Debtor"), Dckt. 1, asserts claims to determine the extent of a lien and breach of contract. It is alleged that Defendant George Tedeschi has a secured claim which was provided for in Plaintiff-Debtor's Chapter 13 Case. Plaintiff-Debtor made plan payments to Defendant. Plaintiff-Debtor has completed the Chapter 13 Plan, has proceeded with a sale of

the property securing Defendant's claim, and disputes the amount of the balance remaining on Defendant's secured obligation.

For the First Cause of Action Plaintiff-Debtor seeks the determination of the extent, validity, and priority of Defendant's lien and the proper application of the Chapter 13 Plan payments received by Defendant. This focuses on \$85,218.00 which Plaintiff-Debtor states were principal payments made pursuant to the confirmed Chapter 13 Plan on the obligation owed to Defendant as amended by the confirmed Chapter 13 Plan.

The Second Cause of Action asserts a breach of contract claim against Defendant for the failure to properly apply the Chapter 13 Plan payments on the secured claim as amended by the confirmed Chapter 13 Plan.

Plaintiff-Debtor seeks recovery of contractual attorney's fees.

## **SUMMARY OF ANSWER**

No Answer or other responsive pleading has been filed by Defendant George Tedeschi.

## **FINAL BANKRUPTCY COURT JUDGMENT**

Plaintiff-Debtor 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)(I). Complaint ¶¶ 3, 4, Dckt. 1. Further, that this Action necessarily requires the enforcement of this court's order confirming the Chapter 13 Plan, enforcement of the provisions of the Plan, and determination of the proper application of the payments as provided in the Chapter 13 Plan.

## **CONTINUANCE OF STATUS CONFERENCE**

Plaintiff-Debtor requests that the court continue the Status Conference to allow Defendant's default to be entered and Plaintiff-Debtor diligently prosecute the entry of a default judgment.

The Summons and Complaint were served on February 28, 2023. Cert. of Serv.; Dckt. 7. As provided in the Summons, an answer or other responsive pleading was required to be filed by March 30, 2023. Summons, Dckt. 3. The time to respond to the Complaint expired forty (40) days before the May 10, 2023 Status Conference. Though long expired, Plaintiff-Debtor has made no effort to have Defendant's default entered and no motion for entry of default has been filed.

At the Status Conference, **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 Status Conference having been conducted by the court, no answer or other responsive pleading having been filed by Defendant, no request for entry of default having been filed by Plaintiff-Debtor, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Status Conference is **XXXXXXX**

4. [17-27077-E-13](#)      **MICHAEL SCALLIN**  
[23-2022](#)  
CAE-1

**STATUS CONFERENCE RE:**  
**COMPLAINT**  
**2-16-23 [1]**

**SCALLIN V. U.S. DEPARTMENT OF  
EDUCATION**

Plaintiff's Atty: Peter Cianchetta  
Defendant's Atty: unknown

Adv. Filed: 2/16/23  
Summons Reissued: 3/7/23  
Answer: none

Nature of Action:  
Dischargeability - student loan

Notes:

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

The Complaint filed by Michael Scallin ("Plaintiff-Debtor"), Dckt. 1, asserts claims to determine the dischargeability of a student loan debt. Claims have been filed by the United States Department of Education in Plaintiff-Debtor's Bankruptcy Case which total \$85,803.08. It is further alleged that the total student loan debt is in excess of \$95,193.14. The Complaint states detailed factual allegations (not mere conclusions) relating to the asserted undue hardship caused Plaintiff-Debtor by these student loan obligations.



## **SERVICE OF SUMMONS AND COMPLAINT**

A reissued summons was obtained by Plaintiff-Debtor on March 7, 2023 (Dckt. 6). No Certificate of Service has been filed by Plaintiff-Debtor. No answer or other responsive pleading has been filed by the United States Department of Education.

On April 5, 2023, A Certificate of Service for the Reissued Summons and Complaint was filed. Dckt. 7. Service was made on March 7, 2023 on:

US Department of Education  
50 United Nations Plz Ste 1200  
San Francisco, CA 94102  
(Certified Mail)

This is the address provided on the Roster of Governmental Agencies maintained by the Clerk of the Court and posted on the Court's website.

### **Answer**

No answer or other responsive pleading has been filed by Defendant. The answer or other responsive pleading was to be filed on or before April 11, 2023.

At the Status Conference, **XXXXXXX**

## **FINAL BANKRUPTCY COURT JUDGMENT**

Plaintiff-Debtor alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(a). Complaint, ¶ 2; Dckt. 1. This is an action to determine the nondischargeability of debt pursuant to 11 U.S.C. § 523(a)(8), which is a core matter proceeding. 28 U.S.C. § 157(I), which arises under the Bankruptcy Code.

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 Status Conference having been conducted by the court, no answer or other responsive pleading having been filed by Defendant, no request for entry of default having been filed by Plaintiff-Debtor, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Status Conference is **XXXXXXX**