

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Bankruptcy Judge
Sacramento, California

June 4, 2025 at 2:00 p.m.

1. [23-21899-E-12](#) **JAKOB/GLADYS WESTSTEYN** **CONTINUED STATUS CONFERENCE RE:**
[CAE-1](#) **VOLUNTARY PETITION**
6-9-23 [\[1\]](#)

Debtors' Atty: Daniel L. Egan; Jason Eldred

Notes:

Continued from 1/22/25

Operating Reports filed: 2/13/25; 4/14/25; 5/14/25

[WF-17] Application for Third Interim Allowance of Fees and Costs of Wilke Fleury LLP filed 3/20/25 [Dckt 269]; Order granting filed 4/28/25 [Dckt 276]

The Status Conference is XXXXXXX
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JUNE 4, 2025 STATUS CONFERENCE

On April 28, 2025, the court entered its Order approving Fees and Costs for counsel for the Debtor in Possession. Dckt. 276.

At the Status Conference, XXXXXXX

JANUARY 22, 2025 STATUS CONFERENCE

On January 7, 2025, the Debtor in Possession Plan Administrator filed a Notice of Sale of Trailer. Dckt. 259. The Notice states that the sale is to be \$40,000. The Notice states that it is given pursuant to Federal Rule of Bankruptcy Procedure 6004(a), and that any objection to the Sale must be filed by January 22, 2025. If no Objection is filed, the Debtor will sell the property.

June 4, 2025 at 2:00 p.m.

Page 1 of 23

The Chapter 12 Trustee filed an Opposition to the proposed sale. Dckt. 262. The Trustee notes that on the Schedules the Debtors, under penalty of perjury, stated that the Trailer only had a value of \$2,000. Schedule A/B; Dckt. 1 at 29. The proposed sale is now for \$40,000, which is 20 times the value stated under penalty of perjury in the Schedules.

The Trustee states that under the Confirmed Chapter 12 Plan the property of the Bankruptcy Estate was not revested in the Debtor, citing to Chapter 12, Article 8, Section 8.01 of the Plan (See Second Amended Plan, p. 12, attached to the Order confirming the Plan; Dckt. 175).

The Trustee further argues that a motion for approval for the sale must be made, not merely a Notice of Proposed Sale.

The Trustee states that the proceeds of the \$40,000 Trailer (for which a \$2,000 value stated by Debtor under penalty of perjury was used for the liquidation analysis) should be turned over to the Trustee for payment to creditors under the Chapter 12 Plan.

At the Status Conference, counsel for the Debtor/Plan Administrator advised the court that the Trailer was scheduled for \$3,500. That value was based on appraisal obtained by Debtor just before the hearing.

If the sale is completed, the revenues will be included in the farm income for which the plan disbursements are computed.

The Status Conference is continued to 2:00 p.m. on June 4, 2025.

AUGUST 14, 2024 POST-CONFIRMATION STATUS CONFERENCE

At the Status Conference, counsel for the Debtor in Possession reported that the Plan payments are being made. While performing the Plan, there are some financial challenges, but Debtor in Possession continues to perform the Plan.

The Post-Confirmation Status Conference is continued to 2:00 p.m. on January 22, 2025.

2. [25-20106-E-7](#) **JESSICA TIBBETTS**
[25-2002](#)
CAE-1

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
1-13-25 [1]

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:
Continued from 4/16/15

The Status Conference is XXXXXXX
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JUNE 4, 2025 STATUS CONFERENCE

On May 7, 2025, the Plaintiff-Debtor filed the following Certificates of Service.

A. Dckt. 11.

1. Service by Personal Delivery, Overnight Mail, Facsimile Transmission or Email. (Not specified which.)
2. Document serve not identified.
3. Persons served:
 - a. Civil Division for U.S. Department of Education, United States District Attorney's Office, 501 I Street, Suite 10-100, Sacramento, California.

B. Dckt. 12.

1. Service by U.S. Mail.
2. Document serve not identified.

3. Persons served:

- a. Attn: Civil Process Clerk, Office of the U.S. Attorney, 300 North Los Angeles Street, Room 7516, Los Angeles, California.

(1) U.S. Postal Service Certified Mail Receipt attached.

C. Dckt. 13.

1. Service by U.S. Mail.

2. Document serve not identified.

3. Persons served:

- a. U.S. Department of Justice-Ben Franklin Station, P.O. Box 683, Washington, D.C.

(1) U.S. Postal Service Certified Mail Receipt attached.

D. Dckt. 14.

1. Service by U.S. Mail.

2. Document serve not identified.

3. Persons served:

- a. Office of the United States Trustee, 2500 Tulare Street, Suite 1401, Fresno, California.

(1) U.S. Postal Service Certified Mail Receipt attached.

E. Dckt. 15.

1. Service by U.S. Mail.

2. Document serve not identified.

3. Persons served:

- a. Attn: Attorney General of the United States, Department of Justice, Room B-103, 950 Pennsylvania Avenue NW, Washington, D.C.

(1) U.S. Postal Service Certified Mail Receipt attached.

F. Dkt. 16.

1. Service by U.S. Mail.
2. Document serve not identified.
3. Persons served:
 - a. Attn: General Counsel, Department of Education, 400 Maryland Avenue SW, Washington, D.C.
 - (1) U.S. Postal Service Certified Mail Receipt attached.

Federal Rule of Bankruptcy Procedure 7004 also requires service on the U.S. Attorney General in Washington D.C., which it appears that Plaintiff-Debtor has done, and the Civil Processing Clerk for the United States Attorney in the District in which the action is filed, which the U.S. Attorney for the Eastern District of California, at the Sacramento Federal Courthouse.

As addressed at the prior Status Conference, the prior issued summons had to be served within 7 days of it being issued on January 13, 2025. Dkt. 3. The last paragraph at the bottom of the Summons states:

The summons and complaint must be served 7 days after the summons is issued. Service is complete upon mailing, not upon delivery by the Postal Service. If more than 7 days pass before service is completed, plaintiff(s) must request that the court issue a new summons for service. See Fed. R. Bankr. P. 7004(e) and 9006 (e).

Id.

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, 2024, which is four and one-half months prior to the June 4, 2025 continued Status Conference.

At the Status Conference, **XXXXXX**

APRIL 16, 2025 STATUS CONFERENCE

On January 13, 2025, Jessica Tibbetts, the Plaintiff-Debtor filed a Complaint to Determine Dischargeability of Student Loans. Dkt. 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, the Plaintiff appeared and reported how she had electronically served the Defendant. The court briefly discussed that there are special service requirements when the Department of Education is a party, including service on the Department of Justice and the U.S. Attorney.

The Status conference is continued to 2:00 p.m. on June 4, 2025.

3. [25-90210-E-7](#)
[25-9003](#)
CAE-1

CASSANDRA PACHECO

STATUS CONFERENCE RE:
COMPLAINT
3-31-25 [1]

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

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

Adv. Filed: 3/31/25
Answer: none

Nature of Action: Dischargeability - student loan

Notes:

The Status Conference is XXXXXXX
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JUNE 4, 2025 STATUS CONFERENCE

The Complaint in this Adversary Proceeding seeks to have the court determine that Plaintiff-Debtor's student loan debts are dischargeable. The Summons for this Adversary Proceeding was issued on March 31, 2025.

A Certificate of Service was filed on April 8, 2025, which states that on April 2, 2025, the Summons and Notice, and the Adversary Complaint were served on:

- A. U.S. Attorney for the District of Maryland, 36 S. Charles St, 4th Floor, Baltimore, Maryland;
- B. Attorney General of the United States, Dept of Justice, Room B-103, 950 Pennsylvania Ave. NW, Washington, D.C.; and
- C. U.S. Department of Education, 400 Maryland Avenue SW, Washington, D.C.

Dckt. 6.

On April 14, 2025, a second Certificate of Service (using the Eastern District of California form), also signed by the pro se Plaintiff-Debtor, stating that on April 2, 2025, the following documents were served: Summons and Notice of Status Conference in an Adversary Hearing; Notice of Availability of Bankruptcy Dispute Resolution Program. Order to Confer on Initial Disclosures and Setting Deadlines, Adversary Processing Cover Sheet, Adversary Complaint to Determine Dischargability of Student Loans; Attestation of Cassandra Pacheco in Support of Request for Stipulation Conceding Dischargability of Student Loans, on:

- A. U.S. Attorney for the District of Maryland, 36 S. Charles St, 4th Floor, Baltimore, Maryland;
- B. Attorney General of the United States, Dept of Justice, Room B-103, 950 Pennsylvania Ave. NW, Washington, D.C.; and
- C. U.S. Department of Education, 400 Maryland Avenue SW, Washington, D.C.

The Roster of Governmental Agencies on this Court's website^{Fn.1.} lists the following address for the U.S. Department of Education and the Attorney General of the United States:

U.S. Department of Education
General Counsel
400 Maryland Ave SW
Washington, DC 20202

Federal Rule of Bankruptcy Procedure 7004 also requires service on the U.S. Attorney General in Washington D.C., which it appears that Plaintiff-Debtor has done, and the Civil Processing Clerk for the United States Attorney in the District in which the action is filed, which the U.S. Attorney for the Eastern District of California, at the Sacramento Federal Courthouse.

in both Washington, D.C.

As stated on the Roster of Governmental Agencies,

Federal Agencies

When listing a debt to the United States, the debtor shall separately notice both the U.S. Attorney and the federal agency through which the debtor became indebted, as required by Fed. R. Bankr. P. 2002(j)(4). The address listed for the U.S. Attorney shall include, in parentheses, the name of the federal agency as follows:

For Cases assigned to the
Sacramento Division

United States Attorney
(For [insert name of agency])
501 I Street, Suite 10-100
Sacramento, CA 95814

For Cases assigned to the Fresno Division:

United States Attorney
(For [insert name of agency])
2500 Tulare Street, Suite 4401
Fresno, CA 93721

FN. 1. <https://www.caeb.uscourts.gov/documents/Forms/EDC/EDC.002-785.pdf>

Reviewing the Certificates of Service, the U.S. Attorney for the Eastern District of California located at the Sacramento Courthouse has not been served.

At the Status Conference, **XXXXXXX**

4. [24-90120-E-11](#) **HUACANA ENTERTAINMENT,** **CONTINUED STATUS CONFERENCE RE:**
[CAE-1](#) **INC.** **VOLUNTARY PETITION**
3-1-24 [\[1\]](#)

SUBCHAPTER V

Debtor's Atty: David C. Johnston

Notes:

Continued from 4/3/25. Counsel for the Debtor in Possession reported that there have been some issues with the Sales Tax Agencies, but those have been resolved and the liquor license can be sold.

[CAE-1] Order continuing status conference to 6/4/25 at 2:00 p.m. filed 4/7/25 [Dckt 69]

The Status Conference is XXXXXXX
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JUNE 4, 2025 STATUS CONFERENCE

No updated pleadings or status report has been filed.

At the Status Conference, **XXXXXXX**

APRIL 3, 2025 POST-CONFIRMATION STATUS CONFERENCE

At the Status Conference, counsel for the Debtor in Possession reported that there have been some issues with the Sales Tax Agencies, but those have been resolved and the liquor license can be sold. It is anticipated that the sale will close in the next week or two.

The Status Conference is continued to 2:00 p.m. on June 4, 2025.

JANUARY 30, 2025 POST-CONFIRMATION STATUS CONFERENCE

At the Status Conference, counsel for the Debtor/Debtor in Possession Plan Administrator reported that the sale is about ready to close, with the SBA and sales tax Claims to be paid. Additionally, it has been reported that the landlord agrees to the assignment of the lease.

The Status Conference is continued to 2:00 p.m. on April 3, 2025.

OCTOBER 31, 2024 POST-CONFIRMATION STATUS CONFERENCE

The Order confirming the Subchapter V Plan in this Case was entered on October 20, 2024. Dckt. 58. The Order allowing final compensation for the Subchapter V Trustee was entered on October 10, 2024. Dckt. 57. The Confirmed Second Amended Plan provides for the Debtor/Debtor in Possession to cease business operations, liquidate its assets, and then use the sales proceeds to pay the claim of the SBA secured by the assets and then most of the unsecured priority tax claims. The final Plan payments was set for September 30, 2024.

At the Status Conference, counsel for the Debtor/Debtor in Possession reports that he is awaiting the report from the Responsible Representative of the sale, but does not have the information now.

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

5. [08-39023-E-13](#) **TIMOTHY/MELISSA HALPAIN** **STATUS CONFERENCE RE:**
[25-2026](#) **COMPLAINT**
CAE-1 **2-26-25 [1]**

**HALPAIN V. HELEN BARBARA
FURTER LIVING TRUST ET AL**

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

Adv. Filed: 2/26/25
Answer: none

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

Notes:

The Status Conference is XXXXXXX
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SUMMARY OF COMPLAINT

The Complaint filed by Melissa Halpain, in *pro se* ("Plaintiff-Debtor"), Dckt. 1, asserts claims for:

- A. To determine the extent, validity, and priorities of liens on the real property commonly known as 2470 64 Buffalo Hill Road, Georgetown, CA.
 - 1. Plaintiff-Debtor asserts that there is no value in the Property in excess of the amount encumbered by the First Deed of Trust.
 - 2. Plaintiff-Debtor confirmed a Chapter 13 Plan in Case 08-39023 on March 6, 2009.
 - 3. Plaintiff-Debtor's "Bankruptcy Plan and Valuation" provides that the Second Deed of Trust is stripped from the Property.
 - 4. Plaintiff-Debtor has completed the Bankruptcy Plan and granted a discharge.

5. The Claim of the holder of the Second Deed of Trust is an unsecured claim, having been valued pursuant to 11 U.S.C. § 506(a). See Order Confirming Plan and Valuing Secured Claim. 08-39023; Dckt. 25.
 6. The holders of the Second Deed of Trust have refused to remove it and clear title for the Plaintiff-Debtor.
- B. For a Judgment determining that the lien relating to the Second Deed of Trust is void and has been extinguished, and to quiet title.

The persons named as defendants in the caption of the Complaint are stated to be:

HELEN BARBARA FURTER LIVING TRUST, AND/OR ITS ASSIGNS; HELEN BARBARA FURTER; PACIFIC EQUITY AND CAPITAL; VINCENT TOMERA; STANDARD TRUST DEED SERVICE COMPANY; ALL PERSONS UNKNOWN, CLAIMING ANY LEGAL OR EQUITABLE RIGHT, TITLE, ESTATE, LIEN, OR INTEREST IN THE PROPERTY DESCRIBED IN THE COMPLAINT ADVERSE TO PLAINTIFF'S TITLE, OR ANY CLOUD UPON PLAINTIFF'S TITLE THERETO.

A Certificate of Service was filed on March 5, 2025. Dckt. 7. The Summons was issued by the Clerk of the Court on February 26, 2025. Dckt. 3. The Summons must be served within 7 days of it being issued or it is invalid and a new summons must be obtained and served on the other parties. See last paragraph on the Summons, citing to Federal Rule of Bankruptcy Procedure 7004(e). *Id.*

The summons being served on March 5, 2025, that is five court days (not counting weekends) from date of issuance.

SUMMARY OF ANSWER

No answers have been filed.

At the Status Conference, **XXXXXXX**

POWER LAW P.C. V. JIMENEZ

Plaintiff's Atty: Stacie L. Power
Defendant's Atty: unknown

Adv. Filed: 4/1/25
Answer: none

Nature of Action:
Objection/revocation of discharge

Notes:

Notice of Voluntary Dismissal of an Adversary Proceeding That Does Not Involve Claims Under 11 U.S.C. § 727 filed 5/5/25 [Dckt 6]

The Status Conference is xxxxxxx

JUNE 4, 2025 STATUS CONFERENCE

The Complaint (Dckt. 1) was filed on April 1, 2025. Plaintiff Power Law, P.C. requests that Defendant-Debtor be denied her discharge pursuant to 11 U.S.C. § 727(a) and 727(c).

On May 5, 2025, Plaintiff filed a Notice of Involuntary Dismissal, stating that this Adversary Proceeding does not involve claims arising under 11 U.S.C. § 727. This is clearly in error.

Federal Rule of Bankruptcy Procedure 7041 states that Federal Rule of Civil Procedure 41 applies in Adversary Proceedings, however, there is a limitation:

Fed. R. Civ. P. 41 applies in an adversary proceeding. But a complaint objecting to the debtor's discharge may be dismissed on the plaintiff's motion only:

(a) by a court order setting out any terms and conditions for the dismissal;
and

(b) with notice to the trustee, the United States trustee, and any other person the court designates.

However, there is no motion filed and set for hearing or requested *ex parte*. No information is provided the court about any "terms and conditions" by which the Defendant-Debtor has gotten the Plaintiff to dismiss this Adversary Proceeding.

At the Status Conference, **XXXXXXX**

7. [25-20329](#)-E-11 **CALIFORNIA ENVIRONMENTAL** **CONTINUED STATUS CONFERENCE RE:**
[CAE-1](#) **SYSTEMS, INC.** **VOLUNTARY PETITION**
1-27-25 [[1](#)]

Debtor's Atty: Gabriel E. Liberman

Notes:

Continued from 3/5/25. Counsel for Debtor in Possession reported that the initial meeting with the U.S. Trustee has been concluded. The 341 Meeting was set for 3/7/25.

Trustee Report at 341 Meeting filed: 3/11/25; 3/26/25; 4/28/25

Operating Reports filed: 3/20/25 [2/28/25]; 3/20/25 1/31/25]; 4/15/25 [3/31/25]

[GEL-1] Interim order granting Motion for Authority to Use Cash Collateral filed 3/7/25 [Dckt 55]; Motion continued to 7/10/25 at 10:30 a.m.

[CAE-1] Status Conference Statement filed 5/21/25 [Dckt 66]

8. [24-22531](#)-E-11 **R & A ENTERPRISES, LLC** **CONTINUED STATUS CONFERENCE RE:**
[CAE-1](#) **VOLUNTARY PETITION**
6-10-24 [[1](#)]

SUBCHAPTER V

Debtor's Atty: Stephen M. Reynolds

Notes:

Continued from 3/27/25

Operating Reports filed: 5/8/25 [4/30/25]; 5/13/25 [3/31/25]

[RLC-1] Third Stipulation for Use of Cash Collateral and Granting Replacement Liens filed 4/8/25 [Dckt 102]; Order filed 4/11/25 [Dckt 105]; Supplemental Order Correcting Clerical Error filed 4/11/25 [Dckt 106]

[RLC-7] Application to Approve Employment of Realtor filed 4/21/25 [Dckt 108]; Order granting filed 4/23/25 [Dckt 111]

The Status Conference is XXXXXXX
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JUNE 4, 2025 STATUS CONFERENCE

An updated Status Report was filed on May 21, 2025. Dckt. 66. The Debtor in Possession reports that the Bankruptcy Estate is holding significant cash reserves and there are substantial accounts receivables for more revenue.

The Debtor in Possession plans on having a plan filed within 30 days after the July 28, 2025 deadline for filing governmental proofs of claims.

At the Status Conference, **XXXXXXX**

MARCH 5, 2025 STATUS CONFERENCE

This Chapter 11 Case was filed on January 27, 2025. The Debtor in Possession filed a Status Conference Statement on February 14, 2025. Dckt. 42. In it the Debtor in Possession states the cash reserves the estate started with and projected additional net income for February 2025. The Debtor also lists a substantial amount of pre-petition accounts receivable.

At the Status Conference, counsel for the Debtor in Possession reported that the initial meeting with the U.S. Trustee has been concluded, with some “minor” documents to be produced. The 341 Meeting is set for March 7, 2025.

The Debtor in Possession is continuing to operate the business.

The Status Conference is continued to 2:00 p.m. on June 4, 2025.

9. [25-20833-E-12](#) **PATRICK/PATRICIA MCCAULEY** **CONTINUED STATUS CONFERENCE RE:**
[CAE-1](#) **VOLUNTARY PETITION**
2-26-25 [\[1\]](#)

Debtors' Atty: Pro Se

Notes:
Continued from 4/16/25

Trustee Report at 341 Meeting lodged: 4/28/25

[DCJ-1] Creditor Dambacher Family Trust's Motion to Dismiss Chapter 12 Case filed 5/7/25 [Dckt 23]; set for hearing 5/29/25 at 10:30 a.m.

Chapter 12 Plan filed 5/28/25 [Dckt 29]

The Status Conference is XXXXXXX
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JUNE 4, 2025 STATUS CONFERENCE

The Debtors, in *pro se*, commenced this Chapter 12 Bankruptcy Case on February 26, 2025. There is pending a Motion to Dismiss this Chapter 12 on the grounds that the Debtors do not meet the statutory definition of a family farmer. Motion to Dismiss; Dckt. 23. Debtors filed an initial opposition to the Motion, and a scheduling order has been entered by the court.

No Status Report has been filed.

The Debtors expressed frustration at the hearing arising from the inability for them to find an attorney who would prosecute a Chapter 12 case for them.

At the Status Conference, XXXXXXX

Item 10 thru 11

Debtor's Atty: Mark A. Wolff

Notes:

Continued from 3/5/25

Operating Reports filed: 3/13/25; 3/21/25; 3/21/25; 4/14/25; 5/14/25

U.S. Trustee Report at 341 Meeting lodged: 3/26/25

[WW-2] Order Granting Application to Employ Mark A. Wolff filed 3/9/25 [Dckt 120]

[UST-1] Motion of the United States Trustee for Appointment of a Patient Care Ombudsman Under 11 U.S.C. § 333 filed 3/12/25 [Dckt 123]; Order granting filed 4/11/25 [Dckt 141]

[RPM-1] Order granting Motion for Relief from Automatic Stay filed by Mercedes-Benz Financial Services, USA, LLC filed 3/31/25 [Dckt 137]

Status Report filed 4/9/25 [Dckt 138]

Monalisa Silapan's Plan of Reorganization Dated April 16, 2025, filed 4/16/25 [Dckt 144]
[WW-4] Amended Plan filed 4/24/25 [Dckt 146]; Motion to Confirm Amended Plan filed 4/24/25 [Dckt 147]; set for hearing 6/12/25 at 11:30 a.m. – Tabulation of Ballots filed 5/23/25 [Dckt 163]

[UST-2] The United States Trustee's *Ex Parte* Application for an Order Approving the Appointment of Tamar Terzian as Patient Care Ombudsman filed 4/25/25 [Dckt 152]; Order approving filed 4/28/25 [Dckt 154]

[LAH-1] Subchapter V Trustee's Motion for Relief from Order Appointing Patient Care Ombudsman filed 5/21/25 [Dckt 158]; set for 6/4/25 at 2:00 p.m.

Status Report filed 5/23/25 [Dckt 164]

The Status Conference is XXXXXXX
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JUNE 5, 2025 STATUS CONFERENCE

On May 23, 2025, the Debtor in Possession filed an updated Status Report. Dckt. 164. The Debtor in Possession reports that a hearing on confirmation of her plan will be conducted on June 12, 2025. The Debtor in Possession and the Subchapter V Trustee are seeking relief from the prior order for the

appointment of a Patient Care Ombudsman, based on the State of California refused to provide a patient care ombudsman for which there is no charge. The proposed patient care ombudsman from the private sector is located in Los Angeles and it is projected that each visit will cost the estate \$3,500 to \$5,000.

At the Status Conference, **XXXXXXX**

11. [24-24542-E-11](#)
[LAH-1](#)

MONALISA SILAPAN
Mark Wolff

**MOTION FOR RELIEF FROM ORDER
APPOINTING PATIENT CARE
OMBUDSMAN
5-21-25 [[158](#)]**

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.

Below is the court’s tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor and other parties in interest on May 21, 2025. By the court’s calculation, 14 days’ notice was provided. 14 days’ notice is required.

The Motion to Vacate was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, 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. At the hearing, -----.

The Motion to Vacate is XXXXXXX.
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Lisa Holder, the Chapter 11 Subchapter V Trustee (“Sub. V Trustee”) filed a Motion to Vacate the court’s Order dated April 11, 2025, authorizing the U.S. Trustee to appoint a patient care ombudsman (“PCO”) in the case. Order, Docket 141. As grounds to Vacate the Order, Sub. V Trustee states:

1. Appointing the PCO was agreed to by Debtor and not opposed by the Sub V. Trustee because appointment was based on the understanding that the California State PCO would be appointed and would not charge a fee. Mot. 3:27-4:4.

2. However, the California State PCO refused to accept appointment and a private PCO had to be appointed, who does charge a fee. *Id.* at 4:4-8.
3. All of these events happened after the Motion was granted and Order entered, and so these facts constitute newly discovered evidence that could not have been discovered at the time the Motion to Appoint PCO was heard. *Id.*

The Sub. V Trustee filed her own Declaration in support. Docket 161. In her Declaration she testifies:

The administrative claim payments handling under the proposed Plan of Reorganization filed 04/21/2025, Document 146, already call for administrative claims to be paid over time, the subchapter five (V) trustee's fee estimated at \$7,000.00 to be paid over 12 months, and Debtor's attorneys at \$850.00 per month until paid. See *Id.*, at 3.02; and page 10, the budget. An additional unplanned fee of \$3,500.00 to \$5,000.00, which is not provided for in the plan, and which could be demanded at confirmation, could impact Debtor's ability to fund her plan as proposed, and would reduce the funds available to pay the unsecured class.

Decl. 5:4-11, Docket 161.

APPLICABLE LAW

Federal Rule of Civil Procedure Rule 60(b), as made applicable by Federal Rule of Bankruptcy Procedure 9024, governs the reconsideration of a judgment or order. Grounds for relief from a final judgment, order, or other proceeding are limited to:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

FED. R. CIV. P. 60(b). A Rule 60(b) motion may not be used as a substitute for a timely appeal. *Latham v. Wells Fargo Bank, N.A.*, 987 F.2d 1199, 1203 (5th Cir. 1993). The court uses equitable principles when applying Rule 60(b). See 11 CHARLES ALAN WRIGHT ET AL., FEDERAL PRACTICE AND PROCEDURE § 2857 (3d ed. 1998). The so-called catch-all provision, Federal Rule of Civil Procedure 60(b)(6), is “a grand

reservoir of equitable power to do justice in a particular case.” *Uni-Rty Corp. V. Guangdong Bldg., Inc.*, 571 F. App’x 62, 65 (2d Cir. 2014) (citation omitted). While the other enumerated provisions of Rule 60(b) and Rule 60(b)(6) are mutually exclusive, relief under Rule 60(b)(6) may be granted in extraordinary circumstances. *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 863 & n.11 (1988).

A condition of granting relief under Rule 60(b) is that the requesting party show that there is a meritorious claim or defense. This does not require a showing that the moving party will or is likely to prevail in the underlying action. Rather, the party seeking the relief must allege enough facts that, if taken as true, allow the court to determine if it appears that such defense or claim could be meritorious. 12 JAMES WM. MOORE ET AL., *MOORE’S FEDERAL PRACTICE* ¶¶ 60.24[1]–[2] (3d ed. 2010); *see also Falk v. Allen*, 739 F.2d 461, 463 (9th Cir. 1984).

Additionally, when reviewing a motion under Rule 60(b), courts consider three factors: “(1) whether the plaintiff will be prejudiced, (2) whether the defendant has a meritorious defense, and (3) whether culpable conduct of the defendant led to the default.” *Falk*, 739 F.2d at 463 (citations omitted).

DISCUSSION

As an initial policy matter, the finality of judgments is an important legal and social interest. The standard for determining whether a Rule 60(b)(1) motion is filed within a reasonable time is a case-by-case analysis. The analysis considers “the interest in finality, the reason for delay, the practical ability of the litigant to learn earlier of the grounds relied upon, and prejudice to other parties.” *Gravatt v. Paul Revere Life Ins. Co.*, 101 F. App’x 194, 196 (9th Cir. 2004) (citations omitted); *Sallie Mae Servicing, LP v. Williams (In re Williams)*, 287 B.R. 787, 793 (B.A.P. 9th Cir. 2002) (citation omitted).

Sub. V Trustee asks the court to vacate dismissal based on newly discovered evidence that could not have been discovered when the court ruled on the Motion to Appoint PCO, or, similarly, based on the mistake that the parties believed the U.S. Trustee would appoint a PCO that did not charge a fee. The court considers the impact the cost of the PCO will have on the likelihood of a successful reorganization. It may be that this case does not have adequate funds to pay the professional, or that the PCO’s fees will disrupt the Plan confirmation process. However, neither Sub. V Trustee or Debtor raised this concern at the hearing. It is not newly discovered evidence that the Estate would only be able to operate in bankruptcy if a PCO was appointed who did not charge a fee.

At the hearing, **XXXXXXX**

Therefore, in light of the foregoing, the Motion is **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 Motion to Vacate filed by Lisa Holder, the Chapter 11 Subchapter V Trustee (“Sub. V Trustee”) 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 Motion is **XXXXXXX**.

FINAL RULINGS

12. [24-90618](#)-E-11 JEFFERY ARAMBEL
[CAE-1](#)

CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
10-17-24 [\[1\]](#)

Final Ruling: No appearance at the May 4, 2025 Status Conference is required.

Debtor's Atty: Chris D. Kuhner

Notes:

Continued from 4/3/25. Counsel for the Debtor in Possession reported that he and the Debtor in Possession have been reviewing possible ways to move forward in light of the relief from the stay having been granted.

Operating Reports filed: 4/15/25; 5/16/25

[UST-1] Motion of the United States Trustee to Convert or Dismiss Chapter 11 Case filed 4/17/25 [Dckt 118]; set for hearing 6/12/25 at 10:30 a.m.

[SAD-1] Motion for Relief from Automatic Stay [movant - U.S. Bank Trust National Association] filed 4/18/25 [Dckt 123]; heard 5/22/25 and continued to 6/12/25 at 10:00 a.m.

[CDK-2] Debtor's Motion to Extend the Effective Date of the Order Granting Relief from the Automatic Stay or Vacate the Order Granting Relief from the Automatic Stay filed 4/25/25 [Dckt 131]; motion dismissed without prejudice filed 5/12/25 [Dckt 149]

The Status Conference is continued to 10:30 a.m. on June 12, 2025 (Specially Set Day and Time), to be conducted in conjunction with the hearing on the U.S. Trustee's Motion to Dismiss

JUNE 4, 2025 STATUS CONFERENCE

The U.S. trustee has filed a Motion to Dismiss this Bankruptcy Case. Mtn. Dckt. 118. The grounds, as summarized by the court, are that: (1) the Debtor in Possession has not generated any income or made any disbursements since this Case was filed on October 17, 2024, (2) no proposed plan has been filed, and (3) the court has granted relief from the stay to the creditor whose lien encumbers most of the property in the Bankruptcy Estate. Additionally, the Debtor in Possession has failed to provide proof of insurance for the property of the Bankruptcy Estate, notwithstanding the U.S. Trustee having requested such documentation six times during the period October 22, 2024 to January 8, 2025. *Id.*; ¶¶ 4, 5, 6.

The Debtor in Possession has responded, asserting that the property of the Bankruptcy Estate is insured. The Debtor in Possession states that he does not oppose dismissal of this Case, but opposes

conversion to Chapter 7. In the Motion, the U.S. Trustee requests that the court dismiss this Bankruptcy Case.

The Status Conference is continued to 10:30 a.m. on June 12, 2025, to be conducted in conjunction with the hearing on the U.S. Trustee's Motion to Dismiss.

APRIL 4, 2025 STATUS CONFERENCE

At the March 27, 2025 hearing on the Motion for Relief From the Automatic Stay, the court stated that the Motion was granted to allow SBN V Ag I, LLC ("Summit") to foreclose on six properties of the Bankruptcy Estate. In granting the relief, the court has made the order effective May 1, 2025, affording Debtor, serving as the Debtor in Possession, a further opportunity to move forward to recover the value he believes is in these Properties, as opposed to the value that Creditor believes is in these Properties.

At the Status Conference, counsel for the Debtor in Possession reported that he and the Debtor in Possession have been reviewing possible ways to move forward in light of the relief from the stay having been granted.

The Status Conference is continued to 2:00 p.m. on June 4, 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 Chapter 11 Status Conference having been scheduled by the court, the U.S. Trustee having filed a Motion to Dismiss this Chapter 11 Case, and upon review of the pleadings, reports of counsel, and good cause appearing,

IT IS ORDERED that the Status Conference is continued to **10:30 a.m. on June 12, 2025 (Specially Set Day and Time)**, to be conducted in conjunction with the hearing on the Motion to Dismiss this Bankruptcy Case..

Final Ruling: No appearance at the May 4, 2025 Status Conference is required.

Debtor's Atty: Nancy W. Weng; Arasto Farsad

Notes:

Continued from 2/13/25. Counsel for the Debtors in Possession stated they will work with the secured creditors for reaching agreed terms for a Plan and getting the marketing and sale of the Properties moving forward.

Operating Reports filed: 2/22/25 [dckts 99 through 104]; 4/14/25 [dckts 114 through 117]; 5/8/25; 5/19/25;

[RDW-1] Motion to Dismiss or Convert Chapter 11 Case filed 4/10/25 [Dckt 107]

<p>The Court having ordered this Case converted to one under Chapter 7 (Order; 153), the Status Conference is concluded and removed from the Calendar.</p>

JUNE 4, 2025 STATUS CONFERENCE

On June 2, 2025, the entered its order converting this Bankruptcy Case to one under Chapter 7. Dckt. 153. The Case having been converted, the Chapter 11 Status Conference is concluded and removed from the Calendar.