

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 7th Floor
Courtroom 28, Department A
Sacramento, California

DAY: THURSDAY
DATE: JUNE 9, 2022
CALENDAR: 1:30 P.M. ADVERSARY PROCEEDINGS

RULINGS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling.

"No Ruling" means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

"Tentative Ruling" means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. Non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

"Final Ruling" means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g., nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise, or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

1. [20-25614](#)-A-7 **IN RE: GREGORY SCHMIDT**
[21-2018](#) [CAE-1](#)

PRE-TRIAL CONFERENCE RE: COMPLAINT TO DETERMINATION THAT
DEBT OWED TO CREDITOR SPENCER T. MALYSIAK PROFIT SHARING
PLAN, AND IN HIS CAPACITY AS PLAN ADMINISTRATOR, IS
NONDISCHARGEABLE
3-23-2021 [\[1\]](#)

SPENCER T. MALYSIAK PROFIT
SHARING PLAN ET AL V. SCHMIDT
ERIK LARSON/ATTY. FOR PL.

No Ruling

2. [20-23457](#)-A-7 **IN RE: ERNESTO/MARILYN PATACSIL**
[20-2167](#) [CAE-1](#)

CONTINUED PRE-TRIAL CONFERENCE RE: COMPLAINT FOR
DETERMINATINO THAT DEBT IS NONDISCHARGEABLE
11-2-2020 [\[1\]](#)

CABARDO ET AL V. PATACSIL ET
AL
HECTOR MARTINEZ/ATTY. FOR PL.

Final Ruling

The pretrial conference is continued to July 6, 2022, at 1:30 p.m.
to accommodate defendant's counsel's schedule conflict. Absent
cause, at the continued pretrial conference the court intends to set
a trial date in the fall of 2022.

In the interim, the parties are asked to consider several matters.
First, as to the § 523(a)(7) claim, the effect of *Medina v. Vander
Poel*, 523 B.R. 820, 826-827 (E.D. Cal. 2015) (dealing Private
Attorneys General Act in the context of 11 U.S.C. § 523(a)(7)).
Compl. ¶ 14, ECF No. 1. This court heard the underlying adversary
proceeding, which the district court reversed. Having read and
considered that opinion, the court now considers it the correct
reading of the law on this issue.

Second, the plaintiff is asked whether it will be amending its
complaint to include a cause of action under § 523(a)(4). Fed. R.
Civ. P. 15(a)-(b), *incorporated by* Fed. R. Bankr. P. 7015. The
parties are asked to consider this court's decision on the issue.
Civil Minutes at 14-16, *Missioui v. Ardelean*, No. 19-2135 (Bankr.
E.D. Cal. 2019), ECF No. 135. If the plaintiffs intend to make a
motion to amend the complaint, they shall do so on or before July 1,
2022.

Finally, the parties are asked to review and consider the court's
previous order regarding scheduling of trial. Order ¶¶ 3-5, ECF No.
71. In light of that order, the court intends to require the use of

alternate direct testimony and believes that this matter can be tried in three days (allocated evenly between the sides). A civil minute order will issue.

3. [21-21372](#)-A-13 **IN RE: BRENDA SMITHEY**
[22-2021](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
4-12-2022 [[1](#)]

SMITHEY V. U.S. DEPARTMENT OF
EDUCATION
MARY TERRANELLA/ATTY. FOR PL.
RESPONSIVE PLEADING

No Ruling

4. [15-29890](#)-A-7 **IN RE: GRAIL SEMICONDUCTOR**
[18-2180](#)

CONTINUED PRE-TRIAL CONFERENCE RE: COMPLAINT
11-1-2018 [[1](#)]

SEDGWICK FUNDINGCO, LLC ET AL
V. NEWDELMAN ET AL
ERIK IVES/ATTY. FOR PL.

No Ruling

5. [15-29890](#)-A-7 **IN RE: GRAIL SEMICONDUCTOR**
[18-2180](#) [OHS-1](#)

MOTION TO RECONSIDER
4-21-2022 [[327](#)]

SEDGWICK FUNDINGCO, LLC ET AL
V. NEWDELMAN ET AL
ERIK IVES/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

6. [21-22496](#)-A-7 **IN RE: LILLIAN/ISAGANI SISAYAN**
[22-2020](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
4-6-2022 [[1](#)]

CARELLO V. SISAYAN ET AL
J. CUNNINGHAM/ATTY. FOR PL.

Final Ruling

The Stipulation filed on May 19, 2022, ECF No. 9, is approved and the Status Conference is continued to November 22, 2022, at 1:30 p.m. Not later than November 8, 2022, the parties shall file a joint status report. A civil minute order shall issue.