

UNITED STATES BANKRUPTCY COURT  
Eastern District of California

Honorable Ronald H. Sargis  
Chief Bankruptcy Judge  
Sacramento, California

June 9, 2022 at 11:00 AM

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1. [21-23301-E-7](#)      BRIAN ROYER      MOTION TO DISMISS ADVERSARY  
[22-2002](#)      CRG-4 Carl Gustafson      PROCEEDING/NOTICE OF REMOVAL  
4-28-22 [23]  
BARNES V. ROYER

**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.

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

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Plaintiff-Debtor on April 28, 2022. By the court's calculation, 42 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss Adversary Proceeding has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) and Federal Rule of Bankruptcy Procedure 4004(a). Failure of the respondent and other parties in interest to file written opposition at least fourteen days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

The court having entered an order dismissing this Adversary Proceeding pursuant to the Stipulation and Joint *Ex Parte* Motion of the Parties (Dckt. 33), **this Motion is dismissed without prejudice.**

Brian Allen Royer ("Defendant-Debtor") moves for the court to dismiss all claims against it in Charlene Barnes' ("Plaintiff") Complaint according to Federal Rules of Civil Procedure 12(c). On June 3, 2022, Plaintiff and Defendant-Debtor filed their Stipulation, which the court construed to be a

Joint *Ex Parte* Motion and Stipulation (in light of the parties wanting an order of dismissal and not dismissing the Adversary Proceeding pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) and Fed. R. Bankr. P. 7041), for the dismissal of this Adversary Proceeding. Dckt. 32. The court entered an order on June 3, 2022, dismissing this Adversary Proceeding pursuant to the Parties Joint *Ex Parte* Motion and Stipulation.

The court having already dismissed this Adversary Proceeding, the Defendant-Debtor's Motion to Dismiss is itself dismissed without prejudice.

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 Dismiss filed by Brian Allen Royer ("Defendant-Debtor") having been presented to the court, the Plaintiff Brian Royer and Defendant-Debtor having filed their Joint *Ex Parte* Motion and Stipulation for the dismissal of this Adversary Proceeding, the court having entered an order dismissing this Adversary Proceeding (Order, Dckt. 33), and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that Defendant-Debtor's Motion is dismissed without prejudice.