



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

July 10, 2025 at 1:30 p.m.

Unless otherwise ordered, all matters before the Honorable Christopher M. Klein shall be simultaneously: (1) **In Person**, at Sacramento Courtroom #35, (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**.

You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/CourtAppearances>. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued medical credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

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1. [25-21155](#)-C-13 TIMOTHY/JILLIAN WINTERS MOTION TO CONFIRM PLAN
[GC-1](#) Julius Cherry 5-29-25 [[35](#)]

Final Ruling: No appearance at the July 10, 2025 hearing is required.

The Motion has been set on Local Rule 9014-1(f) (1) procedure which requires 35 days' notice. The Proof of Service shows that 43 days' notice was provided. Dkt. 40.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Confirm is granted.

The debtors filed this Motion seeking to confirm the Amended Chapter 13 Plan (Dkt. 37) filed on May 29, 2025.

No opposition to the Motion has been filed.

Upon review of the record, the court finds the plan complies with 11 U.S.C. §§ 1322 and 1325(a). The Motion is granted, and the plan is confirmed.

The court shall issue a minute 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 Confirm filed by the debtors, Timothy and Jillian Winters, 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 granted, the debtor's Amended Chapter 13 Plan (Dkt. 37) meets the requirements of 11 U.S.C. §§ 1322 and 1325(a), and the plan

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is confirmed. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

2. [24-25088](#)-C-13 VALERIE WILLIAMS CONTINUED MOTION TO DISMISS
[25-2033](#) Pro Se ADVERSARY PROCEEDING/NOTICE OF
MFC-2 REMOVAL AND/OR MOTION TO
DISMISS CAUSE(S) OF ACTION FROM
WILLIAMS V. FLEMING ET AL COMPLAINT
4-10-25 [6]

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 47 days' notice was provided. Dkt. 9.

The Motion to Dismiss Adversary Proceeding is ~~xxxxxx~~.

Jacqueline Flemming, as an individual, Jacqueline Flemming as Trustee of The Jacqueline Fleming Trust, Superior Loan Servicing and Asset Default Management, Inc. ("Defendants") moves for the court to dismiss all claims against it in Valerie Williams's ("Plaintiff-Debtor") Complaint according to Federal Rule of Civil Procedure 12(b)(6).

REVIEW OF COMPLAINT

The Complaint alleges the following grounds:

- A. Sale of property commonly known as 4861 Iowa Avenue, Sacramento, California is void; and
- B. Violation of the automatic stay.

APPLICABLE LAW

In considering a motion to dismiss, the court starts with the basic premise that the law favors disputes being decided on their merits. Federal Rule of Civil Procedure 8 and Federal Rule of Bankruptcy Procedure 7008 require that a complaint have a short, plain statement of the claim showing entitlement to relief and a demand for the relief requested. FED. R. CIV. P. 8(a). Factual allegations must be enough to raise a right to relief above the speculative level. *Id.* (citing 5 C. WRIGHT & A. MILLER, FED. PRACTICE AND PROCEDURE § 1216, at 235-36 (3d ed. 2004) ("[T]he pleading must contain something more . . . than . . . a statement of facts that merely creates a suspicion [of] a legally cognizable right of action")).

A complaint should not be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim that would entitle him to the relief. *Williams v. Gorton*, 529 F.2d 668, 672 (9th Cir. 1976). Any doubt with respect to whether to grant a motion to dismiss should be resolved in favor of the pleader. *Pond v. Gen. Elec. Co.*, 256 F.2d 824, 826-27 (9th Cir. 1958). For purposes of determining the propriety of a dismissal before trial, allegations in the complaint are taken as true and are construed in the light most favorable to the plaintiff. *McGlinchy v. Shell Chem. Co.*, 845 F.2d 802, 810 (9th Cir. 1988); *see also Kossick v.*

United Fruit Co., 365 U.S. 731, 731 (1961).

Under the Supreme Court's formulation of Federal Rule of Civil Procedure 12(b)(6), a plaintiff cannot "plead the bare elements of his cause of action, affix the label 'general allegation,' and expect his complaint to survive a motion to dismiss." Ashcroft v. Iqbal, 556 U.S. 662, 687 (2009). Instead, a complaint must set forth enough factual matter to establish plausible grounds for the relief sought. See Bell Atl. Corp. v. Twombly, 550 U.S. 544, 556 (2007) ("[A] plaintiff's obligation to provide the 'grounds' of his 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic recitation of a cause of action's elements will not do.").

In ruling on a motion to dismiss brought under Federal Rule of Civil Procedure 12(b)(6), the Court may consider "allegations contained in the pleadings, exhibits attached to the complaint, and matters properly subject to judicial notice." Swartz v. KPMG LLP, 476 F.3d 756, 763 (9th Cir. 2007). The court need not accept unreasonable inferences or conclusory deductions of fact cast in the form of factual allegations. Sprewell v. Golden State Warriors, 266 F.3d 979, 988 (9th Cir. 2001). Nor is the court "required to" accept legal conclusions cast in the form of factual allegations if those conclusions cannot reasonably be drawn from the facts alleged." Clegg v. Cult Awareness Network, 18 F.3d 752, 754-55 (9th Cir. 1994) (citations omitted).

A complaint may be dismissed as a matter of law for failure to state a claim for two reasons: either a lack of a cognizable legal theory, or insufficient facts under a cognizable legal theory. Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1988) (citation omitted).

PLAINTIFF-DEBTOR'S OPPOSITION

Plaintiff-Debtor filed an Opposition on April 23, 2025. Dkt. 10. Plaintiff-Debtor concedes that the first cause of action is moot because the Defendants recorded a rescission of the trustee's deed on sale of the property on March 30, 2025.

Plaintiff-Debtor contends that the Defendants had not kept themselves apprised of the Court's docket, and had they done so they would have seen that the Order dismissing the case was vacated. Additionally, Defendants' counsel continued to receive notice of all filings in the case even after the case was erroneously dismissed.

Plaintiff-Debtor further asserts that she called Defendant Superior Loan Servicing after the case was filed and before the foreclosure informing it of the bankruptcy case.

DEFENDANT'S REPLY

Defendant filed a Reply on May 20, 2025. Dckt. 18. Defendant represents that the debtor has now introduced extrinsic evidence, which then converts the motion to dismiss to a motion for summary judgment. Therefore, the Defendants seek a continuance to allow further briefing and introduce evidence rebutting the debtor's evidence.

PRIOR HEARING

At the prior hearing, the court continued the matter to allow the parties to file additional briefing on whether the automatic stay was in effect at the time of the alleged violation.

REVIEW OF MOTION

The Motion responds to the Complaint's claims with the following grounds:

- A. Defendants relied upon the order dismissing the case;
and
- B. Defendants were never given notice that the order dismissing the case was vacated.

DISCUSSION

At the hearing **xxxxxxxxxx**

The Motion to Dismiss Adversary Proceeding is **xxxx**

The court shall issue a minute 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 Adversary Proceeding filed by Jacqueline Flemming, as an individual, Jacqueline Flemming as Trustee of The Jacqueline Fleming Trust, Superior Loan Servicing and Asset Default Management, Inc. ("Defendants") 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 to Dismiss is **xxxx**.