

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Bankruptcy Judge
Sacramento, California

August 20, 2025 at 2:00 p.m.

1. 25-90210-E-7 25-9003 CAE-1 PACHECO V. UNITED STATES DEPARTMENT OF EDUCATION	CASSANDRA PACHECO	CONTINUED STATUS CONFERENCE RE: COMPLAINT 3-31-25 [1]
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Plaintiff's Atty: Pro Se
Defendant's Atty: Jeffrey J. Lodge

Adv. Filed: 3/31/25
Answer: 7/10/25

Nature of Action: Dischargeability - student loan

Notes:
Continued from 7/9/25. Plaintiff-Debtor reported that she had not been contacted by the Defendant.

Answer filed 7/10/25 [Dckt 16]

The Status Conference is XXXXXXX
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AUGUST 20, 2025 STATUS CONFERENCE

On July 10, 2025, the U.S. Department of Education, the "Defendant," filed an Answer. Dckt. 16. Defendant admits and denies specific allegations in the Complaint. The Answer also states several Affirmative Defenses, which are summarized by the court as follows:

- A. Second Affirmative Defense - Failure to Exhaust Administratively.
1. It is alleged that Plaintiff-Debtor has not sought repayment options administratively available, which are stated to include: " deferment, forbearance, cancellation, and extended, graduated, income-contingent and income sensitive repayment options." Answer, p. 2:25-27; Dckt. 16.

At the Status Conference, **XXXXXXX**

JULY 9, 2025 STATUS CONFERENCE

On June 4, 2025, a Summons was reissued by the Clerk of the Court. Dckt. 10. The Certificate of Service filed on June 13, 2025 states that the Complaint, Summons, and related documents were served on June 10, 2025 on the following persons:

United States Attorney for Dept of Education
Eastern District of California
501 I St, Suite 10-100
Sacramento, CA 95814

Dckt. 14.

The Reissued Summons states that the Status Conference will be conducted at 2:00 p.m. on August 20, 2025. Dckt. 10.

At the Status Conference, Plaintiff-Debtor reported that she has not been contacted by the Defendant.

The Status Conference is continued to 2:00 p.m. on August 20, 2025.

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.

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, the court addressed the required service on the United States, including the Asst. U.S. Attorney for the Eastern District of California.

The Status Conference is continued to 2:00 p.m. on July 9, 2025.

2. [24-90615-E-11](#) JEA2, LLC
[CAE-1](#)

**CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
10-17-24 [1]**

8/11/25: REASSIGNED TO JUDGE CLEMENT

Debtor's Atty: Anthony Asebedo

Notes:

Continued from 6/26/25 to allow the parties in interest to file post-judgment motions.

Operating Reports filed: 7/14/25; 8/8/25

[RLL-8] Reynolds Law, LLP's Motion for Second and Final Allowance of Compensation as Counsel for the Debtor in Possession filed 7/17/25 [Dckt 151]; Order granting filed 8/8/25 [Dckt 160]

The Status Conference is continued to ~~XXXXXXX~~ on ~~XXXXXXX~~ 2025, to be conducted by the Hon. Fredrick E. Clement, the Bankruptcy Judge to whom this case is being transferred, to be conducted in Courtroom 28 in this Courthouse, at 501 I Street, Seventh Floor, Sacramento, California.

AUGUST 20, 2025 STATUS CONFERENCE

At the Status Conference, ~~XXXXXXX~~

3. [24-25836-E-7](#) **REGINALD JACKSON**
[25-2050](#)
CAE-1
WASSER V. JACKSON ET AL

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
4-15-25 [1]

Plaintiff's Atty: Michael E. Myers
Defendant's Atty: unknown

Adv. Filed: 4/15/25
Answer: none

Nature of Action:
Recovery of money/property - turnover of property
Dischargeability - priority tax claims
Dischargeability - fraud as fiduciary, embezzlement, larceny
Dischargeability - willful and malicious injury
Subordination of claim or interest

Notes:
Continued from 7/9/25. Counsel for Plaintiff reported that the Certificate of Service was not filed due to clerical error. Counsel further stated that in light of no answer, the Plaintiff will be moving forward to obtain a judgment in this Adversary Proceeding.

The Status Conference is XXXXXXX
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AUGUST 20, 2025 STATUS CONFERENCE

The court's August 17, 2025 review of the Docket for this Adversary Proceeding revealed that nothing further has been filed by Plaintiff.

There is no certificate of service for the Summons and Complaint on the defendants in this Adversary Proceeding.

The Original Summons was issued by the Clerk of the Court on April 16, 2025. Dckt. 3.

The Summons itself (Dckt. 3) and the court's Order to Confer (Dckt. 5) both expressly state that the Summons and Complaint must be served within seven (7) days of the date of the Summons, here April 16, 2025. Thus, the Summons and Complaint had to be served by April 23, 2025, and the certificate of service had to be filed within seven (7) days after service. Order to Confer, last full paragraph; Dckt. 5. See also, Fed. R. Bankr. P. 7004(3).

Federal Rule of Bankruptcy Procedure 7004, providing for Process, Issuing and Serving a Summons and Complaint; incorporates specific provisions of Federal Rule of Civil Procedure 4, including Federal Rule of Civil Procedure 4(m), which states (emphasis added):

(m) Time Limit for Service. **If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice** against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under Rule 4(f), 4(h)(2), or 4(j)(1), or to service of a notice under Rule 71.1(d)(3)(A).

At the Status Conference, **XXXXXXX**

JULY 9, 2025 STATUS CONFERENCE

As noted below, as of the court's July 7, 2025 review of the Docket, no Certificate of Service has been filed with respect to the Summons, Complaint, and related documents that must be served.

At the Status Conference, counsel for Plaintiff reported that the Certificate of Service was not filed due to a clerical error. Further, in light of no answer, the Plaintiff will be moving forward to obtain a judgment in this Adversary Proceeding.

The Status Conference is continued to 2:00 p.m. on August 20, 2025.

Summary of Complaint

On April 15, 2025, a complaint asserting claims for: (1) Elder Financial Abuse, (2) Fraud, (3) Negligent Misrepresentation, (4) Accounting, (5) Constructive Trust, (6) Conversion, (7) Breach of Contract, and (8) Quiet Title was filed by Plaintiff Ozella Wasser. The Complaint asserts that the debts owed by Defendant-Debtor Reginald Jackson are nondischargeable pursuant to 11 U.S.C. §§ 523(a)(6).

Answers

No answers or other responsive pleadings have been filed.

Service of Summons, Complaint, and Related Documents

No Certificate of Service has been filed by Plaintiff.

4. [25-21538-E-13](#) MATTHEW DEL REAL
[25-2063](#)
CAE-1
CHING V. DEL REAL

STATUS CONFERENCE RE:
COMPLAINT
5-21-25 [1](#)

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

Adv. Filed: 5/21/25
Answer: no

Nature of Action:
Dischargeability - false pretenses, false representation, actual fraud
Dischargeability - willful and malicious injury

Notes:
[CAE-1] Motion for 30 Day Extension to File a Response to the Complaint Regarding Summons and Notice of Status Conference in an Adversary Proceeding filed 7/1/25 [Dckt 7]; Order granting [response to be filed and served on or before 7/30/25] filed 7/2/25 [Dckt 10]

Motion to Continue for Extension of Time to File an Answer and Additional Evidence to Complaint filed 7/31/25 [Dckt 12]; Order granting final extension [to and including noon on 8/18/25] filed 8/8/25 [Dckt 13]

The Status Conference is XXXXXXX
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AUGUST 20, 2025 STATUS CONFERENCE

On May 21, 2025, Plaintiff Marc Ching, in *pro se*, filed a Complaint to Determine the Dischargeability of Debt. Dckt. 1. In it Plaintiff alleges that Defendant-Debtor Matthew Del Real entered into a contract in which Defendant-Debtor agreed to obtain a dispensary permit in the Town of Placerville for Plaintiff, for which Defendant-Debtor was paid \$140,000. Complaint, ¶¶ 3.1, 3.2; Dckt. 1.

It is further alleged that Defendant-Debtor failed to perform the contract, and Plaintiff commenced a action in State Court for Breach of Contract. *Id.*; ¶¶ 3.4, 3.3. Plaintiff obtained a judgment against Defendant-Debtor in the amount of \$172,841.69, plus post-judgment interest at 10% per annum, and has recorded an abstract of judgment, which creates a judgment lien on Defendant-Debtor's residence. *Id.*; ¶¶ 3.4, 3.5.

Plaintiff states the legal conclusion that Defendant-Debtor obtained the \$140,000 through "false pretenses, false representation, or actual fraud," asserting that Defendant-Debtor entered into a contract which ne never intended to perform. *Id.*; ¶ 4.1. The Complaint state the alternative legal conclusion that the debtor is nondischargeable under 11 U.S.C. § 523(a)(6), "as it arises from willful and malicious injury to Plaintiff's property interests caused by Defendant's deliberate and wrongful retention of the funds." *Id.*; ¶ 4.2. A copy of the State Court Judgment is not filed with the Complaint. However it is attached to Amended Proof of Claim 7-2 filed by Plaintiff in Defendant-Debtor's Bankruptcy Case (25-21538).

The court has set noon on August 18, 2025, as the final extended deadline for Defendant-Debtor to file an Answer on or before noon on August 18, 2025.

At the Status Conference, **XXXXXXX**

5. [24-24542](#)-E-11

MONALISA SILAPAN
Mark Wolff

**MOTION FOR COMPENSATION FOR
TAMAR TERZIAN, OMBUDSMAN
HEALTH(S)
7-30-25 [\[218\]](#)**

Item 5 thru 10

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 all creditors and parties in interest on July 30, 2025. By the court's calculation, 21 days' notice was provided. 21 days' notice is required. FED. R. BANKR. P. 2002(a)(6) (requiring twenty-one days' notice when requested fees exceed \$1,000.00).

The Motion for Allowance of Professional Fees was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 11 Subchapter V Trustee, 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 for Allowance of Professional Fees is granted.

Tamar Terzian, the duly appointed Patient Care Ombudsman ("Applicant") for the Chapter 11 Estate of Monalisa Silapan ("Debtor in Possession"), makes a First and Final Request for the Allowance of Fees and Expenses in this case.

Fees are requested for the period April 21, 2025 through July 28, 2025. The order of the court approving employment of Applicant was entered on April 11, 2025. Dckt. 141. Applicant requests fees in the amount of \$4,140.

APPLICABLE LAW

Reasonable Fees

A bankruptcy court determines whether requested fees are reasonable by examining the circumstances of the professional's services, the manner in which services were performed, and the results of the services, by asking:

- A. Were the services authorized?
- B. Were the services necessary or beneficial to the administration of the estate at the time they were rendered?
- C. Are the services documented adequately?
- D. Are the required fees reasonable given the factors in 11 U.S.C. § 330(a)(3)?
- E. Did the professional exercise reasonable billing judgment?

In re Garcia, 335 B.R. at 724 (citing *In re Mednet*, 251 B.R. at 108; *Leichty v. Neary (In re Strand)*, 375 F.3d 854, 860 (9th Cir. 2004)).

Lodestar Analysis

For bankruptcy cases in the Ninth Circuit, “the primary method” to determine whether a fee is reasonable is by using the lodestar analysis. *Marguiles Law Firm, APLC v. Placide (In re Placide)*, 459 B.R. 64, 73 (B.A.P. 9th Cir. 2011) (citing *Yermakov v. Fitzsimmons (In re Yermakov)*, 718 F.2d 1465, 1471 (9th Cir. 1983)). The lodestar analysis involves “multiplying the number of hours reasonably expended by a reasonable hourly rate.” *Id.* (citing *In re Yermakov*, 718 F.2d at 1471). Both the Ninth Circuit and the Bankruptcy Appellate Panel have stated that departure from the lodestar analysis can be appropriate, however. *See id.* (citing *Unsecured Creditors’ Comm. v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood)*, 924 F.2d 955, 960, 961 (9th Cir. 1991) (holding that the lodestar analysis is not mandated in all cases, thus allowing a court to employ alternative approaches when appropriate); *Digesti & Peck v. Kitchen Factors, Inc. (In re Kitchen Factors, Inc.)*, 143 B.R. 560, 562 (B.A.P. 9th Cir. 1992) (stating that lodestar analysis is the primary method, but it is not the exclusive method)).

Reasonable Billing Judgment

Even if the court finds that the services billed by a professional are “actual,” meaning that the fee application reflects time entries properly charged for services, the professional must demonstrate still that the work performed was necessary and reasonable. *In re Puget Sound Plywood*, 924 F.2d at 958. A professional must exercise good billing judgment with regard to the services provided because the court’s authorization to employ a professional to work in a bankruptcy case does not give that professional “free reign to run up a [professional fees and expenses] tab without considering the maximum probable recovery,” as opposed to a possible recovery. *Id.*; *see also Brosio v. Deutsche Bank Nat’l Tr. Co. (In re Brosio)*, 505 B.R. 903, 913 n.7 (B.A.P. 9th Cir. 2014) (“Billing judgment is mandatory.”). According to the Court of Appeals for the Ninth Circuit, prior to working on a legal matter, the attorney, or other professional as appropriate, is obligated to consider:

- (a) Is the burden of the probable cost of legal [or other professional] services disproportionately large in relation to the size of the estate and maximum probable recovery?
- (b) To what extent will the estate suffer if the services are not rendered?
- (c) To what extent may the estate benefit if the services are rendered and what is the likelihood of the disputed issues being resolved successfully?

In re Puget Sound Plywood, 924 F.2d at 958–59 (citing *In re Wildman*, 72 B.R. 700, 707 (N.D. Ill. 1987)).

A review of the application shows that Applicant’s services for the Estate include conducting onsite inspections which included staff interviews, patient interviews, facility review, and patient file review. The court finds the services were beneficial to Debtor in Possession and the Estate and were reasonable.

FEES AND COSTS & EXPENSES REQUESTED

Fees

The fees requested are computed by Applicant by multiplying the time expended providing the services multiplied by an hourly billing rate. The persons providing the services, the time for which compensation is requested, and the hourly rates are:

Names of Professional	Time	Hourly Rate	Total Fees Computed Based on Time and Hourly Rate
Tamar Terzian	9.2	\$450.00	<u>\$4,140.00</u>
Total Fees for Period of Application			\$4,140.00

FEES ALLOWED

Fees

Hourly Fees

The court finds that the hourly rates are reasonable and that Applicant effectively used appropriate rates for the services provided. First and Final Fees in the amount of \$4,140.00 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by Debtor in Possession from the available Plan Funds in a manner consistent with the order of distribution under the confirmed Plan.

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 for Allowance of Fees and Expenses filed by Tamar Terzian, the duly appointed Patient Care Ombudsman (“Applicant”) for the Chapter 11 Estate of Monalisa Silapan (“Debtor in Possession”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Tamar Terzian is allowed the following fees and expenses as a professional of the Estate:

Tamar Terzian, Professional employed by the Estate

Fees in the amount of \$4,140.00,

as the final allowance of fees and expenses pursuant to 11 U.S.C. § 330 as the Patient Care Ombudsman for this Chapter 11 Estate.

IT IS FURTHER ORDERED that Debtor in Possession is authorized to pay the fees and costs allowed by this Order from the available Plan Funds in a manner consistent with the order of distribution under the confirmed Plan.

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 all creditors and parties in interest on July 30, 2025. By the court's calculation, 21 days' notice was provided. 21 days' notice is required. FED. R. BANKR. P. 2002(a)(6) (requiring twenty-one days' notice when requested fees exceed \$1,000.00).

The Motion for Allowance of Professional Fees was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 11 Subchapter V Trustee, 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 for Allowance of Professional Fees is granted.

Mark A. Wolff of Wolff and Wolff ("Applicant"), the attorney for Monalisa Silapan, Debtor in Possession ("Client"), makes a First and Final Request for the Allowance of Fees and Expenses in this case.

Fees are requested for the period October 9, 2024, through the present date of August 20, 2025. The order of the court approving employment of Applicant was entered on March 7, 2025. Dckt. 120. Applicant requests fees in a fixed, agreed upon amount of \$35,000.

U.S. Trustee's Opposition

Peter C. Anderson, the United States Trustee for Region 17 ("U.S. Trustee"), objects to the fees and requests a reduction of the fees of 10%, which would bring the total fees to \$31,500. As a grounds for the opposition U.S. Trustee states:

1. Applicant did not file billing records and instead this fee amount is mentioned in the Fee Application as an agreement between the Debtor and Applicant “from the commencement of the bankruptcy case.” Opp’n 3:6-9.
2. Generally, reasonable compensation is ideally derived from the hours spent and determined by contemporaneous time records. If those records are not available, the Court may use a proxy-testimony about what occurred, collective standards of reasonableness, or other evidence. *Id.* at 4:14-17.
3. In this case, the Fee Application is not accompanied by any evidence as to any recorded work done by Applicant. Nor are there any contemporaneous billing narratives or expense statements. Instead, the Fee Application itself states generalized work done by Applicant and certain challenges it faced. *Id.* at 4:25-28.
4. Therefore, a reduction is proper. *Id.* at 5:7-10.

APPLICABLE LAW

Reasonable Fees

A bankruptcy court determines whether requested fees are reasonable by examining the circumstances of the attorney’s services, the manner in which services were performed, and the results of the services, by asking:

- A. Were the services authorized?
- B. Were the services necessary or beneficial to the administration of the estate at the time they were rendered?
- C. Are the services documented adequately?
- D. Are the required fees reasonable given the factors in 11 U.S.C. § 330(a)(3)?
- E. Did the attorney exercise reasonable billing judgment?

In re Garcia, 335 B.R. at 724 (citing *In re Mednet*, 251 B.R. at 108; *Leichty v. Neary (In re Strand)*, 375 F.3d 854, 860 (9th Cir. 2004)).

Lodestar Analysis

For bankruptcy cases in the Ninth Circuit, “the primary method” to determine whether a fee is reasonable is by using the lodestar analysis. *Marguiles Law Firm, APLC v. Placide (In re Placide)*, 459 B.R. 64, 73 (B.A.P. 9th Cir. 2011) (citing *Yermakov v. Fitzsimmons (In re Yermakov)*, 718 F.2d 1465, 1471 (9th Cir. 1983)). The lodestar analysis involves “multiplying the number of hours reasonably expended by a reasonable hourly rate.” *Id.* (citing *In re Yermakov*, 718 F.2d at 1471).

Both the Ninth Circuit and the Bankruptcy Appellate Panel have stated that departure from the lodestar analysis can be appropriate, however. *See id.* (citing *Unsecured Creditors' Comm. v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood)*, 924 F.2d 955, 960, 961 (9th Cir. 1991) (holding that the lodestar analysis is not mandated in all cases, thus allowing a court to employ alternative approaches when appropriate); *Digesti & Peck v. Kitchen Factors, Inc. (In re Kitchen Factors, Inc.)*, 143 B.R. 560, 562 (B.A.P. 9th Cir. 1992) (stating that lodestar analysis is the primary method, but it is not the exclusive method)).

Reasonable Billing Judgment

Even if the court finds that the services billed by an attorney are “actual,” meaning that the fee application reflects time entries properly charged for services, the attorney must demonstrate still that the work performed was necessary and reasonable. *In re Puget Sound Plywood*, 924 F.2d at 958. An attorney must exercise good billing judgment with regard to the services provided because the court’s authorization to employ an attorney to work in a bankruptcy case does not give that attorney “free reign to run up a [professional fees and expenses] tab without considering the maximum probable recovery,” as opposed to a possible recovery. *Id.*; *see also Brosio v. Deutsche Bank Nat’l Tr. Co. (In re Brosio)*, 505 B.R. 903, 913 n.7 (B.A.P. 9th Cir. 2014) (“Billing judgment is mandatory.”). According to the Court of Appeals for the Ninth Circuit, prior to working on a legal matter, the attorney, or other professional as appropriate, is obligated to consider:

- (a) Is the burden of the probable cost of legal [or other professional] services disproportionately large in relation to the size of the estate and maximum probable recovery?
- (b) To what extent will the estate suffer if the services are not rendered?
- (c) To what extent may the estate benefit if the services are rendered and what is the likelihood of the disputed issues being resolved successfully?

In re Puget Sound Plywood, 924 F.2d at 958–59 (citing *In re Wildman*, 72 B.R. 700, 707 (N.D. Ill. 1987)).

As discussed in more detail below, Applicant has provided the court with a series of tasks performed in the case in the Motion, even if not supported by contemporaneous time records. The conclusion of the case has been successful, the case ultimately resulting in a confirmed Subchapter V Plan. Indeed, the court has lived through this case and has seen how the Debtor has managed to peel apart issues and marshal creditor support toward a confirmable Plan. A review of the Motion, pages four through nine, depicts the work that went into this case.

FEES REQUESTED & ALLOWED

Fees

Applicant provides a task billing analysis and supporting evidence for the services provided, which are described in the following main categories: general case administration, first day motions, strategy in confirming a consensual Plan, operating the business, various court appearances, preparation of and filing of various motions, responding to motions filed by other parties in the case, various communications with Debtor, various communications with the Subchapter V Trustee, various communications with Creditors,

and various communications with the Patient Care Ombudsman. Mot, ps 4-9, Docket 211. Applicant also mentions in the Motion there were expenses which are included in the flat fee, such as postage, copies, and mileage.

In considering the U.S. Trustee's Opposition, the court recalls a case from back in the last Century. *See In re One City Centre Associates*, 111 B.R. 872 (Bankr. E.D. Cal. 1990). The facts in *One City Centre* share similarities with the facts of this case. There, the fee Applicant, the Chapter 11 Trustee, "failed to maintain a record of the time spent as trustee," but "Applicant did, however, provide the court with a detailed declaration which describes generally what the Applicant accomplished throughout the pendency of this case." *Id.* at 880-81. Moreover, the Hon. David Russell stated "[a] summary description of the services performed is perhaps as equally helpful to a court as billing statements when ruling on fee applications." *Id.* at 881.

In this case, the court finds the description of the services in the Motion is sufficient to aid the court in finding reasonableness of fees. Applicant runs the risk of having his fees reduced when contemporaneous time records are not kept; however, this case has been a success, and the court is able to properly apply the Lodestar method based on the facts in the Motion as support by Applicant's Declaration.

The court also has the benefit of having conducted all the hearings on the motions, adversary proceedings, and other matters in and related to this Bankruptcy Case. This was a very complex case, in which there was a high potential for loss, not only for the Debtor but also creditors. Counsel for some of the creditors and counsel for Debtor found the way to get people focused on the bottom line dollar benefit, took complex situations and found straightforward solutions, and brought this case to confirmation in a very financially reasonable way for all Parties.

Therefore, the court awards the full amount of fees in the amount of \$35,000 as first and final fees and are approved pursuant to 11 U.S.C. § 330. The fees are authorized to be paid by Debtor in Possession in a manner consistent with the order of distribution under the confirmed Plan.

Applicant is allowed, and Debtor in Possession is authorized to pay, the following amounts as compensation to this professional in this case:

Fees in the amount of \$35,000,

pursuant to this Application as final fees and costs pursuant to 11 U.S.C. § 330 in this case.

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 for Allowance of Fees and Expenses filed by Mark A. Wolff of Wolff and Wolff ("Applicant"), the attorney for Monalisa Silapan, Debtor in Possession ("Client") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Mark A. Wolff of Wolff and Wolff is allowed the following fees and expenses as a professional of the Estate:

Mark A. Wolff of Wolff and Wolff , Professional employed by Debtor in Possession

Fees in the amount of \$35,000,

as the final allowance of fees and expenses pursuant to 11 U.S.C. § 330 as counsel for Debtor in Possession.

IT IS FURTHER ORDERED that Debtor in Possession is authorized to pay the fees and costs allowed by this Order from the available Plan Funds in a manner consistent with the order of distribution under the confirmed Plan.

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 all creditors and parties in interest on July 30, 2025. By the court's calculation, 21 days' notice was provided. 14 days' notice is required.

The Motion for Entry of Discharge was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 11 Subchapter V Trustee, 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 for Entry of Discharge is xxxxxxx.

The Motion for Entry of Discharge has been filed by Monalisa Silapan ("Debtor in Possession"). On June 20, 2025, the court entered its order confirming the Subchapter V Plan. Order; Dckt. 192. The Order states that the Plan is confirmed pursuant to 11 U.S.C. § 1191(a). Such confirmation pursuant to 11 U.S.C. § 1191(a) is:

(a) Terms. The court shall confirm a plan under this subchapter only if all of the requirements of section 1129(a), other than paragraph (15) of that section, of this title are met.

11 U.S.C. § 1129(a)(15) is a provision for confirmation that requires the individual debtor to provide all of the disposable income over five years of a plan if a creditor holding a general unsecured claim is not paid in full for the value of the claim as of the effective date of the Plan.

For a Plan confirmed pursuant to 11 U.S.C. § 1129(a), the Bankruptcy Code provides for the discharge of debt, unless otherwise stated in the Plan, as follows (emphasis added):

(d)

(1) Except as otherwise provided in this subsection, in the plan, or in the order confirming the plan, the **confirmation of a plan**—

(A) **discharges the debtor from any debt that** arose before the date of such confirmation, and any debt of a kind specified in section 502(g), 502(h), or 502(i) of this title, whether or not—

(i) a proof of the claim based on such debt is filed or deemed filed under section 501 of this title;

(ii) such claim is allowed under section 502 of this title; or

(iii) the holder of such claim has accepted the plan; and

(B) terminates all rights and interests of equity security holders and general partners provided for by the plan.

(2) A discharge under this chapter does not discharge a debtor who is an individual from any debt excepted from discharge under section 523 of this title.

(3) The confirmation of a plan does not discharge a debtor if—

(A) the plan provides for the liquidation of all or substantially all of the property of the estate;

(B) the debtor does not engage in business after consummation of the plan; and

(C) the debtor would be denied a discharge under section 727(a) of this title if the case were a case under chapter 7 of this title.

(4) The court may approve a written waiver of discharge executed by the debtor after the order for relief under this chapter.

(5) In a case in which the debtor is an individual—

(A) unless after notice and a hearing the court orders otherwise for cause, confirmation of the plan does not discharge any debt provided for in the plan until the court grants a discharge on completion of all payments under the plan;

(B) **at any time after the confirmation of the plan, and after notice and a hearing, the court may grant a discharge to the debtor who has not completed payments under the plan if—**

(i) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured

claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 on such date;

(ii)modification of the plan under section 1127 is not practicable; and

(iii)subparagraph (C) permits the court to grant a discharge; and

(C)the court may grant a discharge if, after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge, the court finds that there is no reasonable cause to believe that—

(i)section 522(q)(1) may be applicable to the debtor; and

(ii)there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B);

and if the requirements of subparagraph (A) or (B) are met.

The discharge may only be entered as to debts that arose prepetition upon confirmation of the Plan. 11 U.S.C. § 1141(d)(1)(A). Any debts provided for in the Plan are not discharged until all payments have been completed. *Id.* at (d)(5)(A).

The Motion does not include a statement that creditors holding general unsecured claims have already been disbursed amounts that are not less than they would receive through a Chapter 7 liquidation. The Confirmed Subchapter V Plan provides the following treatment fore creditors holding general unsecured claims:

Class 3– Non-Priority unsecured creditor	Impaired	Non Priority unsecured creditors shall be paid 2.22% of their filed and allowed claims after payment of secured claims and rejected executory contracts at Article 6.01(b) (Class 5 Creditors
---	----------	--

Subchapter V Plan, ¶ 4.01; Dckt. 182, attached to Confirmation Order.

The Plan provides for four Rejected Executory Contracts. *Id.*; ¶ 2.05. For secured claims, there is one secured claim that is to be paid over 60 months. *Id.*; ¶ 4.01, Class 2C.

At the hearing, **XXXXXXX**

~~There being no objection, Debtor in Possession is entitled to a discharge as the Plan of Reorganization was confirmed on July 30, 2025. Docket 182.~~

~~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 for Entry of Discharge filed by Monalisa Silapan (“Debtor in Possession”) 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, and the court shall enter the discharge for Monalisa Silapan in this case pursuant to 11 U.S.C. § 1141(d)(1)(A).~~

8. [24-24542](#)-E-11 **MONALISA SILAPAN**
[WW-9](#) **Mark Wolff**

**MOTION FOR ENTRY OF FINAL
DECREE
7-30-25 [\[215\]](#)**

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 all creditors and parties in interest on July 30, 2025. By the court’s calculation, 21 days’ notice was provided. 14 days’ notice is required.

The Motion for Entry of Final Decree was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 11 Subchapter V Trustee, 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 for Entry of Final Decree is ~~granted.~~

Debtor and Debtor in Possession Monalisa Silapan (“Debtor in Possession”) moves this court for a final decree closing the case. 11 U.S.C. § 350(a) provides for closing a case, stating (emphasis added):

(a)After an estate is fully administered and the court has discharged the trustee, the court shall close the case.

(b)A case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause.

Collier's Treatise states regarding a final decree under 11 U.S.C. § 350(a):

Congress intended that the Bankruptcy Rules set the procedure for the closing of a case under title 11. Federal Rule of Bankruptcy Procedure 3022, which governs the closing of chapter 11 cases, corresponds with section 350(a) and is very similar in language to section 350(a). Under Rule 3022, an estate may be closed even though the payments required by a chapter 11 plan have not been completed. The 1991 Advisory Committee Note to Rule 3022 lists various factors to be considered in determining whether the estate has been fully administered:

Factors that the court should consider in determining whether the estate has been fully administered include (1) whether the order confirming the plan has become final, (2) **whether deposits required by the plan have been distributed**, (3) **whether the property proposed by the plan to be transferred has been transferred**, (4) whether the **debtor or the successor of the debtor under the plan has assumed the business of the management of the property dealt with by the plan**, (5) **whether payments under the plan have commenced**, and (6) whether all motions, contested matters, and adversary proceedings have been finally resolved.

When these listed prerequisites have been met and the plan has been substantially consummated, the case should be closed, even if further reports or an accounting must be filed by liquidating agent with the United States trustee. Chapter 11 debtors often wish to have their cases closed expeditiously to avoid further payments of the quarterly fees assessed under section 1930(a)(6) or (7) during the pendency of chapter 11 cases. **The fact that distributions remain to be made in a chapter 11 case does not preclude the case from being closed, nor does the fact that an individual debtor has not yet received a discharge**, which is usually entered after completion of plan payments. And a case may be closed even if a debtor has already defaulted on such distributions. If there is a subsequent material default on the plan, a creditor may move to reopen the case and seek conversion or dismissal.

3 COLLIER ON BANKRUPTCY ¶ 350.02[2] (emphasis added). “Fully administered” is not defined in the Code or in the Federal Rule of Bankr. P., so the court must consider various factors as described in the note to Fed. R. Bankr. P. 3022.

In this case, the Plan was confirmed on June 20, 2025. Docket 182. Debtor in Possession has begun making plan payments. Mot. 1:25-2:2. Debtor in Possession continues to operate the business post-confirmation. However, it appears the Chapter 11 Subchapter V Trustee is yet to file her Motion for Compensation, so there may be remaining outstanding motions preventing the entry of final decree.

At the hearing, **XXXXXXX**

~~—————In considering the stage of the case, the court finds the case has been fully administered and orders the entry of a final decree closing the case.~~

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 for Entry of Final Decree filed by Monalisa Silapan (“Debtor in Possession”) 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, and the clerk of the court is ordered to enter a final decree closing the case pursuant to 11 U.S.C. § 350(a).~~

9. [24-24542](#)-E-11 **MONALISA SILAPAN**
[25-2012](#)
CAE-1
MICHAEL J. HARRINGTON AS
TRUSTEE OF THE MICHAEL J. V.

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
1-21-25 [[1](#)]

Plaintiff’s Atty: Michael J. Harrington
Defendant’s Atty: Mark A. Wolff

Adv. Filed: 1/21/25
Answer: none

Nature of Action:
Recovery of money/property - other
Dischargeability - false pretenses, false representation, actual fraud
Dischargeability - fraud as fiduciary, embezzlement, larceny
Dischargeability - willful and malicious injury

Notes:
Continued from 7/9/25. Defendant-Debtor has now confirmed the Subchapter V Plan in her related Bankruptcy Case. Counsel for Plaintiff agreed to continue the Status Conference in light of Debtor confirming the Chapter 11 Plan.

The Status Conference is XXXXXXX
--

AUGUST 20, 2025 STATUS CONFERENCE

No updated Status Conference Reports have been filed.

At the Status Conference, **XXXXXXX**

JULY 9, 2025 STATUS CONFERENCE

Defendant-Debtor has now confirmed the Subchapter V Plan in her related Bankruptcy Case. No updated Status Report has been filed in connection with this Adversary Proceeding.

At the Status Conference, counsel for Plaintiff agreed to continue the Status Conference in light of Debtor having confirmed the Chapter 11 Plan.

The Status Conference is continued to 2:00 p.m. on August 20, 2025.

APRIL 16, 2025 STATUS CONFERENCE

On January 21, 2025, the Plaintiffs filed a Complaint for a determination of nondischargeability of debt and for a monetary judgment. Dckt. 1. On January 29, 2025, Plaintiffs and Defendant-Debtor filed a joint request for the court to stay these proceedings while they continued their settlement discussions and terms for a Subchapter V Plan. Stipulation; Dckt. 7. The court granted the request, issuing its order on January 29, 2025. Dckt. 8.

As of the court's April 14, 2025 review of the Docket, a status report in this Adversary Proceeding had not yet been filed. However, in the Bankruptcy Case the Defendant-Debtor filed a Status Report in her Subchapter V Bankruptcy Case, which includes the following:

1. Debtor has made progress in negotiations with creditors. Debtor and her main creditors have agreed upon treatment of claims (as of April 8, 2025) and Debtor is completing the drafting of the Chapter 11 Plan to incorporate the agreed upon treatment of claims.
2. The treatment of claims agreed upon by the parties is anticipated to resolve the pending adversary proceeding.

[CAE-1](#)

SUBCHAPTER V

Debtor's Atty: Mark A. Wolff

Notes:

Continued from 7/9/25 to be conducted in conjunction with other matters on the calendar.

The Status Conference is XXXXXXX
--

AUGUST 20, 2025 STATUS CONFERENCE

No updated Status Reports have been filed.

At the Status Conference, XXXXXXX

JULY 9, 2025 STATUS CONFERENCE

On June 20, 2025, the court entered its Order Confirming the Subchapter V Plan in this Case. Order; Dckt. 182. On June 26, 2025, Bank of America, N.A. filed a Motion for Relief From the Automatic Stay so that it could proceed to recover its collateral, a 2019 Mercedes, and sell it. Motion; Dckt. 188. The Confirmed Subchapter V Plan, ¶ 4.01, attached to the Order confirming the Plan (Dckt. 182) provides that the Bank's collateral, the Mercedes, is surrendered to said creditor so that it sell its collateral.

The Status Conference is continued to 2:00 p.m. on August 20, 2025.

The court authorizes the Debtor in Possession and Parties in Interest to set for hearing post confirmation motions at 2:00 p.m. on August 20, 2025, so that they may be heard in conjunction with the continued Status Conference.

11. [25-20969-E-11](#) **AZUCAR RESTAURANTS LLC**
[25-2069](#)
CAE-1
LABOR COMMISSIONER, STATE OF
CALIFORNIA V. AZUCAR

STATUS CONFERENCE RE:
COMPLAINT
6-9-25 [1]

Item 11 thru 12

Plaintiff's Atty: Palyn Hung
Defendant's Atty: David C. Johnston

Adv. Filed: 6/9/25
Answer: 7/9/25

Nature of Action:
Dischargeability - false pretenses, false representation, actual fraud
Dischargeability - willful and malicious injury
Declaratory judgment

Notes:

The Status Conference is XXXXXXX
--

SUMMARY OF COMPLAINT

The Complaint filed by the California Labor Commissioner ("Plaintiff"), Dckt. 1 , asserts claims for nondischargeability of debts, asserting that Debtor is a successor entity and liable for the wage claim and penalties judgments issued by the Labor Commissioner against J.R.A. Restaurants.

The Complaint asserts that Debtor should be denied a discharge of the wage claims and penalties assessed against JRA because Debtor received what would constitute fraudulent conveyances made to it by JRA. It is asserted that such transfers fall under 11 U.S.C. § 523(a)(2)(A) as debts for "money, property, services" that were obtained by false pretenses, a false representation, or actual fraud. Complaint, ¶¶ 28, 29; Dckt. 1. Further, these transfers fall within the Uniform Voidable Transactions Act. *Id.*; ¶ 30.

SUMMARY OF ANSWER

Azucar Restaurants, LLC ("Defendant-Debtor") has filed an Answer, Dckt. 11, admitting and denying specific allegations. The Affirmative Defenses include that the Complaint fails to state facts upon which an allegation of fraud is based (Fed. R. Civ. P. 9, Fed. R. Bankr. P. 7009). Further, that the provisions of 11 U.S.C. § 523 apply only to individual debtors, and Defendant-Debtor is not a individual, but a limited liability company.

JOINT STATUS REPORT AND DISCOVERY PLAN

On August 13, 2025, the Plaintiff and the Defendant-Debtor filed their Joint Status Report and Discovery Plan. Dckt. 12. With respect to federal court jurisdiction, these Parties State:

Both parties acknowledge that this Court has jurisdiction over this adversary proceeding. This is a core proceeding under 28 United States Code § 157(b)(2)(I) since it involves a determination of the dischargeability of a particular debt. To the extent this is not a core proceeding, both parties consent to entry of a final judgment by the bankruptcy judge.

Joint Status Report and Discovery Plan, p. 2:10-14; Dckt. 12.

The Parties request the court set the following dates and deadlines:

1. Initial Disclosures on or before.....August 29, 2025
2. Non-Expert Discovery Closes.....January 31, 2026
(Including hearing any discovery motions)
3. Disclosure of Experts and Exchange of
Expert Reports.....December 31, 2025
4. Close of Expert Discovery.....February 28, 2026
(Including hearing any discovery motions)
5. Dispositive Motions Heard by.....May 31, 2026
6. Pretrial Conference.....

FINAL BANKRUPTCY COURT JUDGMENT

Plaintiff California Labor Commissioner alleges in the Complaint this is a core matter proceeding arising under 11 U.S.C. § 523, citing to 28 U.S.C. § 1334 and 157(b)(2)(I). Complaint ¶¶ 5,6, Dckt. 1. In the Answer, Defendant Azucar Restaurants LLC admits the allegations that this is a core matter proceeding. Answer ¶¶ 2; Dckt. 11. **To the extent that any issues in the existing Complaint as of the Status Conference at which the Pre-Trial Conference Order was issued in this Adversary Proceeding are “related to” matters, the parties consented on the record to this bankruptcy court entering the final orders and judgement in this Adversary Proceeding as provided in 28 U.S.C. § 157(c)(2) for all issues and claims in this Adversary Proceeding referred to the bankruptcy court.**

ISSUANCE OF PRE-TRIAL SCHEDULING ORDER

The court shall issue a Pre-Trial Scheduling Order setting the following dates and deadlines:

- a. Plaintiff California Labor Commissioner alleges in the Complaint this is a core matter proceeding arising under 11 U.S.C. § 523, citing to 28 U.S.C. § 1334 and 157(b)(2)(I). Complaint ¶¶ 5,6, Dckt. 1. In the Answer, Defendant Azucar Restaurants LLC admits the allegations that this is a core matter proceeding. Answer ¶¶ 2; Dckt. 11.
- b. Initial Disclosures shall be made on or before **xxxxxxx, 2025**.
- c. Expert Witnesses shall be disclosed on or before **xxxxxxx, 2025**, and Rebuttal Expert Witnesses, if any, shall be disclosed on or before **xxxxxxx, 2026**.
- d. Discovery closes, including the hearing of all discovery motions, on **xxxxxxx, 2026**.
- e. Dispositive Motions shall be heard before **xxxxxxx, 2026**.
- f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at **2:00 p.m. on xxxxxx, 2026**.

12. 25-20969 -E-11	AZUCAR RESTAURANTS LLC	CONTINUED STATUS CONFERENCE RE:
CAE-1		VOLUNTARY PETITION
		3-3-25 [1]

SUBCHAPTER V

Debtor's Atty: David C. Johnston

Notes:

Continued from 7/9/25

Operating Reports filed: 7/23/25

[DCJ-3] Debtor's Status Report re Confirmation of Plan of Reorganization filed 8/2/25 [Dckt 46]

[DCJ-3] Order continuing confirmation hearing [to 10/7/25 at 11:00 a.m. before the Honorable Christopher D. Jaime] filed 8/11/25 [Dckt 49]

The Status Conference is xxxxxxx
--

AUGUST 20, 2025 STATUS CONFERENCE

August 20, 2025 at 2:00 a.m.

Page 27 of 35

On August 3, 2025, the court conducted a hearing regarding the Debtor/Debtor in Possession's Subchapter V Plan. That hearing has been continued to October 7, 2025. Civ. Minutes; Dckt. 48.

At the Status Conference, **XXXXXXX**

JULY 9, 2025 STATUS CONFERENCE

As of the court's July 8, 2025 review of the Docket, no updated Status Report has been filed by the Debtor in Possession. The Debtor in Possession has filed a Subchapter V Plan on June 22, 2025. Dckt. 34. (The court extended the deadline for filing the Subchapter V Plan in this Case to June 22, 2025; Order, Dckt. 39.) In the Plan, the Debtor in Possession states that the Chapter 11 filing was prompted by the efforts of the California Labor Commissions to close down the Debtor's restaurants. It was asserted that the Debtor's restaurants were successors in interest to restaurants owned by JRA Restaurant, Inc., which owes substantial wage and penalty amounts to two of its former employees. Plan, p. 2:3-9; Dckt. 34.

The Plan further states that the California Labor Commission violated the automatic stay by dismissing an appeal that had been filed by the Debtor of the determination that the Debtor was the successor of J.R.A.

The court has issued an Order setting the hearing for confirmation of the Debtor in Possession's Plan at 11:30 a.m. on August 7, 2025. Order; Dckt. 35.

The California Labor Commission filed Proof of Claim 3-1 on May 12, 2025. It asserts a Claim for \$576,166.00, stating that it is fully secured, and interest is accruing at the rate of 10% per annum. Proof of Claim 3-1, ¶ 9. The Proof of Claim states that the debt is secured by Real Estate. *Id.*

The Declaration of Claudia Vizuet, a Deputy Labor Commissioner, is filed as an attachment to the Proof of Claim. Proof of Claim 3-1, Part 2. The information provided in the Declaration includes, as summarized by the court, the following (identified by paragraph number in the Declaration):

- ¶ 6. Final judgments were issued against J.R.A. and its principal Juan Alonso for labor law violations.
- ¶ 7. The final judgments were issued on February 17, 2023.
- ¶ 10. The Labor Commissioner determined that Debtor was the "same employer" as J.R.A. and Mr. Alonso.
- ¶ 10. After finding that Debtor was the "same employer" and the final judgments issued on February 17, 2023 were not satisfied, the Labor Commissioner issued a stop order.
- ¶ 11. Although the Debtor appealed the Stop Order, it did not appear at the March 4, 2025 hearing. The Debtor not appearing at the March 4, 2025 hearing, the hearing officer dismissed the appeal.

The Debtor commenced this Bankruptcy Case on March 3, 2025, the day before the appeal hearing.

- ¶ 12. Since the Debtor did not pursue the appeal, the determination that it is the successor in interest of J.R.A. and Mr. Alonso is final and *res judicata*.

It is well established law that acts taken in violation of the stay, in including judgments, are void. *See Far Out Productions, Inc. v. Lee Oskar et al*, 247 F.3d 986, 995 (9th Cir. 2001). This is true even if the person violating the automatic stay was not aware of the bankruptcy case being filed. See 3 Collier on Bankruptcy (16th Edition), ¶ 362.12[1] for a discussion and Fn.1 thereto for citation to cases, including *Morgan Guaranty Trust Co. of New York v. American Sav. & Loan Ass’n*, 804 F.2d 1487 (9th Cir. 1986), *cert. denied*, 482 U.S. 929, 107 S. Ct. 3213, 96 L. Ed. 2d 700 (1987)

- ¶ 14. Until approximately 2024, J.R.A. operated a restaurant (“Bistro”) in Stockton California. California Secretary of State Records show that Ana Sitlali Alonso is listed as J.R.A.’s Secretary and Chief Financial Officer.
- ¶ 15. Debtor’s Bankruptcy Petition lists Ana Sitali Alonzo as its Managing Member.
- ¶ 16. Debtor’s Statements of Financial Information filed with the Secretary of State list Ana Litlali Alonzo as the Debtor’s Managing Member.
- ¶ 18. Ms. Vizuet states that she conducted an inspection on two of the Debtor’s restaurants on February 21, 2025.

¶¶ 19 - 21.

When she asked the staff who the owners’ were, her hearsay statement is that the staff told her it was Ana Alonzo and Juan Alonso. The staff told her that they were hired and trained by the two owners.

¶¶ 32-35.

The Debtor’s restaurants and the J.R.A. restaurants are almost identical, including some photographs for the menus. Ana Alonzo told her that the J.R.A. menu is used with permission from Mr. Alonso, with Mr. Alonso confirmed.

The Declaration continues with further research and statements concerning Ms. Vizuet’s conclusion that the Debtor’s restaurants are the successors to the J.R.A. restaurants. In ¶ 43 of her Declaration, she states that the ABC records show that the J.R.A. liquor license was transferred to Debtor at no cost.

It is not clear in the Plan as to how the disputed claim of the California Labor Commission will be addressed.

At the Status Conference, counsel for the Debtor in Possession reported that the confirmation hearing is set for August 7, 2025.

The Status Conference is continued to 2:00 p.m. on August 20, 2025.

APRIL 16, 2025 STATUS CONFERENCE

The Debtor in Possession filed its Status Report on April 8, 2025. Dckt. 16. There are three operating restaurants in the Bankruptcy Estate. It also includes a summary of a dispute with the California Labor Commissioner concerning the Debtor's managing member and who is her husband, which relates to whether the business is a successor of a failed restaurant operation.

The Status Report states that a creditor who is believed to have a security interest in cash collateral is consenting to the Debtor in Possession using cash collateral to operate the business, so long as the Debtor in Possession is making monthly payments on the note to that Creditor.

It is not clear how, without an order of the court, the Debtor in Possession is choosing to pay one creditor and not the other creditors.

The Status Conference is continued to 2:00 p.m. on July 9, 2025.

FINAL RULINGS

13. [25-90173](#)-E-11
[CAE-1](#)

MONTFER PROPERTY
INVESTMENTS LLC

CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
3-10-25 [\[1\]](#)

SUBCHAPTER V

Final Ruling: No appearance at the August 20, 2025 Status Conference is required.

Debtor's Atty: David C. Johnston

Notes:

Continued from 5/1/25

Trustee Report at 341 Meeting lodged: 5/6/25; 5/19/25; 5/30/25; 7/7/25; 7/24/25; 7/28/25

[DCJ-2] Debtor's Motion to Extend Deadline for Filing Subchapter V filed 6/9/25 [Dckt 28]; Order granting 7/11/25 [Dckt 40]

[DCJ-3] Debtor's Motion to Extend Deadline for Filing Subchapter V filed 6/30/25 [Dckt 34]; Order granting filed 8/4/25 [Dckt 47]

[DCJ-4] Debtor In Possession's Motion to Dismiss Chapter 11 Case filed 7/31/25 [Dckt 42]; set for hearing 8/31/25 at 10:30 a.m.

The Status Conference is continued to 10:30 a.m. on August 21, 2025, to be conducted in conjunction with the Motion to Dismiss filed by the Debtor/Debtor in Possession.

AUGUST 20, 2025 STATUS CONFERENCE

On August 1, 2025, Debtor/Debtor in Possession Montfer Property Investments, LLC filed a Motion to Dismiss this Subchapter V Case. Dckt. 42.

The Status Conference is continued to 10:30 a.m. on August 21, 2025, to be conducted in conjunction with the Motion to Dismiss filed by the Debtor/Debtor in Possession.

MAY 1, 2025 STATUS CONFERENCE

The Debtor in Possession filed its updated Status report on April 23, 2025. Dckt. 22. The Debtor in Possession reports that there are two homes in the Bankruptcy Estate at this time. One is in Stockton, California which is intended to be retained as a rental property. The second is in Monterey, California, for which there is remaining work to do. At the time the Bankruptcy Case was filed, the Monterey Property was facing imminent foreclosure.

At the Status Conference, counsel for the Debtor in Possession reported that there are no developments since the Status Report was filed.

The Status Conference is continued to 2:00 p.m. on August 20, 2025.

14. [24-25181](#)-E-11 **DIAMOND K LLC**
[CAE-1](#)

**CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
11-14-24 [1]**

Final Ruling: No appearance at the August 21, 2025 Status Conference is required.

Debtor's Atty: Robert S. Marticello, Mark S. Melickian, David M. Madden

Notes:

Continued from 6/26/25. The counsel for the various parties discussed the need for information concerning the properties, the tax consequences of sale, and the need to move forward in a commercially reasonable matter for the sale of the properties.

Operating Reports filed: 7/21/25 [4/30/25, 5/31/25]; 7/23/25

<p>The Status Conference is continued to 10:30 a.m. on August 21, 2025, to be conducted in conjunction with hearings in the Kamaljit Kalkat related Chapter 11 Case.</p>

15. [22-90296](#)-E-11 **PROVIDENT CARE, INC.**
[CAE-1](#)

**CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
8-29-22 [1]**

SUBCHAPTER V

Debtor's Atty: David C. Johnston

Notes:

Continued from 5/1/25. Counsel for the Debtor in Possession reported that the SBA loan has been paid and that the first distribution to the entity that paid the SBA loan. Pursuant to oral motion of counsel for the Debtor in Possession, the court waived the task billing requirement for Debtor in Possession's counsel final fee application.

[DCJ-5] Motion for Allowance of Compensation of Attorney for Debtor in Possession filed 7/28/25 [Dckt 172]; set for hearing 8/21/25 at 10:30 a.m.

[DCJ-6] Debtor's Motion to Close Chapter 11 Case and Enter Final Decree filed 8/7/25 [Dckt 177]; set for 8/21/25 at 10:30 a.m.

The Status Conference is continued to 10:30 a.m. on August 21, 2025, to be conducted in conjunction with hearing on the Debtor's Motion to Close the Subchapter V Case and enter the Final Decree.

16. <u>24-23905-E-12</u> <u>CAE-1</u>	DEAVER RANCH, INC., A CALIFORNIA CORPORATION	CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION 8-30-24 [1]
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Final Ruling: No appearance at the August 20, 2025 Status Conference is required.

Debtor's Atty: David M. Goodrich

Notes:

Continued from 5/29/25

[DMW-12] Order granting compensation for counsel for Kenneth and Mary Jean Deaver filed 6/5/25 [Dckt 514]

[SGG-9] Order granting motion for allowance of fees and expenses for Golden Goodrich LLP filed 6/16/25 [Dckt 518]

[BJ-3] Order granting motion for relief from stay [The Prudential Insurance Company of America] filed 7/3/25 [Dckt 525]

[RPM-1] Motion for Relief from the Automatic Stay [Americredit Financial Services, Inc. dba GM Financial] filed 7/9/25 [Dckt 526]; set for hearing 8/21/25 at 10:00 a.m.

[LGT-1] Motion to Dismiss [Chapter 12 Standing Trustee] filed 7/24/25 [Dckt 533]; set for hearing 8/21/25 at 10:30 a.m.

The Status Conference is concluded and removed from the Calendar. The court is granting the Chapter 12 Trustee's unopposed Motion to Dismiss this Case (Dckt. 533).

AUGUST 20, 2025 STATUS CONFERENCE

On July 24, 2025, the Chapter 12 Trustee filed a Motion to Dismiss this Chapter 12 Case. Dckt. 533. The Motion was filed using Local Bankruptcy Rule 9014-1(f)(1) noticing procedures, and any opposition pleadings were required to be filed on or before August 6, 2025. No opposition pleadings were filed.

On August 6, 2025, the Debtor in Possession filed a Notice of Non-Opposition to the Motion to Dismiss. Dckt. 537. As stated in Footnotes 1 and 2 of the Non-Opposition, the related Bankruptcy Cases of Kenneth and Mary Jean Deaver, and Shenandoah Investment Properties, Inc. have previously been dismissed by the court. These three cases were being jointly administered.

The court, by final ruling is granting the Motion to Dismiss this Bankruptcy Case.

With this Case being dismissed, the Status Conference is concluded and removed from the Calendar.

17. 24-24023 -E-11 CAE -1	NEXT HILL ENTERPRISES, LLC	CONTINUED STATUS CONFERENCE RE: VOLUNTARY PETITION 9-9-24 [1]
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DEBTOR DISMISSED: 08/04/25

Final Ruling: No appearance at the August 20, 2025 Status Conference is required.

Debtor's Atty: Richard L. Jare

Notes:

Continued from 5/29/25

[UST-1] Motion of the United States Trustee to Convert or Dismiss Chapter 11 Case filed 6/11/25 [Dckt 106]; Order granting dismissal filed 8/4/25 [Dckt 119]

This Bankruptcy Case having been dismissed (Order; Dckt. 119), the Status Conference is concluded and removed from the Calendar.

18. [25-20833](#)-E-12 PATRICK/PATRICIA MCCAULEY CONTINUED STATUS CONFERENCE RE:
[CAE-1](#) VOLUNTARY PETITION
2-26-25 [\[1\]](#)

DEBTORS DISMISSED: 07/11/25

Final Ruling: No appearance at the August 20, 2025 Status Conference is required.

Debtors' Atty: Pro Se

Notes:

Continued from 6/4/25

Trustee Report at 341 Meeting lodged: 6/13/25

Trustee's Final Report and Account filed 7/24/25

[DCJ-1] Creditor Dambacher Family Trust's Motion to Dismiss Chapter 12 Case filed 5/7/25 [Dckt 23];
Order granting filed 7/11/25 [Dckt 61]

<p>This Bankruptcy Case having been dismissed (Order; Dckt. 61), the Status Conference is concluded and removed from the Calendar.</p>
