

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Ronald H. Sargis

Bankruptcy Judge
Sacramento, California

August 22, 2024 at 11:00 a.m.

1. [23-22896-E-7](#)
[23-2089](#)

PHILLIP SWEETLAND
Pro Se

**MOTION TO EXTEND TIME, MOTION
TO CONTINUE PRE-TRIAL
CONFERENCE**

8-9-24 [\[21\]](#)

**SWEETLAND V. UNITED STATES
DEPARTMENT OF EDUCATION ET AL**

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.

NOTICE AS A MOTION UNDER LBR 9014–1(f)(1) OR (f)(2) IS UNCLEAR

Movant has not specified clearly whether the Motion is noticed according to Local Bankruptcy Rule 9014-1(f)(1) or (f)(2). The Notice of Motion states that a hearing will be held to seek an extension of time for certain deadlines, and the hearing will be based upon submitted pleadings as well as argument at the hearing. Based upon language that there may be submissions at the hearing, the court treats the Motion as being noticed according to Local Bankruptcy Rule 9014-1(f)(2). Counsel is reminded that not complying with the Local Bankruptcy Rules is cause, in and of itself, to deny the motion. LOCAL BANKR. R. 1001-1(g), 9014-1(c)(1).

NO OFFICIAL CERTIFICATE OF SERVICE SHEET USED

Though notice was provided, Movant has not complied with Local Bankruptcy Rule 7005-1 which requires the use of a specific Eastern District of California Certificate of Service Form (Form EDC 007-005). This required Certificate of Service form is required not merely to provide for a clearer identification of the service provided, but to ensure that the party providing the service has complied with the requirements of Federal Rule of Civil Procedure 5, 7, as incorporated into Federal Rule of Bankruptcy Procedure 7005, 7007, and 9014(c).

The Proof of Service states that the Motion and supporting pleadings were served on Plaintiff-Debtor on August 9, 2024. By the court's calculation, 13 days' notice was provided. 14 days' notice is required. Movant is one day short of the required notice period. At the hearing, **XXXXXXX**

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The Motion to Extend Time was set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). No parties in interest were 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, **XXXXXXX**.

The Motion to Extend Time is granted.

Defendant Sallie Mae Bank (“Defendant”) moves this court for an Order to extend the dispositive motion deadline of August 23, 2024 and continue the October 1, 2024, Pre-Trial Conference. Defendant requests the dispositive motion deadline be extended to November 21, 2024, and the Pre-Trial Conference be extended to January 2, 2025. Mot. 2:8-16, Docket 21.

Movant states good cause exists for the extension, providing testimony in support that extending the deadlines would facilitate Defendant’s efforts to engage in settlement negotiations with plaintiff-debtor Phillip Ryan Sweetland (“Plaintiff”), not having these deadlines looming overhead. Decl. ¶¶ 13-14, Docket 23.

Movant moves this court based on Eastern District Local Rule 144(a). Mot. 2:7, Docket 21. That rule states:

(a) Extensions on Stipulation. Unless the filing date has been set by order of the Court, an initial stipulation extending time for no more than twenty-eight (28) days to respond to a complaint, cross-claim or counterclaim, or to respond to interrogatories, requests for admissions, or requests for production of documents may be filed without approval of the Court if the stipulation is signed on behalf of all parties who have appeared in the action and are affected by the stipulation. All other extensions of time must be approved by the Court. No open extensions of time by stipulation of the parties will be recognized.

There is no stipulation to a second extension on the Docket, so this rule is not applicable. Furthermore, this District’s Local Bankruptcy Rules state:

(c) Applicability of Local Bankruptcy and District Court Rules. The Federal Rules of Bankruptcy Procedure and these Local Rules govern procedure in all bankruptcy cases and bankruptcy proceedings in the Eastern District of California. The following Local Rules of Practice of the United States District Court for the Eastern District of California apply in all bankruptcy cases and proceedings: Rules 173 (Photographing, Recording or Broadcasting of Judicial Proceedings), 180 (Attorneys), 181 (Certified Students), 183 (Persons Appearing In Propria Persona), 184 (Disciplinary Proceedings Against Attorneys), 292 (Costs), and 293 (Awards of Attorneys’ Fees). Except for these enumerated rules, no other Local Rules of Practice of the United States District Court for the Eastern District of California apply.

Local Bankruptcy Rule 1001-1(c). Therefore, it is clear Eastern District Local Rule 144(a) is not applicable in this adversary proceeding even if there were a stipulation on the Docket.

The relevant Rule is Local Bankruptcy Rule 7012-1. Local Bankruptcy Rule 7012-1 states:

Plaintiff and a defendant may stipulate to only one extension of time for that defendant to file an answer or motion in response to the Complaint, and such stipulation shall: (1) be in writing; (2) be filed with the Court; and (3) be for a period not greater than 30 days from the original time to respond to the Complaint. For this stipulation only there is no requirement for a separate court order. All further extensions must be by order of the Court.

Defendant and Plaintiff have so stipulated to an extension once before in this adversary proceeding. Docket 7. Defendant, in arguing why the court should extend the time pursuant to Local Bankruptcy Rule 7012-1, at the hearing, **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 Extend Time filed by Defendant Sallie Mae Bank (“Defendant”) 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 Extend Time is granted, and the deadline for filing dispositive motions in this adversary proceeding is extended to November 21, 2024, and the date of the Pre-Trial Conference is extended to January 2, 2025.~~