

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

**Honorable Ronald H. Sargis**

Chief Bankruptcy Judge

Modesto, California

**August 23, 2018 at 02:00 p.m.**

---

1. [18-90030-E-11](#) **FILBIN LAND & CATTLE** **CONTINUED STATUS CONFERENCE RE:**  
[18-9003](#) **CO., INC.** **COMPLAINT**  
**4-18-18 [1]**

**FILBIN LAND & CATTLE CO., INC.**  
**V. SBN V AG I LLC**

ADVERSARY DISMISSED 8/14/18

Plaintiff's Atty: Michael St. James

Defendant's Atty: Christopher O. Rivas

Adv. Filed: 4/18/18

Answer: 5/29/18

Nature of Action:

Recovery of money/property - fraudulent transfer

<p><b>The Adversary Proceeding having been dismissed, the Status Conference is removed from the Calendar.</b></p>
---

Notes:

Continued by request of the Parties [Stipulation filed 5/17/18, Dckt 10; Order filed 5/18/18, Dckt 11]

Stipulation to Dismiss Adversary Proceeding filed 8/14/18 [Dckt 14]; Order granting filed 8/14/18 [Dckt 16]

**August 23, 2018 at 02:00 p.m.**

**- Page 1 of 16 -**

Debtors' Atty: Mikalah R. Liviakis

Notes:  
Continued from 3/29/18

Operating Report filed: 5/23/18

<b>The Status Conference is <span style="color: red;">XXXXXXXXXXXXXXXXXXXX</span></b>
---

### **AUGUST 23, 2018 STATUS CONFERENCE**

On August 16, 2018, David Sternberg, Esq., counsel for James Saras, the Plan Administrator, filed a Status Report. Dckt. 849. It is reported that fourteen out of the thirty-eight Class 10 Ranch Crew Farm Workers have been located. It is requested that for any of the Ranch Crew Farm Workers who cannot be located, the monies for their distributions be released to the Debtor as provided in 11 U.S.C. § 347.

That provision relates to property that is unclaimed at the expiration of the time “for the presentment of a security or the performance or any other act as a condition to participate in the distribution under the Plan. As addressed in Collier on Bankruptcy, Sixteenth Edition, ¶ 347.03[2], such act includes the cashing of the distribution check.

### **MARCH 29, 2018 STATUS CONFERENCE**

The Plan Administrator/Debtor, acting through his attorneys, is concluding the distributions due under this Plan. Order, Dckt. 839. The court continues the Status Conference to afford the Plan Administrator/Debtor to make and document such payments.

3. [16-90157-E-7](#)      **DARYL FITZGERALD**  
[18-9011](#)

**STATUS CONFERENCE RE:**  
**COMPLAINT**  
**6-25-18 [1]**

**FITZGERALD V. NAVIENT ET AL**

Plaintiff's Atty: Pro Se  
Defendant's Atty:  
    Robert Scott Kennard [Trellis Company]  
    Robert S. Lampl [Navient]

Adv. Filed: 6/25/18  
Answer: 7/26/18 [Trellis Company]

Nature of Action:  
Dischargeability - student loan  
Dischargeability - other

<b>The Status Conference is <span style="color: red;">XXXXXXXXXXXXXXXXXXXX</span></b>
---

Notes:  
[RSL-1] Navient Solutions, LLC's Motion to Dismiss "Navient" as a Defendant in this Adversary Proceeding or in the Alternative for Summary Judgment Dismissing "Navient" as a Defendant in this Adversary Proceeding filed 7/18/18 [Dckt 10], **set for hearing 8/23/18 at 10:30 a.m.**

**SUMMARY OF COMPLAINT**

Daryl Fitzgerald, the Plaintiff-Debtor, has filed a Complaint to have his student loan obligation determined dischargeable. The named defendants are Navient Solutions, Inc., Wilkes-Barre, and Trellis Company.

**SUMMARY OF ANSWER**

Trellis Company, fka Texas Guarateed [sic] Student Loan filed an Answer (Dckt 18) that admits and denies specific allegations in the Complaint.

**MOTION TO DISMISS**

Navient Solutions, LLC has filed a Motion to Dismiss "Navient" as a defendant in this Adversary Proceeding. Dckt. 10. It is asserted that there is no legal entity known as "Navient." It is asserted that Navient Solutions, LLC has no interests in the student loans at issue, all of those rights and interests having been transferred to Texas Guaranteed Student Loan Corporation in May of 2016.

## FINAL BANKRUPTCY COURT JUDGMENT

Plaintiff alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b)(2), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)-----  
----- . Complaint ¶¶ X, X, Dckt. X. In its answer, ----- admits the allegations of jurisdiction and core proceedings. Answer ¶¶ X, X, Dckt. X. 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. The Plaintiff alleges that jurisdiction exists for this Adversary Proceeding pursuant to 28 U.S.C. § 1334 and 157, and the referral to this bankruptcy court from the United States District Court for the Eastern District of California. Further, that this is a core proceeding before this bankruptcy court pursuant to 28 U.S.C. § 157(b)(2)(A), (N), and (O). First Amended Complaint, ¶¶ X, X, Dckt. X. The Defendant admits the jurisdiction and that this is a core proceeding. Answer, ¶¶ X, X, Dckt. X. 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 is Adversary Proceeding are related to proceedings, 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 claims and issues in this Adversary Proceeding referred to the bankruptcy court.
- b. Initial Disclosures shall be made on or before -----, **2017**.
- c. Expert Witnesses shall be disclosed on or before -----, **2018**, and Expert Witness Reports, if any, shall be exchanged on or before -----, **2018**.
- d. Discovery closes, including the hearing of all discovery motions, on -----, **2018**.
- e. Dispositive Motions shall be heard before -----, **2018**.
- f. The Pre-Trial Conference in this Adversary Proceeding shall be conducted at ----- **p.m. on -----**  
**-----, 2018**.

4. [13-92058-E-7](#)                      SHERI HIEMSTRA  
[17-9016](#)

CONTINUED STATUS CONFERENCE RE:  
COMPLAINT  
10-9-17 [\[1\]](#)

NELSON V. HIEMSTRA

**APPEARANCES OF DAVID JOHNSTON, ESQ. AND  
MICHAEL GERMAIN, ESQ. REQUIRED FOR THE STATUS CONFERENCE  
– NO TELEPHONIC APPEARANCES PERMITTED –**

Plaintiff's Atty: David C. Johnston  
Defendant's Atty: Michael R. Germain

Adv. Filed: 10/9/17  
Answer: none

Nature of Action:  
Validity, Priority or Extent of Lien, Injunctive Relief, Declaratory Judgment

Notes:  
Continued from 7/12/18 for the Parties to implement settlement and conclude this Adversary Proceeding.

<b>The Status Conference is <del>XXXXXXXXXXXXXXXXXXXX</del></b>
---

The Parties having filed a stipulation for judgment in this Adversary Proceeding on July 11, 2018 (Dckt. 30), the court continued the Status Conference for the parties to implement settlement and conclude this Adversary Proceeding.

No judgment has been entered in this Adversary Proceeding. No proposed judgment was lodged with the court until sometime on Tuesday August 21, 2018, leaving only one workday before the August 23, 2018 hearing date for the court to act on the proposed judgment. The court being unable to so adjust its schedule to accommodate the parties, this Status Conference being conducted on August 23, 2018, for which the respective counsel are required to attend, was necessitated.

5. [17-90577-E-7](#)      **WILSON SARHAD**  
[17-9019](#)

**GARCIA V. SARHAD**

**PRE-TRIAL CONFERENCE RE:  
COMPLAINT TO (1) DETERMINE  
DISCHARGEABILITY OF PARTICULAR  
DEBT; AND (2) DETERMINE  
DISCHARGEABILTN OF ALL DEBTS  
11-6-17 [1]**

Plaintiff's Atty: Michael R. Dennis  
Defendant's Atty: David C. Johnston

Adv. Filed: 11/6/17  
Answer: 12/3/17

Nature of Action:  
Dischargeability - willful and malicious injury  
Objection/revocation of discharge

Notes:  
Scheduling order -  
Initial disclosures by 1/18/18  
Disclose experts by 2/15/18  
Exchange expert reports by 2/28/18  
Close of discovery 6/22/18  
Dispositive motions heard by 7/24/18

Pretrial Statement filed 8/15/18 [Dckt 17]

## **SUMMARY OF COMPLAINT**

[NAME], Plaintiff, xxxxxxxxxxxxxxxxxxxxxxxx.

## **SUMMARY OF ANSWER**

[NAME], Defendant, xxxxxxxxxxxxxxxxxxxxxxxx.

## **FINAL BANKRUPTCY COURT JUDGMENT**

Plaintiff alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b)(2), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)-----  
-----  
Complaint ¶¶ X, X, Dckt. X. In its answer, ----- admits the allegations of jurisdiction and core proceedings. Answer ¶¶ X, X, Dckt. X. 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.

The court shall issue a Trial Setting in this Adversary Proceeding setting the following dates and deadlines:

- A. Evidence shall be presented pursuant to Local Bankruptcy Rule 9017-1.
- B. **Plaintiff** shall lodge with the court and serve their Direct Testimony Statements and Exhibits on or before -----, **2017**.
- C. **Defendant** shall lodge with the court and serve their Direct Testimony Statements and Exhibits on or before -----, **2017**.
- D. The Parties shall lodge with the court, file, and serve Hearing Briefs and Evidentiary Objections on or before -----, **2017**.
- E. Oppositions to Evidentiary Objections, if any, shall be lodged with the court, filed, and served on or before -----, **2017**.
- F. The Trial shall be conducted at ----**x.m. on** -----, **2017**.

The Parties in their respective Pretrial Conference Statements, Dckts. -----, -----, and as stated on the record at the Pretrial Conference, have agreed to and establish for all purposes in this Adversary Proceeding the following facts and issues of law:

Plaintiff(s)	Defendant(s)
Jurisdiction and Venue:  1.  2.  3.	Jurisdiction and Venue:  1.  2.  3.
Undisputed Facts:  1.  2.  3.	Undisputed Facts:  1.  2.  3.
Disputed Facts:	Disputed Facts:

**August 23, 2018 at 02:00 p.m.**

1. 2. 3.	1. 2. 3.
Disputed Evidentiary Issues: 1. 2. 3.	Disputed Evidentiary Issues: 1. 2. 3.
Relief Sought: 1. 2. 3.	Relief Sought: 1. 2. 3.
Points of Law: 1. 2. 3.	Points of Law: 1. 2. 3.
Abandoned Issues: 1. 2. 3.	Abandoned Issues: 1. 2. 3.
Witnesses: 1. 2.	Witnesses: 1. 2.



3.	3.
Exhibits:  1.  2.  3.	Exhibits:  1.  2.  3.
Discovery Documents:  1.  2.  3.	Discovery Documents:  1.  2.  3.
Further Discovery or Motions:  1.  2.  3.	Further Discovery or Motions:  1.  2.  3.
Stipulations:  1.  2.  3.	Stipulations:  1.  2.  3.
Amendments:  1.  2.  3.	Amendments:  1.  2.  3.

Dismissals:	Dismissals:
1.	1.
2.	2.
3.	3.
Agreed Statement of Facts:	Agreed Statement of Facts:
1.	1.
2.	2.
3.	3.
Attorneys' Fees Basis:	Attorneys' Fees Basis:
1.	1.
2.	2.
3.	3.
Additional Items	Additional Items
1.	1.
2.	2.
3.	3.
Trial Time Estimation:	Trial Time Estimation:

6. [15-90680-E-7](#)            **JO GIBSON**  
[18-9001](#)

**CONTINUED STATUS CONFERENCE RE:  
AMENDED COMPLAINT  
6-21-18 [29](#)**

**GIBSON V. NATIONAL RECOVERIES  
ET AL**

Plaintiff's Atty: David Foyil

Defendant's Atty:

unknown [Direct Loans; National Recoveries]

Robert S. Lampl [Navient Solutions, Inc. (Navient Corporation)]

Jeffrey J. Lodge [United States Department of Education]

Adv. Filed: 4/5/18

Answer: 5/10/18 [United States Department of Education]

Amd. Cmplt. Filed: 6/21/18

Answer: 7/26/18 [United States Department of Education]

Nature of Action:

Dischargeability - student loan

Notes:

Continued from 5/31/18. Parties to file updated status conference reports on or before 8/13/18.

[RSL-1] Order granting motion to dismiss party [Navient Solutions, LLC] filed 6/3/18 [Dckt 25]

[DEF-1] Motion to Substitute Proper Parties as Defendants and Verified First Amended Complaint for Discharge Certain Student Loans in Bankruptcy filed 6/21/18 [Dckt 32], set for hearing 8/23/18 at 10:30 a.m.

Plaintiff's Status Conference Report filed 8/1/18 [Dckt 40]

United States' Scheduling Report filed 8/7/18 [Dckt 42]

## **SUMMARY OF COMPLAINT**

[NAME], Plaintiff, xxxxxxxxxxxxxxxxxxxx.

## **SUMMARY OF ANSWER**

[NAME], Defendant, xxxxxxxxxxxxxxxxxxxx.

## **FINAL BANKRUPTCY COURT JUDGMENT**

**August 23, 2018 at 02:00 p.m.**

**- Page 11 of 16 -**

Plaintiff alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157(b)(2), and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)-----. Complaint ¶¶ X, X, Dckt. X. In its answer, ----- admits the allegations of jurisdiction and core proceedings. Answer ¶¶ X, X, Dckt. X. 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.

The court shall issue an Trial Setting in this Adversary Proceeding setting the following dates and deadlines:

- A. Evidence shall be presented pursuant to Local Bankruptcy Rule 9017-1.
- B. **Plaintiff** shall lodge with the court and serve their Direct Testimony Statements and Exhibits on or before -----, **2017**.
- C. **Defendant** shall lodge with the court and serve their Direct Testimony Statements and Exhibits on or before -----, **2017**.
- D. The Parties shall lodge with the court, file, and serve Hearing Briefs and Evidentiary Objections on or before -----, **2017**.
- E. Oppositions to Evidentiary Objections, if any, shall be lodged with the court, filed, and served on or before -----, **2017**.
- F. The Trial shall be conducted at ----**x.m. on** -----, **2017**.

The Parties in their respective Pretrial Conference Statements, Dckts. -----, -----, and as stated on the record at the Pretrial Conference, have agreed to and establish for all purposes in this Adversary Proceeding the following facts and issues of law:

Plaintiff(s)	Defendant(s)
<p>Jurisdiction and Venue:</p> <ol style="list-style-type: none"> <li></li> <li></li> <li></li> </ol>	<p>Jurisdiction and Venue:</p> <ol style="list-style-type: none"> <li></li> <li></li> <li></li> </ol>
<p>Undisputed Facts:</p> <ol style="list-style-type: none"> <li></li> <li></li> </ol>	<p>Undisputed Facts:</p> <ol style="list-style-type: none"> <li></li> <li></li> </ol>

3.	3.
<p>Disputed Facts:</p> <p>1.</p> <p>2.</p> <p>3.</p>	<p>Disputed Facts:</p> <p>1.</p> <p>2.</p> <p>3.</p>
<p>Disputed Evidentiary Issues:</p> <p>1.</p> <p>2.</p> <p>3.</p>	<p>Disputed Evidentiary Issues:</p> <p>1.</p> <p>2.</p> <p>3.</p>
<p>Relief Sought:</p> <p>1.</p> <p>2.</p> <p>3.</p>	<p>Relief Sought:</p> <p>1.</p> <p>2.</p> <p>3.</p>
<p>Points of Law:</p> <p>1.</p> <p>2.</p> <p>3.</p>	<p>Points of Law:</p> <p>1.</p> <p>2.</p> <p>3.</p>
<p>Abandoned Issues:</p> <p>1.</p> <p>2.</p> <p>3.</p>	<p>Abandoned Issues:</p> <p>1.</p> <p>2.</p> <p>3.</p>

<p>Witnesses:</p> <ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> </ol>	<p>Witnesses:</p> <ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> </ol>
<p>Exhibits:</p> <ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> </ol>	<p>Exhibits:</p> <ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> </ol>
<p>Discovery Documents:</p> <ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> </ol>	<p>Discovery Documents:</p> <ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> </ol>
<p>Further Discovery or Motions:</p> <ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> </ol>	<p>Further Discovery or Motions:</p> <ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> </ol>
<p>Stipulations:</p> <ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> </ol>	<p>Stipulations:</p> <ol style="list-style-type: none"> <li>1.</li> <li>2.</li> <li>3.</li> </ol>
<p>Amendments:</p> <ol style="list-style-type: none"> <li>1.</li> </ol>	<p>Amendments:</p> <ol style="list-style-type: none"> <li>1.</li> </ol>

2.	2.
3.	3.
Dismissals:	Dismissals:
1.	1.
2.	2.
3.	3.
Agreed Statement of Facts:	Agreed Statement of Facts:
1.	1.
2.	2.
3.	3.
Attorneys' Fees Basis:	Attorneys' Fees Basis:
1.	1.
2.	2.
3.	3.
Additional Items	Additional Items
1.	1.
2.	2.
3.	3.
Trial Time Estimation:	Trial Time Estimation:

7. [17-90981](#)-E-11

**THE LIVING CENTERS OF  
FRESNO, INC.**

**CONTINUED STATUS CONFERENCE RE:  
VOLUNTARY PETITION  
12-1-17 [\[1\]](#)**

Debtor's Atty: David C. Johnston

Notes:

Continued from 4/26/18

Operating Reports filed: 5/14/18, 6/14/18, 7/10/18, 8/11/18

[MHK-1] Order granting motion for relief from stay [Creditor: assignees of The Loeb Living Trust] filed 6/26/18 [Dckt 77]