

UNITED STATES BANKRUPTCY COURT  
Eastern District of California

**Honorable Ronald H. Sargis**  
Chief Bankruptcy Judge  
Sacramento, California

**September 7, 2022 at 2:00 p.m.**

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1. [20-22873-E-7](#)      **KEVIN EHMKA**      **PRE-TRIAL CONFERENCE**  
[21-2063](#)                **COMPLAINT FOR DENIAL OF**  
                          **DISCHARGE**  
**U.S. TRUSTEE V. EHMKA**      **8-31-21 [1]**

Plaintiff's Atty: Justin C. Valencia  
Defendant's Atty: Pro Se

Adv. Filed: 8/31/21  
Answer: 9/29/21

Nature of Action:  
Objection/revocation of discharge

Notes:  
Scheduling Order-  
Initial disclosures by 11/30/21  
Disclose experts by 2/2/22  
Close of discovery ~~4/29/22~~; 6/28/22  
Dispositive motions by ~~5/31/22~~; 8/1/22

[UST-1] Motion to Continue Discovery and Pre-Trial Deadlines filed 4/15/22 [Dckt 17]; Stipulation filed 4/15/22 [Dckt 18]; Order granting filed 5/3/22 [Dckt 20]

<b>The Pretrial Conference is <del>XXXXXXX</del></b>
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**SUMMARY OF COMPLAINT**

The Complaint filed by the U.S. Trustee ("Plaintiff"), Dekt. 1 , asserts claims for Defendant-Debtor being denied his discharge in Defendant-Debtor's related Chapter 7 bankruptcy case. The Complaint details asserted undisclosed assets and transfers, inaccurate information on the original and amended schedules and statement of financial affairs, and Defendant-Debtor failure to provide documents and information in compliance with court authorized 2004 Examination. The Objection to

Discharge is sought on each of these independent grounds: 11 U.S.C. §§ 727(a)(2)(A), (a)(2)(B), (a)(3), (a)(4)(A), and (a)(5).

## SUMMARY OF ANSWER

Kevin Ehmka (“Defendant-Debtor”), in pro se, has filed an EDC 3-101 *pro se* form debtor answer, admitting that this is a core bankruptcy proceeding, and denying other allegations except the procedural facts regarding his filing of the bankruptcy petition. Dckt. 7.

## 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, and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(J). Complaint ¶¶ 3, 4, Dckt. 1. In the Answer, Defendant admits that this is a core matter proceeding, which necessarily includes admission that jurisdiction exists pursuant to 28 U.S.C. § 1334 Answer; Dckt. 7.

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 ~~-----~~, **2022**.
- C. **Defendant** shall lodge with the court and serve their Direct Testimony Statements and Exhibits on or before ~~-----~~, **2022**.
- D. The Parties shall lodge with the court, file, and serve Hearing Briefs and Evidentiary Objections on or before ~~-----~~, **202X**.
- E. Oppositions to Evidentiary Objections, if any, shall be lodged with the court, filed, and served on or before ~~-----~~, **202X**.
- F. The Trial shall be conducted at **9:00 a.m. on -----**, **202X**.

For this Adversary Proceeding, the following points, witnesses, and exhibits for the respective parties are set for trial. In light of Defendant-Debtor prosecuting this in pro se, the court does not determine the facts not in dispute, but leaves that for the Parties to do prior to trial.

Plaintiff	Defendant
<p>Jurisdiction and Venue:</p> <p>Plaintiff alleges in the Complaint that jurisdiction for this Adversary Proceeding exists pursuant to 28 U.S.C. §§ 1334 and 157, and that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(J). Complaint ¶¶ 3, 4, Dckt. 1. In the Answer, Defendant admits that this is a core matter proceeding, which necessarily includes admission that jurisdiction exists pursuant to 28 U.S.C. § 1334 Answer; Dckt. 7.</p>	
<p>Undisputed Facts:</p> <p>None. Undisputed facts, if any, to be stated a pre-trial agreed statement on undisputed facts.</p>	
<p>Relief Sought:</p> <p>1. Denial of Defendant-Debtor's Discharge.</p>	<p>Relief Sought:</p> <p>1.</p>
<p>Plaintiff's Points of Law:</p> <ol style="list-style-type: none"> <li>1. 11 U.S.C. § 727(a)(2)(A) (transferred, removed, concealed, or so permitted property of Defendant-Debtor to so be within one year of filing the Chapter 7 case.</li> <li>2. 11 U.S.C. § 727(a)(2)(B) (transferred, removed, destroyed, mutilated, or concealed property of the Bankruptcy Estate)</li> <li>3. 11 U.S.C. § 727(a)(3) (concealed, destroyed, mutilated, falsified, or failed to keep or preserve record information)</li> <li>4. 11 U.S.C. § 727(a)(4) (knowingly and fraudulently made false oaths or accounts, including: Schedules, Statement of Financial Affairs, Monthly Statement of Income, and Chapter 7 Means Test)</li> <li>5. 11 U.S.C. § 727(a)(5) (failure to satisfactorily explain loss of assets or deficient assets to meet liabilities; including: transfers and withdrawals from personal, business, and brokerage accounts, which include SEP IRA transfers.</li> </ol> <p><u>Case Law</u></p> <p><i>Khalil v. Developers Sur. &amp; Indem. Co. (In re Khalil)</i>, 379 B.R. 163, 172 (9th Cir. BAP 2007), <i>aff'd</i>, 578 F.3d 1167, 1168 (9th Cir. 2009);</p> <p><i>Retz v. Samson (In re Retz)</i>, 606 F.3d 1189, 1197 (9th Cir. 2010);</p>	

*In re Devers*, 759 F.2d 751, 754 (9th Cir. 1985);

*Wolkowitz v. Beverly (In re Beverly)*, 374 B.R. 221 (9th Cir. BAP 2007);

*Maring v. PG Alaska Inv. Co (In re Maring)*, 338 F. App'x 655, 658 (9th Cir. 2009);

*In re Adeeb*, 787 F.2d 1339 (9th Cir. 2009);

*Beauchamp v. Hoose (In re Beauchamp)*, 236 B.R. 727 (9th Cir. BAP 1999);

*Boroff v. Tully (In re Tully)*, 818 F.2d 106, 111 (1st Cir.1987);

*Kavanagh v. Leija (In re Leija)*, 270 B.R. 497, 504 (Bankr. E.D. Cal. 2001);

*Hughes v. Lawson (In re Lawson)*, 122 F.3d 1237, 1240 (9th Cir. 1997);

*Fogal Legwear of Switz., Inc. v. Wills (In re Wills)*, 243 B.R. 58, 65 (9th Cir. BAP 1999);

*Emmett Valley Assocs. v. Woodfield (In re Woodfield)*, 978 F.2d 516, 518 (9th Cir. 1992);

*Adell v. John Richards Homes Bldg. Co. (In re John Richards Homes Bldg. Co.)*, 439 F.3d 248, 260 (6th Cir. 2006);

*In re Ward*, 92 B.R. 644 (Bankr. W.D. PA 1988);

*Stamat v. Neary*, 635 F.3d 974, 982 (7th Cir. 2011), citing *Payne v. Wood*, 775 F.2d 202, 205 (7th Cir. 1985);

*Keeney v. Smith (In re Kinney)*, 227 F.3d 679 (6th. Cir. 2000);

*Garcia v. Coombs (In re Coombs)*, 193 B.R. 557, 565-66 (Bankr. S.D. Cal. 1996);

*Hanson v. Moore (In re Hansen)*, 368 B.R. 868, 878 (BAP 9 th Cir. 2007);

*In re Neil Schafer*, 294 B.R. 126, 131 (N.D. Cal. 2003).

	Defendant-Debtors Points of Law:  1. None identified.
Abandoned Issues:  1. None	Abandoned Issues:  1. None
Witnesses:	Witnesses:

<ol style="list-style-type: none"> <li>1. Carla Cordero Bankruptcy Analyst Office of the United States Trustee</li> <li>2. Laurie Brugger Senior Paralegal Specialist Office of the United States Trustee</li> <li>3. Cecilia Jimenez Paralegal Office of the United States Trustee</li> <li>4. Kevan Karl Ehmka Defendant-Debtor</li> </ol>	<ol style="list-style-type: none"> <li>1. Kevan Karl Ehmka, Defendant-Debtor</li> </ol>
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Plaintiff's Exhibits:

EXH 01 – 2022.04.26 20-22873 Docket Report

EXH 02 – 2022.04.26 20-22873 ECF 1 Petition, Schedules, SOFA

EXH 03 – 2022.04.26 20-22873 Mailing Matrix

EXH 04 – 2022.04.26 20-22873 ECF 16 Order on Stipulation to Extend

EXH 05 – 2022.04.26 20-22873 ECF 22 Motion for Rule 2004 Exam

EXH 06 – 2022.04.26 20-22873 ECF 24 Order for Rule 2004 Exam

EXH 07 – 2022.04.26 20-22873 ECF 27 Order to Extend

EXH 08 – 2022.04.26 20-22873 ECF 39 Motion to Convert to Chapter 13

EXH 09 – 2022.04.26 20-22873 ECF 40 Notice of Motion to Convert to Chapter 13

EXH 10 – 2022.04.26 20-22873 ECF 41 Declaration of James Keenan

EXH 11 – 2022.04.26 20-22873 ECF 45 Order Denying Motion to Convert

EXH 12 – 2022.04.26 20-22873 ECF 46 Order to Extend

EXH 13 – 2022.04.26 20-22873 ECF 47 Amended Petition, Schedules, SOFA

EXH 14 – 2022.04.26 20-22873 ECF 48 Chapter 13 Calculation of Monthly Income

EXH 15 – 2022.04.26 20-22873 ECF 55 Order to Extend

EXH 16 – 2022.04.26 20-22873 ECF 58 Order to Extend

EXH 17 – 2022.04.26 21-02063 Adv Proc Docket Report

EXH 18 – 2022.04.26 21-02063 Adv Proc ECF 1 UST 727 Complaint

EXH 19 – 2022.04.26 21-02063 Adv Proc ECF 7 Defendant Answer

t. EXH 20 – 2022.04.26 21-02063 Adv Proc ECF 13 Scheduling Order

EXH 21 – 2022.04.26 21-02063 Adv Proc ECF 15 Notice of Deposition

EXH 22 – 2022.04.26 21-02063 Adv Proc Email Stipulation for Remote Deposition

EXH 23 – 2022.04.26 21-02063 Adv Proc Email Stipulation to Continue Deposition

EXH 24 – Ehmka 2020.07.14 341 Transcript

EXH 25 – Ehmka 2020.08.11 341 Continued Transcript

EXH 26 – Ehmka, Kevin Karl 2021.02.22 Rule 2004 Exam Transcript\_Certified Copy

EXH 27 – 2020.12.21 Ehmka RFP and Rule 2004 Letter

EXH 28 – 2021.01.22 R 2004 Exam Appt Letter

EXH 29 – 2021.02.08 RFP and R 2004 Exam Appt Reschedule Letter

EXH 30 – EDD Covid Payment Activity

EXH 31 – BOA prepaid card for EDD payments

EXH 32 – Gemstar 2019 1120S CT3 Taxes\_Redacted

EXH 33 – Gemstar 2022.03.09 Entity is Active

EXH 34 – Funding Circle complaint 34-2020-00249966 filed 2020.06.02

EXH 35 – S-DR-0048998 Superior Court of California Placer County\_Brenda Ehmka

EXH 36 – Ehmka FL-158 – Supporting Declaration for Attorney’s Fees and Costs Attachment

EXH 37 – Ehmka Spousal Support Tentative Decision 2021.02.18

EXH 38 – Item 6.79 (Ameritrade) – 2019\_8\_Statement

EXH 39 – Item 6.80 (Ameritrade) – 2019\_9\_Statement

EXH 40 – Item 6.83 (Ameritrade) – 2019\_12\_Statement  
 EXH 41 – Item 6.84 (Ameritrade) – 2020\_1\_Statement  
 EXH 42 – Item 6.85 (Ameritrade) – 2020\_2\_Statement  
 EXH 43 – Item 6.88 (Ameritrade) – 2020\_5\_Statement  
 EXH 44 – Item 8.4 (Ameritrade) – 2020\_5\_Statement  
 EXH 45 – Item 8.13 (Wells Fargo) – February 2020  
 EXH 46 – Item 6.203 (Wells Fargo) – February 2020  
 EXH 47 – Item 7.100 (Ameritrade) – 2019\_6\_Statement  
 EXH 48 – Item 7.101 (Ameritrade) – 2019\_7\_Statement  
 EXH 49 – Item 7.105 (Ameritrade) – 2019\_11\_Statement  
 EXH 50 – BofA eStmt\_2019-12-18  
 EXH 51 – Item 7.106 (Ameritrade) – 2019\_12\_Statement  
 EXH 52 – BofA eStmt\_2020-01-21  
 EXH 53 – Item 7.25 (Ameritrade) – 2020\_1\_Statement  
 EXH 54 – BofA eStmt\_2020-02-18  
 EXH 55 – Item 7.26 (Ameritrade) – 2020\_2\_Statement

	Defendant-Debtor’s Exhibits:  1. None identified.
Discovery Documents:  EXH 56 – Kevin Ehmka Deposition Transcript, taken April 28, 2022.	Discovery Documents:  1. None Identified
Further Discovery or Motions:  1. No further discover.	Further Discovery or Motions:  1. None Identified

<p>2. Motion for Judicial Notice of the court's files in this Adversary Proceeding and Related Bankruptcy Case.</p>	
<p>Stipulations:</p> <p>1. None anticipated.</p>	<p>Stipulations:</p> <p>1. None identified.</p>
<p>Amendments:</p> <p>1. None.</p>	<p>Amendments:</p> <p>1. None identified.</p>
<p>Dismissals:</p> <p>1. None.</p>	<p>Dismissals:</p> <p>1. None identified.</p>
<p>Agreed Statement of Facts:</p> <p>1. Will seek with Defendant-Debtor.</p>	<p>Agreed Statement of Facts:</p> <p>1. None identified.</p>
<p>Attorneys' Fees Basis:</p> <p>1. Not to be requested.</p>	<p>Attorneys' Fees Basis:</p> <p>1. None identified.</p>
<p>Additional Items</p> <p>1. Plaintiff considering requesting Video Trial.</p>	<p>Additional Items</p> <p>1. None identified.</p>
<p>Trial Time Estimation: 1 Day</p>	<p>Trial Time Estimation: Not identified</p>