



**UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Wednesday, September 28, 2022
Department B – Courtroom #13
Fresno, California**

Unless otherwise ordered, all hearings before Judge Lastreto are simultaneously: (1) **IN PERSON** in Courtroom #13 (Fresno hearings only), (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**. You may choose any of these options unless otherwise ordered.

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INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called, and all parties will need to appear at the hearing unless otherwise ordered. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

Post-Publication Changes: The court endeavors to publish its rulings as soon as possible. However, calendar preparation is ongoing, and these rulings may be revised or updated at any time prior to 4:00 p.m. the day before the scheduled hearings. Please check at that time for any possible updates.

9:30 AM

1. [22-11203](#)-B-13 **IN RE: SAUNDRA HIGHTOWER**
[JRL-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-29-2022 [[39](#)]

RAYSHAWN HIGHTOWER/MV
JERRY LOWE/ATTY. FOR MV.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

Ray Hightower requests an order modifying the stay for cause under 11 U.S.C. § 362 to allow him to continue pursuit to a final judgment in a marriage dissolution action in the Fresno County Superior Court styled *Saundra Hightower v. Rayshawn Hightower*, Case No. 21CEFL03315, filed August 16, 2021. Doc. #39.

On September 21, 2022, this bankruptcy case was dismissed without prejudice. Accordingly, this motion will be DENIED AS MOOT because the case has already been dismissed.

2. [22-11410](#)-B-13 **IN RE: HOWARD/KIM CRAUSBY**
[MHM-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
8-23-2022 [[10](#)]

MICHAEL MEYER/MV
DAVID BOONE/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

Chapter 13 trustee Michael H. Meyer ("Trustee") objects to Howard Franke Crausby's and Kim Renee Crausby's (collectively "Debtors") claim of exemption in real property located at 781 Bluff Drive, Los Banos, CA ("Property"), in Merced County, in the amount of \$626,400.00 under Cal. Code Civ. Proc. ("CCP") § 704.730. Doc. #10.

On September 12, 2022, Debtors filed an *Amended Schedule C* reducing the exemption in Property to \$300,000.00. Doc. #18. Accordingly, Trustee's objection will be OVERRULED AS MOOT because Debtors already amended their exemptions.

3. [17-14843](#)-B-13 **IN RE: MATTHEW/MYRA ALLRED**
[APN-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
8-29-2022 [[70](#)]

WILMINGTON SAVINGS FUND
SOCIETY, FSB/MV
SCOTT LYONS/ATTY. FOR DBT.
AUSTIN NAGEL/ATTY. FOR MV.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

Wilmington Savings Fund Society, FSB, as Owner Trustee of CSMC 2022-JR1 Trust as serviced by Specialized Loan Servicing LLC ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to real property located at 413 N. Francis Ave., Exeter, CA 93221 ("Property"). Doc. #70.

Matthew Dale Allred and Myra Michelle Allred (collectively "Debtors") timely filed written opposition, contending that they were not notified of any alleged arrearages owed and claiming that the alleged delinquency will be paid before the hearing. Doc. #76.

This motion will be DENIED WITHOUT PREJUDICE due to Movant's failure to comply with the Local Rules of Practice ("LBR").

First, LBR 9004-2(a)(6), (b)(5), (b)(6), (e)(3), LBR 9014-1(c), and (e)(3) are the rules about Docket Control Numbers ("DCN"). These rules require a DCN to be in the caption page on all documents filed in every matter with the court and each new motion requires a new DCN. The DCN shall consist of not more than three letters, which may be the initials of the attorney for the moving party (e.g., first, middle, and last name) or the first three initials of the law firm for the moving party, and the number that is one number higher than the number of motions previously filed by said attorney or law firm in connection with that specific bankruptcy case. Each separate matter must have a unique DCN linking it to all other related pleadings.

Here, on August 6, 2020, Specialized Loan Servicing, LLC as servicer for MEB Loan Trust IV, U.S. Bank N.A. as trustee, filed a *Motion to*

Approve Loan Modification, which was set for hearing on September 2, 2020. Doc. #51. That motion was denied without prejudice due to incorrect notice language. Docs. ##56-57. The DCN for that motion was APN-1.

On August 29, 2022, Movant filed this motion for relief from the automatic stay. Doc. #70. The DCN for this motion is also APN-1 and therefore it does not comply with the local rules. Each new motion requires a different, unused DCN.

Second, LBR 4001-1(b)(1) requires a motion for relief from the stay alleging that a chapter 13 debtor or the trustee has failed to maintain post-petition payments on an obligation secured by real property to (A) include a verified statement showing all post-petition payments and other obligations that have accrued and all payments received post-petition, the dates of the post-petition payments, and the obligation(s) to which each of the post-petition payments was applied; (B) state whether a contract or applicable nonbankruptcy law requires that the debtor be given a statement, payment coupon, invoice, or other comparable document and whether such document was sent to the debtor or the trustee for any post-petition payment(s) allegedly not made by the debtor or the trustee; and (C) state whether the debtor or the trustee was advised prior to the filing of the motion of the alleged delinquency and given an opportunity to cure it, if the document described in subpart B was not sent, or if a contract or nonbankruptcy law does not require it.

Here, Movant did not state whether a contract or applicable nonbankruptcy law requires Debtor to be given the statement described in LBR 4001-1(b)(1)(B). Movant did include Debtor's payment history and a *Notice of Intent to File a Motion for Relief*. Doc. #74, Exs. D, E. Notably, the notice sent to Debtor is dated the same as this motion, so it does not appear that Debtor was advised *prior* to the filing of the motion of the alleged delinquency and given an opportunity to cure it. LBR 4001-1(b)(1)(C).

For the above reasons, this motion will be DENIED WITHOUT PREJUDICE.

4. [19-12843](#)-B-13 **IN RE: DONNIE EASON**
[FW-2](#)

MOTION TO MODIFY PLAN
8-16-2022 [[43](#)]

DONNIE EASON/MV
GABRIEL WADDELL/ATTY. FOR DBT.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to October 26, 2022 at 9:30 a.m.

ORDER: The court will issue an order.

Donnie L. Eason ("Debtor") moves for an order confirming the *First Modified Chapter 13 Plan* dated August 16, 2022. Doc. #43. The plan proposes that Debtor shall make 57 monthly payments of \$2,300.00 with a 0% dividend to allowed, non-priority unsecured claims. Doc. #45.

In contrast, the operative *Chapter 13 Plan* dated July 1, 2019, confirmed September 16, 2019, provides that Debtor shall make 36 monthly payments of \$2,300.00 with a 0% dividend to allowed, non-priority unsecured claims. Docs. #3; #22.

Chapter 13 trustee Michael H. Meyer ("Trustee") objects to confirmation of the plan under 11 U.S.C. § 1322(a) because the plan fails to provide for submission of all or such portion of Debtor's future earnings or other future income to the supervision and control of the Trustee to execute to the plan and 11 U.S.C. § 1325(a)(4) because the plan fails to provide for the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed unsecured claim in at least the amount that would be paid if the estate was liquidated under chapter 7. Doc. #57.

First, Trustee says that the Class 1 ongoing mortgage is delinquent \$2,005.80 through August 2022 and the plan fails to address the delinquency. Further, there are no funds on hand, so a modified plan needs to be filed to include the following language:

Class 1 secured creditor Deutsche Bank National Trust Co., shall be paid a total of \$34,400.78 in regular monthly payments through August 2022. All missed regular payments shall be paid with late charges by month 57. Regular monthly payments shall resume in September 2022.

Id. Trustee says the Section 3.06 attorneys' fee dividend needs to include the following language in a modified plan:

Attorneys' fees have been paid the aggregate amount of \$2,916.55 through month 37, the attorney's fee dividend is \$1,062.61 per month effective month 38.

Id. Lastly, Trustee says that Additional Provision 7.01 needs to be replaced with the approved attorney fee language for non-dischargeability, which is available upon request.

Second, Trustee notes that *Amended Schedule A/B*, No. 34, now includes a potential lawsuit against the federal government for personal injury caused by exposure to contaminated water. Doc. #48. Trustee says the modified plan needs to include litigation language that the Debtor will turnover all nonexempt proceeds from the lawsuit to the Trustee to be paid to unsecured creditors. Property of the estate vested in the bankruptcy estate at confirmation, so any potential lawsuit remains property of the bankruptcy estate. Doc. #57.

This motion to modify plan will be CONTINUED to October 26, 2022 at 9:30 a.m.

Unless this case is voluntarily converted to chapter 7, dismissed, or the Trustee's opposition to confirmation is withdrawn, the Debtor shall file and serve a written response not later than October 12, 2022. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the Debtor's position. Trustee shall file and serve a reply, if any, by October 19, 2022.

If the Debtor elects to withdraw the plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing not later than October 19, 2022. If the Debtor does not timely file a modified plan or a written response, this motion will be denied on the grounds stated in the objection without a further hearing.

5. [19-12843](#)-B-13 **IN RE: DONNIE EASON**
[MHM-1](#)

CONTINUED MOTION TO DISMISS CASE
8-3-2022 [\[39\]](#)

MICHAEL MEYER/MV
GABRIEL WADDELL/ATTY. FOR DBT.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to October 26, 2022 at 9:30 a.m.

ORDER: The court will issue an order.

This motion was originally heard on August 31, 2022. Doc. #55.

Chapter 13 trustee Michael H. Meyer ("Trustee") moved to dismiss this case for cause under 11 U.S.C. § 1307(c)(1) for unreasonable delay that is prejudicial to creditors and (c)(6) for material default by the debtor with respect to a term of a confirmed plan. Doc. #39.

Trustee said that the confirmed plan's 36-month term completed in July 2022. However, the proposed payments were insufficient to fund the case by month 36 and as of August 3, 2022, payments are delinquent in the amount of \$2,218.92. Doc. #41. The plan states, "[i]f necessary to complete the plan, monthly payments may continue for an additional 6 months, but in no event shall monthly payments continue for more than 60 months." Doc. #3, Section 2.03. But based on Trustee's calculations, even if Debtor continues making regular payments through month 42, there will not be sufficient funds to pay off the case. Doc. #41.

Donnie L. Eason ("Debtor") timely filed opposition. Docs. ##51-52. Debtor filed a modified plan that is set for hearing in matter #4 above, which Debtor believes will cure the deficiencies raised by Trustee. FW-2. As a result, the court continued this motion to the same date and time as the confirmation hearing.

However, the Trustee objected to Debtor's motion to modify plan. The court is continuing that motion to October 26, 2022 so that Debtor can either file and serve a written response or set a confirmable modified plan for hearing. Debtor supplemented the opposition on September 21, 2022 stating that a new plan would need to be filed. Doc. #59.

Accordingly, Trustee's motion to dismiss will be further CONTINUED to October 26, 2022 at 9:30 a.m. to be heard in connection with Debtor's continued motion to modify plan.

6. [22-11262](#)-B-13 **IN RE: JACK DE FEHR**
[MHM-1](#)

MOTION TO DISMISS CASE
8-30-2022 [\[14\]](#)

MICHAEL MEYER/MV
JOEL WINTER/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The court will issue an order.

The chapter 13 trustee asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) for unreasonable delay by debtor that is prejudicial to creditors. Doc #14. Debtor did not oppose.

Unless the trustee's motion is withdrawn before the hearing, the motion will be GRANTED without oral argument for cause shown.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The record shows that there has been unreasonable delay by the debtor that is prejudicial to creditors (11 U.S.C. § 1307(c)(1)). The debtor failed to appear at the meeting of creditors on August 23, 2022, and debtor is ineligible to be a debtor in a Chapter 13 pursuant to 11 U.S.C. § 109(h).

Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for cause. "A debtor's unjustified failure to expeditiously accomplish any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)." *Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth)*, 455 B.R. 904, 915 (B.A.P. 9th Cir. 2011). There is "cause" for dismissal under 11 U.S.C. § 1307(c)(1) for unreasonable delay.

In addition, the trustee has reviewed the schedules and determined that there was \$86,550.00 in equity after trustee compensation, which consisted of equity in Debtor's real property. Doc. #16. Thereafter, Debtor amended *Schedule C* to claim a \$109,000 exemption in the real property. As a result, Debtor does not appear to have any non-exempt property that could be realized for the benefit of the estate. Therefore, dismissal, rather than conversion, serves the interests of creditors and the estate.

Accordingly, the motion will be GRANTED, and the case dismissed.

7. [22-11185](#)-B-13 **IN RE: MARTHA WALLWORK**
[RDW-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR
MOTION FOR RELIEF FROM CO-DEBTOR STAY , MOTION FOR ADEQUATE
PROTECTION

8-3-2022 [\[16\]](#)

CAM XI TRUST/MV
JERRY LOWE/ATTY. FOR DBT.
REILLY WILKINSON/ATTY. FOR MV.
WITHDRAWN

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Withdrawn; taken off calendar.

NO ORDER REQUIRED.

Cam Xi Trust withdrew its motion for relief from the automatic stay on
September 15, 2022. Doc. #41. Accordingly, this motion will be taken
off calendar pursuant to the withdrawal.

8. [22-10895](#)-B-13 **IN RE: LISA YOUNG**
[TCS-2](#)

MOTION TO VALUE COLLATERAL OF ONEMAIN FINANCIAL GROUP LLC.
8-29-2022 [\[33\]](#)

LISA YOUNG/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in
conformance with the ruling below.

Lisa Renee Young ("Debtor") requests an order valuing a 2018 Honda
Civic with 91,000 miles ("Vehicle") at \$22,100.00. Doc. #33. The
Vehicle is the collateral of a refinanced loan secured by OneMain
Financial Group, LLC ("Creditor") on March 3, 2022, which Debtor
claims is a non-purchase money security interest.¹ Cf. Claim No. 15.

No party in interest timely filed written opposition. This motion will
be GRANTED.

This motion was set for hearing on 28 days' notice as required by
Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the
creditors, the chapter 13 trustee, the U.S. Trustee, or any other

party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f) (1) (B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

11 U.S.C. § 1325(a) (*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) that collateral is personal property other than a motor vehicle acquired for the personal use of the debtor, and (3) the debt was incurred within one year preceding the filing of the petition.

Here, Debtor declares that the debt was incurred to refinance the Vehicle, so the debt is not a purchase money security interest. Doc. #35. Thus, the elements of § 1325(a) (*) are not met and § 506 is applicable.

11 U.S.C. § 506(a) (1) limits a secured creditor's claim "to the extent of the value of such creditor's interest in the estate's interest in such property . . . and is an unsecured claim to the extent that the value of such creditor's interest . . . is less than the amount of such allowed claim."

11 U.S.C. § 506(a) (2) states that the value of personal property securing an allowed claim shall be determined based on the replacement value of such property as of the petition filing date. "Replacement value" means "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined."

Debtor declares that the replacement value of Vehicle is \$22,100.00. Doc. #35. This opinion is based on the age and condition of the Vehicle. Debtor's valuation is based on the fact that the Vehicle is 4 years old, its interior has 4 years of normal wear and tear, and the Vehicle has minor miscellaneous bumps and scratches on the front and back bumper. *Id.* Based on the current condition of the vehicle, Debtor does not believe that it could be valued at more than \$22,100, and anybody trying to sell Vehicle would be unlikely to get that much for Vehicle.

Debtor is competent to testify as to the replacement value of the Vehicle as its owner. Fed. R. Evid. 701. Given the absence of contrary evidence, Debtor's opinion of value may be conclusive. *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

No party in interest timely filed written opposition. Accordingly, this motion will be GRANTED. Creditor's secured claim will be fixed at \$22,1000.00. The proposed order shall specifically identify the collateral and the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

¹ Debtor complied with Fed. R. Bankr. P. 7004(b)(3) by serving Douglas Shulman, Creditor's CEO, or the current CEO/CFO of Creditor, via regular U.S. mail on August 29, 2022. Doc. #37.

9. [22-11195](#)-B-13 **IN RE: EDWARD/ARSELIA BERMUDEZ**
[MHM-2](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
8-31-2022 [\[27\]](#)

MICHAEL MEYER/MV
GABRIEL WADDELL/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

Chapter 13 trustee Michael H. Meyer ("Trustee") objects to Edward Bermudez's and Arselia Connie Bermudez's (collectively "Debtors") claim of exemption in real property located at 5877 West Beechwood Ave., Fresno, CA ("Property") in the amount of \$406,000.00 under Cal. Code Civ. Proc. ("CCP") § 704.730. Doc. #27.

But on September 19, 2022, the court granted Debtors' request to voluntarily dismiss this case pursuant to 11 U.S.C. § 1307(b). Accordingly, Trustee's objection will be OVERRULED AS MOOT because the case has already been dismissed.

11:00 AM

1. [20-10809](#)-B-11 **IN RE: STEPHEN SLOAN**
[21-1039](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
9-3-2021 [[1](#)]

SANDTON CREDIT SOLUTIONS
MASTER FUND IV, LP V. SLOAN ET
KURT VOTE/ATTY. FOR PL.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to November 16, 2022 at 11:00 a.m.

ORDER: The court will issue an order.

The court is in receipt of the parties' *Status Conference Report* dated September 22, 2022. Doc. #49. The parties indicate that they are preparing a stipulation to allow Plaintiff Sandton Credit Solutions Master Fund IV, LP, to file an amended adversary complaint. Accordingly, this status conference will be CONTINUED to November 16, 2022 at 11:00 a.m. to allow the parties to finalize the stipulation and allow Plaintiff to file an amended adversary complaint.

2. [20-10809](#)-B-11 **IN RE: STEPHEN SLOAN**
[22-1007](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
3-1-2022 [[1](#)]

SLOAN V. SLOAN
PETER SAUER/ATTY. FOR PL.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to October 26, 2022 at 11:00 a.m.

ORDER: The court will issue an order.

The court is in receipt of *Plaintiff's Status Report* dated September 21, 2022. Doc. #36. Plaintiff Stephen William Sloan indicates that he has prepared a draft stipulation to be signed by all parties that he will file to dismiss this adversary proceeding immediately. Accordingly, this status conference will be CONTINUED to October 26, 2022 at 11:00 a.m. to await the impending dismissal of this adversary proceeding.

3. [17-14112](#)-B-13 **IN RE: ARMANDO NATERA**
[FW-3](#)

CONTINUED MOTION FOR SUMMARY JUDGMENT
9-14-2021 [[115](#)]

GABRIEL WADDELL/ATTY. FOR DBT.
DISMISSED:1/3/2018. RESPONSIVE PLEADING

NO RULING.

The matter will be called and proceed as scheduled. The court intends to take this motion for summary judgment under submission and subsequently issue a ruling.

4. [17-14112](#)-B-13 **IN RE: ARMANDO NATERA**
[TAT-2](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY
11-12-2020 [[76](#)]

SANDRA WARD/MV
GABRIEL WADDELL/ATTY. FOR DBT.
THOMAS TRAPANI/ATTY. FOR MV.
DISMISSED:1/3/2018, RESPONSIVE PLEADING

NO RULING.

The matter will be called and proceed as scheduled. The court intends to take this motion for relief from the automatic stay under submission and subsequently issue a ruling.

5. [17-14112](#)-B-13 **IN RE: ARMANDO NATERA**
[20-1035](#)

CONTINUED PRE-TRIAL CONFERENCE RE: AMENDED COMPLAINT
12-23-2020 [[92](#)]

NATERA V. BARNES ET AL
GABRIEL WADDELL/ATTY. FOR PL.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to October 12, 2022 at 11:00 a.m.

ORDER: The court will issue an order.

This status conference will be CONTINUED to October 12, 2022 at 11:00 a.m. to allow Defendant Parker Foreclosure Services, LLC ("Parker") to file a corporate ownership statement.

Fed. R. Bankr. P. ("Rule") 7007.1 requires any nongovernmental corporation that is a party to an adversary proceeding, other than the debtor, to file a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation. Rule 7007.1(a). The statement shall be filed with the corporation's first appearance, pleading, motion, response, or other request addressed to the court and shall be supplemented whenever the information required changes. Rule 7007.1(b)(1) and (2).

A fillable *Statement Regarding Ownership of Corporate Debtor/Party* ("Corporate Ownership Statement") is available on the court's website as Form EDC 3-500 (Rev. 12/2012).²

11 U.S.C. § 101(9) defines the term "corporation"—

(A) includes—

- (i) association having a power or privilege that a private corporation, but not an individual or a partnership, possesses;
- (ii) partnership association organized under a law that makes only the capital subscribed responsible for the debts of such association;
- (iii) joint-stock company;
- (iv) unincorporated company or association; or
- (v) business trust; but

(B) does not include limited partnership.

§ 101(9) (A) and (B).

Here, Plaintiff Armando Natera filed this adversary complaint on June 5, 2020, which was amended on December 23, 2020. Docs. #1; #92. Defendant Parker, a limited liability company, filed an answer on August 14, 2020 and an amended answer on January 22, 2021. Docs. #26; #97. Parker did not file a corporate ownership statement as required by Rule 7007.1. Absent the filing of a corporate ownership statement, the court is unable to comply with its conflict-of-interest obligations pursuant to Canon 3C of the Code of Conduct for United States Judges and 28 U.S.C. § 455.

Accordingly, this status conference will be CONTINUED to October 12, 2022 at 11:00 a.m. so that Parker can file a corporate ownership statement pursuant to Rule 7007.1. If that statement has not been filed before the continued hearing date, the court may issue an *Order to Show Cause* why Parker's amended answer should not be stricken pursuant to Fed. R. Civ. P. 12(f), *incorporated by* Rule 7012(b), for failure to comply with Rule 7007.1.

² See Corporate Ownership Statement, Form EDC 3-500 (Rev. 12/2012) <https://www.caeb.uscourts.gov/documents/Forms/EDC/EDC.003-500.pdf> (visited Sept. 26, 2022).

6. [17-14112](#)-B-13 **IN RE: ARMANDO NATERA**
[20-1035](#) [CAE-1](#)

STATUS CONFERENCE RE: THIRD-PARTY COMPLAINT
8-5-2022 [[327](#)]

NATERA V. BARNES ET AL
WILLIAM WINFIELD/ATTY. FOR PL.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to October 12, 2022 at 11:00 a.m.

ORDER: The court will issue an order.

This status conference will be CONTINUED to October 12, 2022 at 11:00 a.m. to allow Third-Party Plaintiff Parker Foreclosure Services, LLC ("Parker") and Third-Party Defendant WFG National Title Insurance Company ("WFG") to file corporate ownership statements.

Fed. R. Bankr. P. ("Rule") 7007.1 requires any nongovernmental corporation that is a party to an adversary proceeding, other than the debtor, to file a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation. Rule 7007.1(a). The statement shall be filed with the corporation's first appearance, pleading, motion, response, or other request addressed to the court and shall be supplemented whenever the information required changes. Rule 7007.1(b)(1) and (2).

A fillable *Statement Regarding Ownership of Corporate Debtor/Party* ("Corporate Ownership Statement") is available on the court's website as Form EDC 3-500 (Rev. 12/2012).³

11 U.S.C. § 101(9) defines the term "corporation"—

(A) includes—

- (i) association having a power or privilege that a private corporation, but not an individual or a partnership, possesses;
- (ii) partnership association organized under a law that makes only the capital subscribed responsible for the debts of such association;
- (iii) joint-stock company;
- (iv) unincorporated company or association; or

(v) business trust; but
(B) does not include limited partnership.

§ 101(9) (A) and (B).

Here, Third-Party Plaintiffs Parker, a limited liability company, and Richard Allen Barnes, individually and as Trustee of the Richard Allen Barnes Trust dated September 1, 2011 ("Barnes"), filed a third-party adversary complaint on January 25, 2022, which was amended on August 5, 2022. Docs. #246; #327. WFG filed an answer to the amended third-party complaint on August 18, 2022. Neither Parker nor WFG filed a corporate ownership statement as required by Rule 7007.1. Absent the filing of a corporate ownership statement, the court is unable to comply with its conflict-of-interest obligations pursuant to Canon 3C of the Code of Conduct for United States Judges and 28 U.S.C. § 455.

Accordingly, this status conference will be continued to October 12, 2022 at 11:00 a.m. so that Parker and WFG can each file a corporate ownership statement pursuant to Rule 7007.1. If that statement has not been filed before the continued hearing date, the court may issue an *Order to Show Cause* why Parker's amended third-party complaint or WFG's answer to the amended third-party complaint should not be stricken pursuant to Fed. R. Civ. P. 12(f), *incorporated by* Rule 7012(b), for failure to comply with Rule 7007.1.

³ See Corporate Ownership Statement, Form EDC 3-500 (Rev. 12/2012) <https://www.caeb.uscourts.gov/documents/Forms/EDC/EDC.003-500.pdf> (visited Sept. 26, 2022).

7. [17-14112](#)-B-13 **IN RE: ARMANDO NATERA**
[20-1035](#) [FW-6](#)

CONTINUED SCHEDULING CONFERENCE RE: MOTION FOR SUMMARY
ADJUDICATION
9-14-2021 [[138](#)]

NATERA V. BARNES ET AL
GABRIEL WADDELL/ATTY. FOR MV.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to November 16, 2022 at 11:00 a.m.

ORDER: The court will issue an order.

The court is in receipt of the parties' *Joint Status Report* dated September 21, 2022. Doc. #334. The parties anticipate that the pleadings will be settled by the time of this hearing, but that it is not yet possible to establish a trial date until the outcome of the

parties' motion for summary adjudication (FW-3) and the motion to annul the automatic stay (TAT-2) are resolved in the underlying bankruptcy case, which will provide guidance to the parties regarding the scope of discovery in this adversary proceeding. The court intends to take those matters under submission and subsequently issue rulings.

Accordingly, this scheduling conference will be CONTINUED to November 16, 2022 at 11:00 a.m.

8. [17-14112](#)-B-13 **IN RE: ARMANDO NATERA**
[20-1035](#) [TAT-3](#)

CONTINUED STATUS CONFERENCE RE: MOTION FOR SUMMARY JUDGMENT
9-1-2021 [[124](#)]

NATERA V. BARNES ET AL
THOMAS TRAPANI/ATTY. FOR MV.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to November 16, 2022 at 11:00 a.m.

ORDER: The court will issue an order.

The court is in receipt of the parties' *Joint Status Report* dated September 21, 2022. Doc. #334. The parties anticipate that the pleadings will be settled by the time of this hearing, but that it is not yet possible to establish a trial date until the outcome of the parties' motion for summary adjudication (FW-3) and the motion to annul the automatic stay (TAT-2) are resolved in the underlying bankruptcy case, which will provide guidance to the parties regarding the scope of discovery in this adversary proceeding. The court intends to take those matters under submission and subsequently issue rulings.

Accordingly, this scheduling conference will be CONTINUED to November 16, 2022 at 11:00 a.m.