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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re Case No.

Debtor(s)/

Adversary No.

Plaintiff(s) **ORDER SETTING**
vs. **CASE MANAGEMENT**
CONFERENCE IN SALINAS

Defendant(s)/

This action having been assigned to the undersigned Judge, IT IS HEREBY
ORDERED:

1. **Date and Time of Case Management Conference:** A case management conference will be held on _____ at _____, at **Room 214, The Quadrangle, 1000 S. Main Street, Salinas, California.**
2. **Participants:** This order applies to counsel for all parties and those individuals representing themselves. A party representing himself or herself must comply with the provisions of this order.

1 3. **Preconference Discussion:** Participants shall confer at least **14** days prior to
2 the case management conference regarding:

3 A. Jurisdiction and venue; the substance of the parties' claims and defenses and
4 the definition of genuinely controverted issues; anticipated motions; further
5 proceedings, including setting of dates for discovery cut-off, pre-trial and
6 trial; prospects for settlement; and whether the case should be assigned to
7 the Bankruptcy Dispute Resolution Program; and

8 B. Whether the parties are in a position to proceed productively at the
9 telephonic case management conference and whether a personal appearance
10 will be made.

11 4. **Continuances:** **The case management conference will not be continued without**
12 **leave of court.** However, the case management conference may be continued for good cause
13 shown, such as conflict with another court appearance, ongoing settlement discussions or
14 representations by counsel that the case management conference is premature.

15 To request a continuance, a participant should submit, at least **10** days prior to the
16 case management conference:

17 A. A stipulation signed by all parties to the action or a declaration setting forth
18 the reasons a continuance is requested, the positions of all participants with
19 respect to a continuance and proposed time frames for the continued
20 hearing; and

21 B. A proposed order continuing the case management conference which
22 incorporates all other provisions of this order.

23 **If a request for a continuance has not been filed at least 10 days prior to the**
24 **case management conference, the case management conference will go forward.**

25 5. **Appearing Personally:** The court's experience has been that most participants
26 appear by telephone. However, some parties representing themselves choose to appear in
27 person. Accordingly, the Court will have ConferenceCallService contact all participants and
28

1 offer them the option to appear telephonically. If a participant wants to appear in person, he/she
2 should simply advise ConferenceCallService of that fact. The participant shall then appear in
3 person at the case management conference in Salinas on [*insert date*] at [*insert time*]. If a party
4 hires counsel shortly before the conference, and the attorney has not requested a continuance, an
5 appearance is still required.

6 Counsel should note that the case management conferences will be called in the order set
7 forth on the calendar and counsel must be present when the case is called.

8 6. **Case Management Conference Statements:** At least 7 days prior to the case
9 management conference, all parties shall file, jointly or separately, a CASE MANAGEMENT
10 CONFERENCE STATEMENT with the court, not to exceed four pages in length, addressing the
11 following:

- 12 A. A statement of the date and time that counsel conferred as required by this
13 order;
- 14 B. A concise statement summarizing each legal theory on which the plaintiff or
15 defendant relies and a brief general statement of the facts which support this
16 theory;
- 17 C. The position of the parties with respect to Bankruptcy Rules 7008 and
18 7012(b);
- 19 D. Proposed discovery and proposed cut-off dates for discovery and pre-trial
20 motions;
- 21 E. The estimated time for trial and desired trial date; and
- 22 F. Whether alternative dispute resolution is desired by the parties.

23 THE CAPTION SHALL CONTAIN THE DATE AND TIME OF THE CASE MANAGEMENT
24 CONFERENCE.

25 7. **Scheduling Order:** At the case management conference, dates will be established,
26 such as for the close of discovery, for a trial setting conference, or for trial. Thereafter, the court
27 will enter a scheduling order.

1 8. **Judgment:** Final judgment shall be entered by the Bankruptcy Court unless within
2 60 days after the initial case management conference the court rules that this is a non-core
3 proceeding and final judgment should be entered by the District Court.

4 9. **Failure of Defendant(s) to Appear:** In the event the defendant(s) has
5 not appeared in the action, the plaintiff should nonetheless go forward with the case management
6 conference unless a default judgment, as distinguished from the clerk's entry of default, has been
7 entered more than **10** days prior to the date of the case management conference. If a default
8 judgment has not been entered and no appearance is made, the court will either close the case or
9 issue an order to show cause why the adversary proceeding should not be dismissed for lack of
10 prosecution. The order to show cause generally will be heard within sixty days of the scheduled
11 case management conference.

12 10. **Contact with the Court:** The case management conference will proceed
13 unless it has been continued by order of the court or the adversary proceeding has been disposed
14 of by final order. Any questions as to whether a matter has been disposed of by final order
15 should be addressed to Tanya Bracegirdle who can be reached by calling 408.535.5001. Please
16 note that merely advising the Court orally or in writing that a matter has been settled or a Court
17 order authorizing the Trustee or the Debtor to enter into a settlement agreement or even a Court
18 order approving a settlement agreement are usually insufficient to remove a matter from the
19 Court's Case Management Calendar. There typically needs to be a judgment, an order
20 dismissing the case, or an order stating that the case shall be closed (because the parties require
21 no further action by the Court). The judgment (s) or order(s) (or combination thereof) should
22 deal with all parties to the case.

23 If counsel has filed timely a request for a continuance, a default judgment, or a stipulation
24 for a judgment or dismissal, but has not yet received the order back from the court, counsel
25 should not contact the judge's chambers less than **7** days prior to the case management
26 conference but should presume that the case management conference will proceed if counsel has
27 been contacted by Court Conference to confirm participation in the conference call.

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11. **Bankruptcy Dispute Resolution Program:** The Bankruptcy Dispute Resolution Program (BDRP) offers a means to resolve disputes quickly, at less cost and often without the stress and pressure of litigation. Methods include mediation, negotiation, early neutral evaluation and settlement facilitation. Parties wishing assignment to the BDRP or to a judicially supervised Settlement Conference should contact Tanya Bracegirdle at (408) 535-5001. The BDRP procedures are explained in B.L.R. 9040-1 *et seq.* A list of available Resolution Advocates and their resumes are available at the Clerk’s Office.

11. **Service of Order:** The plaintiff shall serve this case management conference order on all parties and file proof of service with the court.

12. **Sanctions:** The failure of a party to comply timely with the provisions of this order may result in the imposition of sanctions pursuant to bankruptcy Rule 7016.

DATED: _____

UNITED STATES BANKRUPTCY JUDGE