

1 Michael Jay Berger (SBN 100291)
2 Sofya Davtyan (SBN 259544)
3 Angela N. Gill (SBN 260928)
4 LAW OFFICES OF MICHAEL JAY BERGER
5 9454 Wilshire Blvd., 6th Floor
6 Beverly Hills, CA 90212
7 Tel.: (310) 271-6223
8 Fax: (310) 271-9805
9 E-mail: Michael.berger@bankruptcypower.com
10 Sofya.davtyan@bankruptcypower.com
11 Angela.gill@bankruptcypower.com

12 Attorney for Defendant,
13 Brian Dennis Martin

14 UNITED STATES BANKRUPTCY COURT
15 CENTRAL DISTRICT OF CALIFORNIA – RIVERSIDE DIVISION

16 In re:

17 Brian Dennis Martin,

18 Debtor.

19 David Tyler Moss and Fidelissimus, LLC,

20 Plaintiffs,

21 v.

22 Brian Dennis Martin,

23 Defendant.

Case No. 6:25-bk-10944-RB

Adv. Case No. 6:25-ap-01055-RB

Chapter 7

**NOTICE OF DEFENDANT BRIAN
DENNIS MARTIN'S MOTION TO
DISMISS PLAINTIFFS' COMPLAINT
FOR FAILURE TO STATE A CLAIM
UPON WHICH RELIEF CAN BE
GRANTED PURSUANT TO FED.
R.CIV. P. RULE 12(b)(6) AND FRBP
7012(b)**

Date: July 1, 2025

Time: 2:00 pm

Location: Courtroom 303
3420 Twelfth St.
Riverside, CA 92501

24
25 **TO THE HONORABLE MAGDALENA REYES BORDEAUX, JUDGE OF**
26 **THE UNITED STATES BANKRUPTCY COURT, CENTRAL DISTRICT OF**
27 **CALIFORNIA, TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:**

28 **PLEASE TAKE NOTICE** that Brian Dennis Martin ("Debtor" and "Defendant") in

1 the above-captioned adversary proceeding, submits this Motion to Dismiss Pursuant to
2 Federal Rule of Civil Procedure 12(b)(6) and Rule 7012 of the Federal Rules of
3 Bankruptcy Procedure (the "Motion"), requesting the Court to dismiss the complaint
4 filed by Plaintiffs on April 30, 2025.

5 **PLEASE TAKE FURTHER NOTICE** that the Motion will be heard on **July 1, 2025**
6 **at 2:00 p.m.** by the United States Bankruptcy Court for the Central District of
7 California, the Honorable Magdalena Reyes Bordeaux presiding, in Courtroom 303
8 located at 3420 Twelfth St., Riverside, California 92501.

9 **PLEASE TAKE FURTHER NOTICE** that this Motion is made pursuant to Rule 12
10 of the Federal Rules of Civil Procedure (made applicable to this adversary proceeding
11 pursuant to Rule 7012 of the Federal Rules of Bankruptcy Procedure), and this Motion
12 is based on the attached Memorandum of Points of Authorities, Declaration of
13 Defendant, the papers and pleadings filed to the case, and the arguments of the parties
14 at the hearing on the Motion.

15 **PLEASE TAKE FURTHER NOTICE** that any formal response in opposition to the
16 Motion must 1) be in the form required by Local Bankruptcy Rule 9013-1(f)(1), 2) be
17 filed with the Clerk of the Court, and 3) be served upon the Defendant through his
18 counsel (whose name and contact information appear on the first page of this notice)
19 and the United States Trustee (at 255 East Temple Street, Los Angeles, CA 90012)
20 within 14 prior to the hearing on the Motion, or **June 17, 2025**. Pursuant to Local
21 Bankruptcy Rule 9013-1(h), the failure to timely file and serve an opposition to the
22 Motion may be deemed as consent to the granting of the Motion.

23 **PLEASE TAKE FURTHER NOTICE:**
24
25
26
27
28

1 Please be advised that the Court will conduct the hearing in person and remotely using
2 ZoomGov audio and video technology. Information on how to participate in the hearing
3 remotely using ZoomGov is provided on the following page of this notice.

4 Hearing participants and members of the public may participate in and/or observe
5 the hearing using ZoomGov, free of charge.

6 Individuals attending the hearing remotely may connect to ZoomGov audio and
7 video using a personal computer (equipped with camera, microphone and speaker), or a
8 handheld mobile device with an integrated camera, microphone and speaker (such as an
9 iPhone, iPad, Android phone or Android tablet). The connection can be initiated by
10 entering the "Meeting URL" into a web browser on any of these devices, provided the
11 device is connected to the Internet. Individuals connecting in this manner will be prompted
12 for the Meeting ID and Password shown below.

13 Individuals attending the hearing remotely also may connect to the hearing by
14 telephone only, using the telephone number provided below. Individuals connecting in this
15 manner also will be prompted for the Meeting ID and Password.

16 A Zoom or ZoomGov account is NOT necessary to remotely participate in or
17 observe the hearing, and no pre-registration is required.

18 The audio portion of the hearing will be recorded electronically by the Court and
19 will constitute its official record.

20 All persons are strictly prohibited from making any other recording of court
21 proceedings, whether by video, audio, "screenshot," or otherwise. Violation of this
22 prohibition may result in the imposition of monetary and non-monetary sanctions.

23 The following is the unique ZoomGov connection information for the above-
24 referenced hearing

25 **Meeting URL: <https://cacb.zoomgov.com/s/1617286588>**

26 **Meeting ID: 161 728 6588**

27 **Password: 3032025**

28 **Telephone: 1 (669) 254-5252 or (646) 828-7666**

1 More information on using ZoomGov to participate remotely in this hearing is available on
2 the Court's website at the following web address:
3 <https://www.cacb.uscourts.gov/news/zoom-video-hearing-guide-and-training-participants>.

4 Dated: May 30, 2025

LAW OFFICES OF MICHAEL JAY BERGER

6 By: /s/


Michael Jay Berger

7 Sofya Davtyan

8 Angela N. Gill

Attorneys for Defendant, Brian Dennis Martin

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
9454 Wilshire Blvd., 6th Fl., Beverly Hills, CA 90212

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF DEFENDANT BRIAN DENNIS MARTIN'S MOTION TO DISMISS PLAINTIFFS' COMPLAINT FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED PURSUANT TO FED. R.CIV. P. RULE 12(b)(6) AND FRBP 7012(b)** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 5/30/2025, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Defendant's Counsel: Michael Jay Berger michael.berger@bankruptcypower.com,
yathida.nipha@bankruptcypower.com;michael.berger@ecf.inforuptcy.com
Interested Party: Lynda T. Bui (TR) trustee.bui@shulmanbastian.com, C115@ecfcbis.com
Plaintiff's Counsel: Mark S Rosen marksrosen@aol.com, pattielegalasst@aol.com
United States Trustee (RS) ustpreion16.rs.ecf@usdoj.gov

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On 5/30/2025, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Plaintiff's Counsel
Van T. Tran
1502 N. Broadway
Santa Ana, CA 92701

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on 5/30/2025, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Honorable Magdalena Reyes Bordeaus
United States Bankruptcy Court
Central District of California
3420 Twelfth Street, Suite 365 / Courtroom 303
Riverside, CA 92501-3819

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

5/30/2025
Date

Peter Garza
Printed Name

/s/Peter Garza
Signature