

United States Bankruptcy Court
Central District of California
San Fernando Valley
Judge Victoria Kaufman, Presiding
Courtroom 301 Calendar

Wednesday, December 21, 2016

Hearing Room 301

9:30 AM

1:14-14686 Elmer Alexander Uceda

Chapter 7

#1.00 Motion for relief from stay [RP]

NEWTEK BUSINESS SERVICES, INC.
VS
DEBTOR

fr. 9/16/15 (stip); 11/18/15(stip); 12/23/15; 2/10/16; 11/23/16(stip)
6/15/16 (stip); 7/20/16; 8/24/16; 9/21/16(stip), 10/26/16

Stip to continue filed 11/21/16

Docket 78

*** VACATED *** REASON: Notice of withdrawal of motion filed 12/1/16

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Elmer Alexander Uceda

Represented By
Michael A Rivera

Movant(s):

NEWTEK BUSINESS SEVICES,

Represented By
Patricia H Lyon

United States Bankruptcy Court
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1:16-10099 Frank Adler and Lauren Adler

Chapter 7

#2.00 Motion for relief from stay [RP]

WELLS FARGO BANK N.A.
VS
DEBTOR

fr. 9/21/16(stip)
STIP filed 12/6/16

Docket 77

*** VACATED *** REASON: Order entered 12/7/16 cont matter to 3/8/17
@ 9:30am.

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Frank Adler

Represented By
Derik N Lewis

Joint Debtor(s):

Lauren Adler

Represented By
Derik N Lewis

Trustee(s):

Nancy J Zamora (TR)

Pro Se

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1:16-12845 Rose Marie Thomas

Chapter 7

#3.00 Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION
VS
DEBTOR

fr. 11/23/16

Docket 10

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Rose Marie Thomas

Represented By
David R Hagen

Movant(s):

U.S. BANK NATIONAL

Represented By
Mark D Estle

Trustee(s):

Amy L Goldman (TR)

Pro Se

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1:16-13140 Carl Victor Rhoads

Chapter 7

#4.00 Motion for relief from stay [PP]

SANTANDER CONSUMER USA INC
VS
DEBTOR

Docket 7

Tentative Ruling:

Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the property.

This order is binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of the Bankruptcy Code.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Movant must submit order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

Party Information

Debtor(s):

Carl Victor Rhoads

Represented By
Michael E Clark

Trustee(s):

Amy L Goldman (TR)

Pro Se

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1:16-13382 Christopher Sabin Nassif

Chapter 11

#5.00 Motion in individual case for order imposing a stay or continuing the automatic stay as the court deems appropriate

Docket 5

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Christopher Sabin Nassif

Represented By
M Jonathan Hayes

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1:15-10109 Claire Ashook

Chapter 7

Adv#: 1:15-01070 De Giacomo v. Ashook

#6.00 Pretrial status conference re: second amended complaint to determine non-dischargeability of debt to plaintiff

fr. 6/17/15; 7/22/15; 9/16/15; 11/4/15; 11/18/15; 3/16/16;
5/4/16; 9/14/16(stip); 11/9/16 (stip)

Docket 35

Tentative Ruling:

The Court approved the parties' joint pretrial stipulation in an order entered on May 23, 2016 (the "Trial Order") [doc. 51]. Subsequently, the parties requested that the September 2016 trial dates be vacated based on a tentative settlement between the parties. As set forth in the joint status report filed by the parties on December 14, 2016 [doc. 72], the parties are requesting new trial dates.

The Court may set this matter for trial: (1) on two consecutive days from **February 28** through **March 3, 2017**; or (2) on **April 24 and April 25, 2017**. The parties should be prepared to discuss their availability.

On May 11, 2016, in accordance with the Trial Order, the defendant filed her exhibits [doc. 50]. Consequently, it appears that there is no need at this time to provide deadlines regarding a motion in limine.

In addition, the Trial Order provided that witness Stefan Bilanceri would appear telephonically because he was not available for live testimony. Is a telephonic appearance for Mr. Bilanceri to participate as a witness still required for that reason?

The Court also intends to schedule a continued pretrial conference for the parties to discuss the scheduling of witnesses.

The Court will prepare an amended order.

Party Information

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CONT... Claire Ashook

Chapter 7

Debtor(s):

Claire Ashook

Represented By
Raymond Perez

Defendant(s):

Claire Ashook

Pro Se

Plaintiff(s):

Sally De Giacomi

Pro Se

Trustee(s):

Diane Weil (TR)

Pro Se

Diane Weil (TR)

Pro Se

US Trustee(s):

United States Trustee (SV)

Pro Se

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1:15-12754 Carlos Maximiliano Linqui

Chapter 13

Adv#: 1:15-01264 El Sabor Latino v. Linqui

- #7.00** Status conference re second amended complaint :
1) for determination of non-dischargeability of debt
(11 U.S.C. sec 523(a)(2)); and
2) for determination of non-dischargeability of debt
(11 U.S.C. sec 523(a)(6))

fr. 3/9/16; 5/11/16; 7/20/16; 9/7/16(stip); 11/9/16(stip); 11/16/16

Docket 31

Tentative Ruling:

The parties have not filed a joint status report, and the plaintiff has not filed a unilateral status report, pursuant to Local Bankruptcy Rule 7016-1(a). In addition, contrary to the provisions of Local Bankruptcy Rule 7016-1(a), the plaintiff has not filed a declaration setting forth the attempts made by the plaintiff to contact or obtain the cooperation of the defendant. The parties should address these issues.

Party Information

Debtor(s):

Carlos Maximiliano Linqui

Represented By
Kevin T Simon

Defendant(s):

Carlos Maximiliano Linqui

Pro Se

Plaintiff(s):

El Sabor Latino

Represented By
Scott E Shapiro Esq

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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CONT... Carlos Maximiliano Linqui

Chapter 13

Elizabeth (SV) F Rojas (TR)

Pro Se

US Trustee(s):

United States Trustee (SV)

Pro Se

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1:16-10440 Salvador Nevarez

Chapter 7

Adv#: 1:16-01146 Zamora v. Nevarez et al

- #8.00** Status conference re: complaint to:
(1) avoid and recover fraudulent transfer;
(2) obtain declaratory relief that real property should be characterized as community property despite being held in joint tenancy; and
(3) authorize sale of property owned in part by non-debtor

Docket 1

Tentative Ruling:

In light of the status report filed by the plaintiff [doc. 5], the Court will continue this status conference to **1:30 p.m. on March 8, 2017**. No later than **February 22, 2017**, the parties must file a joint status report updating the Court on the status of their settlement.

Appearances are excused on December 21, 2016.

Party Information

Debtor(s):

Salvador Nevarez

Represented By
Richard McGuire
Edmond Richard McGuire
Phillip Myer

Defendant(s):

Luz Nevarez

Pro Se

Lucy Nevarez

Pro Se

Antonio De Jesus Nevarez

Pro Se

Plaintiff(s):

Nancy Zamora

Represented By

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CONT... Salvador Nevarez

Frank X Ruggier

Chapter 7

Trustee(s):

Nancy J Zamora (TR)

Represented By
Larry D Simons
Frank X Ruggier

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1:16-10543 Dean Albert Maury Cazares

Chapter 7

Adv#: 1:16-01080 Olde Wolbers et al v. Cazares

#9.00 Status conference re: complaint objecting to discharge

fr. 7/20/16; 9/14/16; 10/5/16; 10/19/16; 11/23/16

Docket 1

Tentative Ruling:

Parties should be prepared to discuss the following:

Deadline to complete discovery: 5/1/17.

Deadline to file pretrial motions: 5/15/17.

Deadline to complete and submit pretrial stipulation in accordance with Local Bankruptcy Rule 7016-1: 5/31/17.

Pretrial: 1:30 p.m. on 6/14/17.

In accordance with Local Bankruptcy Rule 7016-1(a)(4), within seven (7) days after this status conference, the plaintiffs must submit a Scheduling Order.

If any of these deadlines are not satisfied, the Court will consider imposing sanctions against the party at fault pursuant to Local Bankruptcy Rule 7016-1(f) and (g).

Party Information

Debtor(s):

Dean Albert Maury Cazares

Represented By
Ian Landsberg

Defendant(s):

Dean Albert Maury Cazares

Pro Se

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CONT... Dean Albert Maury Cazares

Chapter 7

Plaintiff(s):

Raymond Herrera

Represented By
Larry Castruita

Christian Olde Wolbers

Represented By
Larry Castruita

Trustee(s):

Diane Weil (TR)

Pro Se

Diane Weil (TR)

Pro Se

US Trustee(s):

United States Trustee (SV)

Pro Se

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1:16-12701 AMERICAN FUNDERS CORP.

Chapter 7

Adv#: 1:16-01154 Kahenasa v. AMERICAN FUNDERS CORP. et al

#10.00 Order to Show Cause re: remand and notice of setting of status conference

Docket 1

Tentative Ruling:

The Court will remand this matter.

I. BACKGROUND

On September 15, 2016, American Funders Corp. ("Debtor") filed a voluntary chapter 7 petition.

On September 26, 2016, Behnam Kahenasa ("Plaintiff") filed a motion for relief from the automatic stay (the "RFS Motion") [Bankruptcy Docket, doc. 12]. Plaintiff sought relief from the automatic stay for the purpose of continuing to litigate an action against Debtor and other entities in state court (the "State Court Action"). The complaint filed in that action (the "State Court Complaint") alleges the following causes of action: (1) Fraud in the Inducement; (2) Negligent Misrepresentation; (3) Breach of Oral and Written Contract; (4) Common Counts; (5) Violation of Business & Professions Code § 17200; (6) Conversion; (7) Judicial Foreclosure of Deed of Trust; (8) Appointment of a Receiver; and (9) Breach of Fiduciary Duty. Of these nine causes of action, only four are asserted against Debtor: Fraud in the Inducement; Negligent Misrepresentation; Violation of Business & Professions Code § 17200; and Conversion.

The RFS Motion was based on the following grounds: (1) mandatory abstention applies under 28 U.S.C. § 1334(c)(2); (2) the State Court Action can be tried more expeditiously in the nonbankruptcy forum because trial had been set for September 28, 2016 and the State Court Action involves nondebtor entities; and (3) the bankruptcy was filed in bad faith on the eve of trial.

On October 5, 2016, Debtor filed a response to the RFS Motion [Bankruptcy Docket, doc. 24]. In its response, Debtor stated that the State Court Action is a core

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proceeding because the RFS Motion alleged that any debt arising from the State Court Action was nondischargeable, that trial was not until six months later and that filing a claim in the bankruptcy case would be more expeditious than continuing litigation in state court.

On October 19, 2016, the Court held a hearing on the RFS Motion. The Court ruled as follows:

Grant in part and deny in part under 11 U.S.C. § 362(d)(1). Although [Plaintiff] argues that the claims are nondischargeable in nature, [Debtor] is a corporation and thus not eligible for a chapter 7 discharge. See 11 U.S.C. § 727(a)(1).

[Plaintiff] states that mandatory abstention applies under 28 U.S.C. § 1334(c)(2), but has not explained why.

In his state court complaint, [Plaintiff] alleges that [Debtor] is an alter ego of Firooz Payan. To the extent the automatic stay applies, the Court will modify the stay to allow [Plaintiff] to proceed against Mr. Payan individually in state court as to the alter ego claim, although [Plaintiff] may not proceed against [Debtor] or enforce any resulting judgment against [Debtor] or [Debtor's] bankruptcy estate absent further order of the Court. Notwithstanding the foregoing, [Plaintiff] may file a proof of claim in [Debtor's] case under 11 U.S.C. § 501.

On November 17, 2016, the Court entered an order granting in part and denying in part the RFS Motion [Bankruptcy Docket, doc. 33]. To date, Plaintiff has not filed a proof of claim in the bankruptcy case. On November 21, 2016, the chapter 7 trustee filed a no asset report.

On November 14, 2016, Debtor removed the State Court Action to this Court, initiating this adversary proceeding. In the Notice of Removal, Debtor asserts this the State Court Action is a "core proceeding."

On November 16, 2016, after removal of the State Court Action this Court, the Court entered an Order to Show Cause re: Remand (the "OSC") [doc. 3]. The OSC

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instructed the parties to comply with Local Bankruptcy Rule 7016-1(a), which requires filing a joint status report. The parties have not filed a joint status report. The OSC also instructed any party who requests remand to file and serve a memorandum of points and authorities no later than 28 days after the date of filing of the notice of removal. Finally, the OSC required that Debtor serve the OSC on all parties to the State Court Action, the chapter 7 trustee and the U.S. Trustee.

On November 30, 2016, Debtor filed a proof of service of the OSC and a declaration by the CEO of Debtor, Phillip Payan (the "Payan Declaration") [doc. 5]. Aside from contending that this Court is the best forum to litigate the State Court Action, Debtor does not provide an analysis of why removal was appropriate.

II. ANALYSIS

A. *Subject Matter Jurisdiction*

Removal and remand of actions related to bankruptcy cases is governed by 28 U.S.C. § 1452.

- (a) A party may remove any claim or cause of action in a civil action . . . to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.
- (b) The court to which such claim or cause of action is removed may remand such claim or cause of action on any equitable ground. . . .

28 U.S.C. § 1452.

The Court strictly construes the removal statutes against removal jurisdiction, and jurisdiction must be rejected if there is any doubt as to the right of removal. *See Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). The party seeking removal bears the burden of establishing federal jurisdiction. *See Prize Frize, Inc. v. Matrix, Inc.*, 167 F.3d 1261, 1265 (9th Cir. 1999). "The presence or absence of federal-question jurisdiction is governed by the 'well-pleaded complaint rule,' which provides that federal jurisdiction exists only when a federal question is presented on the face of the plaintiff's properly pleaded complaint." *Caterpillar Inc. v. Williams*, 482 U.S. 386,

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392, 107 S.Ct. 2425, 96 L.Ed.2d 318 (1987).

Parties cannot consent to subject matter jurisdiction. *Clapp v. Commissioner*, 875 F.2d 1396, 1398 (9th Cir. 1989) ("Subject matter jurisdiction cannot be conferred upon the court by consent or waiver."); and *In re Marshall*, 264 B.R. 609, 619 (C.D. Cal. 2001) ("[I]n so far as the issue is the actual subject matter jurisdiction of the federal courts, rather than just the bankruptcy court's power to enter a final judgment, such jurisdiction cannot be conferred by consent.").

As set forth in § 1452, removal to a bankruptcy court requires that the court have jurisdiction of such claim or cause of action under 28 U.S.C. § 1334. 28 U.S.C. § 1334(b), with regard to bankruptcy cases and proceedings, provides that:

Except as provided by subsection (e)(2) and notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.

1. Arising Under Jurisdiction

"A matter arises under the Bankruptcy Code if its existence depends on a substantive provision of bankruptcy law, that is, if it involves a cause of action created or determined by a statutory provision of the Bankruptcy Code." *In re Ray*, 624 F.3d 1124, 1131 (9th Cir. 2010).

2. Arising In Jurisdiction

"A proceeding 'arises in' a case under the Bankruptcy Code if it is an administrative matter unique to the bankruptcy process that has no independent existence outside of bankruptcy and could not be brought in another forum, but whose cause of action is not expressly rooted in the Bankruptcy Code." *Id.*

Matters that "arise under or in Title 11 are deemed to be 'core' proceedings . . ." *In re Harris Pine Mills*, 44 F.3d 1431, 1435 (9th Cir. 1995). Title 28, United States Code, section 157(b)(2) sets out a non-exclusive list of core proceedings, including "matters concerning the administration of the estate," "allowance or disallowance of

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claims," "objections to discharges," "motions to terminate, annul, or modify the automatic stay," and "confirmation of plans." Bankruptcy courts have the authority to hear and enter final judgments in "all core proceedings arising under title 11, or arising in a case under title 11" 28 U.S.C. § 157(b)(1); *Stern v. Marshall*, 131 S.Ct. 2594, 2604, 180 L.Ed.2d 475 (2011).

3. Related to Jurisdiction

Bankruptcy courts also have jurisdiction over proceedings that are "related to" a bankruptcy case. 28 U.S.C. § 1334(b); *In re Pegasus Gold Corp.*, 394 F.3d 1189, 1193 (9th Cir. 2005). A proceeding is "related to" a bankruptcy case if:

[T]he outcome of the proceeding could conceivably have any effect on the estate being administered in bankruptcy. Thus, the proceeding need not necessarily be against the debtor or against the debtor's property. An action is related to bankruptcy if the outcome could alter the debtor's rights, liabilities, options, or freedom of action (either positively or negatively) and which in any way impacts upon the handling and administration of the bankrupt estate.

Pegasus Gold Corp., 394 F.3d at 1193 (quoting *Pacor, Inc. v. Higgins*, 743 F.2d 984, 994 (3d Cir. 1984) (emphasis omitted)).

A bankruptcy court's "related to" jurisdiction "cannot be limitless." *Celotex Corp. v. Edwards*, 514 U.S. 300, 308, 115 S.Ct. 1493, 1499, 131 L.Ed. 2d 403 (1995). "'[R]elated to' jurisdiction is not as broad in a Chapter 7 liquidation proceeding as in a Chapter 11 reorganization proceeding." *Cardinalli v. Superior Court for Cty. of Monterey*, 2013 WL 5961098, at *3 (N.D. Cal. Nov. 7, 2013).

"[C]ivil proceedings are not within 28 U.S.C. § 1334(b)'s grant of jurisdiction if they... 'are so tangential to the title 11 case or the result of which would have so little impact on the administration of the title 11 case... Put another way, litigation that would not have an impact upon the administration of the bankruptcy case, or on property of the estate, or on the distribution to creditors, cannot find a home in the district court based on the court's bankruptcy jurisdiction.'" *In re Wisdom*, 2015 WL 2128830, at *10 (Bankr. D. Idaho May 5, 2015) (quoting 1 Collier on Bankruptcy, ¶ 3.01[3][e][v] (Alan N. Resnick & Henry J. Sommer eds., 16th ed. 2014)).

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Here, the Court does not have "arising under" or "arising in" jurisdiction. There is no "arising under" jurisdiction because the matter does not involve any statutory provisions of the Bankruptcy Code. This matter also does not "arise in" the bankruptcy case because it can independently exist outside of bankruptcy and be brought in another forum. None of the causes of action alleged in the State Court Complaint are dependent or intertwined with the existence of Debtor's bankruptcy or any issue therein.

The only possible basis for subject matter jurisdiction is "related to" jurisdiction. While "related to" jurisdiction is broad, in that it covers any "proceeding that could conceivably have any effect on the estate being administered," *Pegasus Gold Corp.*, 394 F.3d at 1193, it is not limitless. *Celotex Corp.*, 514 U.S. at 308. Debtor has not met its burden of establishing that this Court has jurisdiction because it has not shown how this proceeding could have any conceivable effect on the bankruptcy estate.

The Trustee has already submitted a no asset report and indicated that the estate has been fully administered. In addition, there are no pending motions or issues in Debtor's bankruptcy case. Were it not for removal of this matter, the case would soon close. Moreover, Plaintiff has not filed a proof of claim in this case. There being nothing left to be done in Debtor's bankruptcy case, it is unclear how this proceeding relates to Debtor's bankruptcy case at all. This is especially true because Debtor's case is a chapter 7, and jurisdiction is not as broad as in chapter 11 cases. *Cardinalli*, 2013 WL 5961098 at *3. Debtor has not provided any basis demonstrating subject matter jurisdiction, and the State Court Complaint, on its face, does not include any allegations giving rise to bankruptcy jurisdiction. As such, it appears this Court does not have subject matter jurisdiction. Furthermore, as explained below, even if the Court had jurisdiction, the Court could remand this action to state court.

B. Remand

"Bankruptcy courts have broad discretion to remand cases over which they otherwise have jurisdiction on any equitable ground." *In re Enron Corp.*, 296 B.R. 505, 508 (C.D. Cal. 2003). "[E]ven where federal jurisdiction attaches in actions 'related to' bankruptcy proceedings, Congress has explicitly provided for courts to find that those matters are more properly adjudicated in state court." *Parke v. Cardsystem Solutions, Inc.*, 2006 WL 2917604 (N.D. Cal. Oct. 11, 2006) (quoting *Williams v. Shell Oil Co.*,

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169 B.R. 684, 690 (S.D. Cal. 1994)).

Courts generally consider up to fourteen factors in deciding whether to remand a case to state court. *Enron*, 296 B.R. at 508. Factors courts should consider in deciding whether to remand are:

- (1) the effect or lack thereof on the efficient administration of the estate if the Court recommends [remand or] abstention;
- (2) extent to which state law issues predominate over bankruptcy issues;
- (3) difficult or unsettled nature of applicable law;
- (4) presence of related proceeding commenced in state court or other nonbankruptcy proceeding;
- (5) jurisdictional basis, if any, other than [section] 1334;
- (6) degree of relatedness or remoteness of proceeding to main bankruptcy case;
- (7) the substance rather than the form of an asserted core proceeding;
- (8) the feasibility of severing state law claims from core bankruptcy matters to allow judgments to be entered in state court with enforcement left to the bankruptcy court;
- (9) the burden on the bankruptcy court's docket;
- (10) the likelihood that the commencement of the proceeding in bankruptcy court involves forum shopping by one of the parties;
- (11) the existence of a right to a jury trial;
- (12) the presence in the proceeding of nondebtor parties;
- (13) comity; and
- (14) the possibility of prejudice to other parties in the action.

Id., 508 n.2; *see also In re Cytodyn of New Mexico, Inc.*, 374 B.R. 733, 738 (Bankr. C.D. Cal. 2007).

Here, the factors weigh heavily in favor of remanding this matter to state court. First, there is no effect on the administration of the estate because the Trustee has already filed a no asset report and determined there are no assets to distribute. Because Debtor is the defendant in the State Court Action, the estate does not stand to acquire assets through this litigation. The state court docket also indicates that Debtor has not asserted any counterclaims that would potentially result in a monetary judgment in favor of Debtor. In fact, upon the Trustee's entry of a no asset report, it appears there

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is nothing left to be done in the bankruptcy case.

The State Court Complaint asserts only state law causes of action. There is no jurisdictional basis over this proceeding other than 28 U.S.C. § 1334. In fact, as noted above, it is questionable whether this Court even has subject matter jurisdiction under § 1334. Because of the no asset report and because there are no bankruptcy issues alleged in the State Court Complaint, the degree of relatedness of this proceeding to the main bankruptcy case is tenuous at best.

There is no substance to Debtor's assertion that this proceeding is a "core proceeding." Contrary to Debtor's assertion, this matter is decidedly "non-core." Core proceedings include all actions "arising under" title 11 or "arising in" a case under title 11. *In re Marshall*, 600 F.3d 1037, 1053 (9th Cir. 2010) *aff'd sub nom. Stern v. Marshall*, 564 U.S. 462, 131 S. Ct. 2594, 180 L. Ed. 2d 475 (2011). This action neither arises under title 11 nor arises in a case under title 11; this action can exist independently of Debtor's bankruptcy case. It is not "inextricably intertwined" with administration of the bankruptcy estate. *In re ACI-HDT Supply Co.*, 205 B.R. 231, 236-37 (B.A.P. 9th Cir. 1997); *see also In re Harris*, 590 F.3d 730, 739 (9th Cir. 2009). There is nothing left to administer in Debtor's bankruptcy case. Even if there were, this action would not have an effect on the Trustee's distribution of assets.

As there are no bankruptcy issues in the State Court Action, severability is not an option. In addition, this proceeding will increase the burden on the bankruptcy court's docket; the Court will have to spend a significant amount of time familiarizing itself with the details of this proceeding when Debtor's bankruptcy case is ready to close.

Further, Plaintiff has a right to a jury trial. As Plaintiff has not responded to the OSC, it is unclear if Plaintiff is asserting that right. Nevertheless, based on the causes of action alleged in the State Court Complaint, the right exists.

Next, there are several nondebtor parties involved in the State Court Action. Debtor is named in only four of the nine causes of action. Aside from Debtor, there are six other defendants named in the State Court Complaint. Removal to the State Court Action would involve bringing a total of seven nondebtor parties to this Court.

As to comity, "[c]omity dictates that California courts should have the right to

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adjudicate the exclusively state law claims involving California-centric plaintiffs and California-centric transactions." *Enron*, 296 B.R. at 509. Here, the matter involves California-centric parties and California-centric transactions. This factor also favors remand.

Finally, removing the State Court Action yields a possibility of prejudice to all other parties involved in the State Court Action. For one, there appears to have been default entered against three of the defendants. Should those defendants seek to vacate the default, they would have to come to this Court, and it is questionable whether this Court can vacate the state court's entry of default against these defendants. In addition, litigating in this Court will delay the proceeding. The state court is aware of the procedural history and all relevant facts. Moreover, this Court cannot enter final judgment on the causes of action alleged in the State Court Complaint; this Court would have to file a Report & Recommendation to the United States District Court. This will further delay Plaintiff's ability to obtain a judgment.

Although the causes of action do not appear "difficult or unsettled," and Debtor may not have engaged in forum shopping, all other factors weigh in favor of remanding this action to state court. As a result, even if this Court has subject matter jurisdiction, this matter should be remanded to state court.

III. CONCLUSION

The Court will remand this proceeding.

The Court will prepare the Order.

Party Information

Debtor(s):

AMERICAN FUNDERS CORP.

Represented By
Ruben Fuentes

Defendant(s):

Tal Tepper

Pro Se

Firooz Payan

Pro Se

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Alliance Funding Group Inc Pro Se

AMERICAN FUNDERS CORP. Represented By
Ruben Fuentes

Crown Valley Car Wash, Inc Pro Se

Dan Tepper Pro Se

Plaintiff(s):

Behnam Kahenasa Pro Se

Trustee(s):

David Seror (TR) Pro Se

**United States Bankruptcy Court
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1:15-12563 Reza Fateh Manesh

Chapter 7

Adv#: 1:15-01237 Seror, as ch. 7 trustee, v. Fatehmanesh, an individual

#10.10 Trial re: complaint for turnover of property of the estate and an accounting [FOR RULING]

fr. 1/6/16; 8/17/16; 11/29/16

Docket 1

Tentative Ruling:

Continued to 1:30 p.m. on January 11, 2017.

Party Information

Debtor(s):

Reza Fateh Manesh

Represented By
Geoffrey G Melkonian

Defendant(s):

Hossein Fatehmanesh, an individual

Pro Se

Plaintiff(s):

David Seror, not individually but

Represented By
Reed Bernet

Trustee(s):

David Seror (TR)

Represented By
Richard Burstein

US Trustee(s):

United States Trustee (SV)

Pro Se

**United States Bankruptcy Court
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1:14-12399 Zalman Tuvia Nemtzov

Chapter 7

#11.00 Debtor's motion objecting to Sheri Nemtzov's claim
[For Status Conference]

fr. 2/12/15; 6/18/15 (stip); 9/17/15; 10/8/15; 11/5/15; 12/10/15;
3/10/16(stip); 3/24/16(stip); 5/19/16; 8/25/16; 10/19/16

Docket 127

*** VACATED *** REASON: Order resolving matter entered 12/19/16
[doc. 307].

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Zalman Tuvia Nemtzov

Represented By
Allan S Williams

Movant(s):

Zalman Tuvia Nemtzov

Represented By
Allan S Williams

Trustee(s):

Nancy J Zamora (TR)

Represented By
Larry D Simons

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1:14-12399 Zalman Tuvia Nemtzov

Chapter 7

Adv#: 1:16-01011 Nemtzov et al v. Nemtzov

#12.00 Motion for sanctions under Federal Rule of Bankruptcy Procedure 9011

fr. 6/15/16; 7/27/16; 8/24/16 ; 9/7/16; 10/19/16

Docket 21

*** VACATED *** REASON: Order resolving matter entered 12/19/16
[Bankruptcy Docket, doc. 307].

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Zalman Tuvia Nemtzov

Represented By
Jeffrey S Shinbrot

Defendant(s):

Zalman Tuvia Nemtzov

Represented By
Jeffrey S Shinbrot

Plaintiff(s):

RONALD DUNNER

Represented By
Alan F Broidy

Sheri Nemtzov

Represented By
Alan F Broidy

Trustee(s):

Nancy J Zamora (TR)

Pro Se

Nancy J Zamora (TR)

Represented By
Larry D Simons
Frank X Ruggier

**United States Bankruptcy Court
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CONT... Zalman Tuvia Nemtzov

Chapter 7

US Trustee(s):

United States Trustee (SV)

Pro Se

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1:14-12399 Zalman Tuvia Nemtzov

Chapter 7

Adv#: 1:16-01011 Nemtzov et al v. Nemtzov

#13.00 Motion for sanctions under Federal Rule of Bankruptcy Procedure 9011

fr. 10/19/16

Docket 56

***** VACATED *** REASON: Order resolving matter entered 12/19/16
[Bankruptcy Docket, doc. 307].**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Zalman Tuvia Nemtzov

Represented By
Jeffrey S Shinbrot

Defendant(s):

Zalman Tuvia Nemtzov

Represented By
Jeffrey S Shinbrot

Plaintiff(s):

RONALD DUNNER

Represented By
Alan F Broidy

Sheri Nemtzov

Represented By
Alan F Broidy

Trustee(s):

Nancy J Zamora (TR)

Represented By
Larry D Simons
Frank X Ruggier

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1:14-12399 Zalman Tuvia Nemtzov

Chapter 7

Adv#: 1:16-01011 Nemtzov et al v. Nemtzov

#14.00 Status conference re: second amended complaint to revoke discharge of debtor under sec 727(d) of the bankruptcy code

fr. 3/16/16; 5/11/16; 7/6/16; 8/24/16; 10/19/16

Docket 20

***** VACATED *** REASON: Order dismissing adversary entered
12/19/16 [doc. 69].**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Zalman Tuvia Nemtzov

Represented By
Jeffrey S Shinbrot

Defendant(s):

Zalman Tuvia Nemtzov

Pro Se

Plaintiff(s):

RONALD DUNNER

Represented By
Alan F Broidy

Sheri Nemtzov

Represented By
Alan F Broidy

Trustee(s):

Nancy J Zamora (TR)

Pro Se

Nancy J Zamora (TR)

Represented By
Larry D Simons
Frank X Ruggier

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CONT... Zalman Tuvia Nemtsov

Chapter 7

US Trustee(s):

United States Trustee (SV)

Pro Se