

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

WELLS FARGO BANK, N.A.,)	
Plaintiff,)	
v.)	CIVIL ACTION NO. 10-00065-KD-B
)	
LINDA S. LEDET,)	
Defendant.)	

ORDER

This matter is before the Court on the parties' Joint Status Report (Doc. 39). On June 29, 2011, Defendant/Third-Party Plaintiff Linda S. Ledet ("Linda Ledet") filed a petition for bankruptcy, and the Court accordingly stayed this action as to her pursuant to 11 U.S.C. § 362. (Doc. 37). The parties now represent that Linda Ledet was discharged from her bankruptcy case on December 9, 2011. (Doc. 39 at 1, ¶ 2). Therefore, the stay as to Linda Ledet is due to be **LIFTED**.

The status report also represents that "[a]ll parties agree that this case by Wells Fargo against both Defendants is due to be dismissed" and that a "joint stipulation of dismissal of Wells Fargo's claims against both Defendants will be filed with the court." (Id. at 2, ¶ 4).¹ Accordingly, the claims of Plaintiff Wells Fargo Bank, N.A ("Wells Fargo"), in this action are due to be dismissed.

Finally, the status report represents that Linda Ledet wishes to maintain her claim for indemnity against Third-Party Defendant Michael T. Ledet ("Michael Ledet"). (Id. at 1-2, ¶ 2). Michael Ledet argues that "there is no indemnity claim remaining against him" due to Wells Fargo's dismissal of its claims. (Id. at 2, ¶ 3). The Third-Party Complaint alleges that "[i]f the Defendant, Linda S. Ledet, is liable to the Plaintiff *on the occasion complained of in the*

¹ A review of the record indicates that Wells Fargo has asserted claims only against Linda Ledet in this action.

Complaint, she is liable” due to Michael Ledet’s alleged breach of a provision of their Judgment of Divorce. (Doc. 21-1 at 1, ¶ 3 (emphasis added)). Due to this alleged breach, Linda Ledet claims that “[Michael Ledet] is liable to [her] for all of [Wells Fargo]’s claims against [her]” and “demands judgment against Third-Party Defendant, Michael T. Ledet for *all sums that may be adjudged against Defendant/Third-Party Plaintiff, Linda Ledet, in favor of Plaintiff, [Wells Fargo.]*” (*Id.* at 2 (emphasis added)). Because Wells Fargo’s claims are due to be dismissed, Linda Ledet will have no liability to Wells Fargo *in this action*, and her claim that Michael Ledet indemnify her for any liability *in this action* will be moot.

The Court’s subject matter jurisdiction over Wells Fargo’s Complaint is based on diversity pursuant to 28 U.S.C. § 1332. Linda Ledet’s Third-Party Complaint fails to allege a basis for jurisdiction, and a review of the record indicates a lack of diversity between Linda and Michael Ledet, who both appear to be Alabama residents.² However, supplemental jurisdiction over the Third-Party Complaint is proper pursuant to 28 U.S.C. § 1367(a). Nevertheless, pursuant to § 1367(c)(3), the Court may decline to exercise supplemental jurisdiction over a claim if it “has dismissed all claims over which it has original jurisdiction.” Therefore, to the extent that Linda Ledet’s indemnity claim is not rendered moot by Wells Fargo’s dismissal of its claims, the Court declines to continue exercising supplemental jurisdiction over it. As such, Linda Ledet’s third-party claim is **DISMISSED without prejudice**.

For these reasons, it is **ORDERED** that the stay previously entered as to Linda Ledet is **LIFTED** and that this action is **DISMISSED without prejudice** from the active docket of this Court, subject to the right of Wells Fargo to reinstate this action for good cause within thirty (30)

² In her Answer (Doc. 21 at 1, ¶ 1), Linda Ledet admits to Wells Fargo’s allegation that she is a resident of Alabama (Doc. 1 at 1, ¶ 2), and both Ledets were served at Alabama street addresses (Docs. 7 & 28).

days of the date of this Order.

DONE and ORDERED this the **12th** day of **December 2012**.

/s/ Kristi K. DuBose

KRISTI K. DuBOSE

UNITED STATES DISTRICT JUDGE