

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

IN RE: LIVING HOPE SOUTHWEST
MEDICAL SVCS, LLC, DEBTOR

NO. 4:06-bk-71484
(CHAPTER 7)

RENEE S. WILLIAMS, TRUSTEE

PLAINTIFF

VS.

CASE NO. 4:09-mc-00003

LIVING HOPE SOUTHEAST, LLC,
DAVID KIMBRO STEPHENS,
MIKE GRUNDY, AND
MAXWELL DEAN HILL, SR.

DEFENDANTS

ORDER

Before the Court is a Demand for Jury Trial and Motion to Withdraw Reference filed on behalf of Defendant Maxwell Dean Hill, Sr. (Doc. No. 1). The Plaintiff, Renee S. Williams, Trustee, has responded to the motion. (Doc. No. 5). Also before the Court is a Motion for Partial Remand filed on behalf of the Plaintiff/Trustee (Doc. No. 4) and a Joint Motion for Partial Remand filed on behalf of the Plaintiff/Trustee and Separate Defendants Living Hope Southeast, LLC and David Kimbro Stephens (Doc. No. 10). Defendant Hill has responded to each of these motions. (Doc. Nos. 7 and 11). The Plaintiff/Trustee has filed replies to Hill's responses. (Doc. Nos. 9 and 12). The matter is ripe for consideration.

In his motion to withdraw reference, Defendant Hill claims that the Plaintiff/Trustee's cause of action against him is legal in nature. As such, he argues that he is entitled to a jury trial in this matter. Hill requests that the reference of this matter to the United States Bankruptcy

Court be withdrawn and that it be allowed to proceed to a jury trial before this Court. In Plaintiff/Trustee's response to the motion, she states that all claims in the complaint, with the exception of those against Defendant Hill, are equitable in nature. Therefore, she requests that only the claims against Defendant Hill be withdrawn from the Bankruptcy Court. Accordingly, in her Motion for Partial Remand and Joint Motion for Partial Remand, Plaintiff/Trustee requests that all other claims in this case be remanded back to the United States Bankruptcy Court.

Upon consideration, the Court finds that the Motion for Withdrawal of Reference should be and hereby is **granted** as to the Plaintiff/Trustee's claims against Defendant Maxwell Dean Hill, Sr., along with any defenses to those claims raised by Hill. Therefore, the Court withdraws reference to the United States Bankruptcy Court those claims against Defendant Maxwell Dean Hill, Sr., for actual fraud (Count II), constructive fraud (Count III) and default on loan (Count IV) raised by the Plaintiff/Trustee in her Second Amend Complaint. The Plaintiff/Trustee's Motions for Partial Remand are also **granted**. Accordingly, all other claims (Counts I, V, VI, and VII) raised in Plaintiff/Trustee's Second Amended Complaint are remanded to the United States Bankruptcy Court for the Eastern and Western Districts of Arkansas.

IT IS SO ORDERED, this 24th day of June, 2009.

/s/Harry F. Barnes
Hon. Harry F. Barnes
United States District Judge