

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

‘O’ JS-6

Case No. 2:16-cv-09539-CAS Date July 12, 2017

Title IN RE: TARYN VU-ROSE

Bankruptcy No.: 2:16-bk-19226-BB

Present: The Honorable CHRISTINA A. SNYDER

Catherine Jeang

Not Present

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings:

(IN CHAMBERS) - APPELLEE’S MOTION TO DISMISS BANKRUPTCY APPEAL AS MOOT (Filed May 12, 2017, Dkt. 25)

(IN CHAMBERS) - EX PARTE APPLICATION TO WITHDRAW AS APPELLANT’S COUNSEL (Filed July 11, 2017, Dkt. 28)

The Court finds Appellee’s motion to dismiss, dkt. 25, appropriate for decision without oral argument. See Fed. R. Civ. P. 78; CD. Cal. L.R. 7-15. Accordingly, the hearing date of July 24, 2017, is vacated, and the matter is hereby taken under submission.

On July 12, 2016, Taryn Vu-Rose (“appellant”) filed a Chapter 7 Bankruptcy Petition in the Los Angeles Division of the United States Bankruptcy Court for the Central District of California. Case No. 2:16-bk-19226-BB, dkt. 1. On October 31, 2016, Wesley Avery (“appellee”), the Chapter 7 Trustee for debtor’s bankruptcy estate, filed a motion for sale of real property at 215 South Bedford Drive, Beverly Hills, California 90212 (“the Property”). Id. dkt. 87. On December 14, 2016, the Bankruptcy Court granted the Trustee’s motion for sale. Id. dkt. 124 (“the Sale Order”).

On December 27, 2016, appellant filed a notice of appeal of the Sale Order. Dkt. 1. Appellant simultaneously filed an ex parte application for a stay of the Sale Order pending resolution of this appeal. Dkt. 3. On December 28, 2016, the Court denied appellant’s application for a stay of the Sale Order. Dkt. 10.

On March 24, 2017, appellant filed her opening brief. Dkt. 18. On April 17, 2017, the Court granted appellee’s motion for an extension of time to file appellee’s opening

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brief in light of a then-pending sale of the Property which the appellee expected to close in late April 2017. Dkt. 24.

On May 12, 2017, appellee filed the instant motion to dismiss this bankruptcy appeal as moot because the Property has been sold. Dkt. 25. The motion to dismiss was originally scheduled to be heard on June 12, 2017, but on May 18, 2017, the parties jointly stipulated to continue the hearing. Dkt. 26. On May 22, 2017, the Court granted the parties’ stipulation and continued the hearing to July 24, 2017. Dkt. 27.

In light of the hearing schedule, appellant’s opposition to the motion to dismiss was due no later than July 3, 2017. L.R. 7–9. To date, appellant has not filed any opposition.

On July 11, 2017, appellant’s counsel filed the instant ex parte application to withdraw as counsel to appellant. Dkt. 28. Appellant’s counsel, Louis Esbin, avers that his relationship with his client has deteriorated, that the two have irreconcilable differences, that appellant has breached her retainer agreement with Esbin, and that Esbin has not had any communication with appellant since May 19, 2017. Esbin Decl. ¶¶ 2-4. Esbin claims that he has repeatedly attempted to make overtures to appellant to repair the attorney-client relationship and communicate with appellant, but has been unable to do so. Id. Esbin claims that he negotiated the stipulation to continue the motion to dismiss in an effort to preserve appellant’s rights and remedies while he tried to communicate with her about the pending motion, but that appellant has been nonresponsive to his emails, “such that [he has] no authority or direction from Appellant on how to proceed.” Id. ¶ 4. Evidently, on July 1, 2017, Esbin notified appellant that he intended to withdraw and requested that appellant sign a substitution of attorney form, but did not receive any response. Id. ¶¶ 3-4.

In light of the foregoing, the Court finds that appellant’s failure to timely file any opposition to the motion to dismiss, despite a continuance, amounts to consent to grant the motion. See L.R. 7–12. Thus, the Court **GRANTS** appellee’s motion to dismiss this appeal as moot and this appeal is hereby **DISMISSED**.

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Having reviewed Esbin’s ex parte application and supporting declaration, the Court **GRANTS** Esbin’s request to withdraw as counsel for appellant.

IT IS SO ORDERED.

Initials of Preparer 00 00
CMJ