

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

In re

No. 2:09-cv-02174-MCE

THOMAS A. PISHOS,

Debtor,

ORDER

SUSAN K. SMITH, in her
capacity as trustee for the
Bankruptcy Estate of
Thomas A. Pishos,

Plaintiff,

v.

BONNIE B. PISHOS, HERITAGE
RANCH HOLDINGS, LLC, GHAS M.
MALIK, individually and in his
capacity as trustee of the G.
Malik Trust of 2007, NATIONAL
CITY MORTGAGE, and G.E.
COMMERCIAL FINANCE BUSINESS
PROPERTY CORP. f/k/a GENERAL
ELECTRIC CAPITAL BUSINESS
ASSET FUNDING CORP.,

Defendants.

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1 In bringing the present Motion to Withdraw Reference,
2 Defendant Ghaus M. Malik, individually and in his capacity as
3 Trustee of the G. Malik Trust of 2007, and Defendant National
4 City Mortgage, Inc. (hereinafter "Moving Defendants"), request
5 that the reference of this adversary proceeding to the United
6 States Bankruptcy Judges for the Eastern District of California
7 be withdrawn pursuant to 28 U.S.C. § 157(d). For the reasons set
8 forth below, Moving Defendants' request in that regard will be
9 dismissed.¹

10 On October 14, 2009, Moving Defendants filed a Notice of
11 Partial Settlement of the Case. According to that Notice, a
12 Settlement Agreement had been signed but was subject to approval
13 by the assigned bankruptcy judge. To obtain that approval,
14 Plaintiff Susan K. Smith ("Plaintiff") filed a Motion for
15 Approval of Compromise. The Motion was scheduled to be heard by
16 the bankruptcy court on November 9, 2009. Moving Defendants'
17 Notice made it clear that if the motion was granted, Moving
18 Defendants would be dismissed from the adversary proceeding, thus
19 making the instant Motion to Withdraw moot.

20 On December 15, 2009, Moving Defendants filed a Notice of
21 Voluntary Dismissal of the pending Motion to Withdraw, with
22 supporting exhibits. In their Notice of Voluntary Dismissal,
23 Defendants state that on November 9, 2009, the Motion for
24 Approval of Compromise came on for hearing as scheduled and was
25 granted.

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27 ¹ Because oral argument was not of material assistance, this
28 matter was deemed suitable for decision without oral argument.
Local Rule 230(g).

1 The Compromise Order was subsequently entered on the bankruptcy
2 court's docket on November 17, 2009.

3 Additionally, on November 18, 2009, Plaintiff filed a
4 Request for Dismissal with the bankruptcy court, asking the court
5 to dismiss Moving Defendants from the subject adversary
6 proceeding. The bankruptcy court entered its order dismissing
7 Moving Defendants on November 20, 2009.

8 On December 17, 2009, Plaintiff filed a Response to the
9 Notice of Voluntary Dismissal stating that she was not opposed to
10 dismissal of the Motion to Withdraw. Given the dismissal of
11 Defendants from the Adversary Proceeding, the Motion to Withdraw
12 is now moot.

13 For these reasons, Defendants' Motion to Withdraw Reference
14 to the Bankruptcy Judges (Docket No. 1) pursuant to 28 U.S.C.
15 § 157(d) is hereby DISMISSED. The Clerk is directed to close
16 this matter.

17 IT IS SO ORDERED.

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19 Dated: April 20, 2010

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22 MORRISON C. ENGLAND, JR.
23 UNITED STATES DISTRICT JUDGE
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