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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GEORGE S. LOUIE,)	Case No. 2:10-CV-02530 JAM-KJN
)	
Plaintiff,)	
)	
v.)	<u>ORDER GRANTING TRUSTEE'S</u>
)	<u>MOTION TO REFER THIS CASE TO</u>
)	<u>THE UNITED STATES BANKRUPTCY</u>
CALIFORNIA JUDICIAL COUNCIL,)	<u>COURT, EASTERN DISTRICT OF</u>
SACRAMENTO COUNTY SUPERIOR)	<u>CALIFORNIA</u>
COURT, et al.,)	
)	
Defendants.)	
)	

This matter comes before the Court as a Motion to Refer this Case to the United States Bankruptcy Court, Eastern District of California (Doc. #23) presented by Alan S. Fukushima ("the Trustee" or "Mr. Fukushima"), Chapter 7 Trustee in the bankruptcy case In re Louie, United States Bankruptcy Court, Eastern District of California, Case No. 11-25036-C-7. Defendants California Judicial Council and Sacramento County Superior Court ("Defendants") oppose the motion (Doc. #31).¹

¹ This motion was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g). The hearing was scheduled for November 10, 2011.

1 1. FACTUAL AND PROCEDURAL BACKGROUND

2 On September 20, 2010, Plaintiff George S. Louie ("The Debtor"
3 or "Mr. Louie") filed the instant case. He alleges that Defendants
4 failed to accommodate his disability in violation of the Americans
5 with Disabilities Act ("ADA") of 1990, California Civil Code
6 Sections 54 and 54.1, and the California Unruh Civil Rights Act.

7 On February 28, 2011, Mr. Louie was placed into involuntary
8 bankruptcy pursuant to Title 11 U.S.C. § 303: In re George S.
9 Louie, United States Bankruptcy Court, Eastern District of
10 California, Case No. 11-25036-C-7 (the "Involuntary Bankruptcy
11 Case"). On March 30, 2011, the Bankruptcy Court entered an order
12 for relief. Mr. Fukushima was appointed as Chapter 7 Trustee.

13 On April 1, 2011, Mr. Louie filed a voluntary bankruptcy case:
14 In re George Sing Louie, United States Bankruptcy Court, Eastern
15 District of California, Case No. 2011-28344 (the "Voluntary
16 Bankruptcy Case").

17 On May 31, 2011, the Bankruptcy Court consolidated the
18 Involuntary Bankruptcy Case and the Voluntary Bankruptcy Case as
19 Case No. 11-250360C-7 (the "Bankruptcy Case") and appointed Mr.
20 Fukushima as the Chapter 7 Trustee of the consolidated cases.

21 Through the Trustee's investigation, he discovered that the
22 Debtor has more than 80 cases pending in various California state
23 courts and federal district courts. Most or all of the cases
24 allege that defendants failed to accommodate Mr. Louie's disability
25 in violation of the ADA. On September 22, 2011, upon application
26 by the Trustee, this Court issued a related case order (Doc. #28)
27 relating eleven other ADA cases pending before the district court,
28 all before this Court. The Trustee now moves to refer this case to

1 the Bankruptcy Court (Doc. #23). Defendants California Judicial
2 Counsel and Sacramento County Superior Court oppose the motion
3 (Doc. #31). Lien Claimant Cable Gallagher does not oppose the
4 Trustee's Motion (Doc. #33).

5 II. OPINION

6 A. Legal Standard

7 1. Referral to Bankruptcy Court

8 28 U.S.C. § 1334(b) provides that federal courts shall have
9 "original but not exclusive jurisdiction of all civil proceedings
10 arising under title 11, or arising in or related to a case under
11 title 11." In Celotex Corp. v. Edwards, 514 U.S. 300 (1995), the
12 Supreme Court described the scope of "related to" jurisdiction
13 under Section 1334(b):

14 Proceedings "related to" the bankruptcy include
15 (1) causes of action owned by the debtor which become
16 property of the estate pursuant to 11 U.S.C. § 541,
and (2) suits between third parties which have an
effect on the bankruptcy estate.

17 Celotex Corp., 514 U.S. at 308 n. 5.

18 Where the cause of action is not property of the estate in
19 bankruptcy, courts in the Ninth Circuit utilize the Pacor test.
20 The Pacor test considers "whether the outcome of that [civil]
21 proceeding could conceivably have any effect on the estate being
22 administered in bankruptcy." Pacor, Inc. v. Higgins, 743 F.2d 984,
23 994 (1984). Additionally, the Ninth Circuit suggests district
24 courts consider "the efficient use of judicial resources, delay and
25 costs to the parties, uniformity of bankruptcy administration, the
26 prevention of forum shopping, and other related factors" when
27 deciding whether to refer cases to the Bankruptcy Court. Security
28 Farms v. International Brotherhood Of Teamsters, Chauffeurs,

1 Warehousemen & Helpers, an Unincorporated Ass'n., 124 F.3d 999,
2 1008 (9th Cir. 1997).

3 B. Claims for Relief

4 The Trustee asks the Court to refer this case to the
5 Bankruptcy Court because the instant case is property of the
6 bankruptcy estate pursuant to 11 U.S.C. § 541(a)(1). The instant
7 case is also related to the bankruptcy case because the Trustee is
8 already prosecuting thirty-two other ADA cases in the Bankruptcy
9 Court filed by the Debtor. Additionally, the estate has no cash so
10 it would be an extreme burden for the Trustee to prosecute many
11 cases in multiple courts.

12 Defendants counter by arguing that referring this case to the
13 Bankruptcy Court is not an efficient use of judicial resources
14 because it is a non-core proceeding that does not involve any issue
15 of bankruptcy law. It would be subject to de novo review by this
16 Court and if there is a jury trial, only a district court judge can
17 preside over the trial unless all the parties consent to the
18 bankruptcy judge. Thus, Defendants argue, a single proceeding
19 before this Court is more efficient for the Court and more
20 economical for the parties. Finally, Defendants argue that
21 referral of this case to the bankruptcy court could be interpreted
22 as forum shopping.

23 The Court finds that pursuant to 11 U.S.C. § 541, the instant
24 case is the legal interest of the debtor and is thus property of
25 the estate. Because this case is property of the bankruptcy
26 estate, the "close nexus" test of Pacor does not apply.
27 Furthermore, the Security Farm factors, 124 F.3d at 1008, support
28 referral of this case to the Bankruptcy Court. Referral to the

1 Bankruptcy Court is an efficient use of judicial resources. As the
2 Trustee points out in his Reply (Doc. #34), bankruptcy courts
3 routinely handle adversary proceedings and both the Bankruptcy
4 Court judges and the District Court judges in this district are
5 under heavy caseloads. Referral to the Bankruptcy Court will
6 result in an overall savings of judicial resources, as well as
7 convenience for the parties because it will result in the same
8 court handling the adversary proceedings and the overall
9 administration of the underlying Bankruptcy Case. Additionally,
10 since this case is about alleged violations of the ADA and does not
11 involve bankruptcy law, uniformity of bankruptcy administration is
12 not an applicable factor. Finally, there is no evidence of forum
13 shopping as the impetus of this motion is to organize numerous
14 cases in one forum. Accordingly, the Court GRANTS the Trustee's
15 Motion to Refer This Case to the United States Bankruptcy Court,
16 Eastern District of California.

17
18 III. ORDER

19 For the reasons set forth above, the Court GRANTS the Motion
20 to Refer This Case to the United States Bankruptcy Court, Eastern
21 District of California.

22 IT IS SO ORDERED.

23 Dated: November 10, 2011

24 
25 _____
26 JOHN A. MENDEZ,
27 UNITED STATES DISTRICT JUDGE
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