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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

GEORGE S. LOUIE,	)	Case No. 2:11-CV-00074 JAM-KJN
	)	
Plaintiff,	)	
	)	
v.	)	<u>ORDER GRANTING TRUSTEE'S</u>
	)	<u>MOTION TO REFER THIS CASE TO</u>
	)	<u>THE UNITED STATES BANKRUPTCY</u>
VOLVO-CALIFORNIA SWEDISH et al.,	)	<u>COURT, EASTERN DISTRICT OF</u>
	)	<u>CALIFORNIA</u>
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. #44) 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 Volvo-California Swedish ("Defendants") oppose the motion (Doc. #46).<sup>1</sup>

<sup>1</sup> 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 I. 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. #47)  
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. #44). Defendants Volvo-California  
2 Swedish, et al. oppose the motion (Doc. #46).

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4 II. OPINION

5 A. Legal Standard

6 1. Referral to Bankruptcy Court

7 28 U.S.C. § 1334(b) provides that federal courts shall have  
8 "original but not exclusive jurisdiction of all civil proceedings  
9 arising under title 11, or arising in or related to a case under  
10 title 11." In Celotex Corp. v. Edwards, 514 U.S. 300 (1995), the  
11 Supreme Court described the scope of "related to" jurisdiction  
12 under Section 1334(b):

13 Proceedings "related to" the bankruptcy include  
14 (1) causes of action owned by the debtor which become  
15 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.

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

17 Where the cause of action is not property of the estate in  
18 bankruptcy, courts in the Ninth Circuit utilize the Pacor test.  
19 The Pacor test considers "whether the outcome of that [civil]  
20 proceeding could conceivably have any effect on the estate being  
21 administered in bankruptcy." Pacor, Inc. v. Higgins, 743 F.2d 984,  
22 994 (1984). Additionally, the Ninth Circuit suggests district  
23 courts consider "the efficient use of judicial resources, delay and  
24 costs to the parties, uniformity of bankruptcy administration, the  
25 prevention of forum shopping, and other related factors" when  
26 deciding whether to refer cases to the Bankruptcy Court. Security  
27 Farms v. International Brotherhood Of Teamsters, Chauffeurs,  
28 Warehousemen & Helpers, an Unincorporated Ass'n., 124 F.3d 999,

1 1008 (9th Cir. 1997).

2 B. Claims for Relief

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

11 Defendants counter by arguing that as long as Defendants have  
12 a right to a jury trial and do not consent to the bankruptcy judge  
13 presiding over the jury trial, this case cannot be removed to  
14 bankruptcy court. Additionally, Defendants cite 28 U.S.C.  
15 § 157(b)(5) to argue that the bankruptcy court does not have  
16 jurisdiction to determine Mr. Louie's claims. Defendants also  
17 argue that the Trustee did not cite legal authority requiring that  
18 this case be removed to bankruptcy court.

19 As discussed supra, this Court has jurisdiction over this  
20 action and the ability to refer it to Bankruptcy Court under 28  
21 U.S.C. § 1334(b). The Court finds that pursuant to 11 U.S.C.  
22 § 541, the instant case is the legal interest of the debtor and is  
23 thus property of the estate. The fact that this case concerns  
24 noncore ADA claims is irrelevant since the instant case is related  
25 to the Bankruptcy Case. 28 U.S.C. § 157(b) authorizes Bankruptcy  
26 judges to hear and determine such cases. While 28 U.S.C. § 157(a)  
27 does not require this Court to refer each related case to the  
28 Bankruptcy Court, the Court elects in this case to exercise its

1 discretion to refer it to the Bankruptcy Court.

2 Contrary to Defendants' concerns, referral to the Bankruptcy  
3 Court will not compromise their right to a jury trial. The  
4 bankruptcy judge, with the consent of the parties, may conduct the  
5 jury trial. 28 U.S.C. § 157(e). If the parties do not consent to  
6 the bankruptcy judge conducting the jury trial, the bankruptcy  
7 court will handle the pretrial matters and this Court will preside  
8 over the jury trial. See In re Healthcentral.com, 504 F.3d 775,  
9 787-88 (9th Cir. 2007) (holding that in noncore matters (like the  
10 instant case), if a party timely demands a jury trial and there is  
11 no consent to the bankruptcy judge presiding over the trial, the  
12 bankruptcy court retains jurisdiction over pre-trial matters and  
13 the district court handles the jury trial).

14 Referral to the Bankruptcy Court is an efficient use of  
15 judicial resources. Bankruptcy courts routinely handle adversary  
16 proceedings and both the Bankruptcy Court judges and the District  
17 Court judges in this district are under heavy caseloads. Referral  
18 to the Bankruptcy Court will result in an overall savings of  
19 judicial resources, as well as convenience for the parties because  
20 it will result in the same court handling the adversary proceedings  
21 and the overall administration of the underlying Bankruptcy Case.  
22 Additionally, since this case is about alleged violations of the  
23 ADA and does not involve bankruptcy law, uniformity of bankruptcy  
24 administration is not an applicable consideration. Finally, there  
25 is no evidence of forum shopping as the impetus of this motion is  
26 to organize numerous cases in one forum. Accordingly, the Court

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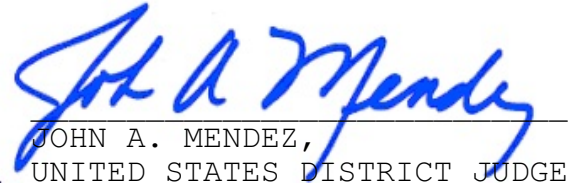
1 GRANTS the Trustee's Motion to Refer This Case to the United States  
2 Bankruptcy Court, Eastern District of California.

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4 III. ORDER

5 For the reasons set forth above, the Court GRANTS the Motion  
6 to Refer This Case to the United States Bankruptcy Court, Eastern  
7 District of California.

8 IT IS SO ORDERED.

9 Dated: November 15, 2011

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12 JOHN A. MENDEZ,  
13 UNITED STATES DISTRICT JUDGE  
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