

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NAOMI MARIE LEBUS,
Plaintiff,
v.
S.B.S TRUST NETWORK, et. al.,
Defendants.

No. 2:14-cv-02165-MCE-AC

ORDER

On September 18, 2014, Plaintiff / Debtor Naomi Marie LeBus ("Plaintiff") filed a Motion to Withdraw Reference ("Motion"). ECF No. 1. Although she was represented by William Francis Abbott in the Adversary Proceeding before the Bankruptcy Court, Plaintiff filed the Motion Pro Se. See id.¹ Thereafter, this Court stayed Plaintiff's action in the District Court pending resolution of Plaintiff's Motion to Substitute Attorney before the U.S. Bankruptcy Court for the Eastern District of California in Adversary Proceeding #: 14-02049. See ECF No. 2. On October 15, 2014, the Bankruptcy Court authorized Plaintiff's counsel, William F. Abbott, to withdraw, and substituted Naomi LeBus as representing herself in propria persona. See ECF No. 69, 2:14-ap-2049. Therefore, the stay in this matter is LIFTED.

¹ A review of the docket of the Adversary Proceeding indicated that, on the same day that Plaintiff filed her Motion, Plaintiff also filed a Motion/Application to Substitute Attorney (ECF No. 46, 2:14-ap-2049) in which she seeks to remove William F. Abbott and to proceed Pro Se.

1 Withdrawal of the reference of an adversary proceeding from bankruptcy court is
2 governed by 28 U.S.C. § 157(d), which provides that:

3 The district court may withdraw, in whole or in part, any case
4 or proceeding referred under this section, on its own motion
5 or on timely motion of any party, for cause shown. The district
6 court shall, on timely motion of a party, so withdraw a
7 proceeding if the court determines that resolution of the
8 proceeding requires consideration of both title 11 and other
9 laws of the United States regulating organizations or activities
10 affecting interstate commerce.

11 28 U.S.C. § 157(d). Withdrawal of the reference is mandatory if “resolution of the
12 proceeding requires consideration of both title 11 and other laws of the United States
13 regulating organizations or activities affecting interstate commerce.” 28 U.S.C. § 157(d);
14 see Security Farms v. Int'l Bhd. of Teamsters, Chauffers, Warehousemen & Helpers,
15 124 F.3d 999, 1008 (9th Cir. 1997). A district court may also permissively withdraw “any
16 case or proceeding referred [to the bankruptcy court] on its motion or on timely motion of
17 a party, for cause shown.” 28 U.S.C. § 157(d).

18 Plaintiff fails to set forth any cause or rationale for withdrawal of the reference in
19 her motion. In fact, Plaintiff's Motion, states, in full:

20 Comes NOW Naomi LeBus, one of the People, Pursuant to
21 28 U.S.C. § 157(k), Federal Rule of Bankruptcy Procedure
22 5011(a), and Rule 5011-1 of the Local Rules of Bankruptcy
23 Practice and Procedure of the United States Bankruptcy
24 Court for the Eastern District of California, Naomi Marie
25 LeBus ('Plaintiff'), hereby moves to (1) withdraw the reference
26 of the entire above captioned adversary proceeding (the
27 "Adversary Proceeding) and all documents and requests for
28 discovery filed therein, which is currently pending before the
U.S. Bankruptcy Court for the Eastern District of California
(the "Bankruptcy Court"); and (2) set dates for a pre-trial
conference and jury trial before the U.S. District Court for the
Eastern District of California (the "District Court") so that this
case may proceed apace.

29 Mot., ECF No. 1 at 2-3.² Having neither shown cause for permissive withdraw or
30 demonstrated that mandatory withdrawal is warranted, Plaintiff's Motion to withdraw the


31 ² Plaintiff also attached a “Notice of Lis Pendens and Notice of Action Pending” (ECF No. 1 at 4-5);
32 however, this document also fails to set forth cause for withdrawal.

1 reference (ECF No. 1) is DENIED without prejudice to filing an amended motion setting
2 for the rationale for withdrawal of the reference. See 28 U.S.C. § 157(d). This matter is
3 therefore remanded to the Bankruptcy Court and all further proceedings in this adversary
4 action, if any are warranted, shall be held before that court. In addition, to the extent that
5 Plaintiff's counsel has appeared in this action before the District Court, pursuant to the
6 Bankruptcy Court's October 15, 2014, Order (ECF No. 69, 2:14-ap-2049), William F.
7 Abbott, is RELIEVED as counsel for Plaintiff Naomi Marie LeBus and Plaintiff Naomi
8 Marie LeBus is SUBSTITUTED in pro per in this matter. The Clerk of the Court is
9 DIRECTED to serve this Order on Plaintiff/Debtor Naomi Marie LeBus at P.O. Box 636,
10 Douglas City, CA 96024.

11 IT IS SO ORDERED.

12 Dated: October 29, 2014

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT