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18 **UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF CALIFORNIA**
19 **SACRAMENTO DIVISION**

20 DAVID R. OLICK,

21 Plaintiff,

22 v.

23 VIVIAN LILY,

24 Defendant.

Case No. 2:15-cv-00410-WBS-DAD

Bankruptcy Court Nos.
Chapter 7 No. 12-36999-B-7

Adversary Proceeding
No. 12-02717-B

**JOINT APPLICATION TO CONTINUE
TRIAL BASED ON STIPULATION OF THE
PARTIES**

Date: Trial Date February 14, 2017
Time: 9:00 a.m.

The Honorable William B. Shubb
Department 5

25 The parties, Plaintiff David Olick (hereinafter, Olick) and Defendant Vivian Lily
26 (hereinafter, Lily) by and through their respective counsel, jointly apply for a continuance of the
27 trial of this matter, currently set for February 14, 2017, respectfully request that the trial date be
28

1 vacated, and the Court set the matter on calendar for a new trial date anytime subsequent to
2 September 4, 2017. At the request of Plaintiff, we also respectfully request that trial not be held
3 on September 21-22.
4

5 The continuance is being sought on two related grounds. First, Lily’s continued serious
6 health problems continue to impair her ability to participate in settlement efforts, or should they
7 fail, in trial preparation and trial. Within the last sixty days she has had an angioplasty and been
8 treated for numerous infections. Second, there is a strong possibility that this adversary
9 proceeding may well be settled, but such potential settlement is linked to the resolution of other
10 litigation. A continuance will enable the parties to have an opportunity to pursue active
11 settlement discussions, and for the related action to be resolved.
12

13 This case is one of two involving Olick and Lily, the second being their dissolution action,
14 pending in Solano County, Case No. FFL 114985 (hereinafter, the “Dissolution Case.”) No trial
15 date has been set in that action. There are overlapping issues in these cases and Olick and Lily
16 are interested in reaching a global settlement of both this case and the Dissolution Case. A key
17 common issue is the rights of the parties relating to the real property at 846 Leeds Court, Benicia
18 (hereinafter, the “Subject Property”) , which was acquired during their marriage.
19

20 There is yet a third case, the outcome of which is significant for both the adversary
21 proceeding and the Dissolution Case, in which Lily has sued the Bank of America, seeking to
22 remove an improper second deed of trust and damages. That case, Lily v. Bank of America,
23 Case No. FCS 046863 (hereinafter, the “Bank of America Litigation”) is pending in Solano
24 County Superior Court as well.
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1 If Lily prevails in the Bank of America Litigation or it is settled, the Subject Property will
2 have substantial equity. This may facilitate resolution of both the case before this Court and the
3 Dissolution Action. There are active settlement negotiations between Lily's counsel in that case
4 and counsel for the Bank of America.
5

6 It is hoped that with additional time the parties can reach an overall settlement of the
7 litigation between them, thereby avoiding the expenditure of judicial resources and the costs
8 associated with trials in two forums. If the parties are unable to reach a negotiated settlement on
9 their own, they anticipate asking the Court to refer this matter to a Magistrate Judge for a
10 settlement conference.
11

12 The parties respectfully ask that the trial date be vacated, and that the case be set for trial
13 any time subsequent to September 4, 2017 and request that trial not be held on September 21-22
14 which is acceptable to both parties and their counsel, with all dates set in the Final Pretrial Order
15 adjusted to the new trial date.
16

17 **STIPULATION**

18 Lily and Olick stipulate as follows:
19

20 1. In Order that settlement discussions may be pursued effectively, and that medical
21 problems for Vivian Lily may be addressed, that the trial date of this matter currently set for
22 February 14, 2017, be vacated.

23 2. That the Court set the case for trial after September 4, 2017 on a date convenient to
24 the Court.
25

26 ///

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1 3. That all dates set in the Final Pretrial Order be adjusted to correspond to
2 the new trial date.

3
4 DATED: January 13, 2017

/s/ David R.Olick (authorized on 1/9/17)
DAVID R. OLICK
Attorney for Plaintiff

7
8 DATED: January 13, 2017

/s/William Murray
WILLIAM MURRAY
Attorney for Defendant


10 ORDER:

11
12 Based on the Stipulation of the Parties, and GOOD CAUSE APPEARING:

- 13 1. The trial date in this matter, February 14, 2017, is vacated.
14 2. The case is reset for trial **on October 3, 2017 at 9:00 a.m.**
15 3. All deadlines set in the Final Pretrial Order are adjusted based on the new trial date.

16 IT IS SO ORDERED:

17 Dated: January 18, 2017


WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE