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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

No. C 14-0520 RS

In re LARRY THAXTER JAMES,  
Debtor.

**ORDER DENYING DEBTOR'S  
MOTION TO WITHDRAW  
REFERENCE**

I. INTRODUCTION

In this bankruptcy action, which is related to *CornerStone, et al. v. Larry Thaxter James, et al.* (Case No. 12-1527), debtor Larry James requests the court withdraw the reference of his Chapter 7 case, which is currently pending before the bankruptcy court. In James' bankruptcy case, which was recently reopened, he objects to a proof of claim against the estate filed by Mary Anderson, a plaintiff in the related civil case. Because James fails to demonstrate that withdrawal is warranted, his request is denied.

II. LEGAL STANDARD

Federal district courts have original jurisdiction over Title 11 bankruptcy matters. 28 U.S.C. § 1334(a). They may, however, refer all bankruptcy matters to a bankruptcy court. *Id.* § 157(a). In certain circumstances, a referred case may be transferred from the bankruptcy court back to the district court by withdrawing the reference. 28 U.S.C. § 157(d). Withdrawal can be mandatory or permissive, depending on whether resolution of the underlying proceeding "requires consideration

1 of both title 11 and other laws of the United States regulating organizations or activities affecting  
2 interstate commerce.” *Id.* § 157(d). Here, it is undisputed that withdrawal of the reference of  
3 James’ bankruptcy case is permissive, not mandatory.

4 Where withdrawal is not required, a “district court may withdraw . . . any case or proceeding  
5 referred [to the bankruptcy court] . . . for cause shown.” 28 U.S.C. § 157(d). “In determining  
6 whether cause exists, a district court should consider the efficient use of judicial resources, delay  
7 and costs to the parties, uniformity of bankruptcy administration, the prevention of forum shopping,  
8 and other related factors.” *Security Farms v. Int’l Brotherhood of Teamsters, Chauffeurs,*  
9 *Warehousemen & Helpers*, 124 F.3d 999, 1008 (9th Cir. 1997) (citing *In re Orion Pictures Corp.*, 4  
10 F.3d 1095, 1101 (2d Cir. 1993)). Moreover, the party seeking withdrawal carries the burden of  
11 persuasion. *See, e.g., In re Homeland Stores, Inc.*, 204 B.R. 427, 430 (D. Del. 1997).

12 Before considering the *Security Farms* factors, the district court “should first evaluate  
13 whether the claim is core or non-core, since it is upon that issue that questions of efficiency and  
14 uniformity will turn.” *In re Orion Pictures Corp.*, 4 F.3d at 1101. “In general, a ‘core proceeding’  
15 in bankruptcy is one that ‘invokes a substantive right provided by title 11 or . . . [is] a proceeding  
16 that, by its nature, could arise only in the context of a bankruptcy case.’” *In re Gruntz*, 202 F.3d  
17 1074, 1081 (9th Cir. 2000) (citing *In re Wood*, 825 F.2d 90, 97 (5th Cir. 1987)).

18 III. DISCUSSION

19 As an initial matter, it is undisputed that James’ Chapter 7 action is a core proceeding.  
20 Moreover, although Anderson’s underlying fraud claim is premised on state law, her proof of claim  
21 against the estate is a “core” proceeding, too. *See In re G.I. Indus., Inc.*, 204 F.3d 1276, 1280 (9th  
22 Cir. 2000). In the same respect, James’ objection to Anderson’s claim is also “core.” *See* § 157(b)  
23 (“Core proceedings include . . . allowance or disallowance of claims against the estate[.]”). In sum,  
24 James is requesting the district court withdraw the reference of a bankruptcy action that is, in its  
25 entirety, a “core” proceeding. This is not, however, dispositive of the motion to withdraw—it is  
26 “merely a factor to consider.” *In re Daewoo Motor Am., Inc.*, 302 B.R. 308, 310 (C.D. Cal. 2003).

27 Turning to the first *Security Farms* factor, it is first unclear whether judicial efficiency would  
28 be served by withdrawal. Although there is factual overlap between the civil case and the dispute

1 over Anderson’s proof of claim, the matters are not so intertwined that it would be inefficient for the  
2 bankruptcy court to determine whether Anderson’s claim need be disallowed. This is especially so  
3 in light of the recent order granting in part CornerStone’s motion for summary judgment in the  
4 related civil action. Second, withdrawing the reference would cause additional delays and impose  
5 unneeded costs on the parties. It is likely that the Chapter 7 case, which was first filed in 2005, will  
6 be resolved more quickly if it remains in the bankruptcy court, which oversees such proceedings on  
7 a regular basis. The third factor—the uniformity of bankruptcy administration—is apparently  
8 irrelevant here, where the debtor requests withdrawal of the entire case. Fourth and finally, the  
9 parties all allege that some degree of forum-shopping is afoot. Anderson and the Trustee contend  
10 that James’ motion is motivated by a strategic desire to delay trial and deplete the estate’s resources.  
11 James, meanwhile, argues that Anderson’s proof of claim is premised on a legal theory that is  
12 incompatible with positions she has taken in the civil matter. There may be some truth to all of  
13 these allegations. Nonetheless, it was James who opted to reopen his bankruptcy case in the first  
14 place. On balance, the fourth factor does not weigh in favor of or against withdrawal.

15 In sum, James has not satisfied his burden of persuasion that permissive withdrawal is  
16 warranted. His motion is denied.

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18 IT IS SO ORDERED.

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20 Dated: 4/17/14



21 RICHARD SEEBORG  
22 UNITED STATES DISTRICT JUDGE  
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