

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
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

IN RE JOHN HOANG,
Debtor.

Case No. 14-cv-02354-BLF

IN RE JOHN HOANG,
Debtor.

Case No. 14-cv-02380-BLF

**ORDER TO SHOW CAUSE WHY
ACTIONS SHOULD NOT BE
DISMISSED; AND TERMINATING
MOTIONS TO WITHDRAW
REFERENCE**

The above-captioned cases involve an adversary proceeding, Case No. 13-05149-ASW, that Debtor John Hoang (“Hoang”) filed in his Chapter 13 bankruptcy action, Case No. 11-55197-ASW. Hoang filed the adversary proceeding on October 23, 2013. *See* Adversary Complaint, ECF 1 in Case No. 13-05149-ASW; Adversary Complaint, ECF 107 in Case No. 11-55197-ASW. On May 21, 2014, while motions to dismiss the adversary complaint were pending before the bankruptcy court, several defendants (“Moving Parties”) moved to withdraw the reference of the adversary proceeding on the ground that it raised exclusively non-core issues under 28 U.S.C. § 157. *See* Motion to Withdraw Reference, ECF Nos. 55 and 62 in Case No. 13-05149-ASW. The identical motion to withdraw appears to have been filed twice in the adversary proceeding, and it was transmitted twice to the district court, resulting the opening of both of the above-captioned

1 cases in the district court. *See* Motion to Withdraw Reference, ECF 1 in Case No. 14-cv-2354-
2 BLF; Motion to Withdraw Reference, ECF 1 in Case No. 14-cv-02380-BLF.

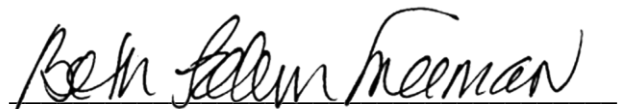
3 Both district court cases were assigned to the undersigned judge. Clerk's Notices issued in
4 both cases directing Moving Parties to notice their motions to withdraw for hearing before this
5 Court pursuant to Civil Local Rule 7-2(a). *See* Clerk's Notice, ECF 2 in Case No. 14-cv-02354-
6 BLF; Clerk's Notice, ECF 3 in Case No. 14-cv-02380-BLF. Moving Parties did not notice their
7 motions to withdraw for hearing, perhaps because the bankruptcy court granted the motions to
8 dismiss the adversary complaint that had been pending before it. *See* Tentative Orders, ECF 50
9 and 66 in Case No. 13-05149-ASW; Order on Motion to Dismiss Complaint for Failure to State a
10 Claim Upon Which Relief Can be Granted, ECF 73 in Case No. 13-05149-ASW. The bankruptcy
11 court granted Hoang leave to amend the adversary complaint; when Hoang failed to amend, the
12 bankruptcy court dismissed the adversary proceeding in its entirety. *See* Order Dismissing
13 Adversary Proceeding, ECF 75 in Case No. 13-05149-ASW.

14 The pendency of the motions to withdraw the reference in this Court did not stay the
15 proceedings in the bankruptcy court. *See* Fed. R. Bankr. P. 5011(c) ("The filing of a motion for
16 withdrawal of a case . . . shall not stay the administration of the case or any proceeding therein
17 before the bankruptcy judge except that the bankruptcy judge may stay, on such terms and
18 conditions as are proper, proceedings pending disposition of the motion."). In light of Moving
19 Parties' apparent abandonment of their motions to withdraw the reference and the bankruptcy
20 court's dismissal of the adversary proceeding, the pending motions to withdraw are hereby
21 **TERMINATED.**

22 The parties are hereby **ORDERED** to **SHOW CAUSE**, in writing and on or before October
23 16, 2015, why the two cases pending before this Court – Case Nos. 14-cv-02354-BLF and
24 14-cv-02380-BLF – should not be closed.

25 **IT IS SO ORDERED.**

26 Dated: September 18, 2015

27 

28 BETH LABSON FREEMAN
United States District Judge