

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Wiley Y. Daniel

Civil Action No. 06-cv-01547-WYD-MJW

SHERRON L. LEWIS, JR.,

Plaintiff,

v.

AURORA LOAN SERVICES, INC.,

Defendant.

ORDER

THIS MATTER is before the Court on a review of the Complaint. Plaintiff admits therein that he is a debtor in a Chapter 7 petition, case number 05-45913-MER filed in the United States Bankruptcy Court for the District of Colorado. Compl. ¶ 1. The Voice Case Information System of the Bankruptcy Court states that the case is still pending and a Trustee, Jennifer M. McCallum, has been assigned.¹

Based on the foregoing, the claims at issue herein appear to be part of the bankruptcy estate. Plaintiff has not alleged that the Trustee abandoned these claims, and the Trustee is not a party to this action. Consequently, Plaintiff does not have standing to pursue the claims in this case, and the case is dismissed without prejudice. The action may be refiled if the Plaintiff demonstrates that the Trustee abandoned the claims, by the Trustee if she so chooses, or after the bankruptcy proceeding is

¹ While Plaintiff asserts that his bankruptcy petition was filed October 14, 2006, I have confirmed that the actual filing date is October 14, 2005.

terminated.

In conclusion, it is

ORDERED that this case is **DISMISSED WITHOUT PREJUDICE** due to lack of standing by the Plaintiff. It is

FURTHER ORDERED that the Clerk of Court is directed to mail a copy of this Order to counsel for the Trustee as follows:

John Cardinal Parks
MCELVOY, DEUTSCH, MULVANEY & CARPENTER, LLP
1700 Broadway, Suite 1900
Denver, CO 80290-1901

Dated: August 15, 2006

BY THE COURT:

s/ Wiley Y. Daniel
Wiley Y. Daniel
U. S. District Judge