

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 08-cv-00205-PAB-BNB

LESLIE ROUSSEAU,

Plaintiff,

v.

BANK OF NEW YORK,
BRYAN S. BLUM, Registration No. 34949, and
THE LAW FIRM OF CASTLE MEINHOLD & STAWIARSKI, LLC,

Defendants.

ORDER

This matter arises on the plaintiff's **Motion for Enforcement of Settlement Agreement** [Doc. # 82, filed 2/11/2010] (the "Motion to Enforce"). The following facts, asserted by the defendants and not disputed by the plaintiff, are relevant to the Motion to Enforce:

- (1) This action was commenced on January 31, 2008, by the filing of a complaint by Leslie Rousseau;
- (2) The sole remaining claim alleges a violation of the Fair Debt Collection Practices Act, see Order [Doc. # 54, filed 9/29/2009] at p. 18;
- (3) However, on October 3, 2008, the plaintiff filed petition for Chapter 13 Bankruptcy relief in the United States Bankruptcy Court for the District of Colorado, Case No. 08-25542-HRT. The plaintiff did not disclose his bankruptcy filing to the defendants or to this court; and

(4) The plaintiff's bankruptcy case remains open.

Pursuant to 11 U.S.C. §541(a)(1), the filing of a bankruptcy petition by a debtor creates an estate, and "all legal or equitable interests of the debtor in property as of the commencement of the case" belong to the estate. The plaintiff's claim here arose and his action asserting that claim was filed here prior to the plaintiff filing his bankruptcy action. Consequently, the plaintiff's cause of action is an asset of the bankruptcy estate.

I am informed that a hearing has been set in the bankruptcy court on March 9, 2010, concerning this matter.

IT IS ORDERED that the parties shall file status reports within seven days after March 9, 2010, informing me of the proceedings in the bankruptcy court and recommending how this matter should proceed in view of the bankruptcy court proceedings.

Dated February 23, 2010.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge