

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION,

FTBB, LLC,

Plaintiff,

v.

CASE NO. 8:09-CV-1841-T-17MAP

LARRY S. HYMAN, assignee for  
G3 TAMPA, LLC, etc., et al.,

Defendants

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ORDER

This cause is before the Court on:

Dkt. 588 Unopposed Motion for Order Reinstating Stipulated  
Motion for Final Judgment in Garnishment *Nunc Pro Tunc*

Plaintiff FTBB, LLC moves for an Order Reinstating Stipulated Motion for Final Judgment in Garnishment *Nunc Pro Tunc* pursuant to Fed. R. Civ. P. 60(b)(6), the Court's inherent power, and in the interest of justice. Plaintiff FTBB, LLC asserts the reason for FTBB's withdrawal of the Motion was its good faith belief that its claim to the interpled funds in the State Court Interpleader case was established, and was to be litigated and determined by the State Court judge.

The Bankruptcy Court directed the Trustee to file an interpleader action in an appropriate non-bankruptcy court on April 28, 2015, so that the parties may litigate their competing claims to the final distribution in one convenient non-bankruptcy forum. (Dkt. 560-1). The Post-Confirmation Trustee filed an Interpleader action in State Court.

The Court notes the Stipulated Motion for Final Judgment in Garnishment (Dkt. 560), and the Notice of Withdrawal of the Stipulated Motion for Final Judgment in Garnishment (Dkt. 564), which acknowledges that the State Court action seeks to

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interplead the disputed funds into the registry of the court, Case No. 15-CA-004075, Division K, and further states that the Parties will re-file their Stipulated Motion for Final Judgment in Garnishment in the State Court Interpleader action. The Court notes that the funds, \$72,918.00, were deposited into the registry of the State Court.

This Court expected that entitlement to the funds would be litigated to final disposition in the State Court case. It is not clear to the Court why the parties are litigating in two forums. Since the funds are in the registry of the State Court, the Court doubts whether this Court can order disposition of the funds. Nevertheless, the Court will grant the unopposed Motion for Order Reinstating Stipulated Motion for Final Judgment in Garnishment *Nunc Pro Tunc*, in the interest of justice. Accordingly, it is

**ORDERED** that the Unopposed Motion for Order Reinstating Stipulated Motion for Final Judgment in Garnishment *Nunc Pro Tunc* (Dkt. 588) is **granted**.

**DONE and ORDERED** in Chambers in Tampa, Florida on this 31<sup>st</sup> day of March, 2017.



ELIZABETH A. KOVACHEVICH  
United States District Judge

Copies to:  
All parties and counsel of record