

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

SHELTON SIDNEY BEACH and  
BEVERLY S. BEACH, husband and  
wife,

Plaintiffs,

v.

BANK OF AMERICA as successor in  
interest to COUNTRYWIDE HOME  
LOANS, INC., as successor in interest to  
AEGIS WHOLESALE  
CORPORATION,

Defendant.

Case No. 4:10-CV-017-BLW

(State Ct. Case No. CV-2009-2917)

**ORDER GRANTING MOTION TO  
TRANSFER**

Before the Court are: (1) Defendant's Motion for Extension of Time to File Expert Disclosures (Dkt. 15); (2) Defendant's Motion (I) to Transfer Case to the Bankruptcy Court in Accordance With Third Amended General Order No. 38 and (II) to Relieve the Parties of Scheduling Order filed on October 6, 2010 (Dkt. 17); and (3) Defendant's Motion to Dismiss filed on October 22, 2010 (Dkt. 19).

Neither Plaintiffs Shelton Sidney Beach and Beverly S. Beach nor R. Sam Hopkins have filed an opposition to the Motion to Transfer within 21 days of the filing of the Motion to Transfer as required by Dist. Idaho Loc. Civ. R. 7.1(c)(1). In the event an

adverse party fails to file any responsive documents as required by Local Rule 7.1(c)(1), such failure may be deemed to constitute a consent to granting of the motion. Dist. Idaho Loc. Civ. R. 7.1(e).

In reviewing the motion to transfer filed by Plaintiff, the Court agrees that this case should be remanded to the Bankruptcy Court pursuant to the Third Amended General Order No. 38. These facts considered along with Plaintiffs' failure to respond to the motion to transfer, which may be deemed consent to the motion, support the Court's finding that the motion to transfer should be granted.

## **ORDER**

### **IT IS ORDERED that:**

1. Defendant's Motion for Extension of Time to File Expert Disclosures (Dkt. 15) is DENIED as moot.
2. Defendant's Motion (I) to Transfer Case to the Bankruptcy Court in Accordance With Third Amended General Order No. 38 and (II) to Relieve the Parties of Scheduling Order filed on October 6, 2010 (Dkt. 17) is GRANTED. The proceeding is transferred to the United States Bankruptcy Court, District of Idaho, before which Plaintiffs' chapter 7 Bankruptcy Case no. 08-40013 is currently pending. The Clerk of the Court shall assign an adversary proceeding case number to the above-captioned proceeding upon the transfer. In addition, the parties shall be relieved of the deadlines set forth in the Court's Case Management Order (Dkt. 9).

3. Defendant's Motion to Dismiss filed on October 22, 2010 (Dkt. 19) is DISMISSED WITHOUT PREJUDICE. The hearing on Defendant's Motion to Dismiss and Motion to Transfer set for January 4, 2011 is VACATED.



DATED: November 17, 2010

A handwritten signature in black ink that reads "B. Lynn Winmill". The signature is written in a cursive style and is positioned above a horizontal line.

B. Lynn Winmill  
Chief Judge  
United States District Court