

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

RON ROSS,

Plaintiff,

vs.

**JOHN BARTLE, ROBERT L.
RYNARDSR., DANA WADMAN-HUTH,
REBECCA BARTLE, DANE STARBUCK,
RYNARD ENTERPRISES, INC., BVM
MANAGEMENT, INC., BETHANY
VILLAGE APARTMENTS, INC.,
BETHANY VILLAGE APARTMENTS -
NEW CASTLE, INC., AMERICARE
COMMUNITIES, LLC, and BVM
LAKESHORE, LLC,**

Defendants.

8:16CV453

ORDER

This matter is before the Court on the Findings and Recommendation, ECF No. 10, of Chief Judge Thomas L. Saladino of the United States Bankruptcy Court for the District of Nebraska. This case came before the Bankruptcy Court under Title 11 of the United States Code. By statute and local rule, all cases arising under Title 11 are referred to the Bankruptcy Court. 28 U.S.C. 157(a); NEGenR 1.5(a); Neb. R. Bankr. P. 5011-1(A). The Bankruptcy Court recommends that this Court withdraw the statutory reference of this matter to the bankruptcy court.

The Court notes that no objections have been filed to the Findings and Recommendation under Federal Rule of Bankruptcy Procedure 9033(b). However, the Court must follow additional procedural steps before ruling on the Findings and Recommendation. Under NEGenR 1.5(b)(2), the Bankruptcy Judge issues findings and

recommendations on motions for withdrawal filed in the Bankruptcy Court. Under NEGenR 1.5(b)(3), “[w]hen the bankruptcy judge files the report [or findings] and recommendation with the district court, the motion for withdrawal of reference and the bankruptcy court’s report and recommendation are assigned to a district judge under Nebraska General Rule 1.4(a)(2).”

The above captioned case was originally filed as a request for interlocutory appeal, which the Court denied. See ECF Nos. 7, 8. The Findings and Recommendation were apparently filed in the above captioned case because of the identity of the parties. However, the Findings and Recommendation, if adopted, constitute a new action, separate and apart from the previous request for an interlocutory appeal. Accordingly, the Findings and Recommendation must be stricken from the above captioned case, and filed in a new action under NEGenR 1.5(b)(3).

IT IS ORDERED:

1. The Clerk of Court is instructed to strike the Findings and Recommendation, ECF No. 10, from the above captioned case; and
2. The Clerk of Court is further instructed to file the Findings and Recommendation as a new action and assign judges under NEGenR 1.5(b)(3).

Dated this 6th day of April, 2017.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge