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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

In re AFRODITI LEDSTROM,  
Debtor,  
YVETTE WEINSTEIN, Chapter 11 Trustee,  
Plaintiff,  
vs.  
1531 LVBS, LLC, a Nevada limited liability  
company, LV CABARET SOUTH, LLC, a Nevada  
limited liability company,  
Defendants.

Case No.: 2:14-cv-569-JAD-PAL  
Bankr. No. 12-11672-MKN  
Bankr. Adv. No. 14-01018-MKN

**Order Denying Defendants' Motion for  
Withdrawal of the Reference to the  
Bankruptcy Court (#1)**

Currently before the Court is 1531 LVBS, LLC's ("1531") and LV Cabaret South, LLC's Motion for Withdrawal of the Reference of the Adversary Proceeding, Case No. 14-01018-MKN, to the Bankruptcy Court.<sup>1</sup> On March 14, 2014, Plaintiff Yvette Weinstein, in her capacity as Chapter 11 trustee filed an Opposition to the Motion;<sup>2</sup> Defendants filed no Reply. Because it does not appear that the Bankruptcy Court has yet determined whether the adversary proceeding is a core or non-core matter, the court denies the Motion to Withdraw as premature.

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<sup>1</sup>Doc. 1.

<sup>2</sup>Doc. 1-9.

1 **Background<sup>3</sup>**

2 On January 30, 2014, Plaintiff filed an Adversary Complaint under Debtor Afroditi  
3 Ledstrom’s (“Debtor”) chapter 11 bankruptcy proceedings.<sup>4</sup> The Complaint alleges that in  
4 December 2009 owners of the business entities OGE, OGEAD, and Aristotle Holdings who hold  
5 various property interests in the Olympic Garden adult entertainment club (“OG Club”) in Las  
6 Vegas commenced litigation against each other in Nevada state court.<sup>5</sup> One of these owners is  
7 Debtor, who filed her chapter 11 petition on February 14, 2012.<sup>6</sup> On May 4, 2012, the state court  
8 action was removed to the bankruptcy court.<sup>7</sup> On August 21, 2013, Defendant 1531 entered into an  
9 Agreement to purchase the assets and real property constituting the OG Club from OGE and  
10 OGEAD subject to the bankruptcy court’s approval.<sup>8</sup> On August 22, 2013, Defendants deposited  
11 earnest money into escrow, but failed to close escrow under the terms of the agreement,<sup>9</sup> prompting  
12 this adversary proceeding.

13 The causes of action alleged are: (1) breach of contract, (2) declaratory relief under 28  
14 U.S.C. § 2201, (3) promissory estoppel, (4) specific performance, and (5) injunctive relief.<sup>10</sup> On  
15 April 10, 2014, Defendants filed the instant Motion to Withdraw the Reference and a separately filed  
16 Demand for Jury Trial. Unfortunately, the 810-page record attached to the Motion to Withdraw  
17 does not present the documents listed in the Designation of Record<sup>11</sup> in the order listed, and thus the  
18 Court is unable to identify the Jury Demand document the Designation of Record otherwise suggests

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20 <sup>3</sup>This background discussion is intended only to provide background and does not in anyway  
constitute the Court’s finds of fact.

21 <sup>4</sup>Doc. 1-1.

22 <sup>5</sup>Doc. 1-1 at 15-16.

23 <sup>6</sup>*Id.* at 2.

24 <sup>7</sup>*Id.* at 16.

25 <sup>8</sup>*Id.*

26 <sup>9</sup>*Id.* at 17.

27 <sup>10</sup>*Id.* at 4-7.

28 <sup>11</sup>Doc. 1 at 1-2



1 commerce.”<sup>18</sup> It is permissive in any case or proceeding referred to a bankruptcy court upon the  
2 district court’s own motion, or on a party’s timely motion for cause shown.<sup>19</sup> “In determining  
3 whether cause exists, a district court should consider the efficient use of judicial resources, delay  
4 and costs to the parties, uniformity of bankruptcy administration, the prevention of forum shopping,  
5 and other related factors.”<sup>20</sup> “Other factors that could be relevant are whether the issues are core or  
6 non-core proceedings, and the right to a jury trial.”<sup>21</sup>

7 The Bankruptcy Code recognizes a distinction between core and noncore bankruptcy  
8 matters:<sup>22</sup>

9 In noncore matters, the bankruptcy court acts as an adjunct to the  
10 district court, in a fashion similar to that of a magistrate or special  
11 master. In noncore matters, the bankruptcy court may not enter final  
12 judgments without the consent of the parties, and its findings of fact  
13 and conclusions of law in noncore matters are subject to de novo  
14 review by the district court. . . . In contrast to the bankruptcy court’s  
15 authority in noncore cases, the bankruptcy court may enter final  
16 judgments in so-called core cases, which are appealable to the district  
17 court.<sup>23</sup>

18 11 U.S.C. § 157(b)(3) provides that the bankruptcy court shall determine, on the judge’s own motion  
19 or on timely motion of a party, whether a proceeding is a core proceeding under subsection 157(b).  
20 Local Bankruptcy Rule 9015(c) provides that “[i]n any proceeding in which a demand for jury trial  
21 is made, the [bankruptcy] court will, on a motion of (1) one of the parties or on the court’s own  
22 motion, determine whether the demand was timely made and whether the demanding party has a  
23 right to a jury trial.” The Local Rule further provides that:

24 Upon the [bankruptcy] court’s determination that the demand was

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25 <sup>18</sup>*Id.*

26 <sup>19</sup>*Id.*

27 <sup>20</sup>*Sec. Farms v. Int’l Bhd. of Teamsters, Chauffers, Warehousemen & Helpers*, 124 F.3d 999,  
28 1008 (9th Cir. 1997).

<sup>21</sup>*Rosenberg v. Harvey A. Bookstein*, 479 B.R. 584, 587 (D. Nev. 2012) (citations omitted).

<sup>22</sup>*Taxel v. Electronic Sports Research (In re Cinematronics, Inc)*, 916 F.2d 1444, 1449 (9th  
Cir. 1990).

<sup>23</sup>*Id.* (citations omitted).

1 timely made and the party has a right to a jury trial, and if all the  
2 parties have not filed a written consent to a jury trial in the  
3 bankruptcy court, the bankruptcy court will certify the matter to the  
district court. Upon certification, the district court shall open a new  
civil matter, and shall assign a date for trial.

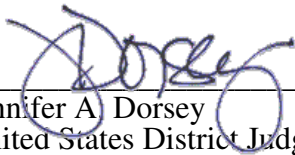
4 Local Bankruptcy Rule 9015(d). On cursory inspection of the Designation of Record's listing of  
5 documents,<sup>24</sup> it does not appear that the bankruptcy court has passed on the question of whether the  
6 causes of action in this case are core or non-core proceedings under § 157(b). For this reason, it  
7 remains premature for this Court to determine whether withdrawal of the reference to the bankruptcy  
8 court is warranted in this case. Thus, the motion is denied as premature.

9 **Conclusion**

10 Accordingly,

11 **IT IS HEREBY ORDERED** that Defendants' Motion for Withdrawal of the Reference  
12 **(Doc. 1) is DENIED** without prejudice.

13 Dated on this 21st day of May, 2014.

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Jennifer A. Dorsey  
United States District Judge

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<sup>24</sup>Doc. 1 at 1-2.