

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

**IN RE DETERMINATION OF
BANKRUPTCY COURT'S AUTHORITY
TO CONDUCT A JURY TRIAL AND
ENTER FINAL JUDGMENT**

Case No. 3:13-mc-013

Judge Thomas M. Rose

ENTRY AND ORDER

Now before the Court is a document entitled "Determination of Bankruptcy Court Concerning Its Authority to Enter Final Judgment and Report to District Court Containing Proposed Findings of Fact and Conclusions of law as to Defendant's Jury Demand and the Bankruptcy Court's Authority to Conduct a Jury Trial" prepared by Bankruptcy Judge Guy R. Humphrey. (Doc. #1.) The law is unclear as to whether Judge Humphrey has the power to prepare this document. So, out of an abundance of caution and because this Article III Judge agrees with the proposed findings of fact and conclusions of law, this document will be considered to be a Report and Recommendation to this Article III Judge.

This document was filed in Bankruptcy Court in Case No. 3:12-ap-03079 and in this Court in Case No. 3:13-mc-013 and served on all parties in both cases. No party has objected.

The Court has reviewed this document, considered to be a Report and Recommendations, and notes that no objections have been filed thereto and the time for filing such objections has expired, hereby ADOPTS said Report and Recommendations. Goldman has not waived her right to a jury trial and the Bankruptcy Court does not have the authority to conduct a jury trial.

Since there is an issue as to whether the Bankruptcy Court can conduct a jury trial, even with specific designation, this matter is remanded to the Bankruptcy Court for a final determination that the Parties involved wish to have a jury trial. If so, the Bankruptcy Court may

return this matter to this Judge who will conduct a jury trial. Dates for a Final Pretrial Conference and jury trial will be established on this Judge's docket. Finally, this jury trial, if necessary, will be conducted in accordance with, among other things, this Court's General Order No. Day 12-01. General Order No. Day 12-01 requires, among other things, the filing in advance of trial of a joint proposed final pretrial order, jury instructions, verdict forms and exhibits.

The Clerk is hereby ordered to serve a copy of this Entry and Order on the United States Bankruptcy Court for the Southern District of Ohio, Western Division at Dayton. Finally, the captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

DONE and ORDERED in Dayton, Ohio this Twenty-Ninth Day of October, 2013.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record