

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

ENOCH MICHAEL MOUNTS, II,

Plaintiff,

v.

Civil Action No: 1:12-04653

EULA M. WADDELL, et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER**

Pending before the court is plaintiff's motion to remand this case to Circuit Court of McDowell County. (Doc. No. 5). Plaintiff initially filed this case in state court, alleging negligence on the part of defendants, including defendant Waddell, his ex-wife. (Doc. No. 6 at 1). Defendants removed the case to this court pursuant to 28 U.S.C. § 1452, which allows for the removal of a case to federal court if the case is related to a bankruptcy proceeding. At the time, defendant Waddell was involved in bankruptcy proceedings in the Southern District of West Virginia and defendants argued that plaintiff's claims could alter defendant Waddell's liabilities and impact the administration of her bankruptcy estate. (Doc. No. 1 at 2). By order entered September 26, 2012, this court stayed

proceedings in this case pursuant to the automatic stay imposed by the bankruptcy court. (Doc. No. 4).

In his motion to remand, plaintiff asserts that the bankruptcy proceedings which permitted removal of this case are now closed.<sup>1</sup> (Doc. No. 6 at 1; see also Doc. No. 88, In re. Eula Mae Mounts, Case No. 1:10-bk-10103, Bankr. S.D.W. Va.). As no other avenue for subject matter jurisdiction over this controversy exists, the court must remand the case. Accordingly, plaintiff's motion to remand is **GRANTED** and the court **ORDERS** this case remanded to the Circuit Court of McDowell County, West Virginia.

The Clerk is directed to send a certified copy of this Memorandum Opinion and Order to all counsel of record and the Clerk of the Circuit Court of McDowell County, West Virginia. The Clerk is further directed to remove this matter from the court's docket.

**IT IS SO ORDERED** this 12th day of July, 2016.

Enter:



\_\_\_\_\_  
David A. Faber  
Senior United States District Judge

---

<sup>1</sup> Defendants did not respond to plaintiff's motion to remand.