

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

In re:

Case No. 6:08-bk-02174-ABB
Chapter 7

JOSEPH PAUL MARCHESSAULT,

Debtor.

JACK DURIE, JR.,

Plaintiff,

vs.

Adv. Pro. No. 6:08-ap-00124-ABB

JOSEPH PAUL MARCHESSAULT,

Defendant.

ORDER

This matter came before the Court on the Objection to Debtor's Bankruptcy and Complaint for Fraud and Theft (Doc. No. 1) ("Complaint") filed by Jack Durie, Jr., the Plaintiff herein ("Plaintiff"), against Joseph Paul Marchessault, the *pro se* Debtor and Defendant herein ("Defendant"), and the various pleadings relating to the parties' discovery dispute (Doc. Nos. 16, 17, 18, 24, 30, 31, 33, 34, 37, and 38). A hearing was held on February 19, 2009 at which the Plaintiff and Defendant appeared.

The gravamen of the Complaint is a debt of \$165,000.00 the Plaintiff asserts is owed to him by the Defendant. The funds were allegedly derived from the equity in the Plaintiff's home and were to be invested by the Defendant in a real estate venture. The parties did not execute any written contracts documenting the venture.

The Plaintiff explained in open Court he seeks a determination the debt is nondischargeable based upon the Defendant's alleged fraud. The Plaintiff did not set forth in his Complaint any specific Bankruptcy Code provision as the basis for the relief sought. The Complaint shall be construed as a complaint

seeking a nondischargeability determination pursuant to 11 U.S.C. Section 523(a)(2)(A).

The Plaintiff has propounded extensive discovery requests upon the Defendant including interrogatories, document requests, and requests for admissions. The Defendant responded to some of the discovery requests and refuses to respond to various requests. The Plaintiff asserts the Defendant's responses are insufficient and has filed motions to compel production and motions to strike responses the Plaintiff considers scandalous and defamatory. Both parties have filed motions for the impositions of sanctions against the other. The discovery phase of this proceeding has been unfocused, hostile, and inflammatory.

The Court's directives issued in open court and the procedures set forth below shall control the handling of these proceedings. No variations or adjustments shall be made without prior leave of the Court upon request made by written motion. Failure to comply with this Order shall result in appropriate sanctions.

Accordingly, it is

ORDERED, ADJUDGED and DECREED that the Complaint is hereby construed as a complaint seeking the nondischargeability of a debt based on fraud pursuant to 11 U.S.C. Section 523(a)(2)(A) and all allegations and causes of action not related to Section 523(a)(2)(A) are hereby **DISMISSED**; and it is further

ORDERED, ADJUDGED and DECREED that the Plaintiff, should he intend to seek any relief pursuant to any Bankruptcy Code provision beyond 11 U.S.C. Section 523(a)(2)(A), shall file an Amended Complaint setting forth with specificity the basis for such relief meeting the requirements of Federal Rules of Civil Procedure 3, 8, and 10 and Federal Rule of Bankruptcy Procedure 9011 within fourteen (14) days of the date of entry of this Order; and it is further

ORDERED, ADJUDGED and DECREED that all outstanding discovery requests and responses propounded by the parties are hereby **STRICKEN**; and it is further

ORDERED, ADJUDGED and DECREED that on or before March 2, 2009, the

Plaintiff shall file a statement of the case, not to exceed three pages with double-spaced lines, setting forth the claims, defenses, legal authorities, relief sought, and the discovery the Plaintiff requires to establish the elements of his 11 U.S.C. Section 523(a)(2)(A) cause of action. Such submission shall include a summary of the litigation instituted in the Florida State Court involving the debt at issue, including the case caption and court, and the results of such litigation specifying what orders or judgments, if any, were issued by the State Court. Copies of any such orders or judgments shall be attached to and filed with the statement of the case; and it is further

ORDERED, ADJUDGED and DECREED that the Plaintiff and Defendant are hereby enjoined from filing any pleadings or documents in this adversary proceeding unless such filing has been specifically directed by this Order or leave of Court has been granted.

Dated this 26th day of February, 2009.

/s/Arthur B. Briskman
ARTHUR B. BRISKMAN
United States Bankruptcy Judge