

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

In re:

BEATRIZ LLANIO,

Case No. 6:10-bk-13158-ABB

Chapter 13

Debtor.

BEATRIZ LLANIO,

Plaintiff,

Adv. Pro. No. 6:10-ap-00242-ABB

vs.

ASSOCIATED COAST ENGINEERS,
INC., *et al.*,

Defendants.

ORDER

This matter came before the Court on the Motion to Remand and/or for Mandatory Abstention (Doc. No. 12) filed by the Plaintiff/Debtor Beatriz Llanio (“Debtor”) and the Objection thereto (Doc. No. 21) filed by the Defendant Fairwinds Credit Union (“Fairwinds”). A hearing was held on November 16, 2010 at which the Debtor, her bankruptcy and Florida State Court counsel, and counsel for Fairwinds appeared. The Debtor’s Motion is due to be granted for the reasons set forth herein.

The Debtor filed a multi-count civil action in Florida State Court in 2008 against Fairwinds, Associated Coast Engineers, Inc., Jaja Wade, and Marlo Dickens (“Civil Action”). The Civil Action relates to the construction of the Debtor’s house in Apopka, Florida which Fairwinds financed.

The Debtor filed a Chapter 13 bankruptcy case on July 27, 2010 (“Petition Date”). Fairwinds removed the Civil Action to this Court, thereby instituting the above-captioned adversary proceeding. The Debtor requests the Civil Action be remanded back to the Florida State Court pursuant to 28 U.S.C. Section 1334(c)(2), or, in the alternative, pursuant to 28 U.S.C. Section 1452(b) based on equitable grounds.

This Court has jurisdiction to adjudicate the Civil Action pursuant to 28 U.S.C. Section 157(b)(2)(B) because the Civil Action involves the allowance or disallowance of claims against the estate and counterclaims by the estate against persons filing claims against the estate. The interests of justice, however, will be best served by the abstention of this Court, pursuant to 28 U.S.C. Section 1334(c)(1), by allowing the Civil Action to be adjudicated by the Florida State Court.

The Civil Action centers on Florida State law, not bankruptcy law, and the Florida State Court is best suited to determine those issues. The Civil Action was instituted in 2008 and progressed significantly before the Petition Date. Remanding the Civil Action to the Florida State Court is the best and most efficient use of judicial resources. Allowing the Florida State Court to adjudicate the Civil Action will not prejudice the bankruptcy estate.

Accordingly, it is

ORDERED, ADJUDGED and DECREED that the Debtor’s Motion to Remand (Doc. No. 12) is hereby **GRANTED** and the Court, pursuant to 28 U.S.C. Section 1134(c)(1), hereby abstains from adjudicating the Civil Action and the Civil Action shall be adjudicated by the Florida State Court; and it is further

ORDERED, ADJUDGED and DECREED that the parties shall keep this Court apprised of the status of the Civil Action in the Florida State Court by filing status reports in this case every ninety days with the first status report to be filed within ninety days of the date of entry of this Order.

Dated this 17th day of November, 2010.

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