


ORDERED.

Dated: December 11, 2015



Karen S. Jennemann
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION
www.flmb.uscourts.gov

In re)	
)	
SADAT MALIK KWABENA SMITH,)	Case No. 6:15-bk-01679-KSJ
)	Chapter 7
Debtor.)	
)	

ORDER GRANTING DEBTOR’S MOTION FOR CLARIFICATION

This case came on for hearing on December 3, 2015, on Debtor’s Motion for Rehearing¹ and Debtor’s Motion for Clarification² of this Court’s prior Order granting GEICO relief from the automatic stay³ to complete litigation pending against the Debtor in the United States District Court for the Middle District of Florida (the “District Court Litigation”).⁴ The Court simultaneously transmitted GEICO’s related adversary proceeding⁵ to the District Court

¹ Doc. No. 67.

² Doc. No. 69.

³ Doc. No. 65.

⁴ *GEICO v. Sadat Smith*, et al., Case No. 12-cv-1138, Middle District of Florida, Orlando Division, filed on July 23, 2012.

⁵ *GEICO v. Sadat Smith*, Case. No. 6:15-ap-00137, filed in this Court on October 1, 2015.

requesting that any judgment against the Debtor entered in the District Court Litigation be found nondischargeable.⁶

In Debtor's Motion for Clarification, he legitimately asks for clarification on how the District Court will resolve both the dischargeability adversary proceeding and the District Court Litigation. The easy answer is that the District Court will decide how to administer both actions. The Bankruptcy Court "is only an arm of the District Court."⁷ Indeed, "[t]he district courts serve as the original courts of equity for all bankruptcy related proceedings . . . [and have] all the equitable powers assigned to a bankruptcy court."⁸ The District Court may resolve bankruptcy matters in their entirety.⁹

It is therefore up to the District Court to decide how to administer GEICO's related dischargeability adversary proceeding. The District Court may dismiss it, as requested by the Debtor.¹⁰ The District Court could abate it, as requested by GEICO.¹¹ The District Court could try it with the District Court Litigation, return it to the Bankruptcy Court for further proceedings, or handle the dispute in any way it deems appropriate. So, for clarification, the District Court will decide how to resolve GEICO's related adversary proceeding.

But, as requested by the Debtor, this Court will confirm that *jury trials* are not required to resolve dischargeability complaints under 11 U.S.C. §523(a)(2). "[P]arties are not entitled to jury

⁶ Doc. No. 65.

⁷ Doc. No. 65.

⁸ *Kapila v. Bank of America, N.A., (In re Pearlman)*, 493 B.R. 878, 889 (Bankr. M.D. Fla. 2013).

⁹ *Id.*

¹⁰ Debtor filed his Motion to Dismiss with the Bankruptcy Court on October 29, 2015. Case No. 6:15-ap-00137, Doc. No. 8. It was transmitted to the District Court on November 2, 2015. District Court Case No. 12-cv-1338, Doc. No. 541.

¹¹ District Court Case No. 12-cv-1338, Doc. No. 544.

trials on issues relating to the dischargeability of a debt under § 523(a)(2)(A).”¹² A dischargeability proceeding is equitable in nature. Accordingly, it is

ORDERED:

1. Debtor’s Motion for Clarification (Doc. No. 69) is granted.

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Copies furnished to:

Attorney Lawrence M. Kosto is directed to serve a copy of this order on interested parties who are non-CM/ECF users and file a proof of service within 3 days of entry of this order.

¹² *Abrass v. White*, No. 6:03CV64ORL31, 2003 WL 23009855, at *3 n.1 (M.D. Fla. Mar. 24, 2003) *aff’d*, 88 F. App’x 391 (11th Cir. 2003) (citing *Merrill v. Walter E. Heller & Co.*, 594 F.2d 1064, 1065 (5th Cir. 1979) (citing *Katchen v. Landy*, 382 U.S. 323, 336-40 (1966))).