


ORDERED.

Dated: September 28, 2020



Karen S. Jennemann  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION  
[www.flmb.uscourts.gov](http://www.flmb.uscourts.gov)

In re	)	
	)	
Gregory Todd Givans,	)	Case No. 6:19-bk-01928-KSJ
	)	Chapter 7
Debtor.	)	
_____	)	

**ORDER DENYING CREDITORS’  
MOTION FOR SUMMARY JUDGMENT ON OBJECTION TO EXEMPTIONS**

Creditors, Reunion Investments LLC and Grand Traverse LLC (collectively “Creditors”), seek summary judgment<sup>1</sup> on their Objection to Exemption<sup>2</sup> because the Debtor and his non-filing spouse, Marna Givans, have *joint* creditors preventing them from claiming property exempt as tenants by entirety.

Section 522 of the Bankruptcy Code<sup>3</sup> exempts any interest in property the debtor had immediately before the commencement of a case if the property is owned by a debtor and a spouse

<sup>1</sup> The Creditors’ Motion for Summary Judgment is Doc. No. 67. Debtor and his non-filing spouse, Marna Givans, filed an untimely motion for summary judgment with supporting affidavits addressing the Creditors’ arguments (Doc. No. 69, 70, 71, 72 and 73). The Court has entered an order treating the untimely motion for summary judgment and supporting affidavits filed by the Debtor and Mrs. Givans as a response to the Creditors’ Motion for Summary Judgment. See Order Partially Granting Joint Motion to Strike Motion for Summary Judgment (Doc. No. 81). The Court held a hearing on the Creditors’ Motions for Summary Judgment on July 28, 2020.

<sup>2</sup> Doc. No. 26.

<sup>3</sup> All references to the Bankruptcy Code refer to 11 U.S.C. §§ 101 *et. seq.*

as tenants by the entireties and is exempt under nonbankruptcy law.<sup>4</sup> Under Florida law, property owned by a debtor as tenants by entirety with a non-debtor spouse can only be reached by *joint* creditors of both spouses.<sup>5</sup>

Creditors have failed to establish the existence of any joint creditors. They allege joint creditors exist based upon proofs of claim filed by Wells Fargo Bank, N.A. (Claim 8-1), the Creditors (Claim 9-1), and Sunstate Investment, LP (Claim 10-1). Wells Fargo has since withdrawn its proof of claim.<sup>6</sup> And the proofs of claim filed by the Creditors and Sunstate Investment, which total over \$10 million, are factually disputed by Mrs. Givans. These claims arise from alleged wrongdoings committed by the Debtor and Mrs. Givans while operating a business, Triton Builders, Inc. Mrs. Givans denies responsibility for the actions taken by her husband's company and contends a genuine issue of material fact remains as to whether she is co-liable with the Debtor for any debt arising from Triton Builders, Inc.

The Court finds there are genuine issues of material fact that preclude summary judgment as a matter of law. Accordingly, it is

**ORDERED:**

1. The Motion (Doc. No. 67) is **DENIED**.
2. A status conference via ZOOM on Creditor's Objection to Exemptions (Doc. No. 26) is scheduled for **11:30 a.m. on November 19, 2020**, at the United States Bankruptcy Court, Sixth Floor, Courtroom A, 400 West Washington Street, Orlando, Florida 32801.

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Attorney, Jonathan M. Sykes, is directed to serve a copy of this order on all interested parties who are non-CM/ECF users and file a proof of service within three days of entry of the order.

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<sup>4</sup> See 11 U.S.C. § 522(b)(3)(B)

<sup>5</sup> *Musolino v. Sinnreich (In re Sinnreich)*, 391 F.3d 1295, 1297 (11th Cir.2004).

<sup>6</sup> Doc. No. 57.