

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES - GENERAL

Case No. CV 05-6795 ABC (PLAx)

Date March 1, 2006

Title U.S. E.E.O.C. v. Royalwood Care Center, LLC, et al.

DOCKETED ON CM
MAR 2, 2006
BY TLA 151

Present: The Honorable Audrey B. Collins

Daphne Alex

Not present

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None

None

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Proceedings: ORDER RE: Defendants' Motion to Dismiss (In Chambers)

On February 3, 2006, Defendants Royalwood Care Center, LLC, Fountain View, Inc. and Skilled Healthcare, LLC¹ (collectively "Defendants") filed a motion to dismiss the complaint. Plaintiff U.S. Equal Employment Opportunity Commission ("Plaintiff") filed an opposition on February 17, 2006, to which Defendants replied on February 27, 2006. The Court finds the matter appropriate for submission without oral argument. See Fed. R. Civ. P. 78; Local Rule 7-15. Accordingly, the hearing date of March 6, 2006 is VACATED. Based on the parties' submissions and the case file, the Court hereby DENIES Defendants' motion.

I. BACKGROUND

The instant case arises out of Defendants' adoption of a "Foreign Language Use Policy" and subsequent termination of employee Jose Zazueta's ("Zazueta"), allegedly for violating such policy. Neither party disputes the basic facts relevant to this motion. Defendants filed for bankruptcy on October 2, 2001. Shortly thereafter, Plaintiff alleges that Defendants implemented the Foreign Language Use Policy. Zazueta's employment was terminated by Defendants on April 30, 2002, and he filed a charge of discrimination with Plaintiff on May 10, 2002. Defendants were provided notice of the discrimination charge by Plaintiff on May 14, 2002. Defendants published notice of the bankruptcy proceedings on June 28, 2002, but provided no other notice to Plaintiff or Zazueta. The bankruptcy bar date was August

¹Defendant Fountain View Subacute and Nursing Center, LLC did not join in the motion.

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30, 2002 and the confirmation hearing was held on July 10, 2003. The bankruptcy court subsequently entered its discharge order on August 20, 2003.

Plaintiff filed the instant complaint on September 15, 2005. Plaintiff's complaint alleges a single cause of action for discrimination on the basis of national origin in violation of 42 U.S.C. §2000e, on behalf of Zazueta and a class of similarly-situated employees. Defendants now move to dismiss the complaint under F.R.C.P. 12(b)(6) for failure to state a claim upon which relief could be granted. Defendants contend that their prior bankruptcy discharged Plaintiff's claims for relief, or, alternatively, that Plaintiff's claims are administrative expenses over which this Court lacks subject matter jurisdiction. The Court considers each argument below.

II. DISCUSSION

A. Notice of Bankruptcy Proceedings

Defendants argue that Plaintiff's claims were discharged as a result of Defendants' bankruptcy. Plaintiff contends that it was a known creditor and was never given proper notice of the bankruptcy proceedings, and, as such, its claims cannot be barred by the bankruptcy discharge.

It is well-settled that a known creditor is entitled to formal notice of impending bankruptcy proceedings, while unknown creditors are owed only publication notice. See Chemetron Corp. v. Jones, 72 F.3d 341, 346 (3d Cir. 1995); In re Argonaut Financial Services, Inc., 164 B.R. 107, 112 (N.D. Cal. 1994) (citing Matter of Chicago, Milwaukee, St. Paul & Pac. R., 974 F.2d 775, 788-89 (7th Cir. 1992)). A creditor will be deemed to be "known" to the debtor if the debtor has either actual knowledge of its existence or if its identity "can be identified through reasonably diligent efforts." Chemetron, 72 F.3d at 346. Thus, for the purposes of constitutional due process, a known claim arises from facts that would alert a reasonable debtor to the possibility that a claim might reasonably be filed against it. Argonaut, 164 B.R. at 112 (citing In re Drexel Burnham Lambert Group, Inc., 151 B.R. 674, 681 (Bankr. S.D.N.Y. 1993)).

Here, Defendants do not dispute that, as a general proposition, a debtor's failure to provide actual notice of bankruptcy proceedings to a known creditor prevents the discharge in bankruptcy of that creditor's post-petition claims. See, e.g., In re Trans World Airlines, Inc., 96 F.3d 687, 690 (3rd Cir. 1996) (holding that creditors' post-petition defamation claims could not have been

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discharged in bankruptcy because creditors were not given actual notice of the confirmation hearing). Rather, Defendants assert that the Notice of Charge of Discrimination received by Defendants prior to the bankruptcy bar date did not establish Plaintiff as a known creditor. (Reply 7.) The Court disagrees, in light of the broad definition of "claim" under 11 U.S.C. § 101, which includes "a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured." The Court thus finds that the notification that Zazueta had filed a discrimination charge against Defendants could serve to alert Defendants to the possibility that a claim might reasonably be filed against them. Therefore, Defendants have failed to meet their burden to establish that Plaintiff was not entitled to actual notice of the bankruptcy proceedings, and thus they cannot show that Plaintiff's post-petition claims are barred by the bankruptcy discharge order.

B. Subject Matter Jurisdiction

Defendants also contend that Plaintiff's complaint must be dismissed because it involves "core proceedings" over which this Court lacks jurisdiction. Plaintiff does not dispute that many of its claims involve core proceedings, but argues that such a classification does not require dismissal.

Pursuant to 28 U.S.C. § 1334(b), federal district courts have jurisdiction over all cases arising under title 11. The district court may also refer any or all such cases to a bankruptcy judge. 11 U.S.C. § 157(a). Following such referral, the bankruptcy court has jurisdiction to hear "all core proceedings arising under title 11." § 157(b)(1). Here, Defendants take the untenable position that the classification of the claim as a "core proceeding" somehow divests this Court of jurisdiction, and requires the case to be filed in bankruptcy court. On the contrary, as set forth above, the district court has jurisdiction over all such matters, and further has the discretion, not the obligation, to refer matters to the bankruptcy court where appropriate. Whether an issue is considered a "core" matter is relevant only to the ability of the bankruptcy court to exercise jurisdiction, as evidenced by the quotation from In re Adelpia Communications Corp., only partially cited by Defendants, that "requests for payment of administrative expenses from an estate, and requests to secure the priority over claims of unsecured creditors associated with administrative expenses, under sections 503 and 507 of the Code [] are core matters that a bankruptcy judge, **and not just a district judge**, can decide." In re Adelpia Communications Corp., 307 B.R. 404, 413 (Bankr. S.D.N.Y. 2004) (emphasis added).

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Further, to the extent that Defendants are claiming that this case is appropriate for reference to bankruptcy court, such a contention is not a proper basis for a motion to dismiss under Rule 12(b)(6). Accordingly, Defendants have failed to show that this Court lacks jurisdiction over Plaintiff's complaint, and their motion must therefore be denied.

III. CONCLUSION

For the reasons articulated herein, the Court DENIES Defendants' Motion to Dismiss Plaintiff's complaint.

IT IS SO ORDERED.

Initials of Preparer

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