UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

ALYSSON MILLS, IN HER CAPACITY AS RECEIVER FOR ARTHUR LAMAR ADAMS AND MADISON TIMBER PROPERTIES, LLC, Plaintiff, v. JON DARRELL SEAWRIGHT, Defendant.	Case No. 3:20-cv-232 Hon. Carlton W. Reeves, District Judge Hon. Bradley W. Rath, Magistrate Judge

RECEIVER'S OPPOSITION TO MOTION TO STAY

Alysson Mills, in her capacity as the court-appointed receiver for Arthur Lamar Adams and Madison Timber Properties, LLC (the "Receiver"), opposes the "Motion to Stay, or in the Alternative to Consolidate for Discovery Purposes with Related Civil Action" filed by Jon Darrell Seawright. [25]

Introduction

The stay Seawright seeks is entirely discretionary. He cites no legal authority which requires it, and the Receiver is unaware of any. The Receiver strongly opposes a stay, and this Court should deny it. This case is more than four years old and was already stayed for three years. A trial of these issues is overdue.

In the alternative, Seawright seeks consolidation with the related case *Mills v. Butler Snow, et al.*, No. 3:18-cv-866 (the *Baker Donelson* case). Again, consolidation is entirely discretionary;

no legal authority requires it. The Court previously consolidated related cases, and it de-consolidated them late last year. No good reason exists for consolidating any related case going forward. Consolidating this case with the *Baker Donelson* case will have the same effect of staying this case indefinitely, which benefits Seawright only.

Argument

1. Nothing prevents this Court from deciding the claims before it now.

Seawright's motion suggests the Court cannot decide the claims before it before a jury decides the claims in the *Baker Donelson* case.

To be clear: Nothing prevents this Court from deciding the claims before it now, and Seawright cites no legal authority to the contrary. The reality is Seawright filed for bankruptcy, the Receiver objected to a discharge of his debts to the Receivership Estate, and now this Court "has statutory authority to hear and determine the amount and the extent of the claim in a dischargeability proceeding as the act of liquidating the underlying claim is integral to determination of the dischargeability question itself." 5 Fed. Proc., L. Ed. § 9:372 (citing cases including, *e.g.*, *In re Sherali*, 490 B.R. 104, 117 (Bankr. N.D. Tex. 2013) (rejecting argument that bankruptcy court could not enter judgment of non-dischargeability on an unliquidated claim)).

Seawright misrepresents that the "predicate question of liability—and the amount of debt, if any—cannot be resolved in this action." [25 at p.4] To the contrary, the Fifth Circuit in *In re Morrison*, 555 F.3d 473 (5th Cir. 2009), following "overwhelming authority," squarely held bankruptcy courts have jurisdiction, in addition to declaring a debt nondischargeable, "to liquidate the debt and enter a monetary judgement against the debtor." *Id.* at 478 (citing cases).

2. Seawright is not entitled to a jury.

Seawright also misrepresents that "[i]n circumstances like these," a jury decides the "predicate question[s] of liability," which here include negligence and fraud. [25 at p. 4] There is no legal authority for the proposition that Seawright is entitled to have a jury decide any "predicate question" in this case. "In the case of an unliquidated debt, the bankruptcy court must necessarily determine liability and damages in order to establish the underlying debt. Adjudication of the underlying claim, which arises under nonbankruptcy law, becomes part and parcel of the dischargeability determination and thus integral to restructuring the debtor-creditor relationship. As a result, no Seventh Amendment right to a jury trial attends such an adjudication." *In re Valle*, 469 B.R. 35, 43 (Bankr. D. Idaho 2012) (citing *Langenkamp v. Culp*, 498 U.S. 42 (1990); *Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33 (1989)).

Again, Seawright filed for bankruptcy, the Receiver objected to a discharge of his debts to the Receivership Estate, and now this Court gets to decide the Receiver's claims against him in this case. By filing for bankruptcy, Seawright subjected himself to this process.

3. A stay or consolidation will not conserve resources.

The Receiver does not dispute that this case and the *Baker Donelson* case share common questions of fact and law, but the same can been said of all the Receiver's aiding and abetting cases, which the Court already consolidated and de-consolidated.

This case and the *Baker Donelson* case do share a common defendant, Seawright, and thus in her motion to withdraw the reference the Receiver represented that the two cases were intertwined. But a lot has happened since she filed that motion in March 2020. The U.S. Attorney's Office announced Seawright's indictment in May 2021, and he pleaded guilty to conspiracy to commit wire fraud in July 2022. As part of that plea, Seawright admitted that

between 2011 and 2018 he participated in a scheme to defraud investors. Meanwhile, the Receiver and Baker Donelson separately exchanged written discovery relevant to Baker Donelson's vicarious liability in the consolidated civil action *In re Consolidated Discovery in Cases Filed By Alysson Mills*, No. 3:22-cv-00036.

As a result, the cases are not so intertwined today. Seawright's criminal conviction is conclusive of facts which the Receiver otherwise would have to prove. What remains, in this case, is for the Court to adjudicate the dischargeability of Seawright's debt to the Receivership Estate.[1] The fact that such adjudication requires the Court to determine Seawright's personal liability does not complicate the Receiver's related but separate case against Baker Donelson, which primarily concerns Baker Donelson's vicarious liability.

Furthermore, it remains that, regardless, the Court still has to conduct two trials. No one has suggested that this case and the Baker Donelson case can be tried together.

This is all to say the Court will not save itself and the parties a lot of time and expense either by staying this case or consolidating it with the Baker Donelson case for discovery. This case today is straightforward and narrow and requires less preparation for a trial, which, with only one individual defendant, can be conducted efficiently. It makes no sense to wait to try this case, which can be readied for trial quickly. Contrary to Seawright's motion's representation, consolidation necessarily will delay resolution of this case (obviously).

[1] The Receiver alleges Seawright is jointly and severally liable for the debts of Madison Timber to investors. Those damages are the same for all aiding and abetting defendants and are not hard-to-determine. In May 2021, the Receiver made a first distribution to victims of Madison Timber. Her motion to approve that first distribution explained her accounting of Madison Timber's debts to investors. Subsequently she has provided that accounting to the Court and to all defendants, including Seawright.

Conclusion

A trial in any of the Receiver's cases is overdue, and there is no reason to delay this one. The Court should deny Seawright's motion and enter a case management order that sets this case for trial at the Court's first availability.

August 16, 2024

Respectfully submitted,

/s/ Lilli Evans Bass

BROWN BASS & JETER, PLLC
Lilli Evans Bass, Miss. Bar No. 102896
1755 Lelia Drive, Suite 400
Jackson, Mississippi 39216
Tel: 601-487-8448
Fax: 601-510-9934
bass@bbjlawyers.com

/s/ Kaja S. Elmer

FISHMAN HAYGOOD, LLP
Admitted pro hac vice
Brent B. Barriere, *Primary Counsel*
Kaja S. Elmer
201 St. Charles Avenue, Suite 4600
New Orleans, Louisiana 70170
Tel: 504-586-5253
Fax: 504-586-5250
bbarriere@fishmanhaygood.com

Receiver's counsel

CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing with the Clerk of Court using the ECF system which sent notification of filing to all counsel of record.

Date: August 16, 2024

/s/ Kaja S. Elmer