

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

ALYSSON MILLS, *in her Capacity
as Receiver for Arthur Lamar Adams
and Madison Timber Properties, LLC*

PLAINTIFF

v.

Case No. 3:18-cv-00866-CWR-BWR

**BAKER, DONELSON,
BEARMAN, CALDWELL &
BERKOWITZ, PC et al.**

DEFENDANTS

ALYSSON MILLS *in her capacity as
receiver for Arthur Lamar Adams
and Madison Timber Properties, LLC*

PLAINTIFF

v.

Case No. 3:20-cv-00232-CWR-BWR

JON DARRELL SEAWRIGHT

DEFENDANT

**ORDER CONSOLIDATING CASES FOR ALL PRETRIAL PURPOSES UP
TO AND INCLUDING DISPOSITIVE MOTIONS**

THIS MATTER is before the Court on Defendant Jon Darrell Seawright's Motion to Stay, or in the Alternative, Consolidate for Discovery Purposes with Related Civil Action [24]. Seawright moves the Court to stay this action pending resolution of *Mills v. Baker Donelson*, 3:18-cv-866-CWR-BWR (S.D. Miss. filed Dec. 19, 2018). In the alternative, Seawright moves the Court to consolidate pretrial proceedings in this action with those in *Baker Donelson*. Receiver filed a Response [26] opposing Seawright's Motion. "The Receiver strongly opposes a stay" because "[t]his case is more than four years old and was already stayed for three years." Receiver's Resp.

[26] at 1. Receiver opposes consolidating discovery because “[c]onsolidating this case with the *Baker Donelson* case will have the same effect of staying this case indefinitely, which benefits Seawright only.” *Id.* at 2. Having considered the matter, this action will be consolidated with *Baker Donelson* for all pretrial purposes up to and including dispositive motions.

I. BACKGROUND

From at least 2010 until April 2018, Arthur Lamar Adams (Adams) operated a Ponzi scheme through his purported timber investment companies, Madison Timber Company LLC and Madison Timber Properties LLC (collectively, Madison Timber). Order [18] at 1. Adams pleaded guilty to wire fraud and is serving a 19.5-year sentence in federal prison. Judgment [21], *United States v. Adams*, 3:18-cr-88-CWR-FKB (S.D. Miss. Nov. 8, 2018). Adams is not a Defendant in this suit.

Jon Darrell Seawright (Seawright) is the only Defendant in this suit. Seawright and Ted Alexander (Alexander) recruited investors to invest in Alexander Seawright Timber Fund I, LLC (ASTFI), which was wholly owned by them, and ASTFI in turn invested in Madison Timber. Order [18] at 3. Seawright and Alexander were criminally charged in connection with the Madison Timber Ponzi scheme. Seawright pleaded guilty to conspiracy to commit wire fraud and is serving a sentence of one year and one day in federal prison. Judgment [15], *United States v. Seawright*, 3:22-cr-84-CWR-LGI (S.D. Miss. Nov. 13, 2023). Alexander pleaded guilty to conspiracy to commit wire fraud and is serving five years of probation, with the first two years on

home confinement. Judgment [17], *United States v. Alexander*, 3:23-cr-37-CWR-LGI (S.D. Miss. Nov. 13, 2023).

When the Ponzi scheme collapsed, the United States Securities and Exchange Commission asked this Court to appoint a receiver to take charge of Adams' companies and provide some measure of financial relief to his victims. *Baker Donelson* is one of the cases brought by Receiver. In *Baker Donelson*, Receiver asserts that Seawright conspired with Adams (Count I), aided and abetted breaches of fiduciary duty owed by Adams to Madison Timber (Count II); was reckless, grossly negligent, and at a minimum negligent (Count III); violated the Mississippi Uniform Fraudulent Transfer Act (Count IV); violated Mississippi's RICO statute (Count V); and is liable for debts incurred within the scope of the joint venture with Adams and Madison Timber (Count VI). Am. Compl. [57] at 35-49, *Mills v. Baker Donelson*, 3:18-cv-866-CWR-BWR (S.D. Miss. Nov. 22, 2019).

This suit (the Dischargeability Action) arose out of Seawright's filing of a Chapter 7 petition for bankruptcy on November 3, 2019, "triggering an automatic stay of litigation against him pursuant to 11 U.S.C. § 362." Receiver's Ex. [1-3] at 9. On February 7, 2020, Receiver initiated an adversary complaint in the Bankruptcy Court against Seawright to determine dischargeability of debt pursuant to 11 U.S.C. § 523. *Id.* at 22-46. According to Receiver, "Seawright's largest scheduled liability in his bankruptcy case is his potential obligation to the Receiver." *Id.* at 9. "Receiver alleges that Seawright's debts are nondischargeable because they were obtained by false pretenses, false representations, and/or actual fraud; by fraud or defalcation while

acting in a fiduciary capacity; and because Seawright incurred those debts while causing willful and malicious injury to another entity or to the property of another entity.” *Id.*

Receiver moved to withdraw reference of the adversary complaint from the Bankruptcy Court to this Court pursuant to 28 U.S.C. § 157(d). Receiver’s Mot. [1]. The Motion was granted. Order [12]. This Dischargeability Action was stayed from May 14, 2021, through December 19, 2023 while the criminal case against Seawright was pending. After Seawright’s criminal case resolved, a telephonic case management conference was scheduled, which prompted Seawright to file the instant Motion to Stay, or in the Alternative, Consolidate for Discovery Purposes with Related Civil Action. Seawright’s Mot. [24].

II. DISCUSSION

A. Legal Standard

Under Federal Rule of Civil Procedure 42(a), if a court finds that two or more actions before the court “involve a common question of law or fact,” then the court may: “(1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay.” Fed. R. Civ. P. 42(a). “Consolidation does not merge the suits into a single action or change the rights of the parties or make those who are parties in one suit parties in another; rather, . . . the actions maintain their separate identities.” *Moore v. Jackson Pub. Sch. Dist.*, No. 3:18-cv-817-CWR-FKB, 2020 WL 4937512, at *1 (S.D. Miss. Aug. 24, 2020) (citation omitted). “District courts enjoy substantial discretion

in deciding whether and to what extent to consolidate cases.” *Hall v. Hall*, 584 U.S. 59, 77 (2018).

Multiple factors are relevant to a court’s decision on consolidation:

whether the actions are pending before the same court, (2) whether common parties are involved in the cases, (3) whether there are common questions of law and/or fact, (4) whether there is risk of prejudice or confusion if the cases are consolidated, and if so, is the risk outweighed by the risk of inconsistent adjudications of factual and legal issues if the cases are tried separately, (5) whether consolidation will conserve judicial resources, (6) whether consolidation will result in an unfair advantage, (7) whether consolidation will reduce the time for resolving the cases, and (8) whether consolidation will reduce the cost of trying the cases separately.

Harness v. Hosemann, No. 3:17-cv-791-DPJ-FKB, 2018 WL 3188330, at *1 (S.D. Miss. June 28, 2018) (citations omitted).

B. Analysis

This Dischargeability Action and *Baker Donelson* involve common questions of law and fact. The actions are both pending in this Court. Receiver is Plaintiff in both actions, and Seawright is a Defendant in both actions. The additional parties named in *Baker Donelson* and the allegations against them are intertwined with the allegations against Seawright. The two actions involve common witnesses, issues, and evidence. Any risk of prejudice and confusion is outweighed by the risk of inconsistent adjudications of common factual and legal issues. Given the clear factual and legal interrelatedness between *Baker Donelson* and this Dischargeability Action, it is in the interest of conserving judicial resources and avoiding duplicative discovery to consolidate *Baker Donelson* and this Dischargeability Action under Federal Rule

of Civil Procedure 42(a) for all pretrial purposes up to and including dispositive motions.

III. CONCLUSION

IT IS THEREFORE ORDERED that Seawright's Motion to Stay, or in the Alternative, Consolidate for Discovery Purposes with Related Civil Action [24] is **GRANTED IN PART AND DENIED IN PART**.

IT IS FURTHER ORDERED that *Mills v. Baker Donelson*, 3:18-cv-866-CWR-BWR and *Mills v. Seawright*, 3:20-cv-00232-CWR-BWR are consolidated under the earlier filed cause number of *Mills v. Baker Donelson*, 3:18-cv-866-CWR-BWR for all pretrial purposes up to and including dispositive motions.

IT IS FURTHER ORDERED that all future filings shall be filed in *Mills v. Baker Donelson*, 3:18-cv-866-CWR-BWR until further order of the Court.

IT IS FURTHER ORDERED that the Clerk of Court is directed to docket a copy of this Order in *Mills v. Baker Donelson*, 3:18-cv-866-CWR-BWR.

SO ORDERED, this the 27th day of September 2024.

s/ Bradley W. Rath

BRADLEY W. RATH
UNITED STATES MAGISTRATE JUDGE