

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

In re:

MARCUS HAYES HOUSE,

Debtor.

Case No. 16-00506
Hon. Scott W. Dales
Chapter 7

MICHIGAN UNEMPLOYMENT
INSURANCE AGENCY,

Plaintiff,

v.

MARCUS HAYES HOUSE,

Defendant.

Adversary Pro. No. 16-80091

ORDER

PRESENT: HONORABLE SCOTT W. DALES
Chief United States Bankruptcy Judge

After setting aside the entry of default, the Defendant, through his counsel *pro bono publico*, filed an answer. In due course, the court scheduled a pretrial conference under Fed. R. Civ. P. 16 to set the schedule and make other arrangements for resolution of the parties' dispute. The pretrial conference took place on January 18, 2017, and both parties appeared through counsel.

Defendant's counsel informed the court that last week the Honorable Robert H. Cleland of the United States District Court for the Eastern District of Michigan, in Case No. 2:15-cv-11449, entered a Stipulated Order for Preliminary Injunctive Relief (the "Injunction") potentially bearing on the prosecution of this adversary proceeding against Mr. House.

The Injunction bars the Michigan Unemployment Insurance Agency from pursuing "all collection activity against unemployment insurance agency claimants who have been subject to fraud (re)determinations (and associated underlying (re)determinations) issued by the Agency beginning October 1, 2013 to August 7, 2015, unless and until individually reviewed by agency staff and affirmed with new notice to claimant . . ."

Notwithstanding the Plaintiff's reliance on a canon of construction (*noscitur a sociis* or perhaps *ejusdem generis*), it is at least arguable that prosecuting the claims in this adversary proceeding may be regarded as "collection activity" proscribed by the Injunction. Moreover, it is also conceivable that the individual review by agency staff contemplated in Judge Cleland's Injunction, if concluded in Mr. House's favor, may moot this adversary proceeding.

Under the circumstances, and in the interest of comity, the court and the parties agreed to stay all proceedings in this adversary proceeding for approximately ninety days to give the Plaintiff an opportunity to seek clarification from the rendering court about the scope of the Injunction, or perhaps complete the individualized assessment contemplated therein. If the scope of the Injunction remains unclear by the time of the adjourned pretrial conference in this adversary proceeding, the court may determine for itself whether the Injunction precludes prosecution of this proceeding.

Naturally, nothing in this Order should be construed to limit any settlement of the parties' dispute, or negotiations aimed in that direction.

Finally, to the extent the automatic stay under § 362 may be construed to interfere with the agency review or "new notice to claimant" contemplated in the Injunction, Plaintiff may rely on this Order as modifying the automatic stay as to Mr. House.

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. All discovery, other pretrial activity and deadlines affecting this adversary proceeding are SUSPENDED and STAYED until the adjourned pretrial conference to take place on May 24, 2017 at 11:00 a.m. at the United States Bankruptcy Court, One Division Ave., N., 2nd Floor, Courtroom A, Grand Rapids, Michigan 49503;
2. The automatic stay in Mr. House's bankruptcy case is modified to permit the Plaintiff to undertake the review and give the "new notice to claimant" (if applicable) as contemplated in the Injunction; and
3. Nothing in this Order shall be construed to limit the right of either party, for cause, to move for an order (i) modifying the stay imposed by this Order; or (ii) bringing the matter on for earlier status conference.

IT IS FURTHER ORDERED that the Clerk shall serve a copy of this Order pursuant to Fed. R. Bankr. P. 9022 and LBR 5005-4 upon Laura J. Genovich, Esq., Rebecca Marie Smith, Esq., and the United States Trustee.

END OF ORDER

IT IS SO ORDERED.

Dated January 19, 2017



A handwritten signature in black ink, appearing to read "Scott W. Dales".

Scott W. Dales
United States Bankruptcy Judge