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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

In re)	Case No. 10-48581-E-7
)	
WILLIAM STOKES,)	
)	
Debtor.)	
<hr/>)	
)	
WILLIAM STOKES,)	Adv. Pro. No. 11-02175-E
)	
Plaintiff,)	
)	
v.)	
)	
RECLAMATION DISTRICT 1001 and)	
DOES 1-10, inclusive,)	
)	
Defendants.)	
)	

This memorandum decision is not approved for publication and may not be cited except when relevant under the doctrine of law of the case or the rules of claim preclusion or issue preclusion.

MEMORANDUM OPINION AND DECISION

The court has been presented with an "Emergency Request for Reinstatement of Stay or Alternative Remedy to Stay of (Unlawful Detainer)" filed the William Stokes, the plaintiff in this adversary proceeding. The court construes the document as an application for a temporary restraining order. The application was filed on March 23, 2011. The Debtor-Plaintiff did not file a notice of hearing or a proof of service with the application.

1 There is no evidence before the court that Debtor-Plaintiff has
2 provided actual notice to the Reclamation, Bank of New York
3 Mellon,¹ or the Sutter County Sheriff of this application.
4 Notwithstanding any procedural or substantive deficiencies with
5 respect to this Motion by the pro se plaintiff, the court will
6 review the application as an *ex parte* application for a temporary
7 restraining order.

8 In the application, Mr. Stokes (Debtor-Plaintiff) asserts that
9 he has received multiple notices to vacate the real property
10 commonly known as 204 Lee Road, Nicholas, California; one issued
11 pursuant to a state-court unlawful detainer action involving
12 Reclamation District 1001 and a second issued pursuant to a state-
13 court unlawful detainer action involving The Bank of New York
14 Mellon. The Reclamation District's notice to vacate requires
15 possession to be turned over no later than 6:01 a.m. on March 25,
16 2011. The Bank of New York Mellon's notice to vacate required
17 possession to be turned over no later than 6:01 a.m. on March 16,
18 2011. Debtor-Plaintiff remains in possession of the property.

19 Debtor-Plaintiff argues that since the property is subject to
20 multiple claims, which clouds title, and he posted a \$1,400.00
21 good-faith offering with the Superior Court of Sutter County to
22 remain in the home, the court should issue an order preventing the
23 enforcement of the Reclamation District's notice to vacate.

24
25 ¹ The documents relating to Bank of New York Mellon are for
26 a different state court unlawful detainer in a California
27 Superior Court Action, Sutter County Case No. CVCM092912, naming
28 Norris Dawson as defendant. Unnumbered Exhibit to Debtor-
Plaintiff's Emergency Require for Reinstatement of Stay or
Alternative Remedy to Stay of (Unlawful Detainer). Dckt. 8. The
Writ of Possession is dated February 24, 2011 and identifies the
Lee Road Property as being subject to the Writ.

1 Additionally, Debtor-Plaintiff seeks the court to stay the
2 enforceability of its order granting relief from the automatic stay
3 issued in the parent bankruptcy case pursuant to California Code of
4 Civil Procedure § 918.²

5 In support of the application, Debtor-Plaintiff offers a
6 declaration in which he testifies that he is insolvent and unable
7 to pay any moving expenses until April 1, 2011. (Decl. of William
8 Stokes ¶ 5, Dckt. 8.) Debtor-Plaintiff explains that his wife
9 recently started a new job and has not yet been paid and that he
10 will not receive any benefits from his pension until April 1, 2011.
11 (*Id.*) Debtor-Plaintiff also testifies that he is currently
12 searching for a new residence, but if he is evicted he will suffer
13 a "severe hardship" as he has no other place to live. (*Id.* at ¶ 6-
14 7.) Debtor-Plaintiff argues that he needs additional time to find
15 a new residence because he has a fully-furnished, 4,900-square-foot
16 home, which requires additional time to pack and move, "especially
17 with the dangerous weather the state is currently encountering."
18 (*Id.* at ¶ 7.)

19 Debtor-Plaintiff also testifies that he provided \$1,400.00,
20 the reasonable rental value of the home, to support a prior stay of
21 enforcement of the notice to vacate. (*Id.* at ¶ 8.) It is unclear
22 from Debtor-Plaintiff's papers if there was a stay issued by the
23 state court. From the pleadings, it appears that no state court
24 stay exists, and the Debtor-Plaintiff seeks a federal injunction
25 (now that the stay in his bankruptcy case has been terminated) to
26

27
28 ² No explanation is offered as to why a California
procedural Code section is applicable to orders issued by a
federal court.

1 prevent the enforcement of the state court order for possession of
2 the premises.

3 **ALLEGATIONS IN THE COMPLAINT**

4 The court has also reviewed the complaint in this adversary
5 proceeding. (Dckt. 1.) The Complaint alleges numerous affirmative
6 monetary claims against the Reclamation District. These include:
7 "Real Party in Interest," the Reclamation District's lack of
8 standing to foreclose, the medium of exchange was not authorized by
9 the U.S. Constitution, that the Reclamation District is bankrupt
10 and insolvent pursuant to an Act of Congress, violation of
11 California service of process laws, fraud, that Federal Reserve
12 Notes are worthless securities, and unfair trade practices (Cal.
13 Bus. & Prof. Code § 17200 *et. seq.*).

14 Debtor-Plaintiff asserts that he is possession of the
15 property pursuant to a "lease option to purchase agreement" with an
16 entity listed on the "lease option" as being KTLA-SP4, LLC (Compl.
17 3:15-17, Exhibit A to Complaint.)³ It is further alleged in the
18 complaint that shortly after entering into the agreement with KTLA-
19 SP4 (which is dated March 23, 2010), the Debtor-Plaintiff received
20 a 30 Day Notice to Quit and a Notice to Vacate from Reclamation
21 District 1001. Exhibits B-1 and B-2 to Complaint. The two
22 Reclamation District Notices are dated May 26, 2010.

23 The Debtor-Plaintiff further alleges in the Complaint that
24 there has been an unlawful detainer proceeding in state court in

25
26 ³ Though the lease agreement is attached as an exhibit to
27 the Complaint (Ex. A, Dckt. 6), Debtor-Plaintiff fails to point
28 to the specific provision which creates the option to purchase
the real property. The court's independent review of the lease
did not reveal a provision in the lease creating such a right for
the Debtor-Plaintiff.

1 which a Notice to Vacate has been issued by the Sutter County
2 Sheriff for the Lee Road Property. Exhibit B-3 to the Complaint.
3 The unlawful detainer action stated on the Notice to Vacate is
4 Reclamation District 1001 v. William Stokes and Does 1-100,
5 California Superior Court, Sutter County case no. CVCM101657.
6 Attached to this exhibit is a Writ of Possession in the state court
7 action for possession of the Lee Road Property to be Delivered to
8 the Reclamation District.

9 Debtor-Plaintiff asserts that there are multiple parties who
10 are claiming the right to possession of the Lee Road Property and
11 he should be allowed to remain in possession thereof.

12 The court further notes that while the Debtor-Plaintiff has
13 brought this action in *pro se*, the Complaint asserts very detailed,
14 and some esoteric, legal contentions. While in *pro se*, the Debtor-
15 Plaintiff demonstrates a knowledge of legal issues and process.

16 The Complaint asserts that the Debtor-Plaintiff is in
17 possession of the Lee Road Property pursuant to a lease option to
18 "purchase agreement in allodial freehold of all that real property
19 and improvements...." Complaint, pg. 3:15-17. He further asserts
20 that the Reclamation District is a foreign *corpra ficta* not
21 registered to do business in California is an unregistered foreign
22 entity. As a *corpa ficta*, the Reclamation District can operate
23 only as a "bankruptcy and insolvent entity under the mandate of
24 current federal public policy of Public Law 73-1-, Chap. 48, 48
25 Stat 112-House Joint Resolution 192 of June 5, 1933 as amended."
26 Complaint, pg. 5:9-12. Therefore, Debtor-Plaintiff asserts that
27 there is a "real property confiscation attempt under such
28 commercial disability" to deprive the Debtor-Plaintiff and his

1 family of their "free and unencumbered right to use" the Lee Road
2 Property. Complaint, pg. 5:13-14. The Complaint continues to
3 allege that the medium of exchange used by the Sutter County Tax
4 Collector has not been shown to be valid, and that only gold or
5 silver is valid tender, and not the tax certificate issued by the
6 County. Complaint, pg. 6:24-26, 7:1-4.

7 The Complaint then alleges that based on Joint Resolution 192
8 of Congress, the gold standard has been suspended, and such act
9 deprives persons from extinguishing their debts. Therefore, the
10 Reclamation District cannot be a creditor entitled to the Lee Road
11 Property. Any alleged obligation owing the Reclamation District is
12 illegal and the Reclamation District is prohibited, as a matter of
13 law, from even appearing in this Adversary Proceeding. Complaint,
14 pg. 8:1-5. The Complaint continues with asserting additional
15 contentions that economic obligations have been rendered illegal,
16 and are thereby unenforceable.

17 **DISCUSSION**

18 A temporary restraining order is an extraordinary remedy. *Gunn*
19 *v. University Comm. to End the War in Vietnam*, 399 U.S. 383, 389
20 (1970). It is designed to preserve the *status quo* until the court
21 has an opportunity to rule on an application for a preliminary
22 injunction. *U.S. v. United Mine Workers*, 330 U.S. 258, 293 (1947);
23 *see also* JAMES WM. MOORE, *FEDERAL PRACTICE* § 65.30 (3d ed. 2010). The
24 court may issue the order with or without notice to the adverse
25 party. Fed. R. Civ. P. 65(b) *incorporated by* Fed. R. Bankr. P.
26 7065. Applications for temporary restraining orders are also
27 governed by Local Bankruptcy Rule 7065-1.

28 ///

1 **I. Procedural Defects**

2 Local Bankruptcy Rule 7065-1(b) provides that "no hearing on
3 a temporary restraining order will be set" unless the Defendants
4 files with the clerk and serves on the affected parties an
5 application for a temporary restraining order, a brief on all
6 relevant legal issues presented in the application, a declaration
7 supporting the existence of an irreparable injury, a declaration
8 detailing notice or efforts to effect notice to the affected
9 parties, and a proof of service. Local Bankr. R. 7065-1(b)(1)-(6).
10 Service on the affected parties may be waived if impossible under
11 the circumstances, Local Bankr. R. 7065-1(b), though in those cases
12 the moving party must comply with Federal Rule of Civil Procedure
13 65(b), Local Bankruptcy Rule 7065-1(a).

14 The docket in this adversary proceeding does not reflect
15 compliance with the foregoing requirements as the Debtor-Plaintiff
16 has not filed a declaration supporting the existence of an
17 irreparable injury or a declaration detailing notice or efforts to
18 effect notice to the affected parties.

19 Though the declaration in support states that the Debtor-
20 Plaintiff will suffer "a severe hardship" if the temporary
21 restraining order is not issued, this is not necessarily an
22 irreparable injury. Dispossessing the Debtor-Plaintiff of the
23 property, while a hardship, does not cause irreparable harm in this
24 case because the Debtor-Plaintiff's interest is a leasehold, not a
25 fee interest. Secondly, as the notices to vacate explain, Debtor-
26 Plaintiff may later claim his personal property that remains in the
27 home within fifteen days, though the Debtor-Plaintiff will incur
28 storage fees payable to the owner. See Cal. Civ. Code §§ 1986-1987.

1 Local Bankruptcy Rule 7065-1(a) also requires that "[a]ny
2 party seeking a temporary restraining order in the absence of
3 notice to the affected parties and/or counsel shall comply with the
4 requirements of Fed. R. Civ. P. 65(b)." Pursuant to Federal Rule
5 of Civil Procedure 65(b), made applicable to this adversary
6 proceeding by Federal Rule of Bankruptcy Procedure 7065,

7 A temporary restraining order may be granted without
8 written or oral notice to the adverse party or that
9 party's attorney only if . . . (2) the applicant's
10 attorney certifies to the court in writing the efforts,
if any, which have been made to give notice and the
reasons supporting the claim that notice should not be
required.

11 Fed. R. Civ. Proc. 65(b). The Debtor-Plaintiff's declaration fails
12 to describe his efforts to serve the application on the affected
13 parties or describe the good cause why the court should waive this
14 requirement.

15 As the Debtor-Plaintiff has failed to comply with the
16 procedural requirements for the issuance of a temporary restraining
17 order, the application is denied.

18 **II. The Merits of the Application**

19 Alternatively, Debtor-Plaintiff has not satisfied the standard
20 for obtaining a temporary restraining order. The standard for
21 issuing a temporary restraining order is similar to that required
22 for a preliminary injunction. See *Los Angeles Unified Sch. Dist.*
23 *v. United States Dist. Court*, 650 F.2d 1004, 1008 (9th Cir. 1981).
24 The Ninth Circuit sets forth the following standard for determining
25 whether a court should grant an injunction:

26 [Movant must] demonstrate either a combination of
27 probability of success on the merits and the possibility
of irreparable injury or that serious questions are
28 raised and the balance of hardships tips sharply in [its]
favor. These formulations are not different tests but
represent two points on a sliding scale in which the

1 degree of irreparable harm increases as the probability
2 of success on the merits decreases.

3 *Associated General Contractors of California, Inc. v. Coalition for*
4 *Economic Equality*, 950 F.2d 1401, 1410 (9th Cir. 1991) (quotations
5 and internal citations omitted).

6 Debtor-Plaintiff has failed to show the possibility of success
7 on the merits in this adversary proceeding. Most of the causes of
8 action appear to be ill-advised attempts to argue that the
9 Reclamation District does not legally exist, that the deed used by
10 the Reclamation District was somehow an attempt by the State of
11 California to unlawfully issue currency, notes issued by the
12 Federal Reserve Bank are not lawful currency of the United States.
13 It is hard to imagine that Debtor-Plaintiff will succeed in proving
14 these claims. Equally challenging for the Debtor-Plaintiff is the
15 claim that Congress – through an act relating to currency –
16 rendered the Reclamation District “bankrupt and insolvent,” that
17 the Reclamation District took title through fraud, or that the
18 Reclamation District engaged in unfair trade practices.

19 From the Complaint and pleadings filed seeking the injunctive
20 relief, the Debtor-Plaintiff’s contentions appear to be completely
21 without merit. First, though asserting that he has a lease option,
22 the written agreement upon which the Debtor-Plaintiff asserts he
23 has rights in the property clearing states that it is a lease.
24 There are no purchase option provisions in the agreement. Given
25 the Debtor-Plaintiff’s sophistication in the arguments and claims
26 advanced, the court questions whether such a “misstatement” by
27 Debtor-Plaintiff was mere inadvertence or a deliberate
28 misstatement. Further, the Complaint admits that shortly after

1 entering into the Lease, the Debtor-Plaintiff learned that the
2 Reclamation District asserted the right to the Lee Road Property.
3 Other than stating that the Debtor-Plaintiff offered to pay the
4 \$1,400 Lease rental to the Reclamation District, no mention is made
5 of how the Debtor-Plaintiff asserted his rights, if any, in the
6 state court proceeding.

7 The Debtor-Plaintiff's statements under penalty of perjury in
8 the Schedules are inconsistent with the contentions in the
9 Complaint and present motion. On Schedule A filed by the Debtor-
10 Plaintiff, he states that he jointly owns the Lee Road Property
11 with his wife (who did not file bankruptcy). He does not merely
12 assert a leasehold interest or option right. On Schedule D, he
13 lists the Reclamation District as having a disputed \$654,000.00
14 claim secured by the Lee Road Property. On his Statement of
15 Financial affairs, the Debtor-Plaintiff states under penalty of
16 perjury that he (1) had no income from employment or operation of
17 business during 2010, 2009, or 2008; (2) had no income other than
18 from employment or business during 2010, 2009, or 2008; (3) made no
19 payments to creditors within the 90 day period prior to filing
20 bankruptcy, (4) was not involved in any lawsuits during the one
21 year prior to filing the bankruptcy case; (5) made no gifts
22 aggregating in excess of \$200 to any person in the one year prior
23 to the commencement of the bankruptcy case; (6) had no prior
24 addresses during the three year period prior to the commencement of
25 the bankruptcy case (notwithstanding the Debtor-Plaintiff not
26 leasing the Lee Road Property just six month prior to the
27 commencement of the bankruptcy case); and (7) has no spouse or
28 former spouse during the eight years prior to the commencement of

1 the bankruptcy case. The Debtor-Plaintiff's completion of the
2 Statement of Financial Affairs consisted of merely checking the
3 boxes for no information to each question. Dckt. 1, Case No. 10-
4 48581. One glaring inconsistency is that in his declaration in
5 seeking relief in this Adversary Proceeding the Debtor-Plaintiff
6 states under penalty of perjury that he and his wife have been
7 residing in the Lee Road Property. He identifies his wife as
8 Yolanda Stokes.

9 In addition to there being no lease purchase and the Debtor-
10 Plaintiff stating on Schedule A that he owns the Lee Road Property,
11 he states under penalty of perjury that he and his wife are in
12 lawful possession of the property pursuant to a lease agreement
13 "with the former owner" Norris Dawson. The Lease agreement
14 referenced is not with a Norris Dawson, but an entity identified as
15 KTLA-SP24, LLC. Mr. Dawson does not appear anywhere on the
16 agreement. The person executing the lease for KTLA-SP24, LLC is
17 identified as Erick Spellington, Property Manager.

18 In addition to misstating the entity purportedly leasing the
19 property, the Debtor-Plaintiff states that the agreement is with a
20 "former owner." This statement appears to admit that whomever the
21 Debtor-Plaintiff believes that he leased the property, that
22 person/entity no longer owns the property.

23 Considering the claims asserted by the Debtor-Plaintiff, the
24 court cannot find that there is any likelihood of the Debtor-
25 Plaintiff prevailing. These contentions border on being absolutely
26 without merit. The main theme of the Debtor-Plaintiff's arguments
27 are that all debts in the United States have been rendered
28

1 unenforceable because the United States is not on a gold or silver
2 currency standard. Complaint, pg. 8:5-18.

3 Additionally, Debtor-Plaintiff has again not shown irreparable
4 injury. As discussed above, Debtor-Plaintiff asserts a leasehold
5 interest from some alleged former owner of the Lee Road Property,
6 not an interest in fee. While the eviction proceedings create a
7 burden on Debtor-Plaintiff, the burden is not an irreparable
8 injury. Assuming that Debtor-Plaintiff succeeds in this suit,
9 there is an adequate remedy at law: money damages for the costs
10 incurred in moving, the difference in rent for an alternative
11 residence, and other costs.

12 Further, there is no evidence presented to the court that the
13 Debtor-Plaintiff has the ability to provide the security which the
14 court would require pursuant to Federal Rule of Civil Procedure
15 65(d). Though the Federal Rules of Bankruptcy Procedure do not
16 require a debtor to provide security for the issuance of a
17 temporary restraining order, see Fed. R. Bankr. P. 7065, the court
18 may require the posting of a bond. *Lyondell Chem. Co. v.*
19 *CenterPoint Energy Gas Servs. (In re Lyondell Chem. Co.)*, 402 B.R.
20 571, 595 (Bankr. S.D.N.Y. 2009). Given the marginal chances of
21 success on the merits, were the court to grant the application it
22 would require Debtor-Plaintiff post security to protect the
23 interests of the Reclamation District.

24 As Debtor-Plaintiff has not shown that he will likely succeed
25 on the merits of this adversary proceeding, that he will suffer
26 irreparable harm during the pendency of the adversary proceeding,
27 or that he could post any security required by the court, the
28 application for a temporary restraining order is denied.

1 **III. Enforceability of the Relief from Stay Order**

2 To the extent the application seeks to modify the
3 enforceability of the court's order granting relief from the
4 automatic stay entered in the parent bankruptcy case, it is denied.
5 The stay of an order issued by this court is a procedural issue,
6 and is therefore governed by federal law. *See, e.g., Erie R.R. Co.*
7 *v. Tompkins*, 304 U.S. 64 (1938); *Hanna v. Plumer*, 380 U.S. 460
8 (1965). Federal Rule of Bankruptcy Procedure 4001(a)(3) provides a
9 fourteen-day stay of enforcement for an order granting relief from
10 the automatic stay. That period expired on March 4, 2011. (See
11 Order, No. 10-48581-E-7 Dckt. 53.) Any stay of enforcement to
12 which the Debtor was entitled has already expired. Debtor-
13 Plaintiff has made no showing or offered any legal basis for the
14 modification of the court's relief from stay order. To the extent
15 the application sought to modify that order, the application is
16 denied.

17 **DECISION**

18 The Debtor-Plaintiff has failed to comply with the procedural
19 requirements for the issuance of a temporary restraining order or
20 to meet the relevant legal standard. The application for the
21 extraordinary relief of a temporary restraining order is denied.
22 As the Debtor-Plaintiff has not shown any legal basis for a
23 modification of the court's order granting relief from the
24 automatic stay in the parent bankruptcy case, to the extent the
25 application sought such relief, it is denied.

26 Dated: March 24, 2011

27 /s/ Ronald H. Sargis
RONALD H. SARGIS, Judge
28 United States Bankruptcy Court