

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

IN RE:	:	CASE NO. 23-40569-EJC
	:	
MASTER LENDING GROUP, LLC,	:	CHAPTER 7
	:	
Debtor.	:	
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	:	
TIFFANY E. CARON, Chapter 7 Trustee	:	
for the Bankruptcy Estate of	:	
Master Lending Group, LLC	:	
	:	
Plaintiff,	:	
	:	
vs.	:	Adv. Pro. No. 23-04013-EJC
	:	
JUDITH HIRSCH,	:	
	:	
Defendant.	:	
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**PLAINTIFF’S MOTION TO STAY PROCEEDINGS PENDING INTERPLEADER
OF LIFE INSURANCE PROCEEDS**

Plaintiff, Tiffany E. Caron, as Chapter 7 Trustee for the bankruptcy estate of Master Lending Group, LLC (“Plaintiff”), hereby moves to temporarily stay this action pending the interpleader of the proceeds of a \$5,000,000.00 life insurance policy into the registry of the Court, which could be dispositive of some of Plaintiff’s claims in this case. Plaintiff respectfully shows the Court as follows:

I. INTRODUCTION AND PROCEDURAL HISTORY¹

This case arises out of a dispute over life insurance proceeds. Central to the parties' dispute are the Debtor's original Petition and Sworn Statements and Schedules, signed under penalty of perjury, together with three subsequent amendments thereto (collectively, the "Sworn Schedules"), which were purportedly signed by Defendant with the assistance of counsel. The original of the Sworn Schedules, and the two amendments that directly followed, identified a \$5,000,000.00 life insurance policy (the "Policy") from Pruco Life Insurance Company ("Pruco") as property belonging to the Debtor's bankruptcy estate. The third amendment removed the Policy as property of the bankruptcy estate altogether. All three amendments have since been withdrawn. Without Court approval or authority to act on behalf of the Debtor, a fourth amendment (the "Fourth Amendment") has now been filed by the Personal Representative for the Estate of Gregory M. Hirsch (deceased), sole member of Master Lending Group, LLC (the "Personal Representative"), again removing the Policy as property of the bankruptcy estate. The Trustee intends to file a Motion to Strike the Fourth Amendment based on the Personal Representative's lack of sufficient knowledge and authority to file schedules on behalf of the Debtor.

On September 5, 2023, Plaintiff filed a Complaint seeking a determination that the proceeds of the Policy are property belonging to the Debtor's bankruptcy estate, and that same should be turned over to Plaintiff, as the Chapter 7 Trustee. The Complaint also

¹ To avoid repetition and so as not to waste the Court's time, Plaintiff points to and incorporates by reference the Statement of Facts set forth in Plaintiff's *Complaint* [Doc. No. 1].

alleges causes of action against Defendant for breach of confidential relationship and the duty of good faith, constructive fraud, unjust enrichment, conversion (in the alternative), and seeks the imposition of a constructive trust. Defendant has since filed a Motion to Dismiss, challenging the bankruptcy estate's interest in the Policy proceeds and asserting, among other things, that the Policy proceeds rightfully belong to Defendant.

After the filing of the Complaint, Pruco placed a restriction on the Policy such that the benefits will not be paid until either a consensual resolution can be achieved between the parties or the funds can be deposited into court or otherwise disbursed in accordance with a court order. The parties are presently working with Pruco on a consent order to interplead the Policy proceeds into the Court's registry, while they engage in discussions to determine if an early resolution of this action can be achieved. The interpleader of the Policy proceeds is a core element and likely dispositive of some of Plaintiff's claims against Defendant. At a minimum, once the Policy proceeds are interpleaded into the Court's registry, the issues and discovery needed to complete this case will be narrowed.

Plaintiff therefore moves to stay this action until thirty (30) days after the submission of the consent order for interpleader.

II. LEGAL STANDARD

Courts have broad discretion in managing their own dockets, including staying proceedings. *Rose v. Wells Fargo Advisors, LLC*, No. 1:16-CV-562-CAP, 2016 WL 3369283, at *1 (N.D. Ga. June 14, 2016) (quoting *Clinton v. Jones*, 520 U.S. 681, 706 (1997) (citing *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936))); see also *Air Line Pilots Ass'n v. Miller*, 523 U.S. 866, 879 n.6 (1998) ("The power to stay proceedings is incidental to the power

inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.”). In determining whether a stay is warranted, courts generally consider the following factors: “(1) whether a stay would unduly prejudice or present a tactical disadvantage to the nonmovant; (2) whether a stay will simplify the issues in the case; and (3) whether discovery is complete, and a trial date has been set.” *Tomco Equip. co. v. S.E. Agri-Systems, Inc.*, 542 F. Supp. 2d 1303, 1307 (N.D. Ga. Feb. 19, 2008). These factors all weigh in favor of granting a stay in the present matter.

III. ARGUMENT

A. The Requested Stay Will Be Relatively Short in Duration and Will Not Prejudice Defendant.

Plaintiff will not be prejudiced by a relatively short stay of these proceedings. The parties have been engaged in discussions in an attempt to determine whether they can reach an early resolution of this case, and those attempts are ongoing. In the interim, and in conjunction with these discussions, the parties are working alongside Pruco to craft and submit a proposed consent order for interpleader of the Policy proceeds that are in dispute. The time frame in which Plaintiff expects that the parties will submit their proposed consent order would likely be in a matter of weeks and is thus unlikely to be for an extended period of time. This is not the sort of time frame that would prejudice Defendant in this matter, and Defendant cannot show that she would suffer any continuing harm that would be exacerbated by what is reasonably expected to be a short stay. See *Coatney v. Synchrony Bank*, No. 616CV389ORL22TBS, 2016 WL 4506315, at *2

(M.D. Fla. Aug. 2, 2016) (“Plaintiff has not shown that he will be prejudiced by a stay at such an early stage in the litigation.”); *see also Gusman v. Comcast Corp.*, No. 13CV1049-GPC(DHB), 2014 WL 2115472, at *4 (S.D. Cal. May 21, 2014) (“Plaintiff will not be prejudiced since. . . the case is in the early stages of litigation.”).

The interpleader of the Policy proceeds would be dispositive as to certain of Plaintiff’s causes of action against Defendant. Given the important and dispositive nature of the parties’ anticipated consent order for interpleader, a temporary stay of a few weeks, or even months, is both reasonable and warranted.

B. The Bankruptcy Estate Will Suffer Harm in the Form of Unnecessary Litigation Fees and Expenses and an Uncertain Scope of Discovery, if a Stay Is Not Imposed.

In contrast to the lack of harm to Defendant from imposing a stay, there is no question that the bankruptcy estate will incur actual harm in the form of time and expense incurred to litigate this case if a stay is not granted. Courts have found litigation expense sufficient to demonstrate actual prejudice to justify a stay. *See, e.g., Rose*, 2016 WL 3369283, at *2 (“if the case is not stayed, the defendant may suffer hardship in conducting discovery and trial preparation.”); *Tyler v. Nationstar Mortgage*, Case No. 4:15-cv-532-WS-CAS, 2016 WL 420284 at *1 (N.D. Fl., Jan. 15, 2016) (holding that a stay “would limit what might prove to be unnecessary expenditures of time and resources on discovery” and “would promote judicial economy”); *Mackiewicz v. Nationstar Mortgage, LLC*, No. 615CV465ORL18GJK, 2015 WL 11983233, at *1 (M.D. Fla. Nov. 10, 2015) (granting motion to stay because “a stay would reduce the burden of litigation on the parties and the Court”).

Here too, this matter should be stayed now before additional time and resources are expended on unnecessary litigation.

C. Granting a Stay Will Streamline the Proceedings by Simplifying the Issues and Promoting Judicial Economy.

Granting a stay will simplify the issues and promote judicial economy. Since the filing of this action, the parties have been engaged in ongoing discussions regarding the disbursement of the Policy proceeds and are in the process of coming to an agreement as to the form of a consent order for entry of the proceeds into the registry of the Court. The entry of the Policy proceeds into the registry of the Court will likely extinguish or significantly curtail some of Plaintiff's claims in this matter. At the very least, it will dictate the scope of the issues and discovery needed in this case and would streamline any trial. In other words, the parties can then engage in more focused litigation, thus reducing the burden of litigation on the parties and on the Court.

III. CONCLUSION

For all the foregoing reasons, Plaintiff respectfully requests that the Court stay these proceedings until thirty (30) days after submission of a consent order to interplead the Policy proceeds into the registry of the Court.

This 30th day of October, 2023.

[Signature appears on following page]

Respectfully submitted,

By: /s/Natalie R. Rowland
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CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2023, I electronically filed **PLAINTIFF'S MOTION TO STAY PROCEEDINGS PENDING INTERPLEADER OF LIFE INSURANCE PROCEEDS** with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following attorneys of record:

Leon S. Jones

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/s/ Natalie R. Rowland

Attorney for Plaintiff

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Defendant.	:	
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ORDER GRANTING MOTION TO STAY PROCEEDINGS

The Court has considered Plaintiff's Motion to Stay Proceedings Pending Interpleader of Life Insurance Proceeds in this action, and for good cause shown,

IT IS HEREBY ORDERED that this action is stayed until thirty (30) days after submission of a consent order to interplead the Policy proceeds into the registry of the Court. Plaintiff shall file a response to the Defendant's Motion to Dismiss within ten (10) business days of the stay being lifted.

END OF DOCUMENT

Prepared and presented by:

TAYLOR ENGLISH DUMA, LLP
Attorneys for Plaintiff

By: /s/Natalie R. Rowland

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