Docket #0105 Date Filed: 8/4/2023

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:	§	
	§	
TEHUM CARE SERVICES, INC.	§	CASE NO. 4:23-BK-90086 (CML)
	§	
Debtor.	§	CHAPTER 11
	§	
ANANT KUMAR TRIPATI	§	
	§	Adversary No. 23-03072
Plaintiff,	§	
	§	
Vs.	§	
	§	
SARAH TIRSCHWELL, et al.	§	
	§	
	§	

DEFENDANT WEBER GALLAGHER SIMPSON STAPLETON FIRES & NEWBY LLP'S OPPOSITION TO PLAINTIFF'S REQUEST FOR DEFAULT

Comes Now, Weber Gallagher Simpson Stapleton Fires & Newby LLP ("Weber Gallagher" or "Defendant"), by and through its counsel, hereby files this opposition to Plaintiff's Application for Entry of Default (the "Application"). [Dkt # 82].

BACKGROUND

1. Plaintiff is a pro se inmate currently serving in an Arizona state prison. *See State v. Tripati, Maricopa,* County Superior Court Nos CR 1992-008576-A, CR 1992-00960.

2. On May 1, 2023, Plaintiff Anant Kumar Tripati ("Plaintiff") filed his Verified Adversary Complaint by Anant Kumar Tripati [Doc. 1] ("Complaint") in the Bankruptcy Court for the Southern District of Texas, thereby commencing the above referenced adversary proceeding.

3. In the Complaint, Plaintiff alleges that Defendant "obstruct[ed] justice" and "interfer[ed] in the administration" of justice through concealing evidence and submitting false statements. Complaint, ¶ 13. Further, Plaintiff alleges Defendant has participated in a scheme to commit fraud in violation of Arizona's civil racketeering statute ("Plaintiff's Allegations"). Complaint, ¶¶ 431-458.

4. Plaintiff's Allegations were previously dismissed in The United States District Court for the District of Pennsylvania due to lack of personal jurisdiction and Plaintiff's inability to properly state a claim for relief. *Tripati v. Wexford Health Sources, Inc.*, No. 2:20-CV-00427, 2022 WL 1516780 (W.D. Pa. Feb 14, 2022).

5. Plaintiff's vexatious nature has been recognized by various courts including the United States District Court for the District of Arizona, The United States Court of Appeals for the Ninth Circuit, and the United States Supreme Court. *Tripati v. Wexford Health Sources Inc.*, No. 22-1861, 2022 WL 17690156, at *1 n.2 (3d Cir. Dec. 15, 2022).

ARGUMENT

6. Plaintiff's proposed default judgment is barred by FED. R. CIV. P. 55.[1] Specifically, under the rule, the Clerk may only enter a default judgment where a plaintiff's claim is for a sum certain. As Plaintiff's claims are not for a sum certain and does not set forth the proposed judgment amount, Plaintiff's default judgment must be denied.

7. In addition to the above, there are many other reasons why granting Plaintiff's Application under these circumstances would be improper and inapplicable. Defendant reserves the right to assert additional bases in opposition to Plaintiff's Application at a later time and does not waive any bases not yet asserted.

[1] Per FED. R. BANKR. 7055, FED. R. CIV. P. applies in adversary proceedings.

WHEREFORE, Defendant respectfully requests the Court deny Plaintiff's Application for Entry of Default and any further relief that the Court deems appropriate.

Dated: August 4, 2023

Respectfully submitted,

JACKSON LEWIS P.C.

/s/ Stephen E. Hart

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CERTIFICATE OF SERVICE

I hereby certify that on August 4, 2023 I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas. I also served a copy on Plaintiff via mail at the following address:

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Pro Se Plaintiff

/s/ Stephen E. Hart
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