Docket #0146 Date Filed: 9/18/2023

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

In Re: Tehum Care Services, Inc Debtor.	Case No: 23-90086 (CML) CHAPTER 11
Anant Kumar Tripati Plaintiff, vs. Sarah Tirschwell, et al., Defendant.	Adv. Pro. No. 23-03072 (CML)

United States Courts
Southern District of Texas
FILED
SEP 18 2023
Nathan Ochsner, Clerk of Court

STATUS REPORT BY ANANT KUMAR TRIPATI

Plaintiff, Anant Kumar Tripati submits the following status report:

THIS CASE IS ABOUT A DISHONEST DEBTOR AND THOSE WHO ENABLED THE DEBTOR

1. A fundamental theme in law is honesty. Bankruptcy, it is said, is for the "honest but unfortunate. See, e.g., Margaret Howard, A Theory of Discharge in Bankruptcy, 48 Ohio St. L.J. 1047,1049 (1987) ("A second goal of bankruptcy is to reward only the honest debtor with a fresh start. Policymakers have long been concerned that bankruptcy not be a haven for the dishonest.")

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2. Bankruptcy courts maintain, with some frequency, that "the veracity of the debtor's statements is essential to the successful administration of the Bankruptcy Act"; "[full and comprehensive disclosure is critical to the integrity of the bankruptcy process"; "veracity of the debtor's [s]tatement is absolutely essential to the successful administration of the Bankruptcy Code"; Heidkamp v. Whitehead (In re Whitehead), 278 B.R. 589, 594 (Bankr. M.D. Fla. 2002) and "[t]he proper 'operation of the bankruptcy system depends on honest reporting.' ", In re Mohring, 142 B.R. 389, 393 (Bankr. E.D. Ca. 1992) (quoting Payne v. Wood, 775 F.2d 202, 205 (7th Cir. 1985)).

THE PROCEEEDINGS

3. March 13, 2023 the United States Court of Appeals for the Third Circuit issued an order, declining to rule on the motion to recall the mandate, filed by Plaintiff, where Plaintiff argued that the Court, had overlooked spoliation arguments. Specifically, Plaintiff presented the following question:

   - After listening to privileged communications between Anant Kumar Tripati (Petitioner) and his counsel, Respondents, who are prison officials, prison healthcare providers and their attorneys, became aware that Petitioner had evidence against them, for concealing and falsifying evidence, in prisoner litigation. They sent Betty Ulibarri, a paralegal, to seize the evidence. The question presented is the same as that unresolved by this court in The Pizarro, 15 U.S. (2 Wheat.) 227 (1817).

- Must the District Court sitting in diversity, address pre-filing spoliation of evidence, before addressing the defenses advanced by the guilty party? Can the guilty party engage in pre-filing spoliation to prevent Plaintiff from presenting his claims in compliance with Rules 8 and 9?
- When substantial rights have been violated resulting in injustice, due to the appellate panel's failure to consider pre-trial spoliation of evidence, which, if considered, would have resulted in a different result, does Calderon v Thompson, 523 U.S. 538, 548 (1998) Accord at 567 (Souter, J. dissenting) authorize the appellate court to recall the mandate, so as to prevent injustice?

4. These Defendants had from February 21, 2023 through March 13, 2023 to join Plaintiff and ask the Circuit to resolve these claims as to them, except the Debtor, which was in bankruptcy. Plaintiff has filed a Brief As Objection to ECF 802 in Case No: 23-90086 (CML) demonstrating this bankruptcy is fraudulent.
5. These Defendants did not join and the Circuit Court refused to consider the claim as to all these Defendants.
6. As the court declined to consider these spoliation claims because of this bankruptcy, Plaintiff paid the filing fees and filed this adversary ECF 1.

7. Before the court are pending ECF 4 and 96, the First and Second Amended Complaints. Plaintiff believes ECF 4 renders ECF 1 and 4 moot.1

8. In ECF 121 Wexford falsely argued that Plaintiff did not pay the filing fees and that 28 USC 1915(a)(3) which applies to appeals in forma pauperis, mandate this court review this complaint. Plaintiff has asked Wexford to withdraw this argument, and as of yet, no action has been taken.

9. Jones Skelton Hochuli informed this court in their reply that the court decided the spoliation knowing this to be false. Plaintiff has informed Holly Whalen Esq to take corrective action on or before September 15, 2023.

10. All Defendants have been properly served and timely.

11. Certain Defendants claim not to have received the summons and complaints at the same address where they did receive the requests for default. Plaintiff has moved for default against Weber Gallagher Simpson Stapleton Fires & Newby2 ; Becken Petty O'Keefe, A Delaware Corporation; Scottsdale Insurance Company; Coverys Specialty Insurance Company ; Evanston Insurance Company; Zurich American Insurance ; American Zurich Insurance Company ;Columbia Casualty Company ; Hartford Casualty Insurance Company are in default. They have not responded.

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1 ECF 118, 121, 125 AND LEXINGTON are the only objections for leave to amend. Other Defendants have not objected, except as to those who have asked this court to screen.

2 These Defendants have Weber Gallagher Simpson Stapleton Fires & Newby ; Becken Petty O'Keefe, A Delaware Corporation; evidently filed some document. Plaintiff has sent them emails and did not receive these documents a Plaintiff is not a efiler.

12. ECF 25, 33, 46, 49, 69, 85, 86, 89, 112, 121, 125 are motions as to screening. Plaintiff contends these motions are frivolous.

13. ECF 27, 28, 30, 32, 34, 47, 63 are motions to dismiss. Plaintiff filed ECF 58 and 66 as his responses. Plaintiff contends that in light of ECF 96, these motions are moot.

14. ECF 93 is the motion for sanctions and ECF 117, 124, 127, 128, 130, Lexington's response to motion for sanctions are motions for sanctions.[3] A Reply has been filed

15. Before the court is a motion to correct the caption and reissue summons.

Respectfully submitted,

Anant Kumar Tripati

CERTIFICATE OF SERVICE

The Plaintiff hereby certifies that a true and correct copy of the foregoing document was served by the Court's CM/ECF system on all parties requesting notice/ all parties who have entered appearance.

[3] Debtor , Sara Tirschwell And Valitas, , Grayreed, Aaron M. Kaufman Esq, Lydia R. Webb Esq, Amber M. Carson, Esq, Jason S. Brookner Esq; Hayward Pllc; Mark A. Weisbart Esq; Melissa Hayward Esq Joseph Scott Conlon ;Renaud Cook Drury Mesaros Pa; have not responded to the request for sanctions.

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