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WRITTEN DECISION - NOT FOR PUBLICATION

ENTERED 12-14-10  
FILED  
**DEC 14 2010**  
CLERK, U.S. BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY \_\_\_\_\_ DEPUTY

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA

In re	)	Case No. 10-00046-PB11
	)	Adversary No. 10-90467
SARGENT RANCH, LLC,	)	
	)	
Debtor.	)	ORDER ON MOTION TO DISMISS
	)	AND TO TRANSFER
_____	)	ADVERSARY PROCEEDING
	)	
SARGENT RANCH, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
FIRST BLACKHAWK FINANCIAL	)	
corp., et al.,	)	
	)	
Defendants.	)	
_____	)	

Debtor filed an adversary proceeding action against numerous prepetition lenders and the broker which arranged for the loans. A group of 15 lenders identifying themselves as "First Priority Sargent Ranch Lenders" (Movants) moved to dismiss several causes of action and to transfer venue of the adversary proceeding to the Northern District of California, Oakland Division, on the

1 ground that the majority of parties reside there, the  
2 transactions upon which the adversary is based occurred there  
3 and the bulk of the documentary evidence is there. For the  
4 reasons set forth below, the Court grants the motion to transfer  
5 venue and declines to reach the merits of Movants' motion to  
6 dismiss.

7 The Court has subject matter jurisdiction pursuant to  
8 28 U.S.C. § 1334 and General Order No. 312-D of the United States  
9 District Court for the Southern District of California.

10 Rule 7087 of the Federal Rules of Bankruptcy Procedure  
11 authorizes bankruptcy courts to "transfer an adversary proceeding  
12 or any part thereof to another district pursuant to 28 U.S.C.  
13 § 1412 ..." 28 U.S.C. § 1412 provides in turn "A district court  
14 may transfer a case or proceeding under title 11 to a district  
15 court for another district, in the interest of justice or for the  
16 convenience of the parties."

17 A transfer under § 1412 requires a showing that granting the  
18 transfer either will be in the interest of justice or for the  
19 convenience of the parties. Creekridge Capital, LLC v. Louisiana  
20 Hosp. Center, LLC, 410 B.R. 623, 629 (D.Minn. 2009) (citations  
21 omitted). Section 1412 is phrased in the disjunctive, hence  
22 transfer is appropriate if either criterion is satisfied. Id.  
23 The party moving for a transfer has the burden to show by a  
24 preponderance of the evidence that transfer is warranted. Id.  
25 A determination under § 1412 requires a case specific analysis  
26 that is subject to broad discretion of the court. Id.

1           The "interest of justice" option includes factors such as  
2 (1) the economical and efficient administration of the bankruptcy  
3 estate, (2) the presumption in favor of the forum where the  
4 bankruptcy case is pending, (3) judicial efficiency; (4) the  
5 ability to receive a fair trial, (5) the state's interest in  
6 having local controversies decided within its borders by those  
7 familiar with its laws, (6) the enforceability of any judgment  
8 rendered, and (7) the plaintiff's original choice of forum. Id.  
9 Other factors courts have identified in evaluating the interest  
10 of justice include the proximity of creditors to the court, the  
11 proximity of the debtor to the court, the proximity of the  
12 witnesses necessary to the administration of the estate, and the  
13 location of the assets. Id. For the "convenience of the  
14 parties" alternative, courts often consider (1) the location of  
15 the plaintiff and the defendant, (2) ease of access to necessary  
16 proof, (3) convenience of witnesses, (4) availability of subpoena  
17 power for unwilling witnesses, and (5) expenses related to  
18 obtaining witnesses. Id.

19           The Court finds that Movants have established that the this  
20 case should be transferred to the Northern District of California  
21 as that would serve the convenience of the parties. In support  
22 of its request to transfer Movants provided evidence that the  
23 vast majority of the defendants, including all of Movants, had  
24 mailing addresses in the Northern District of California. Though  
25 Debtor's principal, Wayne Pierce resides in this District and the  
26 bankruptcy case was filed here, the sole asset of the estate -

1 6,400 acres of undeveloped real property is located in the  
2 Northern District of California. The real property lies at the  
3 center of this dispute as all of the defendants assert claims  
4 secured thereby. All of the transactions upon which the action  
5 is based took place in the Northern District. Further, the  
6 documentary evidence which is likely to be used in this case is  
7 located in the Northern District.

8 In response, Debtor provided no evidence on the issue of  
9 convenience. Debtor's response was the argument that the  
10 adversary proceeding would affect the administration of the  
11 Bankruptcy case and that a transfer would tie the hands of this  
12 Court "in terms of administering the case and/or confirming a  
13 plan of reorganization until a final order is entered in a  
14 foreign court." The Court is not persuaded by Debtor's argument.  
15 It may well be that resolution of the Bankruptcy case will depend  
16 on the outcome of this adversary proceeding. However, there is  
17 no evidence, nor reason to believe that it would be resolved more  
18 rapidly in this District than in the Northern District of  
19 California.

20 This Court can take judicial notice that it is up to its  
21 waist in pleadings in this bankruptcy case alone and that it has  
22 trials stacked on the horizon reaching well into 2011. The same  
23 facts which Movants have used to establish that the Northern  
24 District of California is a more convenient forum in general,  
25 namely that the vast majority of the parties and evidence are  
26 located up there, indicates that resolution of this litigation

1 would be more readily done in the Northern District of  
2 California.

3 For the reasons set forth above the Court orders that this  
4 adversary proceeding be transferred from this Court to the  
5 Northern District of California, Oakland Division as requested  
6 by Movants.

7 In light of the transfer of venue, the Court declines to  
8 reach the merits of Movants' motion to dismiss the various causes  
9 of action. This is not an indication that the motion lacks  
10 merit. Rather, the Court is of the opinion that rather than send  
11 a piecemeal litigation to the new court, it is better to allow  
12 that court to address the cases in its entirety.

13 IT IS SO ORDERED.

14 DATED: DEC 14 2010

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17 PETER W. BOWIE, Chief Judge  
18 United States Bankruptcy Court  
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