

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PALM STREET CAPITAL LLC, and
others,

Plaintiffs,

v.

CAIXING XIE,

Defendant.

Case No. 22-cv-1932 NC

**ORDER TO SHOW CAUSE TO
PLAINTIFFS AND THEIR
COUNSEL CONCERNING
FAILURE TO DISCLOSE
BANKRUPTCY CASE**

Plaintiffs’ counsel filed on December 7, 2023, a Joint Case Management Conference Statement. Dkt. No. 87. In the Statement, Plaintiffs stated that “Plaintiff is ready to proceed with the jury trial as currently set.” Statement at p. 1. In a section titled “Related Cases” Plaintiffs made no mention of a bankruptcy case. Statement at p. 5. And in the final section titled “Scheduling” Plaintiffs stated they will object to any “last-minute trial continuance” attempt made by Defendant to prolong the proceedings in this case. Statement at p. 6.

The Court relied on the Statement in referring the case for a Settlement Conference with Magistrate Judge Kim. Dkt. No. 88. Judge Kim set the settlement conference for January 3, 2024. Dkt. No. 90. The Court also began preparing for the January 29 trial. Dkt. No. 88.

Yet at the time of Plaintiffs’ Statement, it appears that Plaintiffs and Plaintiffs’ counsel Zheng Liu were aware that they had filed on November 2, 2023, an involuntary

1 bankruptcy petition against defendant Caixing Xie. *See* Dkt. No. 91 (Notice of
2 Bankruptcy, attaching Petition). In accordance with 11 U.S.C. § 362, this case was
3 automatically stayed as a result of the bankruptcy case petition filed against defendant Xie.

4 The U.S. Bankruptcy Code protects parties in the bankruptcy court from continuing
5 litigation in a non-bankruptcy forum. Title 11 U.S.C. § 362 provides: “an individual
6 injured by any willful violation of a stay provided by this section shall recover actual
7 damages, including costs and attorneys’ fees, and, in appropriate circumstances, may
8 recover punitive damages.” 11 U.S.C. § 362(k)(1). And a party that continues litigating in
9 another forum risks sanctions. *See Eskanos & Adler, P.C. v. Leetien*, 309 F.3d 1210, 1214
10 (9th Cir. 2002) (“A party violating the automatic stay, through continuing [litigation] in a
11 non-bankruptcy forum, must automatically dismiss or stay such proceeding or risk possible
12 sanctions for willful violations.”).

13 Furthermore, Northern District of California Civil Local Rule 11-4(a)(4) requires
14 attorneys practicing in this Court to “Practice with the honesty, care, and decorum required
15 for the fair and efficient administration of justice.” Attorneys who engage in
16 unprofessional conduct may be referred for disciplinary proceedings. Local Rule 11-6.

17 Plaintiffs’ counsel at the April 3 CMC must be prepared to explain why counsel did
18 not disclose the bankruptcy proceeding in the December 7 CMC Statement or at any other
19 time between November 2, 2023 (filing) and December 28, 2023 (when Defendant filed
20 Notice of the Bankruptcy). Was this a willful violation of the bankruptcy stay? Did it
21 unreasonably and vexatiously multiply the proceedings under 28 U.S.C. § 1927? The
22 Court will consider whether this is unprofessional conduct that should be referred for
23 disciplinary proceedings and/or sanctioned under 28 U.S.C. § 1927.

24 **IT IS SO ORDERED.**

25
26 Dated: April 2, 2024

27 
28 NATHANAEL M. COUSINS
United States Magistrate Judge