

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE

SOUTHERN DISTRICT OF GEORGIA  
Statesboro Division

IN RE:	)	Chapter 7 Case
	)	Number <u>98-60161</u>
SEA ISLAND COTTON	)	
TRADING, INC.	)	
	)	
Debtor	)	FILED
_____	)	at 3 O'clock & 25 min. P.M.
	)	Date: 7-26-00
ANN MOORE, TRUSTEE	)	
	)	
Plaintiff	)	
	)	
vs.	)	Adversary Proceeding
	)	Number 00-06033A
MELVIN MOBLEY	)	
	)	
Defendant	)	
_____	)	
	)	
ANN MOORE, TRUSTEE	)	
	)	
Plaintiff	)	
	)	
vs.	)	Adversary Proceeding
	)	Number 00-06034A
MARC PRIESTER	)	
	)	
Defendant	)	
_____	)	
	)	
ANN MOORE, TRUSTEE	)	
	)	
Plaintiff	)	
	)	
vs.	)	Adversary Proceeding
	)	Number 00-06039A
JACKIE HART	)	
	)	
Defendant	)	
_____	)	

ORDER

Plaintiff, the Chapter 7 Trustee in the bankruptcy case, filed separate adversary proceedings against the above named Defendants for recovery of preferential transfers. Each Defendant timely filed an answer to the complaint which included a demand for a jury trial. Plaintiff contests the jury trial demand asserting that Defendants waived their right to a jury trial by filing proofs of claim in the underlying bankruptcy case. Defendants assert that they are entitled by a jury trial because they assigned their claims to the State of Georgia prior to the filing of this adversary proceeding. As a result, Defendants argue that they no longer have outstanding claims against the bankruptcy estate or a stake in the outcome of the claims allowance process.<sup>1</sup>

The issue presented is whether Defendants waived their right to a jury trial by filing proofs of claim in the underlying bankruptcy case and subsequently assigning those claims to a third party prior to the filing of the adversary proceeding. The Seventh Amendment of the Constitution of the United States of America provides the right to a trial by jury in civil cases. "In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law." U.S. Const. Amend VII. However, the Supreme Court

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<sup>1</sup>Because the issue presented in each of the above styled adversary proceedings is identical, a single order is entered addressing the issue presented.

ruled that the right to a trial by jury under the Seventh Amendment may be waived. The Supreme Court held that a creditor who filed a proof of claim against the bankruptcy estate was not entitled to a jury trial in a preference action. "[A] creditor's right to a jury trial on a bankruptcy trustee's preference claim depends upon whether the creditor has submitted a claim against the estate." Langenkamp v. Culp, 498 U.S. 42, 45 111 S.Ct. 330, 112 L.Ed.2d 343 (1990) (citing Granfinanciera, S.A. v. Nordberg, 492 U.S. 33, 58, 109 S.Ct. 2782, 2799 106 L.Ed.2d 26 (1989)). In Granfinanciera, the Supreme Court recognized that the filing of a claim against a bankruptcy estate by a creditor triggers the process of "allowance and disallowance of claims," thereby subjecting itself to the bankruptcy court's equitable power. Granfinanciera, 492 U.S. at 58-59, and n. 14, 109 S.Ct. at 2799-2800, and n. 14 (citing Katchen v. Landy, 382 U.S. 323, 86 S.Ct. 467, 15 L.Ed.2d 391 (1966)). "The Supreme Court's holdings in Granfinanciera and Langenkamp leave no doubt that the equitable jurisdiction of the bankruptcy court is exclusive when its jurisdiction has been invoked by the filing of a claim." Travellers Int'l AG. v Robinson, 982 F.2d 96, 100 (3rd Cir. 1992).

The Trustee argues that the Defendants waived their right to a jury trial by filing proofs of claim in the bankruptcy case. Each claim was filed prior to the filing of the adversary proceedings. Defendants acknowledge that they initially filed proofs of claim in the bankruptcy case. However, Defendants

subsequently assigned their claims to the State of Georgia, Department of Agriculture, pursuant to legislation enacted in 1999 which created a fund to indemnify Defendants for losses incurred in 1998 or 1999 from the storage of harvested cotton. O.C.G.A. §2-19-1(1999). The legislation required that, "[a]cceptance of an indemnity payment made pursuant to this chapter shall subrogate the state, to the extent of such indemnity payment, to any right or right of action accruing to the claimant to recover payments on account of losses resulting from the loss of the cotton or proceeds from the sale of the cotton with respect to which the indemnity payment is made." O.C.G.A. §2-19-6 (1999). In accordance with this legislation, Defendants, upon receiving an indemnity payment from the State of Georgia, subrogated and assigned their claims in the bankruptcy case to the state. This assignment occurred prior to the filing of the adversary proceedings. Defendants assert that the effect of the assignment of their claims to the State of Georgia removes them from the claims allowance process and preserves their right to trial by jury.

The act of filing a proof of claim in a bankruptcy case submits the creditor to the equitable jurisdiction of the bankruptcy court. In the Langenkamp case, after recognizing that the filing of a claim by a creditor triggers the claim allowance process, the Supreme Court stated:

If the creditor is met, in turn, with a preference action from the trustee, that action becomes part of the claims-allowance process which is triable only in equity. . . In other words, the creditor's claim and the ensuing preference

action by the trustee become integral to the restructuring of the debtor-creditor relationship through the bankruptcy court's equity jurisdiction. . . . As such, there is no Seventh Amendment right to a jury trial.

Langenkamp, at 45 (citations omitted). In the case at bar, Defendants initiated the claims allowance process by filing their proofs of claim. Upon the filing of the claim in the bankruptcy case, Defendants subjected themselves to the equitable jurisdiction of this Court and waived their right to a jury trial.

Defendants argue that the waiver of a right to a jury trial by filing a proof of claim is not permanent. Defendants assert that, as a result of the assignment of their claim, they are entitled to a jury trial because they are no longer seeking equitable relief from this court. Defendants reliance on Smith v. Dowden, 47 F.3d 940 (8th Cir. 1995) and In re New York City Shoes, Inc., 122 B.R. 668 (E.D. Pa. 1990) in support of their argument is misplaced. In Smith, the Eighth Circuit held, "the successful withdrawal of a claim pursuant to Federal Rule Bankruptcy Procedure 3006 prior to the trustee's initiation of an adversary proceeding renders the withdrawn claim a legal nullity and leaves the parties as if the claim had never been brought." Smith at 943. The facts in Smith are clearly distinguishable from the facts presented here. In Smith, the proof of claim was successfully withdrawn prior to the filing of the adversary proceeding. As a result, the claim was removed from the claims allowance process. Whereas in this case, the claim was not withdrawn, but transferred to a third party. The claim remains

an active part of the bankruptcy case and continues to impact the debtor-creditor relationship.

In New York City Shoes, infra., a settlement agreement which disallowed a creditor's two proofs of claim did not waive the creditor's right to a jury trial in a subsequent adversary proceeding. That court found that once the settlement agreement was approved by the court and creditor's claims were disallowed pursuant to the terms of the settlement agreement, then the creditor was no longer a creditor in the bankruptcy case. Id. The facts in New York City Shoes are also distinguishable from the facts presented here. In that case, the settlement agreement was entered into between the debtor and creditor and provided that the creditor's claims were to be disallowed in the underlying bankruptcy case. The court approved the settlement and disallowance of the claims. In this case, I have not approved any waiver or disallowance of the claims originally filed by the Defendants. The claims remain an integral part of this case.

Defendants assert that the transfer of the claims to the State of Georgia reinstates their right to a jury trial because they are no longer seeking equitable relief from this court. Defendants, upon filing the claim, voluntarily submitted themselves to the jurisdiction of this court. A consequence of filing a proof of claim is waiving the right to a jury trial. Defendants' assignment of the claims does not reverse their submission to this court's jurisdiction. The court in In re Glen Eagle Square Inc., 132 B.R. 106 (Bankr. E.D. Pa. 1991), criticized

New York City Shoes.

With all due respect, the NYC Shoes district court may fail to appreciate that the filing of a proof of claim constitutes a creditor's complete submission to bankruptcy court jurisdiction. Such a filing is not a mere procedural nicety. We would suggest that, having once filed a proof of claim and submitted itself to bankruptcy court jurisdiction, a claimant has irrevocably waived a right to a jury trial as to any issue which might arise in that case.

Id. at 112 (citing Allegheny Int'l, Inc. V. Alleheny Ludlum Steel Corp., 920 F.2d 1127, 1131 (3rd Cir. 1990). Glen Eagle held, "by filing a proof of claim, . . . [Defendant] waived any right to a jury trial as to any claims it has against any party in any bankruptcy proceeding in this bankruptcy, ongoing or filed in the future. . . ." Id. Defendants submitted themselves to the jurisdiction of this court by filing proofs of claim in the bankruptcy case. The subsequent assignment of the claim does not divest this court of jurisdiction over Defendants.

In conclusion, by voluntarily filing a proof of claim in a bankruptcy case, a creditor submits itself to the equitable jurisdiction of the bankruptcy court thereby waiving any right to jury trial under the Seventh Amendment in any subsequently filed preference action. Defendants here filed proofs of claim in the bankruptcy case, thereby submitting themselves to this court's jurisdiction and waiving their right to a jury trial. Although the claims were subsequently assigned to a third party prior to the filing of this preference action, the claims remain pending and remain an integral part of the bankruptcy case and the restructuring of the debtor-creditor relationship. Defendants' assignment of the claims to the State of Georgia does not remove

Defendant's from the equitable jurisdiction of this court.

It is therefore ORDERED that the demand for a jury trial by Defendants is denied.

JOHN S. DALIS  
CHIEF UNITED STATES BANKRUPTCY JUDGE

dated at Augusta, Georgia

this 25th day of July, 2000.