

**In the United States Bankruptcy Court
for the
Southern District of Georgia
Savannah Division**

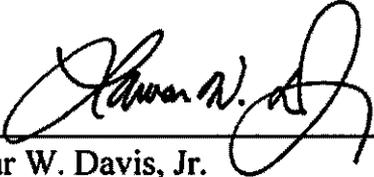
In the matter of:)	
)	Adversary Proceeding
DOMINIC NICHOLAS APPEGATE)	
(Chapter 7 Case Number <u>11-40073</u>))	Number <u>11-4024</u>
)	
<i>Debtor</i>)	
)	
)	
FUDD DT INVESTMENT GROUP, LLC)	FILED
)	Samuel L. Kay, Clerk
<i>Plaintiff</i>)	United States Bankruptcy Court
)	Savannah, Georgia
)	<i>By Ibarnard at 4:27 pm, Jan 25, 2012</i>
v.)	
)	
DOMINIC NICHOLAS APPEGATE)	
)	
<i>Defendant</i>)	

ABSTENTION ORDER

As discussed in the Show Cause Order entered by the Court December 14, 2011, the facts and parties in this Adversary Proceeding are so closely related to those in Soleo v. Applegate, A.P. No. 11-04018 as to be inseparable. Soleo is a member of FUDD DT and the claims being asserted in each adversary proceeding arise from the same transaction. This Court previously stayed both of these adversary proceedings as to any section 523 claims and abstained from hearing any state law issues arising in Soleo v. Applegate. Memorandum and Order, A.P. No. 11-04018, A.P. Dckt. No. 23 (Dec. 14, 2011); Order Granting Motion to Stay, A.P. No. 11-04024, A.P. Dckt. No. 17 (Nov. 22, 2011).

The chief distinction between these adversary proceedings is the ongoing state court case in Soleo, which is not present in FUDD DT. While an important factor, the lack of an ongoing non-bankruptcy case is not dispositive. In Old Augusta Development Group, Inc. v. Effingham County, et al. (In re Old Augusta Development Group, Inc.), 2011 WL 2632147 (Bankr. S.D. Ga.), this Court recognized that in some cases abstention was appropriate even without a related non-bankruptcy case pending. Due to the interwoven natures of this FUDD DT Investment Group Adversary Proceeding and the Soleo Adversary Proceeding, I believe this is such a case.

December 14, 2011, this Court entered an Order requiring the parties to show cause why the abstention in Soleo v. Applegate should not be extended to this Adversary Proceeding by January 10, 2012. Neither party has filed a response with the Court, thus I **ABSTAIN** from hearing any and all state law issues arising in this Adversary Proceeding, FUDD DT Investment Group v. Applegate, A.P. No. 10-04024. The issues of whether liability exists on the part of Debtor and what that liability might be are questions more appropriately decided by a state court. If and once a decision regarding liability has been made this Court will address whether that claim may be excepted from discharge under 11 U.S.C. § 523.



Lamar W. Davis, Jr.
United States Bankruptcy Judge

Dated at Savannah, Georgia

This 25th day of January, 2012.