

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE:	)	CHAPTER 7
	)	
STEVEN LODEN DYE,	)	CASE NO. 06-71024 - MHM
	)	
Debtor.	)	
	)	
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STEVEN L. DYE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
BEP CREDITOR'S TRUST, by and	)	ADVERSARY PROCEEDING
through George W. Stevenson, Trustee;	)	NO. 12-5033
BEP SERVICES, L.P.; BANK OF AMERICA,	)	
RIVERWOOD PARTNERS, LLC;	)	
COLDWELL BANKER RESIDENTIAL	)	
BROKERAGE; ROBIN BLASS;	)	
NEIL C. GORDON; DEUTSCHE BANK	)	
TRUST COMPANY AMERICAS;	)	
U.S. BANK NATIONAL ASSOCIATION,	)	
a/k/a AUTUMN BREEZE HOLDING, LLC;	)	
LITTON LOAN SERVICING, L.P.,	)	
	)	
Respondents.	)	

**ORDER DISMISSING COMPLAINT WITH PREJUDICE  
AND ENJOINING PLAINTIFF**

Plaintiff, who is the *pro se* Debtor in the main bankruptcy case related to this adversary proceeding (the "Case"), filed the complaint ostensibly to determine the validity, priority and extent of liens, to obtain an injunction, and to establish that Defendants engaged in a conspiracy to restrain trade and for some other amorphous purpose. Several Defendants have filed motions to dismiss (Docs. No. 6, 13, and 17) (the

“Motions”).<sup>1</sup> As the Motions raise essentially the same issues and arguments, they will be treated in this order collectively, rather than separately. In the motion to dismiss filed by George W. Stevenson, Successor Trustee of the BEP Creditor’s Trust, on behalf of the BEP Creditor’s Trust and BEP Services, L.P. (collectively “BEP”), BEP included a request for sanctions against Plaintiff in the form of an injunction against future filings by Plaintiff.

The Motions are primarily based upon arguments that Plaintiff’s complaint fails to adequately set forth a claim for relief under the Fed. R. Civ. Proc. Rules 8 and 12(b)(6), incorporated in Bankruptcy Rules 7008 and 7012, and the recent U.S. Supreme Court cases interpreting that Rule, *Ashcroft v. Iqbal*, 556 U.S. 662 (2009) and *Bell Atlantic Corp. v. Twombly*, 550 U.S. 554, 570 (2007); and that Plaintiff’s complaint is an impermissible collateral attack on final orders.<sup>2</sup> Plaintiff, of course, opposes all the motions filed in this proceeding.

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<sup>1</sup> Riverwood Partners, LLC (“Riverwood”), filed a motion to stay this proceeding as to all issues except those related to the motions to dismiss and to extend time for Riverwood to file an answer until 30 days after entry of a final order on the motions to dismiss (Doc. No. 9), which was granted by order entered August 20, 2012 (Doc. No. 25). A similar motion was filed by Bank of America, NA (Doc. No. 14), which will be mooted by the conclusions in this order.

<sup>2</sup> Defendant U.S. Bank NA also asserts that Plaintiff’s complaint violates an order of the U.S. District Court entered August 12, 2005, by former District Court Judge, Beverly B. Martin, in Civil Action File NO. 1:05-CV-0450, enjoining Debtor from “litigating, or attempting to relitigate, by commencing or filing, in this court, any future action, complaint, or cause of action seeking adjudication of the factual and legal issues previously adjudicated in this matter.” Although the bankruptcy court is a unit of the district court, so that arguably “in this court” could apply to litigation in the bankruptcy court, Judge Martin’s order was entered before Debtor/Plaintiff filed the Case. While Judge Martin’s order is certainly evidence that Plaintiff’s abusive litigation is habitual, relying on Judge Martin’s order to bar the current adversary proceeding, which is so distant in time from the time of the 2005 injunction, is unnecessary, as ample grounds for dismissal of Plaintiff’s complaint exist without reference to Judge Martin’s order.

The parties filing the Motions have recounted in various levels of detail the proceedings in this court and other courts that may relate to the matters raised in Plaintiff's complaint, citing various final orders that have been entered on those matters. To spare the litigants further tedium and aggravation, the undersigned will not repeat a catalogue of the record but will simply take judicial notice of the litigation that has taken place in the Case since September 2006. The order entered in the Case September 28, 2011, is of special significance, the final portion of which is:

Because of Debtor's obstreperous opposition to every action proposed by Trustee and Debtor's intransigent resistance to any action depriving Debtor of his residence, the sale of the residence was delayed, likely resulting in a sales price hundreds of thousands of dollars lower than could have been achieved earlier in the case, before the real estate market crashed in 2008. Debtor's litigious obstructionism in this case has forced the estate to incur thousands of dollars of unnecessary administrative expenses and has effectively deprived almost every creditor involved in this case of any meaningful recovery on their claims. Debtor's most recent pleading challenges the claim of Riverwood Partners, L.P., a creditor who does not anticipate receiving any distribution from Debtor's estate. The purpose of reviewing Riverwood's claim would be, therefore, a waste of this court's and Trustee's time.

As stated in previous orders, Debtor has no pecuniary interest in this estate and, therefore, has no standing to interpose any further objections to the claim of any creditor in this case and no further such objections by Debtor will be entertained by the undersigned. Accordingly, it is hereby

ORDERED that Debtor's motion to reconsider any prior order entered in this case is *denied*. Any further attempts to obstruct the administration of this case may result in sanctions.

Although Plaintiff's complaint does not expressly seek reconsideration of any specific order entered in the Case, to the extent that any purpose to the complaint can be discerned, it challenges everything that has occurred in the Case.

At every step in the Case, Plaintiff has challenged the actions of Trustee and the validity of the other Defendants' claims. Plaintiff has been accorded exhaustive and numerous opportunities to assert his contentions and, to the extent that his contentions were comprehensible, which often they were not, they have been addressed at length at hearings and in numerous orders entered in the Case. The undersigned's observations of the actions and conduct of Trustee in the Case and in numerous other cases in this Court show that he performs his duties diligently, competently and achieves results that provide maximum value to creditors and the estate while recognizing the needs and rights of debtors. Such has been his performance in this case. Relying on the knowledge and experience gained by years of the highest quality practice of bankruptcy law, and as made clear in numerous hearings in the Case, Trustee has properly reviewed the assets and liabilities in the Case and achieved excellent results for the estate, especially in light of the obstructions interposed by this implacable Debtor.

In the complaint, as in past pleadings filed by Debtor in the Case, Plaintiff spews forth unsupported allegations of "litigation misconduct," conflicts of interest, conspiracy and bid-rigging that exhibit Plaintiff's recalcitrant and perverse refusal to accept, surrender or even acknowledge as final any order of this or any other court. At this point, due to Plaintiff's persistent and interminable opposition to every action taken in the Case, any funds collected by Trustee that may have been available for creditors are likely

already fully consumed by Trustee's expenses. In the September 2011 order quoted above, Plaintiff was warned of the consequences of further attempts to relitigate matters already decided. Plaintiff has ignored that warning.

A laborious and onerous review of Plaintiff's complaint shows it to be a series of naked assertions, labels, and conclusory statements devoid of any meaningful factual support. It provides insufficient notice to Defendants of the conduct complained of and little basis upon which they could formulate an answer. "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 554, 570 (2007)). A complaint is plausible "when the plaintiff pleads *factual content* that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* (citing *Bell Atlantic*, 550 U.S. at 556) (emphasis supplied). Plaintiff's complaint is not only implausible, it is virtually incomprehensible. And it is a flagrantly amnesiac bite at an apple thoroughly chewed.

Additionally, the matters Plaintiff alludes to in the complaint are matters that have been or could have been raised and litigated in the Case and that were decided against Plaintiff. The subjects of the sale of Debtor's residence and the validity of the numerous liens on that property have been investigated by Trustee and litigated extensively, in large part due to Debtor's endless objections, resulting in a final order approving the sale, and in other final orders in this and other courts. To the extent that any substance can be discerned in Plaintiff's complaint, it is nothing more than an attempt to relitigate matters that have already been decided. Finally, as has been decided more than once in

proceedings in the Case, Plaintiff lacks standing to challenge the actions of Trustee in the Case. Accordingly, it is hereby

**ORDERED** that Plaintiff's complaint, as to all Defendants, is *dismissed with prejudice*. It is further


**ORDERED** that Plaintiff is *enjoined* from filing any pleading in this adversary proceeding or in the main bankruptcy case; and from commencing or filing in the Bankruptcy Court for the Northern District of Georgia any future proceeding or complaint seeking adjudication of matters that were or could have been adjudicated in the Case.

If Plaintiff wishes to file anything further in this or any other action in this court, he must submit to the Clerk, U.S. Bankruptcy Court, a motion for leave to file his proposed pleading for the court's consideration, together with a signed original copy of such proposed pleading and a copy of this order.

**The Clerk, U.S. Bankruptcy Court, is directed to refuse to accept for filing any document from Plaintiff that is not accompanied by the above-described motion for leave to file and accompanying documents and to refrain from docketing any further filings by Plaintiff unless this court enters an Order permitting the Clerk to do so.**

The Clerk is directed to serve a copy of this order upon Debtor, counsel for Defendants, and the Chapter 7 Trustee.

IT IS SO ORDERED, this the 22<sup>nd</sup> day of August, 2012.

  
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MARGARET H. MURPHY  
UNITED STATES BANKRUPTCY JUDGE