

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:)	CHAPTER 7
)	
CHEREE NEWSON-PACE,)	CASE NO. 14-65511 – MHM
)	
Debtor.)	
)	
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CHEREE NEWSON-PACE,)	
)	
Plaintiff,)	ADVERSARY PROCEEDING
v.)	NO. 14-5354
)	
COLUMBIA-MRA PARK CITY)	
PLACE, LLC, JOE DINGLE, MARIO)	
BREEDLOVE, TIFFANY CARTER-)	
SELLERS, AYTUNDE EZEKEIL,)	
NOEL KHALIL, JAMES S. GRAULEY,)	
NEW COLUMBIA RESIDENTIAL)	
LLC., GARY LESHAW,)	
AFFORDABLE HOUSING)	
PARTNERSHIP, INC., NEW)	
COLUMBIA RESIDENTIAL)	
PROPERTY MANAGEMENT, INC.,)	
COLUMBIA RESIDENTIAL)	
MANAGEMENT, LLC, COLUMBIA)	
RESIDENTIAL, LLC, COLUMBIA)	
RESIDENTIAL PROPERTY)	
MANAGEMENT, INC.,)	
)	
Defendants.)	

ORDER OF DISMISSAL

Plaintiff initiated this adversary proceeding November 5, 2014 by filing a
complaint alleging fraud, breach of contract, emotional distress, negligent representation,

and violation of the automatic stay, and seeking an order directing parties to sell 25% of certain business entities. Certain Defendants¹ filed an answer, defenses, and counterclaims December 8, 2014 alleging, *inter alia*, this Court does not have jurisdiction over the subject matter of the complaint and accusing Plaintiff of breach of contract, breach of fiduciary duty, defamation, punitive damages, and attorneys' fees and expenses (Doc. No. 24) (the "Answer"). Defendant Ayotunde Ezekiel ("Ezekial") filed a *Motion to Dismiss* February 11, 2015, also alleging lack of subject matter jurisdiction. (Doc. No. 43)(the "Motion"). Plaintiff's claims for violations of the automatic stay have been dismissed by order entered concurrently herewith. For the reasons set forth below, this adversary proceeding will be dismissed as to all parties and claims.

Bankruptcy courts, through the districts courts, have jurisdiction only in proceedings which "aris[e] under title 11," "aris[e] in...cases under title 11," or are "related to cases under title 11." 28 U.S.C. § 1334(b); *Celotex Corp. v. Edwards*, 514 U.S. 300, 307 (1995). Core proceedings "invoke[e] a substantive right created by the Bankruptcy Code" or "could arise only in bankruptcy," such as matters associated with administration of the bankruptcy estate. *In re Toledo*, 170 F.3d 1340 (11th Cir. 1999). By

¹ New Columbia Residential, LLC, Columbia-MRA Park City Place, LLC, Columbia Resident Property Managers, Affordable Housing Partnership, Inc., New Affordable Housing Partnership, Inc., Noel Khalil, Jim Grauley, Mario Breedlove, Tiffany Carter-Sellers, and Joe Dingle (the "Columbia Parties") filed a joint answer.

contrast, non-core proceedings related to a case under title 11 are those proceedings which might affect the bankruptcy case or administration of the estate, but do not necessarily arise in the bankruptcy context. Under § 157(c), bankruptcy judges may hear non-core matters “related to” a case under title 11, but may only propose findings of fact and conclusions of law to the district court. The court does not have jurisdiction over cases which are neither “core” nor “related to” a case under title 11.

Aside from Plaintiff’s allegations that Defendants violated the automatic stay, Plaintiff’s complaint does not raise “core” causes of action. Fraud, breach of contract, sale of Plaintiff’s 25% interest, emotional distress, and negligent representation are claims that invoke state law and contract interpretation and do not rely on title 11 or arise in a case under title 11. Nor can Plaintiff’s claims be “non-core” matters which may affect the administration of the bankruptcy estate, because the bankruptcy estate has been closed. Plaintiff filed a petition for relief under Chapter 7 of the Bankruptcy Code August 8, 2014, initiating Case No. 14-65511(the “Main Case”). The Chapter 7 Trustee filed a *Report of No Distribution* November 3, 2014, asserting that the estate has been fully administered. Plaintiff received a discharge February 12, 2015, and the estate was closed March 4, 2015. Accordingly, Plaintiff’s state-law causes of action cannot affect the administration of Debtor’s bankruptcy estate or affect the outcome of Debtor’s bankruptcy case.

Likewise, Columbia Parties counterclaims do not raise “core” causes of action. Breach of contract, breach of fiduciary duty, defamation, punitive damages, and attorneys’ fees and expenses are claims that invoke state law and contract interpretation and do not rely on title 11. Nor can these claims be considered “non-core” matters which may affect the administration of the bankruptcy estate; Plaintiff’s bankruptcy case was closed without distribution to creditors, and pre-petition claims against Plaintiff have been discharged subject to 11 U.S.C. § 523.

With the exception of Plaintiff’s claims for violation of the automatic stay, this court lacks jurisdiction over the claims raised in this adversary proceeding. The claims for violations of the automatic stay have been dismissed by order entered concurrently with this order; accordingly, it is hereby

ORDERED that this adversary proceeding is *dismissed*. It is further

ORDERED that Plaintiff’s *Motion for Summary Judgment* (Doc. No. 20) and Plaintiff’s *Motion for Default Judgment* (Doc. No. 39) are *denied*.

The Clerk is directed to serve this Order upon Plaintiff, Defendants, and counsel for Defendants.

IT IS SO ORDERED, this the 7th day of March, 2015.



MARGARET H. MURPHY
UNITED STATES BANKRUPTCY JUDGE