

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

JUDGE PETER J. WALSH

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October 15, 2012

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Counsel for James R. Zazzali, as Litigation
Trustee for the DBSI Estate Litigation Trust

Re: James R. Zazzali v. Marty Goldsmith and John Doe 1-10
Adv. Proc. No. 10-55333

Dear Counsel:

This is my ruling on Marty Goldsmith's motion to transfer
venue to the District of Idaho. (Doc. # 10.)

For the reasons briefly set forth below, I will grant the motion.

(1) For the reasons set forth in the March 27, 2012 Memorandum Opinion by Judge Stark, I adopt his conclusion that the Defendant's venue challenge is not barred by collateral estoppel or res judicata.

(2) Four of the seven counts in the Trustee's First Amended Complaint implicate Idaho law. Obviously, a judge in the District of Idaho will be more familiar with Idaho law than I am. Indeed, the Real Estate Purchase and Sale Agreement of April 17, 2006 ("Agreement") specifically provides that "[t]his Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho." Furthermore, the Agreement goes on to state that "[t]he parties agree that the courts of Idaho shall have exclusive jurisdiction and agree that Ada County is the proper venue." The Agreement further provides that "this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns, heirs, and personal representatives." Obviously, the Trustee is a successor to Kastera LLC.

(3) In his reply, Goldsmith states that he anticipates calling numerous Idaho appraisers and real estate experts to testify as to the value of the subject property. It seems quite clear that this dispute will involve dueling real estate value experts. Those experts, for Plaintiff and Defendant, will obviously address real estate values in the State of Idaho. It makes no sense, for

Plaintiff or Defendant, to bring those experts to Delaware to opine as to Idaho real estate values to a Delaware judge.

(4) Most, if not all, relevant events and parties to the transaction are located in Idaho. It is clear from the First Amended Complaint that the Trustee will be relying upon a significant number of Idaho witnesses, including insiders. According to the First Amended Complaint, numerous individuals, including insiders, had input leading up to the closing on the transaction. Most, if not all of these people, are located in Idaho. Their appearance in a Idaho trial is much more likely than their appearance in a Delaware trial.

(5) In his objection to the motion, the Trustee asserts that the matter should stay here because of this Court's familiarity with the DBSI chapter 11 cases. That familiarity has little or nothing to do with the central dispute in this adversary proceeding.

For the reasons briefly outlined above, I will grant Marty Goldsmith's motion to transfer venue to the District of Idaho.

SO ORDERED.

Very truly yours,



Peter J. Walsh

PJW:ipm