



ORDER NOT FOR PUBLICATION
UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:

JAMONTE LARONE CLAY,

Debtor.

Case No. 2:14-bk-33027-RK

Chapter 7

**ORDER GRANTING MOTION TO
REOPEN CHAPTER 7 BANKRUPTCY
CASE**

Date: September 1, 2015

Time: 2:30 p.m.

Place: Courtroom 1675
255 East Temple Street
Los Angeles, CA 90012

Pending before the court is the Motion of Debtor Jamonte Larone Clay ("Debtor") to Reopen Chapter 7 Bankruptcy Case for Violation of Discharge Injunction under 11 U.S.C. Sec. 524 ("Motion"). ECF 12. The Motion is set for hearing on September 1, 2015 at 2:30 p.m. Bank of America, N.A., filed a written opposition to the Motion. ECF 14.

Having reviewed the moving and opposing papers, the court determines that pursuant to Local Bankruptcy Rule 5010-1, which provides that a motion to reopen case may be ruled upon without hearing, that the movant must not calendar a hearing date for the Motion and a hearing will not be held on the motion unless otherwise ordered by the

1 court, a hearing on the Motion is not required, nor necessary, takes the Motion under
2 submission, vacates the hearing on September 1, 2015 as improvidently noticed by
3 Debtor, and rules as follows.

4 1. The court determines that the Motion to reopen case should be granted to
5 accord relief to the debtor under 11 U.S.C. § 350(b) for the reasons stated in
6 the moving papers, that is, to allow the debtor to file a substantive motion for
7 enforcement of the discharge injunction in this case pursuant to 11 U.S.C. §
8 524.

9 2. The objections of Bank of America to the Motion go to the merits of a
10 substantive motion which has yet to be filed in the case once it is reopened,
11 and therefore, should be overruled at this time, but without prejudice.
12 “Reopening a case, by itself, determines nothing with respect to the merits of
13 the case.” 4 March, Ahart and Shapiro, *California Practice Guide: Bankruptcy*,
14 ¶ 23:151 at 23-20 (2014), *citing inter alia*, *In re Menk*, 241 B.R. 896, 913 (9th
15 Cir. BAP 1999)(“[T]he reopening of a closed bankruptcy case is a ministerial
16 act that functions primarily to enable the file to be maintained by the clerk as an
17 active matter and that, by itself, lacks independent legal significance and
18 determines nothing with respect to the merits of the case.”). Bank of America
19 may renew any objections it has to any substantive motion to enforce the
20 discharge injunction in due course if such a motion is filed and duly served on
21 it.

22 3. The motion to reopen the case is granted, and the case is ordered reopened.

23 4. Debtor is granted 60 days leave from the date of entry of this order to file his
24 substantive motion to enforce the discharge injunction.

25 5. The hearing on the Motion set for September 1, 2015 at 2:30 p.m. is vacated
26 and taken off calendar. No appearances are required.

1 6. Although the court grants the Motion, the court observes that Debtor acted
2 contrary to Local Bankruptcy Rule 5010-1 in calendaring a hearing date for the
3 Motion without prior court authorization, which expressly provides that “[a]
4 motion to reopen may be ruled upon without a hearing pursuant to LBR 9013-
5 1(q)” and “[t]he movant must not calendar a hearing date nor will a hearing be
6 held on the motion, unless otherwise ordered by the court.” The court
7 admonishes counsel for Debtor, Beatriz Chen, of the Law Offices of Beatriz
8 Velezmoro Chen, who signed and filed the Motion, to read and obey the rules
9 of this court, including the Local Bankruptcy Rules. The court strongly urges
10 counsel for Debtor, Ms. Chen, to read and re-read the Local Bankruptcy Rules
11 until she is thoroughly familiar with them. Whenever counsel intends to file a
12 motion in this court in the future, she should re-read the applicable rules to
13 make sure the motion is in compliance before she files it. Further
14 transgressions of the court’s rules may result in the imposition of sanctions.

15 IT IS SO ORDERED.

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23 Date: August 27, 2015



24 Robert Kwan
25 United States Bankruptcy Judge
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